UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2015

or

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

For the transition period from to

Commission File Number: 001-35198

Pandora Media, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**94-3352630**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
2101 Webster Street, Suite 1650 Oakland, CA	**94612**
(Address of principal executive offices)	(Zip Code)

(510) 451-4100
(Registrant's telephone number, including area code)

Securities registered pursuant to section 12(g) of the Act:

Title of each class	**Name of each exchange on which registered**
Common stock, $0.0001 par value	The New York Stock Exchange

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (Section 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (Section 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by a check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition 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)	

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

The aggregate market value of the voting common stock held by non-affiliates of the registrant as of June 30, 2015 (the last business day of the registrant's most recently completed second quarter), based on the closing price of such stock on The New York Stock Exchange on such date was approximately $2,887 million. This calculation excludes the shares of common stock held by executive officers, directors and stockholders whose ownership exceeds 5% outstanding at June 30, 2015. This calculation does not reflect a determination that such persons are affiliates for any other purposes.

On February 16, 2016 the registrant had 227,695,644 shares of common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Proxy Statement for the registrant's 2016 Annual Meeting of Stockholders (the "Proxy Statement"), to be filed within 120 days of the end of the fiscal year ended December 31, 2015, are incorporated by reference in Part III hereof. Except with respect to information specifically incorporated by reference in this Annual Report on Form 10-K, the Definitive Proxy Statement is not deemed to be filed as part of this Annual Report on Form 10-K.

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SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS AND INDUSTRY DATA

This Annual Report on Form 10-K contains "forward-looking statements" that involve substantial risks and uncertainties. The statements contained in this Annual Report on Form 10-K that are not purely historical are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), including, but not limited to, statements regarding our expectations, beliefs, intentions, strategies, future operations, future financial position, future revenue, projected expenses and plans and objectives of management. In some cases, you can identify forward-looking statements by terms such as "anticipate," "believe," "estimate," "expect," "intend," "may," "might," "plan," "project," "will," "would," "should," "could," "can," "predict," "potential," "continue," "objective," or the negative of these terms, and similar expressions intended to identify forward-looking statements. However, not all forward-looking statements contain these identifying words. These forward-looking statements reflect our current views about future events and involve known risks, uncertainties and other factors that may cause our actual results, levels of activity, performance or achievement to be materially different from those expressed or implied by the forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those identified below, and those discussed in the section titled "Risk Factors" included in this Annual Report on Form 10-K. Furthermore, such forward-looking statements speak only as of the date of this report. Except as required by law, we undertake no obligation to update any forward-looking statements to reflect events or circumstances after the date of such statements. We qualify all of our forward-looking statements by these cautionary statements. In addition, the industry in which we operate is subject to a high degree of uncertainty and risk due to a variety of factors including those described in the section entitled "Risk Factors." These and other factors could cause our results to differ materially from those expressed in this Annual Report on Form 10-K.

Some of the industry and market data contained in this Annual Report on Form 10-K are based on independent industry publications, including those generated by Triton Digital Media or "Triton" and International Data Corporation or "IDC" or other publicly available information. This information involves a number of assumptions and limitations. Although we believe that each source is reliable as of its respective date, we have not independently verified the accuracy or completeness of this information.

As used herein, "Pandora," the "Company," "we," "our," and similar terms refer to Pandora Media, Inc. and, where appropriate, its wholly owned subsidiaries, unless the context indicates otherwise.

"Pandora" and other trademarks of ours appearing in this report are our property. This report contains additional trade names and trademarks of other companies. We do not intend our use or display of other companies' trade names or trademarks to imply an endorsement or sponsorship of us by such companies, or any relationship with any of these companies.

EXPLANATORY NOTE REGARDING THE ANNUAL REPORT

We changed our fiscal year from the twelve months ending January 31 to the calendar twelve months ending December 31, effective beginning with the year ended December 31, 2013. As a result, the period ended December 31, 2013 was shortened from twelve months to an eleven-month transition period.

When financial results for the 2014 annual period are compared to financial results for the 2013 period, the results compare the twelve-month period ended December 31, 2014 and the eleven-month period ended December 31, 2013.

PART I

ITEM 1. BUSINESS

Overview

Pandora

Pandora is the world's most powerful music discovery platform, offering a personalized experience for each of our listeners wherever and whenever they want to listen to music - whether through earbuds, car speakers or live on stage. Our vision is to be the definitive source of music discovery and enjoyment for billions. The majority of our listener hours occur on mobile devices, with the majority of our revenue generated from advertising on these devices. We offer both local and national advertisers the opportunity to deliver targeted messages to our listeners using a combination of audio, display and video advertisements. Founded by musicians, Pandora also empowers artists with valuable data and tools to help grow their careers and connect with their fans.

For the twelve months ended December 31, 2015, we streamed 21.11 billion hours of internet radio, and as of December 31, 2015, we had 81.1 million active users during the prior 30-day period. Since we launched our non-subscription, ad-supported radio service in 2005 our listeners have created over 9 billion stations.

Ticketfly

Pandora completed the acquisition of Ticketfly on October 31, 2015. Ticketfly is a leading live events technology company that provides ticketing and marketing software and services for venues and event promoters across North America. Ticketfly's ticketing, digital marketing and analytics software helps promoters book talent, sell tickets and drive in-venue revenue, while Ticketfly's consumer tools help fans find and purchase tickets to events. For the twelve months ended December 31, 2015, Ticketfly sold approximately 12.5 million tickets, excluding box office sales, to 4.4 million unique ticket buyers to approximately90,000 live events, with more than$490 million in gross transaction value, excluding box office sales.

Our Service

Pandora

Unlike traditional radio stations that broadcast the same content at the same time to all of their listeners, we enable each of our listeners to create personalized stations. The Music Genome Project and our content programming algorithms power our ability to predict listener music preferences, play music content suited to the tastes of each individual listener and introduce listeners to music we think they will love. When a listener enters a single song, artist, comedian or genre to start a station—a process we call seeding—the Pandora service instantly generates a station that plays music we think that listener will enjoy. Based on listener reactions to the songs we pick, we further tailor the station to match the listener's preferences. Listeners also have the ability to add variety to and rename stations, which further allows for the personalization of our service.

We currently provide the Pandora service through two models:

- *Free Service.* Our free service is advertising-supported and allows listeners access to our music and comedy catalogs and personalized playlist generating system for free across all of the Pandora delivery platforms.

- *Pandora One.* Pandora One is a paid subscription service without any advertising. Pandora One also enables listeners to have more daily skips, enjoy higher quality audio on supported devices and enjoy longer timeout-free listening. In addition to our traditional monthly subscriptions, service listeners can now purchase a single day Pandora One experience with our "Pandora One Day Pass" product.

Beyond song delivery, listeners can discover more about the music they hear by reading the history of their favorite artists, viewing artist photos and buying albums and songs from Amazon or iTunes. Our service also incorporates community social networking features. Our music feed feature enables a real-time, centralized stream for listeners to view the music that their social connections are experiencing and to provide and receive recommendations for songs, albums and artists. Listeners can also share their stations across other social media outlets and through email by using our share feature or by distributing our individualized station URLs.

Ticketfly

The Ticketfly service is a fully-integrated cloud ticketing platform for live events. Ticketfly's platform provides ticketing and marketing services for venues and event promoters across North America and makes it easy for fans to find and purchase tickets to events, and also gives artists a means to more effectively promote their events. Tickets are primarily sold through the Ticketfly platform but are also sold through other channels, such as venue box offices.

Our Technologies

Pandora

At the core of our service is our set of proprietary personalization technologies, including the Music Genome Project and our playlist generating algorithms. When a listener enters a single song, artist or genre to start a station, the Pandora service instantly generates a station that plays music or comedy we think that listener will enjoy. Based on listener reactions to the songs or comedy tracks we stream, we further tailor the station to match the listener's preferences in real-time.

Music Genome Project

The Music Genome Project is a database of over 1,000,000 uniquely analyzed songs from over 350,000 artists, spanning over 600 genres and sub-genres, which we develop one song at a time by evaluating and cataloging each song's particular attributes. Once we select music to become part of our catalog, our music analysts genotype the music by examining up to 450 attributes including objectively observable metrics such as tone and tempo, as well as subjective characteristics, such as lyrics, vocal texture and emotional intensity. We employ rigorous hiring and training standards for selecting our music analysts, who typically have four-year degrees in music theory, composition or performance, and we provide them with intensive training in the Music Genome Project's precise methodology.

Comedy Genome Project

Our Comedy Genome Project leverages similar technology to that underlying the Music Genome Project, allowing a listener to choose a favorite comedian or a genre as a seed to start a station and then give feedback to personalize that station. Our comedy collection includes content from more than 2,500 comedians with more than 35,000 tracks.

Our Other Core Innovations

In addition to the Music Genome Project, we have developed other proprietary technologies to improve delivery of the Pandora service, enhance the listener experience and expand our reach. Our other core innovations include:

Playlist Generating Algorithms. We have developed complex algorithms that determine which songs play and in what order on each personalized station. Developed since 2004, these algorithms combine the Music Genome Project with the individual and collective feedback we receive from our listeners in order to deliver a personalized listening experience.

Pandora User Experience. We have invested in ways to enable us to reach our audience anytime, anywhere that they enjoy radio. To this end, we have developed a number of innovative approaches, including our autocomplete station creation feature, which predicts and generates a list of the most likely musical starting points as a listener begins to enter a favorite station, song or artist.

Pandora Mobile Streaming. We have designed a sophisticated system for streaming content to mobile devices. This system involves a combination of music coding programs that are optimized for mobile devices as well as algorithms designed to address the intricacies of reliable delivery over diverse mobile network technologies. For example, these algorithms are designed to maintain a continuous stream to a listener even in circumstances where the mobile data network may be unreliable.

Pandora Automotive Protocol. We have developed an automotive protocol to facilitate increased availability of the Pandora service in automobiles. Through the automotive protocol, certain automobile manufacturers, their suppliers and makers of aftermarket audio systems can easily connect dash-mounted interface elements to the Pandora app running on a smartphone. This allows us to deliver the Pandora service to listeners via their existing smartphone, while leveraging the automobile itself for application command, display and control functionalities.

Pandora API. As part of our effort to make the Pandora service available everywhere our listeners want it, we have developed an application programming interface, which we call the Pandora API. Through our partnerships with manufacturers of consumer electronics products, we have used this technology to bring the Pandora experience to connected devices

throughout the home.

Tv.pandora.com. We have developed a standards-based HTML5 website called tv.pandora.com that allows users to stream music content on next generation TV, game consoles and set top box architectures that support open web standards. Tv.pandora.com features streamlined navigation with controls and displays designed specifically for larger screens.

Next Big Sound ("NBS")

NBS Platform. On July 1, 2015, we completed the acquisition of NBS. NBS is the leading provider of online music analytics and insights tracking hundreds of thousands of artists around the world. NBS was founded in 2009 and tracks social, streaming, and video data in one centralized platform. Sources range from Facebook and Twitter to Wikipedia, YouTube, Vevo, and many others. The NBS platform complements Pandora's Artist Marketing Platform ("Pandora AMP") and expands the suite of data-driven products that Pandora offers music makers.

Ticketfly

Fully-integrated Cloud Ticketing Platform. Ticketfly has developed a fully-integrated cloud ticketing platform for live events. The ticketing and marketing software powers the event lifecycle for venues and event promoters, including the booking of acts, the building and marketing of events and fan customer relationship management after the event.

Distribution and Partnerships

Pandora

A key element of our strategy is to make the Pandora service available everywhere that there is internet connectivity. To this end, we make the Pandora service available through a variety of distribution channels. In addition to streaming our service to computers, we have developed Pandora mobile device applications or “apps” for smartphones such as iPhone, phones running the Android operating system, the Windows Phone and for tablets, including the iPad and tablets running the Android operating system. We distribute those mobile apps free to listeners via app stores.

Pandora is now integrated with more than 1,700 connected devices, including automobiles, automotive aftermarket devices and consumer electronic devices. Currently, most automobile integrations rely on smartphones for internet connectivity, which has enabled Pandora to be available in the ten best-selling passenger vehicles in the United States. Some automobiles are now using embedded, built-in internet connectivity to power the Pandora experience. These native integrations, whether using embedded or phone-based connectivity, allow drivers to control the service via in-dash entertainment systems. As part of this ongoing effort to extend our reach in the car, we also built support for Android Auto and Apple CarPlay into our mobile applications in 2015. While these platforms are still nascent, we expect these platforms will develop and grow significantly and help broaden our reach and provide consumers with additional flexibility for accessing Pandora in the car. As of December 31, 2015, more than 15.5 million unique users have activated Pandora through a native integration in 26 major automobile brands and 8 automotive aftermarket manufacturers. We view the integration of the Pandora service into automobiles as key area of potential growth for the service, as a large portion of terrestrial radio listening occurs in automobiles.

Ticketfly

The Ticketfly services are available through multiple distribution channels, including the Ticketfly website, the websites of its venue and promoter clients, venue box offices and the Ticketfly website optimized for mobile devices. Tickets for events are delivered to fans through a variety of delivery methods, including mail, will call, print at home and mobile tickets, which are delivered electronically and presented by fans on their smartphones upon arrival to the venues.

Ticketfly contracts with clients to sell tickets for events to fans over a set period of time, which generally ranges from three to five years. Ticketfly does not set ticket prices or seating configurations for events, as this information is determined by the venue and/or promoter. Ticketfly generally is paid a fee per ticket sold, which usually increases as the face value of the ticket increases, or a percentage of the total ticket service charges. Ticketfly usually receives funds for the ticket sales and related service charges at the time the ticket is sold and periodically remits these receipts to the venue or promoter after deducting Ticketfly's portion of the fee. Venues also sell tickets through the box office at the venue using the Ticketfly technology. Ticketfly does not usually earn a fee on these box office ticket sales.

Pandora Advertising Revenue

We derive the substantial majority of our revenue from the sale of audio, display and video advertising for delivery across our computer, mobile and other connected device platforms. We generate the majority of our revenue from mobile and other connected devices, which presents an opportunity for us to reach our audience anytime, anywhere that they enjoy music and therefore offer additional distribution channels to current and potential advertisers for delivery of their advertising messages.

Our advertising strategy focuses on developing our core suite of audio, display and video advertising products and marketing these products to advertisers for delivery across computer and mobile and other connected device platforms. Our advertising products allow both local and national advertisers to target and connect with listeners based on attributes including age, gender, zip code and content preferences using multi-platform ad campaigns to target their advertising messages to listeners anytime and anywhere. As listenership on our mobile platforms has grown more rapidly than on our other platforms, we have sought to improve our mobile advertising products to better enable us to market multi-platform advertising solutions. In the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015, advertising revenue accounted for approximately 82%, 80% and 80% of our total revenue, respectively, and we expect that advertising will comprise a substantial majority of revenue for the foreseeable future.

Pandora Audio Advertising. Our audio advertising products allow custom audio messages to be delivered between songs during short ad interludes. Audio ads are available across all of our delivery platforms. On supported platforms, the audio ads can be accompanied by display ads to further enhance advertisers' messages.

Pandora Display Advertising. Our display advertising products offer opportunities to maximize exposure to our listeners through our desktop and mobile service graphical interfaces, which are divided between our tuner containing our player and "now playing" information, and the information space surrounding our tuner. Our display ads include industry-standard banner ads of various sizes and placements depending on platform and listener interaction.

Pandora Video Advertising. Our video advertising products allow delivery of rich branded messages to further engage listeners through in-banner click-initiated videos, videos that automatically play when a listener changes stations or skips a song and opt-in videos that pause the music and cover the tuner, some of which allow users to listen to music without interruption for a period of time after watching the video.

Pandora Native Advertising. Our audio, display and video advertising products can be designed and modified by us and advertisers to tailor advertising campaigns to fit specific advertiser needs. Our advertisers can create custom "branded" stations from our music library that can be accessed by our listeners, as well as engage listeners by allowing them to personalize the branded stations through listener-controlled variables. In addition to branded stations, we offer advertisers our sponsored listening product, in which advertisers sponsor ad-free listening for consumers in exchange for the consumer’s active brand interaction, such as watching a video advertisement, interacting with rich media or visiting the advertiser's landing page.

Pandora Audience Targeting. Our audio, display, video and native advertising products have access to a set of over 500 targeting segments across all of our platforms, ranging from Pandora’s unique proprietary targeting segments to second and third party enabled segments. Examples include Pandora’s inferred Spanish Speakers and Political Preference proprietary segments, direct customer CRM upload and Datalogix and Neustar third-party segments.

Additionally, advertisers can also benefit from our proprietary ad targeting capabilities. Our proprietary targeting segments leverage listener-submitted profile information, enabling advertisers to precisely reach sought-after consumers across the web and connected devices without needing third-party cookies.

In 2013, we integrated Pandora's advertising inventory into the leading radio media buying platforms, Mediaocean and STRATA, and we are continuing to enhance the ability of radio advertisers to purchase media on these platforms, which incorporate Triton measurements of our radio audience reach side-by-side with terrestrial radio metrics.

In January 2014, we introduced in-car advertising solutions, offering advertisers the opportunity to reach in-car audiences through audio ads running on vehicle models and aftermarket automotive devices with native Pandora automotive integrations.

In addition, we have invested in building a local advertising sales force in major radio markets. As of December 31, 2015, Pandora has 154 local sellers in 39 markets in the United States and we intend to continue investing to extend our local market presence for the foreseeable future.

We have introduced a programmatic advertising buying solution into the market primarily for national digital display and remnant performance advertising inventory. We intend to continue invest in our programmatic advertising buying solution in the future.

Our integration into standard radio media-buying processes and measurement, our in-car advertising solutions and our local advertising sales force are key elements of our strategy to expand our penetration of the radio advertising market. Our success in executing this strategy is subject to numerous risks and uncertainties, including those described in “Risk Factors.”

Pandora Subscription and Other Revenue

Subscription and other revenue is generated primarily through the sale of Pandora One, a premium daily, monthly or annual paid version of the Pandora service, which currently includes advertisement-free access and higher audio quality on supported devices. Pandora One is primarily available for purchase through major app stores and through the Pandora website. For the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015, subscription and other revenue accounted for 18%, 20% and 19% of our total revenue, respectively.

Ticketing Service Revenue

Ticketing service revenue is generated primarily from service and merchant processing fees generated on ticket sales through the Ticketfly platform. Ticketfly sells tickets to fans for events on behalf of clients and charges a fee per ticket, which generally increases as the face value of the ticket increases, or a percentage of the total convenience charge and order processing fee, for its services at the time the ticket for an event is sold. Ticketing service revenue is recorded net of the face value of the ticket at the time of the sale, as Ticketfly generally acts as the agent in these transactions. Ticketing service revenue is included in our consolidated operating results from October 31, 2015, when we acquired Ticketfly, and accounted for approximately 1% of our total revenue.

Pandora Content, Copyrights and Royalties

To secure the rights to stream music content over the internet, we must obtain licenses from, and pay royalties to, copyright owners, or their agents, for the sound recordings that we perform, as well as the musical works embodied in each of those sound recordings, subject to certain exclusions. These licensing and royalty arrangements strongly influence our business operations. We stream spoken word comedy content pursuant to a federal statutory license, as described under the section captioned "Sound Recordings" below, which in some instances we have opted to augment with direct agreements with the licensors of such sound recordings. For spoken word comedy, the underlying literary works are not currently entitled to eligibility for licensing by any performing rights organization ("PRO") for the United States. Rather, pursuant to industry-wide custom and practice, this content is performed absent a specific license from any such PRO or the copyright owner of such content.

Sound Recordings

The number of sound recordings we stream to users of the Pandora service, as generally reflected by our listener hours, drives the vast majority of our content acquisition costs. We obtain performance rights licenses and pay performance rights royalties for the benefit of the copyright owners of such sound recordings and the recording artists, both featured and non-featured, on such recordings, mainly pursuant to the Digital Performance Right in Sound Recordings Act of 1995 (the "DPRA") and the Digital Millennium Copyright Act of 1998 (the "DMCA"). Under federal statutory licenses created by the DPRA and the DMCA, we are permitted to stream any lawfully released sound recordings and to make reproductions of these recordings on our computer servers, without having to separately negotiate and obtain direct licenses with each individual sound recording copyright owner. These statutory licenses are granted to us on the condition that we operate in compliance with the rules of the statutory licenses and pay the applicable royalty rates to SoundExchange, the non-profit organization designated by the Copyright Royalty Board (the “CRB”), a tribunal established within the U.S. Library of Congress, to collect and distribute royalties under these statutory licenses.

The rates we pay pursuant to the federal statutory licenses can be established by either negotiation or through a rate proceeding conducted by the CRB. In 2009, certain webcasters reached a settlement agreement with SoundExchange establishing alternative rates and rate structures to those eventually established by the CRB for services not qualifying for the settlement rates. This settlement agreement is commonly known as the "Pureplay Settlement" and it established rates at the greater of the per-performance royalty rate or 25% of revenue applied through the end of 2015. We have elected since 2009 to avail ourselves of the Pureplay Settlement. On December 16, 2015, the CRB announced the new per performance rates that apply for commercial webcasters for calendar years 2016 through 2020 (the “Web IV Proceedings”). Effective January 1, 2016,

the royalties we pay are set by the Web IV Proceedings. The rates and terms for the 2016 period represent an approximate 15% increase over Pandora's 2015 effective per-performance royalty rate based on Pandora's projected blended rate for subscription and non-subscription performances in 2016. Unlike the royalty structure applicable prior to 2016, the Web IV rates do not include an alternate calculation based on percentage of revenue, but instead are solely based on per-performance rates. The rates for the calendar years 2017 through 2020 will be adjusted by the CRB to reflect the increases or decreases, if any, in the Consumer Price Index, applicable to that rate year.

The royalties we pay to SoundExchange for the streaming of sound recordings are calculated using a per-performance rate and are subject to audit. The table below sets forth the per-performance rates for the calendar year 2015 and 2016 as applicable to (i) our non-subscription, ad-supported service and (ii) our subscription service:

Per-performance Rate	Non-subscription	Subscription	Blended*
"Web IV Rate" Decision for 2016	$ 0.00170	$ 0.00220	$ 0.00176
"Pureplay Rate" for 2015**	$ 0.00140	$ 0.00250	$ 0.00153

**Pandora's projected blended rate for 2016.*
***In 2015, the "Web III" rate set by the CRB, which Pandora opted out of via the Pureplay Settlement, was $0.0023.*

As reflected in the table above, we pay per-performance rates for streaming of sound recordings via our Pandora One subscription service that are higher than the per-performance rates for our non-subscription, ad-supported service. As a result, we may incur higher royalty expenses to SoundExchange for a listener that subscribes to Pandora One as compared to a listener that uses our non-subscription, ad-supported service, even if both listeners listen to the same number of performances.

In addition to our federal statutory licenses for sound recording rights under the DPRA and DMCA, Pandora has direct licenses with certain labels and PROs for such rights. In August 2014, we announced an agreement to partner with Music and Entertainment Rights Licensing Independent Network ("Merlin"), the global rights agency for the independent label sector. This partnership is designed to help independent labels and artists increase the audiences they reach. Participating labels, and the artists they represent, can also take advantage of the marketing capabilities of our connected platform by obtaining direct access to our metadata to help make data-driven business decisions.

Musical Works

Our content costs also include the royalties we pay for the public performance of musical works embodied in the sound recordings that we stream. Copyright owners of musical works, typically, songwriters and music publishers, have traditionally relied on PROs to negotiate so-called "blanket" licenses with copyright users, collect royalties under such licenses, and distribute them to copyright owners. We have obtained public performance licenses from, and pay license fees to, the three major PROs in the United States: the American Society of Composers, Authors and Publishers ("ASCAP"), Broadcast Music, Inc. ("BMI") and SESAC, Inc. ("SESAC").

ASCAP and BMI each are governed by a consent decree with the United States Department of Justice. The rates that we paid ASCAP and BMI were historically established by either negotiation or through a rate court proceeding conducted by the United States District Court for the Southern District of New York. We elected to terminate our prior agreements with ASCAP as of December 31, 2010 and with BMI as of December 31, 2012 because, among other things, we believed that the royalty rates sought by ASCAP and BMI were in excess of rates paid by our largest radio competitors: broadcast radio stations and satellite radio. Notwithstanding our termination of these agreements, the musical works administered by each of ASCAP and BMI continued to be licensed to us pursuant to the provisions of their respective consent decrees. From 2012 to 2014, we were engaged in rate court proceedings with ASCAP to determine reasonable license fees and terms for the ASCAP consent decree license applicable to the period January 1, 2011 through December 31, 2015. A trial to determine the royalty rates we pay to ASCAP concluded in February 2014 and the court issued its opinion establishing final fees in March 2014. Similarly, from 2013 to 2015 we were engaged in rate court proceedings with BMI to determine reasonable license fees and terms for the BMI consent decree license applicable to the period January 1, 2013 through December 31, 2016. The BMI rate court proceeding concluded on March 13, 2015, and in May 2015, the court issued its opinion establishing final fees. In December, 2015, we entered into publishing agreements with ASCAP and BMI covering the period from January 1, 2016 through December 31, 2018. The new agreement with BMI supersedes the last year of the term of the prior BMI agreement, and in connection with the signing of the new BMI agreement, we agreed to withdraw our appeal of the May 2015 order in the BMI rate court proceeding.

We currently operate under an agreement with SESAC, which automatically renews yearly, but is subject to termination by either party in accordance with its terms at the end of each yearly term. The SESAC rate is subject to small annual increases.

In addition to our license agreements with the PROs, in some cases, we enter into agreements directly with music publishers. Music publishers own or administer copyrights in musical works and license those copyrights to third parties that use music, such as record labels, filmmakers, television and radio stations. Publishers also collect license fees from these third parties and distribute the fees to the writers or composers of the musical works. Between 2012 and 2014, certain publishers purported to partially withdraw portions of their repertoires from each of ASCAP and BMI with the intent that each performing rights organization would be unable to license the withdrawn musical works to new media licensees such as Pandora. Despite our position that these attempted partial withdrawals violate the ASCAP and BMI consent decrees, we entered into agreements with three publishers directly licensing us the right to perform musical compositions under their control.

In November and December 2015, we entered into licenses with several music publishing companies, ASCAP and BMI that grant us the rights to publicly perform musical compositions under their control during the period from January 1, 2016 through December 31, 2018. The majority of the licenses are structured so that each publisher or PRO receives a pro rata share of 20% of the royalties paid by us for sound recordings, with the pro rata share paid to each publisher or PRO being determined based on our usage of its works. These license agreements are structured differently from previous publisher and PRO licenses, which have traditionally been based on a percentage of a service's revenue or a flat fee.

RMLC

In June 2013, we entered into an agreement to purchase the assets of KXMZ-FM and in June 2015 the Federal Communications Commission ("FCC") approved the transfer of the FCC licenses and the acquisition was completed. The agreement to purchase the assets of KXMZ allowed us to qualify for the RMLC royalty rate of 1.7% of revenue for a license to the ASCAP and BMI repertoires, before certain deductions, beginning in June 2013. As a result, we recorded cost of revenue - content acquisition costs at the RMLC royalty rate starting in June 2013, rather than the rate that was set in rate court proceedings.

In September 2015, despite confidence in our legal position that we were entitled to the RMLC royalty rate starting in June 2013 and as part of our strategy to strengthen our partnership with the music industry, we decided to forgo the application of the RMLC royalty rate from June 2013 through September 2015. As a result, cost of revenue - content acquisition costs increased by $28.2 million in the twelve months ended December 31, 2015, of which $23.9 million was related to a one-time cumulative charge to cost of revenue - content acquisition costs related to spins played from June 2013 through September 30, 2015 in order to align the cumulative cost of revenue - content acquisition costs to the amounts previously paid at the rates that were set in the rate court proceedings in March 2014 for ASCAP and May 2015 for BMI. We recorded cost of revenue - content acquisition costs for the performing rights organizations at the rates established by the rate courts for the three months ended December 31, 2015, and we intend to record such costs at the rates established by direct licensing agreements, including BMI and ASCAP, among others, beginning in 2016.

Non-U.S. Licensing Regimes

In addition to the copyright and licensing arrangements described above for our use of sound recordings and musical compositions in the United States, other countries have various copyright and licensing regimes, including in some cases performing rights organizations and copyright collection societies from which licenses must be obtained. We have obtained licenses to operate in Australia and New Zealand for the communication of sound recordings and the musical compositions embodied in those sound recordings, which have not had a material effect on our results of operations to date.

Government Regulation

As a company conducting business on the internet, we are subject to a number of foreign and domestic laws and regulations relating to consumer protection, information security and data protection, among other things. Many of these laws and regulations are still evolving and could be interpreted in ways that could harm our business. In the area of information security and data protection, the laws in several states require companies to implement specific information security controls to protect certain types of information. Likewise, all but a few states have laws in place requiring companies to notify users if there is a security breach that compromises certain categories of their information. We are also subject to federal and state laws regarding privacy of listener data, among other things. Our privacy policy and terms of use describe our practices concerning the use, transmission and disclosure of listener information and are posted on our website.

Sales and Marketing

Pandora

We organize our Pandora sales force into multiple geographically-based teams that are each focused on selling advertising across our computer, mobile and other connected device platforms. Teams are located in our Oakland, California headquarters, in regional sales offices in Atlanta, Chicago, Dallas, Detroit, New York and Santa Monica and local sales offices throughout the United States, in Sydney, Australia and in Auckland, New Zealand.

Our marketing team is charged with amplifying Pandora's brand message to grow awareness and drive listener hours. We organize the marketing team into three groups focused on communications, marketing analytics and brand marketing. While we have historically relied on the success of viral marketing to expand consumer awareness of our service, beginning in 2014 and continuing in 2015, we launched marketing campaigns to increase consumer awareness and expand our listener base. We anticipate that we will continue to utilize these types of marketing campaigns in the future.

Ticketfly

The Ticketfly sales force is organized into various teams based on vertical, such as client type, and is focused on obtaining contracts with clients to sell tickets on the Ticketfly platform. Teams are located in the Ticketfly headquarters in San Francisco, California and in local sales offices throughout the United States and in Canada.

Artist Relations

Pandora Artist Marketing Platform

In October 2014, we launched Pandora AMP, a free online service that gives artists and their managers a detailed view of their audience on our service. Pandora AMP provides data and insights to the more than 350,000 artists played on our service. Derived from tens of billions of hours of personalized listening, Pandora AMP is designed to help artists with many critical decisions such as tour routing, single selection, set lists, audience targeting and more.

NBS combines music consumption data into one centralized platform and will complement the Pandora AMP service. The NBS platform, which includes data from Facebook, Twitter and YouTube, combined with Pandora's data on music preferences, patterns and trends reflecting insights from its 81.1 million active users, will allow Pandora AMP to deliver detailed analytics to the music industry.

Pandora Music Makers Group.

In October 2014, to consolidate all of our music industry initiatives into a single product suite, and to help drive connections with fans across all channels at Pandora, we brought the teams across the business that work most directly with the music industry together into a single group known as the Music Makers Group. Our vision is to ensure artists can promote and market their music to fans, drive engagement with experiences from live events to original content and audio messages to fans and understand all of the benefits of these interactions via our analytics tools.

Competition

Pandora

Competition for Listeners

We compete for the time and attention of our listeners with other content providers on the basis of a number of factors, including quality of experience, relevance, acceptance and perception of content quality, ease of use, price, accessibility, perceptions of ad load, brand awareness and reputation. We also compete for listeners on the basis of our presence, branding and visibility as compared with other providers that deliver content through the internet, mobile devices and consumer products. We believe that we compete favorably on these factors. For additional details on risks related to competition for listeners, please refer to the section entitled "Risk Factors."

Many of our current and potential future competitors enjoy competitive advantages, such as greater name recognition, legacy operating histories and larger marketing budgets, as well as greater financial, technical and other resources. We compete with many forms of media for the time and attention of our listeners, such as Facebook, Twitter, Netflix, Pinterest and Instagram. Our direct competitors, however, include iHeartRadio, LastFM and other companies in the traditional broadcast and internet radio market. We also directly compete with the non-interactive, internet radio offerings from providers such as Spotify, Apple Music, Google Play Music and Slacker.

We compete for listeners with broadcast radio providers, including terrestrial radio providers. Many broadcast radio companies own large numbers of radio stations or other media properties. Many terrestrial radio stations have begun broadcasting digital signals, which provide high quality audio transmission. Broadcast and satellite radio companies generally enjoy larger established audiences and a significant cost advantage because they pay a much lower percentage of revenue for transmissions of sound recordings. Broadcast radio companies pay no royalties for the radio broadcast of sound recordings, and satellite radio companies paid only 10% of revenue in 2015 and will pay only 10.5% of revenue in 2016 for its satellite transmissions of sound recordings. By contrast, Pandora incurred content acquisition costs representing 46% of revenue for our internet transmissions of sound recordings during the twelve months ended December 31, 2015.

We also face competition for listeners and listener hours from interactive music streaming services such as Spotify, Apple Music, YouTube, Google Play Music, Amazon Prime, Rhapsody, and Deezer. These services offer consumers the ability to choose the songs and artists they want to hear, create customized playlists and download music for play offline - functionality that our service does not provide.

This interactive on-demand content is accessible in automobiles and homes, using portable players, mobile phones and other wireless and consumer electronic devices. The audio entertainment marketplace continues to rapidly evolve, providing our listeners with a growing number of alternatives and new media platforms.

At a macro level, we compete for the time and attention of our listeners with providers of other forms of in-home and mobile entertainment. To the extent existing or potential listeners choose to watch cable television, stream video from on-demand services or play interactive video games on their home-entertainment system, computer or mobile phone rather than listen to the Pandora service, these content services pose a competitive threat.

Competition for Advertisers

We compete with other content providers for a share of our advertising customers' overall marketing budgets. We compete on the basis of a number of factors, including perceived return on investment, effectiveness and relevance of our advertising products, pricing structure and ability to deliver large volumes or precise types of ads to targeted demographics. We believe that our ability to deliver targeted and relevant ads across a wide range of platforms allows us to compete favorably on the basis of these factors and justify a long-term profitable pricing structure. However, the market for online advertising solutions is intensely competitive and rapidly changing, and with the introduction of new technologies and market entrants, we expect competition to intensify in the future. Our competitors include Facebook, Google, MSN, Yahoo!, ABC, CBS, FOX, NBC, The New York Times and the Wall Street Journal. We directly compete against iHeartRadio, Entercom, Cumulus and other companies of the traditional broadcast radio market. For additional details on risks related to competition for advertisers, please refer to the section entitled "Risk Factors."

The market for online advertising has become increasingly competitive, yet advertisers are allocating increasing amounts of their overall marketing budgets to online advertising. We compete for online advertisers with other internet companies, including major internet portals, search engine companies and social media sites. Large internet companies with greater brand recognition have significant numbers of direct sales personnel, more advanced programmatic advertising capabilities and substantial proprietary advertising inventory and web traffic that provide a significant competitive advantage and have a significant impact on pricing for internet advertising and web traffic.

Terrestrial broadcast, and to a lesser extent satellite radio, are significant sources of competition for advertising dollars. These radio providers deliver ads across a more familiar platform than the internet may be to traditional advertisers.

We also compete for advertising dollars with other traditional media companies in television and print. These traditional outlets present us with a number of competitive challenges in attracting advertisers, including large established audiences, longer operating histories, greater brand recognition and a growing presence on the internet.

Ticketfly

Competition for Clients

We compete with other online live events technology and primary ticketing companies for contracts with promoters and venues. We compete on the basis of a number of factors, including our ability to sell tickets and provide enhanced fan experiences. Our ticketing platform also offers website, email, social marketing, booking, analytics, fan CRM and other tools for our clients. Cloud technology has made it easier for other technology-based companies to offer primary ticketing services

and standalone, automated ticketing systems that enable venues to perform their own ticketing services or utilize self-ticketing systems. We also experience competition from other national, regional and local primary ticketing service providers to secure contracts with new promoters and venues. Our main competitors for clients include primary ticketing companies such as Live Nation Entertainment's Ticketmaster division, Tickets.com, AXS and Paciolan and upstart providers such as Eventbrite and eTix.

Although we believe that our products and services currently compete favorably with respect to such factors, we cannot provide any assurance that we can maintain our competitive position against current and potential competitors, especially those with greater brand recognition, or financial, technical or other resources.

Competition for Fans

We compete with other live events technology and primary ticketing companies, as well as secondary ticketing companies for ticket sales to fans. We compete on the basis of a number of factors, including our ability to reach fans and provide enhanced fan experiences. The ticketing services industry includes the sale of tickets primarily through online channels, but also through telephone, mobile devices and ticket outlets. In the online environment, we compete with other websites, live events technology and ticketing companies to provide event information, sell tickets and provide other online services. We experience competition from other national, regional and local primary ticketing service providers to reach fans for events. Resale, or secondary, ticketing services have created more aggressive buying of primary tickets whereby brokers are using automated internet “bot” technology to attempt to bypass queues and buy tickets when they go on sale. Our main competitors for fans include primary ticketing companies such as Live Nation Entertainment's Ticketmaster division, Tickets.com, AXS and Paciolan, upstart providers such as Eventbrite and eTix and secondary ticketing companies such as StubHub.

Seasonality

Our results reflect the effects of seasonal trends in listener and advertising behavior. We expect to experience both higher advertising sales due to greater advertiser demand during the holiday season and increased usage due to the popularity of holiday music during the last three months of each calendar year. In addition, we expect to experience lower advertising sales in the first three months of each calendar year due to reduced advertiser demand and increased usage due to increased use of media-streaming devices received as gifts during the holiday season. See the section entitled "Business Trends" in Item 7 of this Annual Report on Form 10-K for a more complete description of the seasonality of our financial results.

We changed our fiscal year to the calendar twelve months ended December 31 to align with the advertising industry’s business cycle, effective beginning with the period ended on December 31, 2013. The results of our fiscal quarters prior to 2014 (three months ended April 30, July 31, October 31 and January 31 of each year) reflect the same effects of the seasonal trends on advertising revenue discussed above for calendar periods, except that the impact of these advertising sales-related trends on our fiscal results was not as pronounced due to the inclusion of January instead of October in our fourth fiscal quarter.

Intellectual Property

Our success depends in part upon our ability to protect our technologies and intellectual property. To accomplish this, we rely on a combination of intellectual property rights, including trade secrets, patents, copyrights, trademarks, contractual restrictions, technological measures and other methods. We enter into confidentiality and proprietary rights agreements with our employees, consultants and business partners, and we control access to and distribution of our technology and proprietary information.

We have filed and acquired dozens of active patent applications and issued patents across the world, and we continue to pursue additional patent protection, both in the United States and abroad where appropriate and cost effective. In December 2014, we purchased certain patents covering technologies used in internet radio from Allied Security Trust. In June 2013, we purchased certain patents covering technologies used in internet radio from Yahoo! Inc. for $8.0 million in cash. We intend to hold these patents purchased from Allied Security Trust and Yahoo! Inc. as part of our strategy to protect and defend Pandora in patent-related litigation. We also acquire patents and patent applications from time to time as part of other transactions, including our recent acquisition of assets from Rdio, Inc. in December 2015.

Our registered trademarks in the United States include "Pandora," the "Music Genome Project," and "Ticketfly," in addition to a number of Pandora logos and other Pandora marks. "Pandora" is also registered in Australia, Canada, Chile, the European Union, India, Israel, Korea, Mexico, New Zealand, Switzerland, Taiwan and other countries. "Music Genome Project" is also registered in Australia, Canada, China and New Zealand. We have pending trademark applications in the United

States and other countries for Pandora names and marks.

We are the registrant of the internet domain names for our websites, pandora.com and ticketfly.com, as well as pandora.eu, pandora.fm, pandora.co.in, pandora.co.uk, pandora.uk, pandora.co.nz, pandora.de, pandora.tw, pandora.rocks, and others related to our current and potential businesses.

In addition to the forms of intellectual property listed above, we own rights to proprietary processes and trade secrets, including those underlying the Pandora service. We use contractual, policy and technological means to generally control access to, use and distribution of our proprietary software, trade secrets and other confidential information, both internally and externally, including contractual protections with employees, contractors, customers and partners.

Customer Concentration

For each of the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015, we had no customers that accounted for 10% or more of total revenue.

Employees

As of December 31, 2015, we had 2,219 employees. None of our employees are covered by collective bargaining agreements, and we consider our relations with our employees to be good.

Corporate and Available Information

We were incorporated as a California corporation in January 2000 and reincorporated as a Delaware corporation in December 2010. Our principal executive offices are located at 2101 Webster Street, Suite 1650, Oakland, California 94612 and our telephone number is (510) 451-4100. Our website is located at www.pandora.com and our Investor Relations website is located at investor.pandora.com.

We changed our fiscal year to the calendar twelve months ending December 31, effective beginning with the period ended on December 31, 2013. As a result, the period ended December 31, 2013 was shortened from twelve months to an eleven-month transition period.

We file reports with the Securities and Exchange Commission ("SEC"), including Annual and Transition Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and any other filings required by the SEC. We make available on our Investor Relations website, free of charge, our Annual and Transition Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and all amendments to those reports, as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC. The information on our website is not incorporated by reference into this Annual Report on Form 10-K or in any other report or document we file with the SEC.

The public may read and copy any materials we file with the SEC at the SEC's Public Reference Room at 100 F Street, NE, Washington, DC 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC maintains an internet site (http://www.sec.gov) that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC.

Investors and others should note that we announce material financial information to our investors using our Investor Relations website, SEC filings, press releases, public conference calls and webcasts. We use these channels as well as social media to communicate with the public about the Company, our services and other issues. It is possible that the information we post on social media could be deemed to be material information. Therefore, we encourage investors, the media, and others interested in the Company to review the information we post on the social media channels listed on our Investor Relations website.

ITEM 1A. RISK FACTORS

The risks and uncertainties set forth below, as well as other factors described elsewhere in this Annual Report on Form 10-K or in other filings by us with the SEC, could adversely affect our business, financial condition, results of operations and the trading price of our common stock. Additional risks and uncertainties that are not currently known to us or that are not currently believed by us to be material may also harm our business operations and financial results. Because of the following factors, as well as other factors affecting our financial condition and operating results, past financial performance should not be considered to be a reliable indicator of future performance, and investors should not use historical trends to anticipate results or trends in future periods.

Risks Related to Our Business

We depend upon third-party licenses for the right to publicly perform musical works and a change to these licenses could materially increase our content acquisition costs.

Our content costs, in part, are comprised of the royalties we pay for the public performance of musical works embodied in the sound recordings that we stream. As described in "Business—Content, Copyrights and Royalties—Musical Works", to secure the rights to publicly perform musical works embodied in sound recordings over the internet, we obtain licenses from or for the benefit of copyright owners and pay royalties to copyright owners or their agents. There is no guarantee that the licenses available to us now will continue to be available in the future or that such licenses will be available at the royalty rates associated with the current licenses. If we are unable to secure and maintain rights to publicly perform musical works or if we cannot do so on terms that are acceptable to us, our ability to perform music content to our listeners, and consequently our ability to attract and retain both listeners and advertisers, will be adversely affected. For the twelve months ended December 31, 2015, we incurred content acquisition costs for the public performance of musical works representing 6.7% of our total revenue for that period.

As described in "Business—Content, Copyrights and Royalties—Musical Works", in December 2015, we entered into new, multi-year direct licenses with ASCAP, BMI and other music publishers which took effect on January 1, 2016 and expire on December 31, 2018. There is no guarantee that, upon the expiration or earlier termination of these licenses, renewals or equivalent licenses will be available at acceptable royalty rates in the future or that we will be able to obtain licenses to cover new products or new features we may wish to add to our products. If we are not able to agree to terms with ASCAP or BMI on new licenses when our current licenses expire or are terminated, either we or ASCAP or BMI, as the case may be, may petition the respective U.S. District Court having supervisory authority over ASCAP or BMI to set the terms of the new license. Any new rate court proceedings may be protracted, expensive and uncertain in outcome. In the event that any new rate court proceedings are resolved adversely to us, our content acquisition costs could increase significantly, which would materially and adversely affect our operating results.

We do not currently pay so-called "mechanical royalties" to music publishers for the reproduction and distribution of musical works embodied in server copies or transitory copies used to make streams audible to our listeners. Although not currently a matter of dispute, if music publishers were to retreat from the publicly stated position of their trade association that non-interactive streaming does not require the payment of mechanical royalties, and a court entered final judgment requiring that payment, our royalty obligations could increase significantly, which would increase our operating expenses and harm our business and financial conditions. While we would vigorously challenge such mechanical royalties as not required by law, our challenge may be unsuccessful and would in any case involve commitment of substantial time and resources.

In addition, we stream spoken word comedy content, for which the underlying literary works are not currently entitled to eligibility for licensing by any performing rights organization in the United States. Rather, pursuant to industry-wide custom and practice, this content is performed absent a specific license from any such performing rights organization or individual rights owners, although royalties are paid to SoundExchange for the public performance of the sound recordings in which such literary works are embodied. There can be no assurance that this industry custom will not change or that we will not otherwise become subject to additional licensing costs for spoken word comedy content imposed by performing rights organizations or individual copyright owners in the future or be subject to damages for copyright infringement.

Changes in third-party licenses for the right to publicly perform musical works may reduce the number of sound recordings available to stream on our service or materially increase our content acquisition costs.

The number of works administered by ASCAP, BMI and other performing rights organizations ("PROs") may fluctuate over time and may be subject to the withdrawal of certain rights by individual PRO-affiliated music publishers for certain types of transmissions by certain types of services, such as Pandora, or the loss of repertory entirely in the event of a publisher's

complete withdrawal from any PRO. The decrease in the works licensed by the PROs may require more direct licensing by us with individual music publishers who could withhold the rights to all of the musical works which they own or administer.

If music publishers withdraw all or a portion of their catalogs from PROs, we may no longer be able to obtain licenses for such publisher's withdrawn catalogs. Under these circumstances, we would either need to enter into direct licensing arrangements with such music publishers or remove those musical works from the service, including any sound recordings in which such musical works are embodied.

It is unclear what specific effect a publisher's prospective complete withdrawal of rights from a PRO would have on us. If we are unable to reach an agreement with respect to the repertoire of any music publisher that successfully withdraws all or a portion of its catalog from a PRO, or if we are forced to enter into direct licensing agreements with such publishers at rates higher than those currently set by the PROs, or higher than those set by the respective U.S. District Court having supervisory authority over ASCAP or BMI, for the performance of musical works, or if there is uncertainty as to what rights are administered by any particular PRO or publisher, the number of sound recordings that we perform on our service may be reduced, our content acquisition costs may increase and our ability to retain and expand our listener base could be adversely affected, any of which could materially and adversely affect our business, financial condition and results of operations.

In addition, PROs and musical work copyright owners with whom we have entered into direct licenses have or may have the right to audit our royalty payments, and any such audit could result in disputes over whether we have paid the proper royalties. If such a dispute were to occur, we could be required to pay additional royalties and audit fees, and the amounts involved could materially and adversely affect our business, financial condition and results of operations. SoundExchange informed us in December 2013 that it intends to audit our payments for the years 2010, 2011, and 2012, but has not yet commenced these audits. We believe the statute of limitations has run on SoundExchange's right to audit our payments for these years. In January 2016, SoundExchange informed us that it intends to audit our payments for the years 2013 and 2014. As of February 18, 2016, SoundExchange had not yet commenced these audits.

Our inability to obtain accurate and comprehensive information necessary to identify the ownership of musical works may impact our ability to obtain necessary licenses from the copyright holders, remove musical works or decrease the number of performances of a particular musical work, subjecting us to potential copyright infringement claims and difficulties in controlling content acquisition costs.

Comprehensive and accurate rightsholder information for the musical works underlying the sound recordings that we stream is not presently available to us. Without the ability to identify which composers, songwriters or publishers own or administer musical works, and an ability to determine which musical works correspond to specific sound recordings, it may be difficult to identify the appropriate rightsholders from which to obtain a license, which could lead to a reduction of sound recordings available to be streamed on our service, adversely impacting our ability to retain and expand our listener base. Such a lack of ownership data may also make it difficult to identify the sound recordings that we should remove from our service, which may subject us to significant liability for copyright infringement.

Our inability to enter into commercially viable direct licenses with record labels for the right to reproduce and publicly perform sound recordings on our service may delay or prevent our plans to expand our subscription offerings into multiple tiers, including an on-demand offering, and delay or prevent our international expansion.

Our largest expense is the royalties we pay for the reproduction and public performance of sound recordings that we stream on our service. As described in "Business-Content, Copyrights and Royalties-Sound Recordings" from the years 2009-2015 we operated under the Pureplay Settlement, which is an agreement with SoundExchange that provided the rates and terms of statutory licenses for the reproduction and public performance of sound recordings for commercial webcasters through the end of 2015. On December 16, 2015, the Copyright Royalty Board announced the new per performance rates that apply for commercial webcasters for calendar years 2016 through 2020 (the "Web IV Proceedings"). We intend to expand our subscription offerings into multiple tiers, including an on-demand offering, and make our offerings available in new geographic areas. The statutory license, and the rates provided under the Web IV Proceedings, do not extend to cover these new product offerings or geographies outside of the United States and its territories, and, therefore, we must obtain direct licenses with record labels for the right to reproduce and publicly perform sound recordings for these offerings and new geographies. There is no guarantee that such licenses will be available to us on terms that are commercially viable for our long-term success and sustainability. If we are unable to secure and maintain these rights from the record labels or if we cannot do so on terms that are acceptable to us, our ability to launch new product offerings and to continue our international expansion efforts will be delayed and our content acquisition costs could materially increase.

We plan to operate our expanded subscription offerings under a compulsory license for "mechanical royalties" which could change or cease to exist, therefore hindering our ability to launch new product offerings.

We intend to expand our subscription offerings into multiple tiers, including an on-demand offering, and we expect that such offerings may require that we pay mechanical royalties to music publishers for the reproduction and distribution of musical works under the compulsory license made available by Section 115 of the Copyright Act. There can be no assurance that this compulsory license will remain available to us for use at the current rates, or at all.

The Copyright Royalty Board commenced a proceeding to set the rates for a compulsory license for mechanical royalties for calendar years 2018 to 2022 (the "115 Proceedings") in 2016, and we have filed a petition to participate in the 115 Proceedings. There can be no assurances that the rates established by the CRB for periods following 2018 will not exceed the rates currently in place. If the CRB sets rates that exceed the rates that are currently in place, our content acquisition costs may significantly increase, which could materially harm our financial condition and hinder our ability to provide subscription offerings in multiple tiers, including an on-demand offering.

Assertions by third parties of violations under state law with respect to the public performance and reproduction of pre-1972 sound recordings could result in significant costs and substantially harm our business and operating results.

As described in "Business Content—Copyrights and Royalties—Sound Recordings", sound recordings made on or after February 15, 1972 fall within the scope of federal copyright protection. Subject to our ongoing compliance with numerous federal statutory conditions and regulatory requirements for a non-interactive service, we are permitted to operate our radio service under a statutory license that allows the streaming in the U.S. of any such sound recording lawfully released to the public and permits us to make reproductions of such sound recordings on computer servers pursuant to a separate statutory license designed to facilitate the making of such transmissions.

By contrast, protection of sound recordings created prior to February 15, 1972 ("pre-1972 sound recordings") remains governed by a patchwork of state statutory and common laws. Copyright owners of pre-1972 sound recordings have commenced litigation against us in New York, California, Illinois, and New Jersey alleging violations of state statutory and common laws arising from the reproduction and public performance of pre-1972 sound recordings. Despite settling one such suit with the major record labels in October 2015, we still face a number of class-action suits brought by various plaintiffs who seek, among other things, restitution, disgorgement of profits, and punitive damages as well as injunctive relief prohibiting further violation of those copyright owners' alleged exclusive rights.

Litigation has been brought previously against Sirius XM Radio Inc. ("Sirius") for similar claims by a number of different plaintiffs, and a federal district court and a state court in California recently ruled against Sirius for violating exclusive public performance rights in California. In addition, a federal district court in New York has found Sirius liable for similar claims in New York. Those same plaintiffs are amongst those that have initiated litigation against us, alleging similar violations of exclusive rights under California and New York law. If we are found liable for the violation of the exclusive rights of any pre-1972 sound recording copyright owners, then we could be subject to liability, the amount of which could be significant. Similarly, any settlements of the remaining litigation could require substantial payments. The settlement we did enter into only extends to the end of 2016. There is no assurance we will be able to enter into a new license with respect to the works covered under our settlement for periods after 2016 on reasonable terns, or at all. If we are required to obtain licenses from individual sound recording copyright owners for the reproduction and public performance of pre-1972 sound recordings, then the time, effort and cost of securing such licenses directly from all owners of sound recordings used on our service could be significant and could harm our business and operating results. If we are required to obtain licenses for pre-1972 sound recordings to avoid liability and are unable to secure such licenses, then we may have to remove pre-1972 sound recordings from our service, which could harm our ability to attract and retain users.

If we are unable to maintain revenue growth from our advertising products, particularly in mobile advertising, our results of operations will be materially adversely affected.

Our number of listener hours on mobile devices comprised approximately 85% of our total listener hours in 2015, and we expect that mobile listener hours will continue to grow more quickly than computer listener hours. The percentage of advertising spending allocated to digital advertising on mobile devices still lags behind that allocated to traditional online advertising. According to eMarketer, the percentage of U.S. advertising spending allocated to advertising on mobile devices was approximately 16% in 2015, compared to approximately 32% for all online advertising. We must therefore continue to convince advertisers of the capabilities of mobile digital advertising opportunities so that they migrate their advertising spend toward demographics and ad solutions that more effectively utilize mobile inventory.

We continue to build our sales capability to penetrate local advertising markets, which we view as a key challenge to monetizing our listener hours, including listener hours on mobile and other connected devices. Our audio advertising capability also places us in direct competition with terrestrial radio, as many advertisers that purchase audio ads focus their spending on terrestrial radio stations who traditionally have strong connections with local advertisers. We cannot foresee whether we will be able to continue to capture local and audio advertising revenue at the current rate of growth, which may have an adverse impact on future revenue and income.

We continue to work on initiatives that, if successfully implemented, would increase our number of listener hours on mobile and other connected devices, including efforts to expand the reach of our service by making it available on an increasing number of devices, such as smartphones and devices connected to or installed in automobiles. In order to effectively monetize such increased listener hours, we must, among other things, convince advertisers to migrate spending to nascent advertising markets, penetrate local advertising markets and develop compelling ad product solutions. We may not be able to effectively monetize inventory generated by listeners using mobile and connected devices, or do so in a timeframe that supports our business plans.

Advertising spending is increasingly being placed through new data-driven channels, such as the programmatic buying ecosystem, where mobile offerings are not as mature as their web-based equivalents. Because the substantial majority of our listener hours occur on mobile devices, our growth prospects and revenue may be adversely affected if the advertising ecosystem is slow to adopt data-driven mobile advertising offerings.

As new advertising buying technologies, such as programmatic buying, develop around data-driven technologies and advertising products, an increasing percentage of advertising spend is likely to shift to such channels and products. These data-driven advertising products and programmatic buying technologies allow publishers to use data to target advertising toward specific groups of consumers who are more likely to be interested in the advertising message delivered. These advertising products and programmatic technologies are currently more developed in terms of ad technology and industry adoption on the web than they are on mobile. Due to the fact that the substantial majority of our listener hours occur on mobile devices, our ability to attract advertising spend, and ultimately our ad revenue, may be adversely affected by this shift. We have no reliable way to predict how significantly or how quickly advertisers will shift buying to programmatic technologies and data-driven advertising products.

We have developed a data-driven, programmatic advertising capability for mobile in an effort to take advantage of this trend. However, we only released this capability to the market in the second quarter of 2015, and we have no reliable way to predict how significantly or how quickly advertisers will shift buying toward such data-driven ad products and programmatic channels on mobile. If advertising spend continues to be reallocated to web-based programmatic technologies and mobile programmatic adoption lags, our ability to grow revenue may be adversely affected.

Emerging industry trends in digital advertising measurement and pricing may pose challenges for our ability to forecast and optimize our advertising inventory which may adversely impact our advertising revenue.

The digital advertising marketplace is introducing new ways to measure and price advertising inventory. Specifically, the Media Ratings Council released the Viewable Ad Impression Measurement Guidelines in 2014 pursuant to which web display and web video advertising inventory will be transacted upon based on the number of "viewable" impressions delivered in connection with an applicable advertising campaign (instead of the number of ads served by the applicable ad server). The industry is in the early stages of this transition and we are still determining its potential impact on our inventory, operational resources, pricing, and revenue. In addition, the current measurement solutions are limited to web display and web video inventory and do not include mobile and audio inventory. Nonetheless, advertisers have been aggressively pushing to transact advertising purchases for audio advertising and mobile placement on a measured "viewable" basis. As these trends in the industry continue to evolve, our advertising revenue may be adversely affected by the availability, accuracy and utility of the available analytics and measurement technologies.

Our failure to convince advertisers of the benefits of our service in the future could harm our business.

For the twelve months ended December 31, 2015, we derived80% of our revenue from the sale of advertising and expect to continue to derive a substantial majority of our revenue from the sale of advertising in the future. Our ability to attract and retain advertisers, and ultimately to sell our advertising inventory to generate advertising revenue, depends on a number of factors, including:

- increasing the number of listener hours, particularly within desired demographics;

- keeping pace with changes in technology and our competitors;
- competing effectively for advertising dollars from other online marketing and media companies;
- penetrating the market for local radio advertising;
- demonstrating the value of advertisements to reach targeted audiences across all of our delivery platforms, including the value of mobile digital advertising;
- continuing to develop and diversify our advertising platform, which currently includes delivery of display, audio and video advertising products through multiple delivery channels, including computers, mobile and other connected devices; and
- coping with ad blocking technologies that have been developed and are likely to continue to be developed that can block the display of our ads.

Our agreements with advertisers are generally short-term or may be terminated at any time by the advertiser. Advertisers that are spending only a small amount of their overall advertising budget on our service may view advertising with us as experimental and unproven and may leave us for competing alternatives at any time. We may never succeed in capturing a greater share of our advertisers' core advertising spending, particularly if we are unable to achieve the scale and industry penetration necessary to demonstrate the effectiveness of our advertising platforms, or if our advertising model proves ineffective or not competitive when compared to alternatives. Failure to demonstrate the value of our service would result in reduced spending by, or loss of, existing or potential future advertisers, which would materially harm our revenue and business.

Unavailability of, or fluctuations in, third-party measurements of our audience may adversely affect our ability to grow advertising revenue.

Selling ads, locally and nationally, requires that we demonstrate to advertisers that our service has substantial reach and usage. Third-party measurements may not reflect our true listening audience and their underlying methodologies are subject to change at any time. In addition, the methodologies we apply to measure the key metrics that we use to monitor and manage our business may differ from the methodologies used by third-party measurement service providers. For example, we calculate listener hours based on the total bytes served for each track that is requested and served from our servers, as measured by our internal analytics systems, whether or not a listener listens to the entire track. By contrast, certain third-party measurement service providers may calculate and report the number of listener hours using a client-based approach, which measures time elapsed during listening sessions. Measurement technologies for mobile and consumer electronic devices may be even less reliable in quantifying the reach, usage and location of our service, and it is not clear whether such technologies will integrate with our systems or uniformly and comprehensively reflect the reach, usage and location of our service. While we have been working with third-party measurement service providers and certain of their measurements have earned Media Ratings Council accreditation, some providers have not yet developed uniform measurement systems that comprehensively measure the reach, usage and location of our service. In order to demonstrate to potential advertisers the benefits of our service, we supplement third-party measurement data with our internal research, which may be perceived as less valuable than third-party numbers. If third-party measurement providers report lower metrics than we do, or if there is wide variance among reported metrics, our ability to attract advertisers to our service could be adversely affected.

The lack of accurate cross-platform measurements for internet radio and broadcast radio may adversely affect our ability to grow advertising revenue.

We have invested substantial resources to create accurate cross-platform measurements for internet radio and broadcast radio in the major automated media-buying platforms, attempting to create a one-stop shop that enables media buyers to compare internet radio audience reach with terrestrial radio audience reach using traditional broadcast radio metrics.

Media buying agencies receive measurement metrics from third parties, such as Triton for internet radio and Nielsen for more traditional media like terrestrial radio and television. Media buying agencies may choose not to show, or may be prohibited by contract from showing, internet radio metrics alongside traditional terrestrial metrics. Despite our efforts to achieve parity within the tools available to media buying agencies, a lack of comparable internet radio metrics in these buying tools could have a materially negative effect on our ability to sell advertising on our service and achieve our revenue goals.

If we fail to detect click fraud or other invalid clicks on ads, we could lose the confidence of our advertisers, which would cause our business to suffer.

Our business relies on delivering positive results to our advertising customers. We are exposed to the risk of fraudulent and other invalid clicks or conversions that advertisers may perceive as undesirable. A major source of invalid clicks could result from click fraud where a listener intentionally clicks on ads for reasons other than to access the underlying content of the ads. If fraudulent or other malicious activity is perpetrated by others and we are unable to detect and prevent it, or if we choose to manage traffic quality in a way that advertisers find unsatisfactory, the affected advertisers may experience or perceive a reduced return on their investment in our advertising products, which could lead to dissatisfaction with our advertising programs, refusals to pay, refund demands or withdrawal of future business. This could damage our brand and lead to a loss of advertisers and revenue.

If we are unable to continue to make our technology compatible with the technologies of third-party distribution partners who make our service available to our listeners through mobile devices, consumer electronic products and automobiles, we may not remain competitive and our business may fail to grow or decline.

In order to deliver music everywhere our listeners want to hear it, our service must be compatible with mobile, consumer electronic, automobile and website technologies. Our service is accessible in part through both Pandora-developed and third-party developed apps that hardware manufacturers embed in, and distribute through, their devices. Most of our agreements with makers of mobile operating systems and devices through which our service may be accessed, including Apple, Google and Microsoft, are short-term or can be canceled at any time with little or no prior notice or penalty. The loss of these agreements, or the renegotiation of these agreements on less favorable economic or other terms, could limit the reach of our service and its attractiveness to advertisers. Some of these mobile device makers and operating system providers, including Apple, Amazon, Samsung and Google, are now, or may in the future become, competitors of ours, and could stop allowing or supporting access to our service through their products for competitive reasons.

Connected devices and their underlying technologies are constantly evolving. As internet connectivity of automobiles, mobile devices and other consumer electronic products expands and as new internet-connected products are introduced, we must constantly adapt our technology. It is challenging to keep pace with the continual release of new devices and technological advances in digital media delivery. If manufacturers fail to make products that are interoperable with our technology or we fail to adapt our technology to their evolving requirements, our ability to grow or sustain the reach of our service, increase listener hours and sell advertising could be adversely affected.

Consumer tastes and preferences can change in rapid and unpredictable ways and consumer acceptance of these products depends on the marketing, technical and other efforts of third-party manufacturers, which is beyond our control. If consumers fail to accept the products of the companies with whom we partner or if we fail to establish relationships with makers of leading consumer products, our business could be adversely affected.

If our efforts to attract prospective listeners and to retain existing listeners are not successful, our growth prospects and revenue will be adversely affected.

Our ability to grow our business and generate advertising revenue depends on retaining and expanding our listener base and increasing listener hours. We must convince prospective listeners of the benefits of our service and existing listeners of the continuing value of our service. The more listener hours we stream, the more ad inventory we have to sell. Further, growth in our listener base increases the size of demographic pools targeted by advertisers, which improves our ability to deliver advertising in a manner that maximizes our advertising customers' return on investment and, ultimately, to demonstrate the effectiveness of our advertising solutions and justify a pricing structure that is profitable for us. If we fail to grow our listener base and listener hours, particularly in key demographics such as young adults, we will be unable to grow advertising revenue, and our business will be materially and adversely affected.

Our ability to increase the number of our listeners and listener hours will depend on effectively addressing a number of challenges. Some of these challenges include:

- providing listeners with a consistent high quality, user-friendly and personalized experience;
- successfully expanding our share of listening in cars;
- continuing to build and maintain availability of catalogs of music and comedy and other content that our listeners enjoy;

- continuing to innovate and keep pace with changes in technology and our competitors;
- maintaining and building our relationships with makers of consumer products such as mobile devices and other consumer electronic products to make our service available through their products;
- maintaining positive listener perception of our service while managing ad-load to optimize inventory utilization; and
- minimizing listener churn and attracting lapsed listeners back to the service.

In addition, we have historically relied heavily on the success of viral marketing to expand consumer awareness of our service. We recently began supplementing our viral marketing strategy with larger, more costly marketing campaigns, and this increase in marketing expenses could fail to achieve expected returns and therefore have an adverse effect on our results of operations. We cannot guarantee that we will be successful in maintaining or expanding our listener base and failure to do so would materially and adversely affect our business, operating results and financial condition.

Further, although we use our number of active users as a key indicator of our brand awareness and the growth of our business, the number of active users exceeds the number of unique individuals who register for, or actively use, our service. We define active users as the number of distinct users that have requested audio from our servers within the trailing 30 days from the end of each calendar month. To establish an account, a person does not need to provide personally unique information. For this reason, a person may have multiple accounts. If the number of actual listeners does not result in an increase in listener hours, then our business may not grow as quickly as we expect, which may harm our business, operating results and financial condition.

If we fail to accurately predict and play music, comedy or other content that our listeners enjoy, we may fail to retain existing and attract new listeners.

We believe that a key differentiating factor between the Pandora service and other music content providers is our ability to predict music that our listeners will enjoy. Our personalized playlist generating system, based on the Music Genome Project and our proprietary algorithms, is designed to enable us to predict listener music preferences and select music content tailored to our listeners' individual music tastes. We have invested, and will continue to invest, significant resources in refining these technologies; however, we cannot guarantee that such investments will produce the intended results. The effectiveness of our personalized playlist generating system depends in part on our ability to gather and effectively analyze large amounts of listener data and listener feedback and we have no assurance that we will continue to be successful in enticing listeners to give a thumbs-up or thumbs-down to enough songs for our database to effectively predict and select new and existing songs. In addition, our ability to offer listeners songs that they have not previously heard and impart a sense of discovery depends on our ability to acquire and appropriately categorize additional tracks that will appeal to our listeners' diverse and changing tastes. While we have over 1,000,000 analyzed songs in our library, we must continuously identify and analyze additional tracks that our listeners will enjoy and we may not effectively do so. Further, many of our competitors currently have larger catalogs than we offer and they may be more effective in providing their listeners with a more appealing listener experience.

We also provide comedy content on Pandora, and for that content we also try to predict what our listeners will enjoy, using technology similar to the technology that we use to generate personalized playlists for music. The risks that apply to predicting our listeners' musical tastes apply to comedy and other content to an even greater extent, particularly as we lack experience with content other than music, do not yet have as large a data set on listener preferences for comedy and other content, and have a much smaller catalog as compared to music. Our ability to predict and select music, comedy and other content that our listeners enjoy is critical to the perceived value of our service among listeners and failure to make accurate predictions would adversely affect our ability to attract and retain listeners, increase listener hours and sell advertising.

We face, and will continue to face, competition with other content providers for listener hours and advertising spending.

We compete for the time and attention of our listeners with other content providers on the basis of a number of factors, including quality of experience, relevance, acceptance and perception of content quality, ease of use, price, accessibility, perception of ad load, brand awareness and reputation. Such competition affects the amount of quality advertising inventory available which we can offer to advertisers.

Many of our competitors may leverage their existing infrastructure, brand recognition and content collections to augment their services by offering competing internet radio features within a more comprehensive digital music streaming service. We

face increasing competition for listeners from a growing variety of music services that deliver music content through mobile phones and other wireless devices. Our direct competitors in the internet radio segment include iHeart Radio, iTunes Radio, Beats 1 Radio, LastFM and other companies in the traditional broadcast and internet radio market. We also directly compete with the non-interactive, Internet radio offerings provided by digital music streaming services such as Spotify, Google Play Music and Slacker, and we compete more broadly with the interactive music services offered by these companies and others, such as Apple Music, YouTube and Amazon Prime Music.

Our competitors also include terrestrial radio and satellite radio services, many of which also broadcast on the internet. Terrestrial radio providers offer their content for free, are well established and accessible to listeners and offer content, such as news, sports, traffic, weather and talk that we currently do not offer. In addition, many terrestrial radio stations have begun broadcasting digital signals, which provide high-quality audio transmission. Satellite radio providers may offer extensive and oftentimes exclusive news, comedy, sports and talk content, national signal coverage and long-established automobile integration. In addition, terrestrial radio pays no royalties for its use of sound recordings and satellite radio pays a much lower percentage of revenue, 10% in 2015 and 10.5% in 2016, than internet radio providers for use of sound recordings, giving broadcast and satellite radio companies a significant cost advantage. We also compete directly with other emerging non-interactive internet radio providers, which may offer more extensive content libraries than we offer and some of which may be accessed internationally.

We compete for the time and attention of our listeners with providers of other forms of in-home and mobile entertainment. To the extent existing or potential listeners choose to watch cable television, stream video from on-demand services or play interactive video games on their home-entertainment system, computer or mobile phone rather than listen to the Pandora service, these content services pose a competitive threat. We also compete with many other forms of media and services for the time and attention of our listeners, including non-music competitors such as Facebook, Google, MSN, Yahoo!, ABC, CBS, FOX, NBC, The New York Times and the Wall Street Journal, among others.

We believe that companies with a combination of financial resources, technical expertise and digital media experience also pose a significant threat. For example, Apple, Amazon and Google have recently launched competing services. These and other competitors may devote greater resources than we have available, have a more accelerated time frame for deployment, be willing to absorb significant costs to acquire customers through free trials or other initiatives, operate their music services at a loss in order to drive their other profitable businesses, and leverage their existing user base and proprietary technologies to provide products and services that our listeners and advertisers may view as superior or more cost effective. Our current and future competitors may have more well established brand recognition, more established relationships with music content companies and consumer product manufacturers, greater financial, technical and other resources, more sophisticated technologies or more experience in the markets, both domestic and international, in which we compete.

We also compete for listeners on the basis of the presence and visibility of our app, which is distributed via the largest app stores operated by Apple, Google, Amazon and Microsoft. Such distribution is subject to an application developer license agreement in each case. We face significant competition for listeners from these companies, who are also promoting their own digital music and content online through their app stores. Search engines and app stores rank responses to search queries based on the popularity of a website or mobile application, as well as other factors that are outside of our control. Additionally, app stores often offer users the ability to browse applications by various criteria, such as the number of downloads in a given time period, the length of time since a mobile app was released or updated, or the category in which the application is placed. The websites and mobile applications of our competitors may rank higher than our website and our Pandora app, and our app may be difficult to locate in app stores, which could draw potential listeners away from our service and toward those of our competitors. In addition, our competitors' products may be pre-loaded or integrated into consumer electronics products or automobiles, creating an initial visibility advantage. If we are unable to compete successfully for listeners against other digital media providers by maintaining and increasing our presence and visibility online, in app stores and in consumer electronics products and automobiles, our listener hours may fail to increase as expected or decline and our business may suffer. Additionally, should any of these parties reject our app from their app store or amend the terms of their license in such a way that inhibits our ability to distribute our apps, or negatively affects our economics in such distribution, our ability to increase listener hours and sell advertising would be adversely affected, which would reduce our revenue and harm our operating results.

To compete effectively, we must continue to invest significant resources in the development of our service to enhance the user experience of our listeners.

Additionally, in order to compete successfully for advertisers against new and existing competitors, we must continue to invest resources in developing and diversifying our advertisement platform, harnessing listener data and ultimately proving the effectiveness and relevance of our advertising products. There can be no assurance that we will be able to compete successfully

for listeners and advertisers in the future against existing or new competitors, and failure to do so could result in loss of existing or potential listeners, loss of current or potential advertisers or a reduced share of our advertisers' overall marketing budget, which could adversely affect our pricing and margins, lower our revenue, increase our research and development and marketing expenses, diminish our brand strength and prevent us from achieving or maintaining profitability.

If our efforts to attract and retain subscribers are not successful, our business may be adversely affected.

Our ability to continue to attract and retain users of our paid subscription services will depend in part on our ability to consistently provide our subscribers with a quality experience through Pandora One. If Pandora One subscribers do not perceive that offering to be of value, or if we introduce new or adjust existing features or pricing in a manner that is not favorably received by them, we may not be able to attract and retain subscribers. Subscribers may cancel their subscription to our service for many reasons, including a perception that they do not use the service sufficiently, the need to cut household expenses, competitive services that provide a better value or experience or as a result in changes in pricing. If our efforts to attract and retain subscribers are not successful, our business, operating results and financial condition may be adversely affected.

If we are unsuccessful at launching expanded subscription offerings or converting listeners into subscribers of such subscription offerings, our business may be adversely affected.

Our recent acquisition of certain assets of Rdio was intended to facilitate our launch of new subscription offerings that provide additional functionality, including an on-demand offering. In addition to the cost of the Rdio assets, the development and launch of such additional service offerings will require significant engineering as well as marketing and other resources. There is no assurance that we will be able to successfully develop and launch such additional service offerings, obtain the content licensing rights to enable the offering of such services, or be able to convince listeners to become subscribers of such additional service offerings. If we fail to accomplish any of the foregoing and the additional service offerings are unsuccessful, we will not realize the benefits of the Rdio asset acquisition or the substantial investment made in the development of such additional product offerings.

If we are not successful in operating and growing our recently acquired Ticketfly business, we will not realize the benefits anticipated when we acquired the business.

We recently acquired Ticketfly, which was our first major acquisition and represents an entirely new line of business for us. Ticketfly's business is highly sensitive to rapidly changing public tastes and is dependent on the availability of popular artists and events. Ticketfly's revenue is derived from ticketing services under client contracts with venues and event promoters across North America, which consist primarily of per ticket convenience fees, credit card processing and shipping fees as well as per order "order processing" fees. If Ticketfly's clients fail to anticipate the tastes of consumers and to offer events that appeal to them, the business may not grow or succeed. We cannot provide assurances that Ticketfly will be able to maintain or expand arrangements with clients and other third parties on acceptable terms, if at all. Furthermore, a decline in attendance at or reduction in the number of live entertainment, sporting and leisure events for any reason may have an adverse effect on our Ticketfly business. If we fail to successfully operate and grow our Ticketfly business, we will not realize the benefits anticipated when we acquired the business, and any such failure could result in substantial impairment charges.

We face many risks associated with our long-term plan to further expand our operations outside of the United States, including difficulties obtaining rights to music and other content on favorable terms.

Expanding our operations into international markets is an element of our long-term strategy. For example, in June 2012 we began providing our service in New Zealand, Australia and their associated territories. However, offering our service outside of the United States involves numerous risks and challenges. Most importantly, while United States copyright law provides a statutory licensing regime for the public performance of sound recordings to listeners within the United States, there is no equivalent statutory licensing regime available outside of the United States, and direct licenses from rights organizations and other content owners may not be available on commercially viable terms. Addressing licensing structure and royalty rate issues in the United States required us to make very substantial investments of time, capital and other resources, and our business could have failed if such investments had not succeeded. Addressing these issues in foreign jurisdictions may require a commensurate investment by us, and there can be no assurance that we would succeed or achieve any return on this investment.

In addition, international expansion exposes us to other risks such as:

- the need to modify our technology and market our service in non-English speaking countries;

- the need to localize our service to foreign customers' preferences and customs;
- the need to conform our operations, and our marketing and advertising efforts, with the laws and regulations of foreign jurisdictions, including, but not limited to, the use of any personal information about our listeners;
- the need to amend existing agreements and to enter into new agreements with automakers, automotive suppliers, consumer electronics manufacturers with products that integrate our service, and others in order to provide that service in foreign countries;
- difficulties in managing operations due to language barriers, distance, staffing, cultural differences and business infrastructure constraints and domestic laws regulating corporations that operate internationally;
- our lack of experience in marketing, and encouraging viral marketing growth without incurring significant marketing expenses, in foreign countries;
- application of foreign laws and regulations to us;
- fluctuations in currency exchange rates;
- reduced or ineffective protection of our intellectual property rights in some countries; and
- potential adverse tax consequences associated with foreign operations and revenue.

Furthermore, in most international markets, we would not be the first entrant, and our competitors may be better positioned than we are to succeed. In addition, in jurisdictions where copyright protection has been insufficient to protect against widespread music piracy, achieving market acceptance of our service may prove difficult as we would need to convince listeners to stream our service when they could otherwise download the same music for free. As a result of these obstacles, we may find it impossible or prohibitively expensive to enter or sustain our presence in foreign markets, or entry into foreign markets could be delayed, which could hinder our ability to grow our business.

Expansion of our operations into content beyond pre-recorded music, including comedy, live events and podcasts, subjects us to additional business, legal, financial and competitive risks.

Expansion of our operations into delivery of content beyond pre-recorded music involves numerous risks and challenges, including increased capital requirements, new competitors and the need to develop new strategic relationships. Growth into these new areas may require changes to our existing business model and cost structure, modifications to our infrastructure and exposure to new regulatory and legal risks, including infringement liability, any of which may require additional expertise that we currently do not have. There is no guarantee that we will be able to generate sufficient revenue from advertising sales associated with comedy, live events, podcasts or other non-prerecorded-music content to offset the costs of maintaining these stations or the royalties paid for such stations. Further, we have established a reputation as a music format internet radio provider and our ability to gain acceptance and listenership for comedy, live events, podcasts or other non-music content stations, and thus our ability to attract advertisers on these stations, is not certain. Failure to obtain or retain rights to comedy, live events, podcasts or other non-music content on acceptable terms, or at all, to successfully monetize and generate revenues from such content, or to effectively manage the numerous risks and challenges associated with such expansion could adversely affect our business and financial condition.

We have acquired, and may continue to acquire, other companies or technologies, which could divert our management's attention, result in additional dilution to our stockholders and otherwise disrupt our operations and harm our operating results.

We have recently acquired and may in the future seek to acquire or invest in businesses, products or technologies that we believe could complement or expand our service, enhance our technical capabilities or otherwise offer growth opportunities. For example, in 2015, we acquired Next Big Sound, Ticketfly and certain assets of Rdio. These acquisitions, and our pursuit of future potential acquisitions, may divert the attention of management and cause us to incur various expenses in identifying, investigating and pursuing suitable acquisitions, whether or not they are consummated. In addition, we have limited experience acquiring and integrating other businesses. We may be unsuccessful in integrating our recently acquired businesses or any additional business we may acquire in the future. For instance, our recent acquisition of certain assets of Rdio in order to facilitate our intention to launch an on-demand service, will require time and resources. There is no assurance that we will be

able to successfully launch an on-demand service, if at all, and if we fail to launch an on-demand service or a new service is unsuccessful, we will not realize the benefits of this acquisition.

We also may not achieve the anticipated benefits from any acquired business due to a number of factors, including:

- unanticipated costs or liabilities associated with the acquisition;
- incurrence of acquisition-related costs;
- diversion of management's attention from other business concerns;
- regulatory uncertainties;
- harm to our existing business relationships with business partners and advertisers as a result of the acquisition;
- harm to our brand and reputation;
- the potential loss of key employees;
- use of resources that are needed in other parts of our business; and
- use of substantial portions of our available cash to consummate the acquisition.

In addition, a significant portion of the purchase price of companies we acquire may be allocated to acquired goodwill and other intangible assets, which must be assessed for impairment at least annually. In the future, if our acquisitions do not yield expected returns, we may be required to take charges to our operating results based on this impairment assessment process. Acquisitions could also result in dilutive issuances of equity securities or the incurrence of debt, which could adversely affect our operating results. In addition, if an acquired business fails to meet our expectations, our operating results, business and financial condition may suffer.

Our ability to increase the number of our listeners will depend in part on our ability to establish and maintain relationships with automakers, automotive suppliers and consumer electronics manufacturers with products that integrate our service.

A key element of our strategy to expand the reach of our service and increase the number of our listeners and listener hours is to establish and maintain relationships with automakers, automotive suppliers and consumer electronics manufacturers that integrate our service into and with their products. Working with certain third-party distribution partners, we currently offer listeners the ability to access our service through a variety of consumer electronics products used in the home and devices connected to or installed in automobiles. We intend to broaden our ability to reach additional listeners, and increase current listener hours, through other platforms and partners over time, including through direct integration into connected cars. However, product design cycles in automotive manufacturing are lengthy and the useful lives of automobiles in service is long, and we may not be able to achieve our goals in our desired timeframe, which could adversely impact our ability to grow our business.

Our existing agreements with partners in the automobile and consumer electronics industries generally do not obligate those partners to offer our service in their products. In addition, some automobile manufacturers or their supplier partners may terminate their agreements with us for convenience. Our business could be adversely affected if our automobile partners and consumer electronics partners do not continue to provide access to our service or are unwilling to do so on terms acceptable to us. If we are forced to amend the business terms of our distribution agreements as a result of competitive pressure, our ability to maintain and expand the reach of our service and increase listener hours would be adversely affected, which would reduce our revenue and harm our operating results.

We rely upon an agreement with DoubleClick, which is owned by Google, for delivering and monitoring most of our ads. Failure to renew the agreement on favorable terms, or termination of the agreement, could adversely affect our business.

We use DoubleClick's ad-serving platform to deliver and monitor most of the ads for our service. There can be no assurance that our agreement with DoubleClick, which is owned by Google, will be extended or renewed upon expiration, that we will be able to extend or renew our agreement with DoubleClick on terms and conditions favorable to us or that we could identify another alternative vendor to take its place. Our agreement with DoubleClick also allows DoubleClick to terminate our

relationship before the expiration of the agreement on the occurrence of certain events, including material breach of the agreement by us, and to suspend provision of the services if DoubleClick determines that our use of its service violates certain security, technology or content standards.

We rely on third parties to provide software and related services necessary for the operation of our business.

We incorporate and include third-party software into and with our apps and service offerings and expect to continue to do so. The operation of our apps and service offerings could be impaired if errors occur in the third-party software that we use. It may be more difficult for us to correct any defects in third-party software because the development and maintenance of the software is not within our control. Accordingly, our business could be adversely affected in the event of any errors in this software. There can be no assurance that any third-party licensors will continue to make their software available to us on acceptable terms, to invest the appropriate levels of resources in their software to maintain and enhance its capabilities, or to remain in business. Any impairment in our relationship with these third-party licensors could harm our ability to maintain and expand the reach of our service, increase listener hours and sell advertising, each of which could harm our operating results, cash flow and financial condition.

Digital music streaming is an evolving industry, which makes it difficult to evaluate our near- and long-term business prospects.

Digital music streaming continues to develop as an industry and our near- and long-term business prospects are difficult to evaluate. The marketplace for digital music streaming is subject to significant challenges and new competitors. As a result, the future revenue, income and growth potential of our business is uncertain. Investors should consider our business and prospects in light of the risks and difficulties we encounter in this evolving business, which risks and difficulties include, among others, risks related to:

- our evolving business model and new licensing models for content as well as the potential need for additional types of content;
- our ability to develop additional products and services, or products and services in adjacent markets, in order to maintain revenue growth, and the resource requirements of doing so;
- our ability to retain current levels of active listeners, build our listener base and increase listener hours;
- our ability to effectively monetize listener hours by growing our sales of advertising inventory created from developing new and compelling ad product solutions that successfully deliver advertisers' messages across the range of our delivery platforms while maintaining our listener experience;
- our ability to attract new advertisers, retain existing advertisers and prove to advertisers that our advertising platform is effective enough to justify a pricing structure that is profitable for us;
- our ability to maintain relationships with platform providers, makers of mobile devices, consumer electronic products and automobiles;
- our ability to continue to secure the rights to music that attracts listeners to the service on fair and reasonable economic terms.

Failure to successfully address these risks and difficulties and other challenges associated with operating in an evolving marketplace could materially and adversely affect our business, financial condition and results of operations.

We have incurred significant operating losses in the past and may not be able to generate sufficient revenue to be profitable.

Since our inception in 2000, we have incurred significant net operating losses and, as of December 31, 2015, we had an accumulated deficit of $366.7 million. A key element of our strategy is to increase the number of listeners and listener hours to increase our industry penetration, including the number of listener hours on mobile and other connected devices. However, as our number of listener hours increases, the royalties we pay for content acquisition also increase. In addition, we have adopted a strategy to invest in our operations in advance of, and to drive, future revenue growth. This strategy includes recently completed acquisitions and other initiatives. As a result of these trends, we have not in the past generated, and may not in the future generate, sufficient revenue from the sale of advertising and subscriptions, or new revenue sources, to offset our

expenses. In addition, we plan to continue to invest heavily in our operations to support anticipated future growth. As a result of these factors, we expect to incur annual net losses in the near term.

Our revenue has increased rapidly in recent periods; however, we do not expect to sustain our high revenue growth rates in the future as a result of a variety of factors, including increased competition and the maturation of our business, and we cannot guarantee that our revenue will continue to grow or will not decline. Investors should not consider our historical revenue growth or operating expenses as indicative of our future performance. If revenue growth is lower than our expectations, or our operating expenses exceed our expectations, our financial performance will be adversely affected. Further, if our future growth and operating performance fail to meet investor or analyst expectations, it could have a material adverse effect on our stock price.

In addition, in our efforts to increase revenue as the number of listener hours has grown, we have expanded and expect to continue to expand our sales force. If our hiring of additional sales personnel does not result in a sufficient increase in revenue, the cost of this additional headcount will not be offset, which would harm our operating results and financial condition.

If we fail to effectively manage our growth, our business and operating results may suffer.

Our rapid growth has placed, and will continue to place, significant demands on our management and our operational and financial infrastructure. In order to attain and maintain profitability, we will need to recruit, integrate and retain skilled and experienced sales personnel who can demonstrate our value proposition to advertisers and increase the monetization of listener hours, particularly on mobile devices, by developing relationships with both national and local advertisers to convince them to migrate advertising spending to online and mobile digital advertising markets and utilize our advertising product solutions. Continued growth could also strain our ability to maintain reliable service levels for our listeners, effectively monetize our listener hours, develop and improve our operational, financial and management controls and enhance our reporting systems and procedures. If our systems do not evolve to meet the increased demands placed on us by an increasing number of advertisers, we may also be unable to meet our obligations under advertising agreements with respect to the timing of our delivery of advertising or other performance obligations. As our operations grow in size, scope and complexity, we will need to improve and upgrade our systems and infrastructure, which will require significant expenditures and allocation of valuable management resources. If we fail to maintain the necessary level of discipline and efficiency and allocate limited resources effectively in our organization as it grows, our business, operating results and financial condition may suffer.

Our business and prospects depend on the strength of our brands and failure to maintain and enhance our brands would harm our ability to expand our base of listeners, advertisers and other partners.

Maintaining and enhancing the “Pandora”, “Ticketfly” and “Next Big Sound” brands is critical to expanding our base of listeners, advertisers, venue partners, concertgoers, content owners and other partners. Maintaining and enhancing our brands will depend largely on our ability to continue to develop and provide an innovative and high quality experience for our listeners and concertgoers and attract advertisers, content owners, venue partners and automobile, mobile device and other consumer electronic product manufacturers to work with us, which we may not do successfully.

Our brands may be impaired by a number of other factors, including service outages, data privacy and security issues, listener perception of ad load and exploitation of our trademarks by others without permission. In addition, if our partners fail to maintain high standards for products that integrate our service, or if we partner with manufacturers of products that our listeners reject, the strength of our brand could be adversely affected.

We could be adversely affected by regulatory restrictions on the use of mobile and other electronic devices in motor vehicles and legal claims arising from use of such devices while driving.

Regulatory and consumer agencies have increasingly focused on distraction to drivers that may be associated with use of mobile and other devices in motor vehicles. In 2010, the U.S. Department of Transportation identified driver distraction as a top priority, and in April 2013, the National Highway Traffic Safety Administration (the “NHTSA”) released voluntary Phase 1 Driver Distraction Guidelines for visual-manual devices not related to the driving task that are integrated into motor vehicles. In March 2014, NHTSA held a public meeting soliciting comments related to its voluntary Phase 2 Driver Distraction Guidelines for portable and aftermarket devices that may be used in motor vehicles, but such guidelines have not yet been issued. If NHTSA or other agencies implemented regulatory restrictions and took enforcement action related to how drivers and passengers in motor vehicles may engage with devices on which our service is broadcast, such restrictions or enforcement actions could inhibit our ability to increase listener hours and generate ad revenue, which would harm our operating results. In addition, concerns over driver distraction due to use of mobile and other electronic devices used to access our service in motor vehicles could result in product liability or personal injury litigation and negative publicity.

Federal, state and industry regulations as well as self-regulation related to privacy and data security concerns pose the threat of lawsuits and other liability, require us to expend significant resources, and may hinder our ability and our advertisers' ability to deliver relevant advertising.

We collect and utilize demographic and other information from and about our listeners and artists as they interact with our service, including information which could fall under a definition of "personally identifiable information" under various state and federal laws. For example, to register for a Pandora account, our listeners must provide the following information: age, gender, zip code and e-mail address. Listeners must also provide their credit card or debit card numbers and other billing information in connection with additional service offerings, such as Pandora One or Ticketfly. We also may collect information from our listeners when they enter information on their profile page, post comments on other listeners' pages, use other community or social networking features that are part of our service, participate in polls or contests or sign up to receive e-mail newsletters. Further, we and third parties use tracking technologies, including "cookies" and related technologies, to help us manage and track our listeners' interactions with our service and deliver relevant advertising. We also collect information from and track artists' activity on our Pandora Artist Marketing Platform. Third parties may, either without our knowledge or consent, or in violation of contractual prohibitions, obtain, transmit or utilize our listeners' or artists' personally identifiable information, or data associated with particular users, devices or artists.

Various federal and state laws and regulations, as well as the laws of foreign jurisdictions in which we may choose to operate, govern the collection, use, retention, sharing and security of the data we receive from and about our listeners. Privacy groups and government authorities have increasingly scrutinized the ways in which companies link personal identities and data associated with particular users or devices with data collected through the internet, and we expect such scrutiny to continue to increase. Alleged violations of laws and regulations relating to privacy and data security, and any relevant claims, may expose us to potential liability and may require us to expend significant resources in responding to and defending such allegations and claims. Claims or allegations that we have violated laws and regulations relating to privacy and data security have resulted and could in the future result in negative publicity and a loss of confidence in us by our listeners and our advertisers.

Existing privacy-related laws and regulations are evolving and subject to potentially differing interpretations, and various federal and state legislative and regulatory bodies, as well as foreign legislative and regulatory bodies, may expand current or enact new laws regarding privacy and data security-related matters. We may find it necessary or desirable to join self-regulatory bodies or other privacy-related organizations that require compliance with their rules pertaining to privacy and data security. We also may be bound by contractual obligations that limit our ability to collect, use, disclose and leverage listener data and to derive economic value from it. New laws, amendments to or re-interpretations of existing laws, rules of self-regulatory bodies, industry standards and contractual obligations, as well as changes in our listeners' expectations and demands regarding privacy and data security, may limit our ability to collect, use and disclose, and to leverage and derive economic value from listener data. We may also be required to expend significant resources to adapt to these changes and to develop new ways to deliver relevant advertising or otherwise provide value to our advertisers. In particular, government regulators have proposed "do not track" mechanisms, and requirements that users affirmatively "opt-in" to certain types of data collection that, if enacted into law or adopted by self-regulatory bodies or as part of industry standards, could significantly hinder our ability to collect and use data relating to listeners. Restrictions on our ability to collect, access and harness listener data, or to use or disclose listener data or any profiles that we develop using such data, could in turn limit our ability to stream personalized music content to our listeners and offer targeted advertising opportunities to our advertising customers, each of which are critical to the success of our business.

We have incurred, and will continue to incur, expenses to comply with privacy and security standards and protocols imposed by law, regulation, self-regulatory bodies, industry standards and contractual obligations. Increased regulation of data utilization and distribution practices, including self-regulation and industry standards, could increase our cost of operation, limit our ability to grow our operations or otherwise adversely affect our business.

Government regulation of the internet is evolving, and unfavorable developments could have an adverse effect on our operating results.

We are subject to general business regulations and laws, as well as regulations and laws specific to the internet. Such laws and regulations cover sales and other taxes and withholding of taxes, user privacy, data collection and protection, copyrights, electronic contracts, sales procedures, automatic subscription renewals, credit card processing procedures, consumer protections, broadband internet access and content restrictions. We cannot guarantee that we have been or will be fully compliant in every jurisdiction, as it is not entirely clear how existing laws and regulations governing issues such as privacy, taxation and consumer protection apply to the internet. Moreover, as internet commerce continues to evolve, increasing regulation by federal, state and foreign agencies becomes more likely. The adoption of any laws or regulations that adversely

affect the popularity or growth in use of the internet, including laws limiting network neutrality, could decrease listener demand for our service offerings and increase our cost of doing business. Future regulations, or changes in laws and regulations or their existing interpretations or applications, could also hinder our operational flexibility, raise compliance costs and result in additional historical or future liabilities for us, resulting in adverse impacts on our business and our operating results.

Our operating results may fluctuate, which makes our results difficult to predict and could cause our results to fall short of expectations.

Our revenue and operating results could vary significantly from quarter to quarter and year to year due to a variety of factors, many of which are outside our control. As a result, comparing our operating results on a period-to-period basis may not be meaningful. In addition to other risk factors discussed in this "Risk Factors" section, factors that may contribute to the variability of our quarterly and annual results include:

- costs associated with pursuing licenses or other commercial arrangements;
- costs associated with defending any litigation, including intellectual property infringement litigation, and any associated judgments or settlements;
- our ability to pursue, and the timing of, entry into new geographic or content markets or other strategic initiatives and, if pursued, our management of these initiatives;
- the impact of general economic and competitive conditions on our revenue and expenses; and
- changes in government regulation affecting our business.

Seasonal variations in listener and advertising behavior may also cause fluctuations in our financial results. We expect to experience some effects of seasonal trends in listener behavior due to higher advertising sales during the fourth quarter of each year due to greater advertiser demand during the holiday season and lower advertising sales in the first quarter of the following year. Expenditures by advertisers tend to be cyclical and discretionary in nature, reflecting overall economic conditions, the economic prospects of specific advertisers or industries, budgeting constraints and buying patterns and a variety of other factors, many of which are outside our control. In addition, we expect to experience increased usage during the fourth quarter of each year due to the holiday season, and in the first quarter of each year due to increased use of media-streaming devices received as gifts during the holiday season.

If we are unable to implement and maintain effective internal control over financial reporting in the future, the accuracy and timeliness of our financial reporting may be adversely affected.

Pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, we are required to furnish a report by our management on our internal control over financial reporting. The report contains, among other matters, an assessment of the effectiveness of our internal control over financial reporting as of year-end, including a statement as to whether or not our internal control over financial reporting is effective. This assessment must include disclosure of any material weaknesses in our internal control over financial reporting identified by management.

While we have determined that our internal control over financial reporting was effective as of December 31, 2015, as indicated in "Controls and Procedures--Management's Report on Internal Control over Financial Reporting", we must continue to monitor and assess our internal control over financial reporting. Additionally, Ticketfly, our subsidiary, must implement internal control over financial reporting that complies with Section 404 of the Sarbanes-Oxley Act of 2002 by the end of 2016. Any material weaknesses in Ticketfly's internal control over financial reporting that remain uncorrected at year-end must be identified in our management's report on our internal controls over financial reporting. If our management identifies one or more material weaknesses in our internal control over financial reporting and such weakness remains uncorrected at year-end, we will be unable to assert that such internal control is effective at year-end. If we are unable to assert that our internal control over financial reporting is effective at year-end, or if our independent registered public accounting firm is unable to express an opinion on the effectiveness of our internal controls or concludes that we have a material weakness in our internal controls, we could lose investor confidence in the accuracy and completeness of our financial reports, which could have a material adverse effect on our business and the price of our common stock.

We may require additional capital to pursue our business objectives and respond to business opportunities, challenges or unforeseen circumstances. If capital is not available to us, our business, operating results and financial condition may be harmed.

We may require additional capital to operate or expand our business. In addition, some of our current or future strategic initiatives, or international markets, may require substantial additional capital resources before they begin to generate revenue. Additional funds may not be available when we need them, on terms that are acceptable to us, or at all. For example, our current credit facility contains restrictive covenants relating to our capital raising activities and other financial and operational matters, and any debt financing secured by us in the future could involve further restrictive covenants, which may make it more difficult for us to obtain additional capital and to pursue business opportunities. In addition, volatility in the credit markets may have an adverse effect on our ability to obtain debt financing. If we do not have funds available to enhance our solutions, maintain the competitiveness of our technology and pursue business opportunities, we may not be able to service our existing listeners, acquire new listeners or attract or retain advertising customers, each of which could inhibit the implementation of our business plan and materially harm our operating results.

Failure to protect our intellectual property could substantially harm our business and operating results.

The success of our business depends, in part, on our ability to protect and enforce our trade secrets, trademarks, copyrights and patents and all of our other intellectual property rights, including our intellectual property rights underlying the Pandora service. To establish and protect those proprietary rights, we rely on a combination of patents, patent applications, trademarks, copyrights, trade secrets (including know-how), license agreements, information security procedures, non-disclosure agreements with third parties, employee disclosure and invention assignment agreements, and other contractual obligations. These afford only limited protection. Despite our efforts to protect our intellectual property rights, unauthorized parties may copy or attempt to copy aspects of our technology. Moreover, policing our intellectual property rights is difficult, costly and may not always be effective.

We have filed, and may in the future file, patent applications and from time to time we have purchased patents and patent applications from third parties. It is possible, however, that these innovations may not be protectable. In addition, given the cost, effort, risks and downside of obtaining patent protection, including the requirement to ultimately disclose the invention to the public, we may choose not to seek patent protection for certain innovations. However, such patent protection could later prove to be important to our business. Furthermore, there is always the possibility that our patent applications may not issue as granted patents, that the scope of the protection gained will be insufficient or that an issued patent may be deemed invalid or unenforceable. Moreover, in certain circumstances there are additional risks, including:

- present or future patents or other intellectual property rights could lapse or be invalidated, circumvented, challenged or abandoned;
- our ability to assert our intellectual property rights against potential competitors or to settle current or future disputes may be limited by our relationships with third parties;
- our pending or future patent applications may not have coverage sufficient to provide the desired competitive advantage; and
- our intellectual property rights may not be enforced in jurisdictions where competition may be intense or where legal protection may be weak.

We have registered “Pandora,” “Music Genome Project”, “Next Big Sound”, “Ticketfly” and other marks as trademarks in the United States and other countries. Nevertheless, competitors may adopt service names similar to ours, or purchase confusingly similar terms as keywords in internet search engine advertising programs, thereby impeding our ability to build brand identity and possibly leading to confusion among our listeners or advertising customers. In addition, there could be potential trade name or trademark infringement claims brought by owners of other registered trademarks or trademarks that incorporate variations of the term Pandora or our other trademarks. Any claims or customer confusion related to our trademarks could damage our reputation and brand and substantially harm our business and operating results.

We currently own the www.pandora.com and www.ticketfly.com internet domain names and various other domain names related to our business. The regulation of domain names in the United States and in foreign countries is subject to change. Regulatory bodies continue to establish additional top-level domains, appoint additional domain name registrars and modify the requirements for holding domain names. As a result, we may not be able to acquire or maintain the domain names that utilize our brand names in the United States or other countries in which we may conduct business in the future. If we lose or fail to acquire the right to use any domain name relevant to our current or future business in the United States or other countries, we may incur significant additional expense.

In order to protect our trade secrets and other confidential information, we rely in part on confidentiality agreements with our employees, consultants and third parties with whom we have relationships. These agreements may not effectively prevent disclosure of trade secrets and other confidential information and may not provide an adequate remedy in the event of misappropriation of trade secrets or any unauthorized disclosure of trade secrets and other confidential information. In addition, others may independently discover the same subject matter as that covered by our trade secrets and confidential information, and in some such cases we might not be able to assert any trade secret rights against such parties. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our trade secret rights and related confidentiality and nondisclosure provisions, and failure to obtain or maintain trade secret protection, or our competitors' independent development of technology similar to ours for which we are unable to rely on other forms of intellectual property protection such as patents, could adversely affect our competitive business position.

Litigation or proceedings before the U.S. Patent and Trademark Office or other governmental authorities and administrative bodies in the United States and abroad may be necessary in the future to enforce our intellectual property rights, to protect our patent rights, trademarks, trade secrets and domain names and to determine the validity and scope of the proprietary rights of others. Our efforts to enforce or protect our proprietary rights may be ineffective and could result in substantial costs and diversion of resources and management time, each of which could substantially harm our operating results.

Assertions by third parties of infringement or other violation by us of their intellectual property rights could result in significant costs and substantially harm our business and operating results.

Internet, technology and media companies are frequently subject to litigation based on allegations of infringement, misappropriation or other violations of others' intellectual property rights. Some internet, technology and media companies, including some of our competitors, own large numbers of patents, copyrights, trademarks and trade secrets, which they may use to assert claims against us. In addition, we encourage third parties to submit content for our catalogue and we cannot be assured that artist representations made in connection with such submissions accurately reflect the legal rights of the submitted content. Third parties have asserted, and may in the future assert, that we have infringed, misappropriated or otherwise violated their intellectual property rights. In addition, various federal and state laws and regulations govern the intellectual property and related rights associated with sound recordings and musical works. Existing laws and regulations are evolving and subject to different interpretations, and various federal and state legislative or regulatory bodies may expand current or enact new laws or regulations. We cannot guarantee that we are not infringing or violating any third-party intellectual property rights.

We cannot predict whether assertions of third-party intellectual property rights or any infringement or misappropriation claims arising from such assertions will substantially harm our business and operating results. When we are forced to defend against any infringement or misappropriation claims, we may be required to expend significant time and financial resources on the defense of such claims, even if without merit, settled out of court, or adjudicated in our favor. Furthermore, an adverse outcome of a dispute may require us to: pay damages(potentially including treble damages and attorneys' fees if we are found to have willfully infringed a party's intellectual property); cease making, licensing or using products or services that are alleged to infringe or misappropriate the intellectual property of others; expend additional development resources to redesign our services to avoid infringement; enter into potentially unfavorable royalty or license agreements in order to obtain the right to use necessary technologies, content or materials; or to indemnify our partners and other third parties. We do not carry broadly applicable patent liability insurance and lawsuits regarding patent rights, regardless of their success, can be expensive to resolve and can divert the time and attention of our management and technical personnel.

Some of our services and technologies may use "open source" software, which may restrict how we use or distribute our service or require that we release the source code of certain services subject to those licenses.

Some of our services and technologies may incorporate software licensed under so-called "open source" licenses. Such open source licenses often require that source code subject to the license be made available to the public and that any modifications or derivative works to open source software continue to be licensed under open source licenses. Few courts have interpreted open source licenses, and the manner in which these licenses may be interpreted and enforced is therefore subject to some uncertainty. We rely on multiple employee and non-employee software programmers to design our proprietary technologies, and since we may not be able to exercise complete control over the development efforts of all such programmers we cannot be certain that they have not incorporated open source software into our products and services without our knowledge, or that they will not do so in the future. In the event that portions of our proprietary technology are determined to be subject to an open source license, we may be required to publicly release the affected portions of our source code, be forced to re-engineer all or a portion of our technologies, or otherwise be limited in the licensing of our technologies, each of which could reduce the value of our services and technologies and materially and adversely affect our ability to sustain and grow our business.

Interruptions or delays in service arising from our own systems or from our third-party vendors could impair the delivery of our service and harm our business.

We rely on systems housed at our own premises and at those of third-party vendors, including network service providers and data center facilities, to enable listeners to stream our content in a dependable and efficient manner. We have experienced and expect to continue to experience periodic service interruptions and delays involving our own systems and those of our third-party vendors. In the event of a service outage at our main site, we maintain a backup site that can function in read-only capacity. We do not currently maintain live fail-over capability that would allow us to instantaneously switch our streaming operations from one facility to another in the event of a service outage. In the event of an extended service outage at our main site, we do maintain and test fail-over capabilities that should allow us to switch our live streaming operations from one facility to another. Both our own facilities and those of our third-party vendors are vulnerable to damage or interruption from earthquakes, floods, fires, power loss, telecommunications failures and similar events. They also are subject to break-ins, hacking, denial of service attacks, sabotage, intentional acts of vandalism, terrorist acts, natural disasters, human error, the financial insolvency of our third-party vendors and other unanticipated problems or events. The occurrence of any of these events could result in interruptions in our service and to unauthorized access to, or alteration of, the content and data contained on our systems and that these third-party vendors store and deliver on our behalf.

We do not exercise complete control over our third-party vendors, which makes us vulnerable to any errors, interruptions, or delays in their operations. Any disruption in the services provided by these vendors could have significant adverse impacts on our business reputation, customer relations and operating results. Upon expiration or termination of any of our agreements with third-party vendors, we may not be able to replace the services provided to us in a timely manner or on terms and conditions, including service levels and cost, that are favorable to us, and a transition from one vendor to another vendor could subject us to operational delays and inefficiencies until the transition is complete.

If our security systems are breached, we may face civil liability and public perception of our security measures could be diminished, either of which would negatively affect our ability to attract and retain listeners and advertisers.

Techniques used to gain unauthorized access to corporate data systems are constantly evolving, and we may be unable to anticipate or prevent unauthorized access to data pertaining to our listeners, including credit card and debit card information and other personally identifiable information. Like all internet services, our service, which is supported by our own systems and those of third-party vendors, is vulnerable to computer malware, Trojans, viruses, worms, break-ins, phishing attacks, denial-of-service attacks, attempts to access our servers to acquire playlists or stream music in an unauthorized manner, or other attacks on and disruptions of our and third-party vendor computer systems, any of which could lead to system interruptions, delays, or shutdowns, causing loss of critical data or the unauthorized access to personally identifiable information. If an actual or perceived breach of security occurs on our systems or a vendor's systems, we may face civil liability and reputational damage, either of which would negatively affect our ability to attract and retain listeners, which in turn would harm our efforts to attract and retain advertisers. We also would be required to expend significant resources to mitigate the breach of security and to address related matters. Unauthorized access to music or playlists would potentially create additional royalty obligations with no corresponding revenue.

We may not be able to effectively control the unauthorized actions of third parties who may have access to the listener data we collect. The integration of the Pandora service with apps provided by third parties represents a significant growth opportunity for us, but we may not be able to control such third parties' use of listeners' data, ensure their compliance with the terms of our privacy policies, or prevent unauthorized access to, or use or disclosure of, listener information, any of which could hinder or prevent our efforts with respect to growth opportunities.

Any failure, or perceived failure, by us to maintain the security of data relating to our listeners and employees, to comply with our posted privacy policy, laws and regulations, rules of self-regulatory organizations, industry standards and contractual provisions to which we may be bound, could result in the loss of confidence in us, or result in actions against us by governmental entities or others, all of which could result in litigation and financial losses, and could potentially cause us to lose listeners, artists, advertisers, revenue and employees.

We are subject to a number of risks related to credit card and debit card payments we accept.

We accept subscription payments through credit and debit card transactions. For credit and debit card payments, we pay interchange and other fees, which may increase over time. An increase in those fees would require us to either increase the prices we charge for our products, which could cause us to lose subscribers and subscription revenue, or absorb an increase in our operating expenses, either of which could harm our operating results.

If we or any of our processing vendors have problems with our billing software, or the billing software malfunctions, it could have an adverse effect on our subscriber satisfaction and could cause one or more of the major credit card companies to disallow our continued use of their payment products. In addition, if our billing software fails to work properly and, as a result, we do not automatically charge our subscribers' credit cards on a timely basis or at all, or there are issues with financial insolvency of our third-party vendors or other unanticipated problems or events, we could lose subscription revenue, which would harm our operating results.

We are also subject to payment card association operating rules, certification requirements and rules governing electronic funds transfers, which could change or be reinterpreted to make it more difficult for us to comply. We are currently accredited against, and in compliance with, the Payment Card Industry Data Security Standard, or PCI DSS, the payment card industry's security standard for companies that collect, store or transmit certain data regarding credit and debit cards, credit and debit card holders and credit and debit card transactions. Currently we comply with PCI DSS version 3.1 as a Level 2 merchant, and Ticketfly complies with PCI DSS version 3.0 as a Level 2 merchant. Although Pandora and Ticketfly are PCI DSS compliant, there is no guarantee that we will maintain PCI DSS compliance. Our failure to comply fully with PCI DSS in the future could violate payment card association operating rules, federal and state laws and regulations and the terms of our contracts with payment processors and merchant banks. Such failure to comply fully also could subject us to fines, penalties, damages and civil liability, and could result in the loss of our ability to accept credit and debit card payments. Further, there is no guarantee that PCI DSS compliance will prevent illegal or improper use of our payment systems or the theft, loss, or misuse of data pertaining to credit and debit cards, credit and debit card holders and credit and debit card transactions.

If we fail to adequately control fraudulent credit card transactions, we may face civil liability, diminished public perception of our security measures and significantly higher credit card-related costs, each of which could adversely affect our business, financial condition and results of operations. If we are unable to maintain our chargeback rate or refund rates at acceptable levels, credit card and debit card companies may increase our transaction fees or terminate their relationships with us. Any increases in our credit card and debit card fees could adversely affect our results of operations, particularly if we elect not to raise our rates for our service to offset the increase. The termination of our ability to process payments on any major credit or debit card would significantly impair our ability to operate our business.

Our ability to use our net operating loss carryforwards and certain other tax attributes may be limited.

At December 31, 2015, we had federal net operating loss carryforwards of approximately$613.0 million and tax credit carryforwards of approximately $9.7 million. At December 31, 2015, we had state net operating loss carryforwards of approximately $480.0 million and tax credit carryforwards of approximately of $15.6 million. Under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, ("the Code"), if a corporation undergoes an "ownership change," the corporation's ability to use its pre-change net operating loss carryforwards and other pre-change tax attributes, such as research tax credits, to offset its post-change income may be limited. In general, an "ownership change" will occur if there is a cumulative change in our ownership by "5-percent shareholders" that exceeds 50 percentage points over a rolling three-year period. Similar rules may apply under state tax laws. As a result of prior equity issuances and other transactions in our stock, we have previously experienced "ownership changes" under section 382 of the Code and comparable state tax laws. We may also experience ownership changes in the future as a result of this transaction or other future transactions in our stock. As a result, if we earn net taxable income, our ability to use our pre-change net operating loss carryforwards or other pre-change tax attributes to offset United States federal and state taxable income may be subject to limitations.

We could be subject to additional income tax liabilities.

We are subject to income taxes in the United States, Hong Kong, Australia and New Zealand. As we expand our operations outside of these locations, we become subject to taxation based on the applicable foreign statutory rates and our effective tax rate could fluctuate accordingly. Significant judgment is required in evaluating and estimating our worldwide provision for income taxes and accruals for these taxes. For example, our effective tax rates could be adversely affected by earnings being lower than anticipated in countries where we have lower statutory tax rates and higher than anticipated in countries where we have higher statutory tax rates, by losses incurred in jurisdictions for which we are not able to realize the related tax benefit, by changes in foreign currency exchange rates, by changes in the valuation of our deferred tax assets and liabilities, or by changes in the relevant tax, accounting and other laws, regulations, principles and interpretations. We are also subject to tax audits in various jurisdictions, and such jurisdictions may assess additional income tax liabilities against us.

Our Ticketfly business and venue partners may be subject to sales tax and other taxes.

The application of indirect taxes (such as sales, use, excise, admissions, amusement, entertainment or other transaction-based taxes) to internet-based live entertainment ticketing businesses such as Ticketfly is a complex and evolving area. Many of the fundamental statutes and regulations that impose these taxes were established before the adoption and growth of the internet and ecommerce. In many cases, it is not clear how existing statutes apply to the internet or ecommerce. In addition, governments are increasingly looking for ways to increase revenues, which has resulted in discussions about tax reform and other legislative action to increase tax revenues, including through indirect taxes. Changes in these tax laws could adversely affect our business.

Ticketfly is not the seller of tickets sold on the Ticketfly platform. Instead it facilitates the transaction between our venue partners and customers. If a taxing jurisdiction were to treat Ticketfly as the seller and liable for the tax of the venue partners or customers, it could result in a material liability.

Ticketfly does not currently calculate all applicable indirect taxes on the fees charged when a customer purchases tickets on the Ticketfly platform. Some jurisdictions may interpret their law in a manner that would require Ticketfly to calculate, collect and remit the applicable indirect taxes on the entire charges. Such an interpretation could negatively impact our customers and our business.

We depend on key personnel to operate our business, and if we are unable to retain, attract and integrate qualified personnel, our ability to develop and successfully grow our business could be harmed.

We believe that our success depends on the contributions of our executive officers as well as our ability to attract and retain qualified sales, technical and other personnel. All of our employees, including our executive officers, are free to terminate their employment relationship with us at any time, and their knowledge of our business and industry may be difficult to replace. Qualified individuals are in high demand, particularly in the digital media industry and in the San Francisco Bay Area, where our headquarters are located, and in New York, and we may incur significant costs to attract them. If we are unable to attract and retain our executive officers and key employees, we may not be able to achieve our strategic objectives, and our business could be harmed. We use share-based and other performance-based incentive awards such as restricted stock units and cash bonuses to help attract, retain, and motivate qualified individuals. If our share-based or other compensation programs cease to be viewed as competitive and valuable benefits, our ability to attract, retain, and motivate employees could be weakened, and our business could be harmed.

If we cannot maintain our corporate culture as we grow, we could lose the innovation, teamwork and focus that contribute crucially to our business.

We believe that a critical component of our success is our corporate culture, which we believe fosters innovation, encourages teamwork, cultivates creativity and promotes focus on execution. We have invested substantial time, energy and resources in building a highly collaborative team that works together effectively in a non-hierarchical environment designed to promote openness, honesty, mutual respect and pursuit of common goals. As we continue to develop the infrastructure of a public company and grow, we may find it difficult to maintain these valuable aspects of our corporate culture. Any failure to preserve our culture could negatively impact our future success, including our ability to attract and retain employees, encourage innovation and teamwork and effectively focus on and pursue our corporate objectives.

The impact of worldwide economic conditions, including the effect on advertising budgets and discretionary entertainment spending behavior, may adversely affect our business and operating results.

Our financial condition is affected by worldwide economic conditions and their impact on advertising spending. Expenditures by advertisers generally tend to reflect overall economic conditions, and reductions in spending by advertisers could have a serious adverse impact on our business. In addition, we provide an entertainment service, and payment for our Pandora One subscription service may be considered discretionary on the part of some of our current and prospective subscribers or listeners who may choose to use a competing free service or to listen to Pandora without subscribing. To the extent that overall economic conditions reduce spending on discretionary activities, our ability to retain current and obtain new subscribers could be hindered, which could reduce our subscription revenue and negatively impact our business.

Our business is subject to the risks of earthquakes, fires, floods and other natural catastrophic events and to interruption by man-made problems such as cyber-security incidents or terrorism.

Our systems and operations are vulnerable to damage or interruption from earthquakes, fires, floods, power losses, telecommunications failures, terrorist attacks, acts of war, human errors, break-ins or similar events. For example, a significant natural disaster, such as an earthquake, fire or flood, could have a material adverse effect on our business, operating results and

financial condition, and our insurance coverage may be insufficient to compensate us for losses that may occur. Our principal executive offices are located in the San Francisco Bay Area, a region known for seismic activity. In addition, acts of terrorism could cause disruptions in our business or the economy as a whole. Our servers may also be vulnerable to computer viruses, cyber security incidents and similar disruptions caused by unauthorized tampering with our computer systems, which could lead to interruptions, delays, loss of critical data or the unauthorized disclosure of confidential customer data. Our business interruption insurance may be insufficient to compensate us for all such losses. As we rely heavily on our servers and the internet to conduct our business and provide high quality service to our listeners, such disruptions could negatively impact our ability to run our business, resulting in a loss of existing or potential listeners and advertisers and increased maintenance costs, which would adversely affect our operating results and financial condition.

We may not have sufficient cash flow from our business to make payments on our indebtedness.

Our ability to make scheduled payments of the principal of, to pay interest on or to refinance our indebtedness, including our 1.75% convertible senior notes due 2020 (the "Notes"), depends on our performance, which is subject to economic, financial, competitive and other factors beyond our control. Our business may not generate cash flow from operations in the future sufficient to service our debt and make necessary capital expenditures. If we are unable to generate such cash flow, we may be required to adopt one or more alternatives, such as selling assets, restructuring debt or obtaining additional equity capital on terms that may be onerous or highly dilutive. Our ability to refinance our indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on our debt obligations.

The conditional conversion feature of the Notes, if triggered, may adversely affect our financial condition and operating results.

In the event the conditional conversion feature of the Notes is triggered, holders of Notes will be entitled to convert the Notes at any time during specified periods at their option. See ''Note 7-Debt Instruments-Convertible Debt Offering.'' If one or more holders elect to convert their Notes, we may elect to satisfy our conversion obligation in whole or in part through the payment of cash, which could adversely affect our liquidity. In addition, even if holders do not elect to convert their Notes, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of the Notes as a current rather than long-term liability, which would result in a material reduction of our net working capital.

The accounting method for convertible debt securities that may be settled in cash, such as the Notes, could have a material effect on our reported financial results.

Accounting Standards Codification Subtopic 470-20 (ASC 470-20), Debt with Conversion and Other Options, requires an entity to separately account for the liability and equity components of convertible debt instruments (such as the Notes) that may be settled entirely or partially in cash upon conversion in a manner that reflects the issuer's economic interest cost. The effect of ASC 470-20 on the accounting for the Notes is that the equity component of the Notes is required to be included in the additional paid-in capital section of stockholders' equity on our consolidated balance sheet, and the value of the equity component is treated as original issue discount for purposes of accounting for the debt component of the Notes. As a result, we will be required to recognize a greater amount of non-cash interest expense current and future periods presented as a result of the amortization of the discounted carrying value of the Notes to their principal amount over the term of the Notes. We will report lower net income (or greater net losses) in our consolidated financial results because ASC 470-20 will require interest to include both the current period's amortization of the original issue discount and the instrument's coupon interest, which could adversely affect our reported or future consolidated financial results, the trading price of our common stock and the trading price of the Notes.

In addition, under certain circumstances, in calculating earnings per share, convertible debt instruments (such as the Notes) that may be settled entirely or partly in cash are currently accounted for utilizing the treasury stock method, the effect of which is that the shares of common stock issuable upon conversion of the Notes, if any, are not included in the calculation of diluted earnings per share except to the extent that the conversion value of the Notes exceeds their principal amount. Under the treasury stock method, diluted earnings per share is calculated as if the number of shares of common stock that would be necessary to settle such excess, if we were to elect to settle such excess in shares, were issued. We cannot be sure that the accounting standards in the future will continue to permit the use of the treasury stock method. If we are unable to use the treasury stock method in accounting for the shares issuable upon conversion of the Notes (if any) then, to the extent we generate positive net income, our diluted consolidated earnings per share would be adversely affected.

Risks Related to Owning Our Common Stock

Our stock price has been and will likely continue to be volatile, and the value of an investment in our common stock may decline.

The trading price of our common stock has been and is likely to continue to be volatile. In addition to the risk factors described in this section, and elsewhere in this Annual Report on Form 10-K, additional factors that may cause the price of our common stock to fluctuate include, but are not limited to:

- our actual or anticipated operating performance and the operating performance of similar companies in the internet, radio or digital media spaces;
- our ability to grow active users and listener hours;
- competitive conditions and developments;
- our actual or anticipated achievement of financial and non-financial key operating metrics;
- general economic conditions and their impact on advertising spending;
- the overall performance of the equity markets;
- threatened or actual litigation or regulatory proceedings, including the recently concluded rate proceedings in the CRB;
- changes in laws or regulations relating to our service;
- any major change in our board of directors or management;
- publication of research reports about us or our industry or changes in recommendations or withdrawal of research coverage by securities analysts; and
- sales or expected sales of shares of our common stock by us, and our officers, directors and significant stockholders.

In addition, the stock market has experienced extreme price and volume fluctuations that often have been unrelated or disproportionate to the operating performance of affected companies. Securities class action litigation has often been instituted against companies following periods of volatility in the overall market and in the market price of a company's securities. Such litigation, if instituted against us, could result in substantial costs, divert our management's attention and resources and harm our business, operating results and financial condition.

If securities or industry analysts cease publishing research about our business, publish inaccurate or unfavorable research about our business, or make projections that exceed our actual results, our stock price and trading volume could decline.

The trading market for our common stock depends in part on the research and reports that securities or industry analysts publish about us or our business. If securities or industry analysts who cover us downgrade our stock or publish inaccurate or unfavorable research about our business, our stock price would likely decline. If one or more of these analysts cease coverage of us or fail to publish reports on us regularly, demand for our stock could decrease, which might cause our stock price and trading volume to decline. Furthermore, such analysts publish their own projections regarding our actual results. These projections may vary widely from one another and may not accurately predict the results we actually achieve. Our stock price may decline if we fail to meet securities and industry analysts' projections.

Our charter documents, Delaware law and certain terms of our music licensing arrangements could discourage takeover attempts and lead to management entrenchment.

Our certificate of incorporation and bylaws contain provisions that could delay or prevent a change in control of the Company. These provisions could also make it difficult for stockholders to elect directors who are not nominated by the current members of our board of directors or take other corporate actions, including effecting changes in our management. These provisions include:

- a classified board of directors with three-year staggered terms, which could delay the ability of stockholders to change the membership of a majority of our board of directors;
- no cumulative voting in the election of directors, which limits the ability of minority stockholders to elect director candidates;
- the ability of our board of directors to issue shares of preferred stock and to determine the price and other terms of those shares, including preferences and voting rights, without stockholder approval, which could be used to significantly dilute the ownership of a hostile acquiror;
- the exclusive right of our board of directors to elect a director to fill a vacancy created by the expansion of our board of directors or the resignation, death or removal of a director, which prevents stockholders from being able to fill vacancies on our board of directors;
- a prohibition on stockholder action by written consent, which forces stockholder action to be taken at an annual or special meeting of our stockholders;
- the requirement that a special meeting of stockholders may be called only by the chairman of our board of directors, our president, our secretary, or a majority vote of our board of directors, which could delay the ability of our stockholders to force consideration of a proposal or to take action, including the removal of directors;
- the requirement for the affirmative vote of holders of at least 66 2⁄3% of the voting power of all of the then outstanding shares of the voting stock, voting together as a single class, to amend the provisions of our certificate of incorporation relating to the issuance of preferred stock and management of our business or our bylaws, which may inhibit the ability of an acquiror to effect such amendments to facilitate an unsolicited takeover attempt;
- the ability of our board of directors, by majority vote, to amend the bylaws, which may allow our board of directors to take additional actions to prevent an unsolicited takeover and inhibit the ability of an acquiror to amend the bylaws to facilitate an unsolicited takeover attempt; and
- advance notice procedures with which stockholders must comply to nominate candidates to our board of directors or to propose matters to be acted upon at a stockholders' meeting, which may discourage or deter a potential acquiror from conducting a solicitation of proxies to elect the acquiror's own slate of directors or otherwise attempting to obtain control of us.

Section 203 of the Delaware General Corporation Law governs us. These provisions may prohibit large stockholders, in particular those owning 15% or more of our outstanding voting stock, from merging or combining with us for a certain period of time. In addition, if we are acquired, certain terms of our music licensing arrangements, including favorable royalty rates that currently apply to us, may not be available to an acquiror. These terms may discourage a potential acquiror from making an offer to buy us or may reduce the price such a party may be willing to offer.

ITEM 1B. UNRESOLVED STAFF COMMENTS

Not applicable.

ITEM 2. PROPERTIES

Pandora

Pandora's principal executive offices are located in Oakland, California in an office building with 233,094 square-feet, under a lease expiring on September 30, 2020. We also lease regional offices in Atlanta, Georgia; Chicago, Illinois; Dallas, Texas; Detroit, Michigan; New York, New York; San Francisco, California; and Santa Monica, California and local sales offices at various locations throughout the United States and in Australia, New Zealand, Canada and the United Kingdom.

Our data centers are located in colocation facilities operated by Equinix in San Jose, California and Ashburn, Virginia as well as by Digital Realty Trust in Chicago, Illinois and Oakland, California. These data centers are designed to be fault-tolerant and operate at maximum uptime. Backup systems in California and Virginia can be brought online in the event of a failure at the other data centers. These redundancies enable fault tolerance and will also support our continued growth.

The data centers host the Pandora.com website and intranet applications that are used to manage the website content. The websites are designed to be fault-tolerant, with a collection of identical web servers connecting to an enterprise database. The design also includes load balancers, firewalls and routers that connect the components and provide connections to the internet. The failure of any individual component is not expected to affect the overall availability of our website.

We believe that our current facilities are adequate to meet our needs for the near future and that suitable additional or alternative space will be available on commercially reasonable terms to accommodate our foreseeable future operations.

Ticketfly

Ticketfly's principal executive offices are located in San Francisco, California in an office building with 23,826 square-feet, under a lease expiring on January 31, 2022. We also lease regional offices in Austin, Texas; Chicago, Illinois; New York, New York; and Canada.

We believe that our current facilities are adequate to meet our needs for the near future and that suitable additional or alternative space will be available on commercially reasonable terms to accommodate our foreseeable future operations.

ITEM 3. LEGAL PROCEEDINGS

The material set forth in Note 8 of Notes to Consolidated Financial Statements in Part II, Item 8 of this Annual Report on Form 10-K is incorporated herein by reference.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Information

Our common stock is traded on The New York Stock Exchange ("NYSE") under the symbol "P." The following table sets forth the range of high and low intra-day sales prices per share of our common stock for the periods indicated, as reported by the NYSE.

PRICE RANGE OF OUR COMMON STOCK

Our common stock has traded on the NYSE since June 15, 2011. Our initial public offering was priced at $16.00 per share on June 14, 2011.

	High	Low
Twelve Months Ended December 31, 2015		
First quarter (January 1, 2015 - March 31, 2015)	$ 18.52	$ 14.63
Second quarter (April 1, 2015 - June 30, 2015)	$ 19.02	$ 15.54
Third quarter (July 1, 2015 - September 30, 2015)	$ 21.34	$ 13.81
Fourth quarter (October 1, 2015 - December 31, 2015)	$ 21.98	$ 11.51
Twelve Months Ended December 31, 2014		
First quarter (January 1, 2014 - March 31, 2014)	$ 39.43	$ 26.76
Second quarter (April 1, 2014 - June 30, 2014)	$ 31.74	$ 22.17
Third quarter (July 1, 2014 - September 30, 2014)	$ 29.82	$ 24.16
Fourth quarter (October 1, 2014 - December 31, 2014)	$ 24.70	$ 16.90

On December 31, 2015, the closing price per share of our common stock as reported on the NYSE was $13.41. As of December 31, 2015, there were approximately 126 holders of record of our common stock. The number of beneficial stockholders is substantially greater than the number of holders of record because a large portion of our common stock is held through brokerage firms.

Dividend Policy

We have not declared or paid any cash dividends on our common stock and currently do not anticipate paying any cash dividends in the foreseeable future. Instead, we intend to retain all available funds and any future earnings for use in the operation and expansion of our business. Any future determination relating to dividend policy will be made at the discretion of our board of directors and will depend on our future earnings, capital requirements, financial condition, future prospects, applicable Delaware law, which provides that dividends are only payable out of surplus or current net profits, and other factors that our board of directors deems relevant. In addition, our credit facility restricts our ability to pay dividends. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Our Indebtedness—Credit Facility" and Note 7 to our financial statements included elsewhere in this Annual Report on Form 10-K.

Equity Compensation Plan Information

For equity compensation plan information refer to Item 12 in Part III of this Annual Report on Form 10-K.

Stock Price Performance Graph

This performance graph shall not be deemed to be "soliciting material" or "filed" or incorporated by reference in future filings with the SEC, or subject to the liabilities of Section 18 of the Exchange Act except as shall be expressly set forth by specific reference in such filing.

The following graph shows a comparison from June 15, 2011, the date our common stock commenced trading on the NYSE, through December 31, 2015 of the total cumulative return of our common stock with the total cumulative return of the New York Stock Exchange Composite Index (the "NYA Composite"), the Global X Social Media Index (the "SOCL") and the SPDR Morgan Stanley Technology MTK Index (the "MTK"). The figures represented below assume an investment of $100 in our common stock at the closing price of $17.42 on June 15, 2011 and in the NYA Composite and MTK on the same date. The SOCL was modeled from the inception of the index on November 15, 2011. Data for the NYA Composite, MTK and SOCL assume reinvestment of dividends. The comparisons in the graph are historical and are not intended to forecast or be indicative of possible future performance of our common stock.

Comparison of Cumulative Total Return Among Pandora Media, Inc., New York Stock Exchange Composite Index, Global X Social Media Index and SPDR Morgan Stanley Technology MTK Index

ITEM 6. SELECTED FINANCIAL DATA

The following selected consolidated financial and other data should be read in conjunction with, and are qualified by reference to, Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations," and our audited consolidated financial statements and the accompanying notes included elsewhere in this report. The consolidated statement of operations data for the twelve months ended January 31, 2012 and 2013 and the consolidated balance sheet data as of January 31, 2012 and 2013 and December 31, 2013 were derived from our audited consolidated financial statements not included in this report. The consolidated statements of operations data for the eleven months ended December 31, 2013 and for the twelve months ended December 31, 2014 and 2015, and the consolidated balance sheet data as of December 31, 2014 and 2015 were derived from our audited consolidated financial statements included in this report. The consolidated statements of operations for the twelve months ended December 31, 2015 include Ticketfly results for the two months ended December 31, 2015 and the consolidated balance sheets as of December 31, 2015 include Ticketfly's financial position as of December 31, 2015. The consolidated statement of operations data for the eleven months ended December 31, 2012 is unaudited. Our unaudited consolidated financial statements were prepared on a basis consistent with our audited consolidated financial statements and include, in our opinion, all adjustments, consisting of normal recurring adjustments that we consider necessary for a fair presentation of the financial information set forth in those statements included elsewhere in this report.

The historical results presented below are not necessarily indicative of financial results to be achieved in future periods.

	Twelve Months Ended January 31,		Eleven Months Ended December 31,		Twelve Months Ended December 31,	
	2012	2013	2012	2013	2014	2015
	(in thousands, except per share data)					
Total revenue	$ 274,340	$ 427,145	$ 389,484	$ 600,233	$ 920,802	$ 1,164,043
Net loss attributable to common stockholders	(19,865)	(38,148)	(24,462)	(27,017)	(30,406)	(169,661)
Net loss per share, basic and diluted	(0.19)	(0.23)	(0.15)	(0.15)	(0.15)	(0.79)
Weighted-average common shares outstanding used in computing basic and diluted net loss per share	105,955	168,294	167,956	180,968	205,273	213,790

Key Metrics (unaudited):(1)

	Twelve Months Ended January 31,		Eleven Months Ended December 31,		Twelve Months Ended December 31,	
	2012	2013	2012	2013	2014	2015
	(in billions)					
Listener hours	8.23	14.01	12.56	15.31	20.03	21.11

	As of January 31,		As of December 31,		
	2012	2013	2013	2014	2015
	(in millions)				
Active users	47.6	65.6	76.2	81.5	81.1

(1) Listener hours and active users are defined in the section entitled "Key Metrics" in Item 7 of this Annual Report on Form 10-K.

	As of January 31,		As of December 31,		
	2012	2013	2013	2014	2015
			(in thousands)		
Balance Sheet Data:					
Cash and cash equivalents	$ 44,126	$ 65,725	$ 245,755	$ 175,957	$ 334,667
Working capital	89,218	82,644	362,777	439,254	451,675
Total assets	178,015	218,832	673,335	749,290	1,240,657
Long-term debt, net	—	—	—	—	234,577
Total liabilities	73,475	119,843	165,104	165,933	497,270
Common stock and additional paid-in capital	205,971	238,569	675,123	781,030	1,110,562
Total stockholders' equity	104,540	98,989	508,231	583,357	743,387

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (MD&A)

You should read the following discussion of our financial condition and results of operations in conjunction with the financial statements and the notes thereto included elsewhere in this Annual Report on Form 10-K. The following discussion contains forward-looking statements that are subject to risks and uncertainties. Actual results may differ substantially from those referred to herein due to a number of factors, including but not limited to those discussed below and elsewhere in this report, particularly in the sections entitled "Special Note Regarding Forward-Looking Statements and Industry Data" and "Risk Factors."

We changed our fiscal year from the twelve months ending January 31 to the calendar twelve months ending December 31, effective beginning with the year ended December 31, 2013. As a result, the period ended December 31, 2013 was shortened from twelve months to an eleven-month transition period.

When financial results for the 2014 annual period are compared to financial results for the 2013 period, the results compare the twelve-month period ended December 31, 2014 and the eleven-month period ended December 31, 2013.

Overview

Pandora

Pandora is the world’s most powerful music discovery platform, offering a personalized experience for each of our listeners wherever and whenever they want to listen to music - whether through earbuds, car speakers or live on stage. Our vision is to be the definitive source of music discovery and enjoyment for billions. The majority of our listener hours occur on mobile devices, with the majority of our revenue generated from advertising on these devices. We offer both local and national advertisers the opportunity to deliver targeted messages to our listeners using a combination of audio, display and video advertisements. Founded by musicians, Pandora also empowers artists with valuable data and tools to help grow their careers and connect with their fans.

For the twelve months ended December 31, 2015, we streamed 21.11 billion hours of internet radio, and as of December 31, 2015, we had 81.1 million active users during the prior 30-day period. Since we launched our non-subscription, ad-supported radio service in 2005 our listeners have created over 9 billion stations.

At the core of our service is our set of proprietary personalization technologies, including the Music Genome Project and our playlist generating algorithms. The Music Genome Project is a database of over 1,000,000 uniquely analyzed songs from over 350,000 artists, spanning over 600 genres and sub-genres, which we develop one song at a time by evaluating and cataloging each song’s particular attributes. When a listener enters a single song, artist, comedian or genre to start a station, the Pandora service instantly generates a station that plays music or comedy we think that listener will enjoy. Based on listener reactions to the recordings we pick, we further tailor the station to match the listener's preferences. Listeners also have the ability to add variety to and rename stations, which further allows for the personalization of our service.

We currently provide the Pandora service through two models:

- *Free Service.* Our free service is advertising-supported and allows listeners access to our music and comedy catalogs and personalized playlist generating system for free across all of our delivery platforms.

- *Pandora One.* Pandora One is a premium daily, monthly or annual paid version of the Pandora service, which currently includes advertisement-free access. Pandora One also enables listeners to have more daily skips, enjoy higher quality audio on supported devices and enjoy longer timeout-free listening.

A key element of our strategy is to make the Pandora service available everywhere that there is internet connectivity. To this end, we make the Pandora service available through a variety of distribution channels. In addition to streaming our service to computers, we have developed Pandora mobile device applications (“apps”) for smartphones and mobile operating systems, such as the iPhone, Android and the Windows Phone and for tablets including the iPad and Android tablets. We distribute those mobile apps free to listeners via app stores. In addition to smartphones and tablets, Pandora is now integrated with more than 1,700 connected devices, including automobiles, automotive aftermarket devices and consumer electronic devices.

Ticketfly

Pandora completed the acquisition of Ticketfly on October 31, 2015. Ticketfly is a leading live events technology company that provides ticketing and marketing software and services for venues and event promoters across North America. Ticketfly's ticketing, digital marketing and analytics software helps promoters book talent, sell tickets and drive in-venue revenue, while Ticketfly's consumer tools help fans find and purchase tickets to events. Tickets are primarily sold through the Ticketfly platform but are also sold through other channels such as box offices. For the twelve months ended December 31, 2015, Ticketfly sold approximately 12.5 million tickets, excluding box office sales, to 4.4 million unique ticket buyers to approximately 90,000 live events, with more than $490 million in gross transaction value, excluding box office sales. Ticketfly's operating results are included in Pandora's operating results only for the final two months of 2015.

Recent Events

Acquisitions

Acquisition of Assets from Rdio, Inc. ("Rdio")

On December 23, 2015, we completed the acquisition of technology and intellectual property from Rdio for $77.5 million, which includes $2.5 million in additional purchase consideration transferred prior to the closing of the acquisition. The asset sale was administered and approved by the U.S. Bankruptcy Court. Goodwill generated from the assets acquired is primarily attributable to expected synergies that will allow us to broaden our subscription business and roll out a multi-tier product offering. We have accounted for this acquisition as a business combination, and the financial results of Rdio are included in our consolidated financial statements from the date of acquisition. As a result of the sale of assets, Rdio discontinued its service as of December 22, 2015.

Acquisition of Ticketfly

On October 31, 2015, we completed the acquisition of Ticketfly for an aggregate purchase price of $335.3 million of common stock and cash, including 11,193,847 shares of the Company's common stock and approximately $191.5 million in cash paid by the Company. Goodwill generated from the Ticketfly acquisition is primarily attributable to expected synergies from future growth and strategic advantages in the ticketing industry. Upon acquisition, Ticketfly became a wholly owned subsidiary of Pandora. We have accounted for this acquisition as a business combination, and the financial results of Ticketfly are included in our consolidated financial statements from the date of acquisition.

Acquisition of Next Big Sound, Inc. ("NBS")

On July 1, 2015, we completed the acquisition of NBS. NBS provides analytics for online music, including analyzing the popularity of musicians in social networks, streaming services and radio. Goodwill generated from the business acquisition is primarily attributable to expected synergies from future growth and from the potential to expand our Artist Marketing Platform ("AMP"). We have accounted for this acquisition as a business combination, and the results of NBS are included in our consolidated financial statements from the date of acquisition.

Acquisition of KXMZ-FM

In June 2013, we entered into an agreement to purchase the assets of KXMZ-FM. The Federal Communications Commission ("FCC") approved the transfer of the FCC licenses and the acquisition was completed in June 2015. We have accounted for this acquisition as a business combination in the twelve months ended December 31, 2015. The results of KXMZ-FM are included in our consolidated financial statements from the date of acquisition, but were not material to our operating results or consolidated balance sheets.

Music Royalty Matters

Copyright Royalty Board ("CRB") Ruling

On December 16, 2015, the CRB announced the new per performance rates that apply for commercial webcasters for calendar years 2016 through 2020 (the "Web IV Proceedings"). The rates and terms take effect January 1, 2016 and represent an approximate 15% increase over Pandora's 2015 effective per-performance royalty rate based on Pandora's projected blended rate for subscription and non-subscription performances in 2016. Unlike the royalty structure applicable prior to 2016, the Web IV rates do not include an alternative calculation based on percentage of revenue, but instead are solely based on per-performance rates. The rates for the calendar years 2017 through 2020 will be adjusted by the CRB to reflect the increases or

decreases, if any, in the Consumer Price Index, applicable to that rate year. For additional information on the CRB ruling, please see "Item 1. Business—Pandora Content, Copyrights and Royalties."

Direct Licensing Deals

With respect to the public performance of musical works, Pandora has direct licenses with certain publishers for such rights. In addition, during the twelve months ended December 31, 2015, we entered into several direct deals with performing rights organizations ("PROs"), including BMI and ASCAP, among others. The majority of the licenses are structured so that each publisher or PRO receives a pro rata share of 20% of the royalties paid by us for sound recordings, with the pro rata share paid to each publisher or PRO being determined based on our usage of its works. These license agreements are structured differently from previous PRO and publisher licenses, which have traditionally been based on a percentage of a service's revenue or a flat fee. In connection with the signing of the BMI agreement, we agreed to withdraw our appeal of the May 2015 order in the BMI rate case. Refer to Note 8 "Commitments and Contingencies" in the Notes to Consolidated Financial Statements for further details.

Pre-1972 Copyright Litigation

On April 17, 2014, UMG Recordings, Inc., Sony Music Entertainment, Capitol Records, LLC, Warner Music Group Corp. and ABKCO Music and Records, Inc. filed suit against Pandora Media Inc. in the Supreme Court of the State of New York. The complaint claimed common law copyright infringement and unfair competition arising from allegations that Pandora owed royalties for the public performance of sound recordings recorded prior to February 15, 1972.

In October 2015 the parties reached an agreement whereby we agreed to pay the plaintiffs a total of $90 million. The settlement resolves all past claims as to our use of pre-1972 recordings owned or controlled by the plaintiffs and enables us to reproduce, perform and broadcast such recordings in the United States through December 31, 2016. This agreement was approved by our board of directors and executed on October 21, 2015. Pursuant to this settlement, which covers approximately 90% of total pre-1972 spins on our service, we paid the plaintiffs $60 million in October 2015 and the plaintiffs dismissed the case with prejudice. As a result, cost of revenue - content acquisition costs increased by $65.4 million in the twelve months ended December 31, 2015, of which $57.9 million was related to a one-time cumulative charge to cost of revenue - content acquisition costs related to pre-1972 spins played through September 30, 2015. The remaining charge of $24.6 million will be recorded in cost of revenue - content acquisition costs over the future service period of January 1, 2016 through December 31, 2016 based on expected streaming of pre-1972 recordings over the period. The pre-72 settlement further requires that we make four additional installment payments of $7.5 million each. The first was paid in 2015, and the remaining three installments will be paid on or before April 1, 2016, July 1, 2016 and October 1, 2016.

RMLC

In June 2013, we entered into an agreement to purchase the assets of KXMZ-FM and in June 2015 the Federal Communications Commission ("FCC") approved the transfer of the FCC licenses and the acquisition was completed. The agreement to purchase the assets of KXMZ allowed us to qualify for the RMLC royalty rate of 1.7% of revenue for a license to the ASCAP and BMI repertoires, before certain deductions, beginning in June 2013. As a result, we recorded cost of revenue - content acquisition costs at the RMLC royalty rate starting in June 2013, rather than the rate that was set in rate court proceedings in March 2014 for ASCAP and in May 2015 for BMI.

In September 2015, despite confidence in our legal position that we were entitled to the RMLC royalty rate starting in June 2013, and as part of our strategy to strengthen our partnership with the music industry, management decided to forgo the application of the RMLC royalty rate from June 2013 through September 2015. As a result, cost of revenue - content acquisition costs increased by $28.2 million in the twelve months ended December 31, 2015, of which $23.9 million was related to a one-time cumulative charge to cost of revenue - content acquisition costs related to spins played from June 2013 through September 30, 2015 in order to align the cumulative cost of revenue - content acquisition costs to the amounts previously paid at the rates that were set in the rate court proceedings in March 2014 for ASCAP and May 2015 for BMI. We recorded cost of revenue - content acquisition costs for the performing rights organizations at the rates established by the rate courts for the three months ended December 31, 2015, and we intend to record such costs at the rates established by direct licensing agreements beginning in 2016.

Other

Convertible Debt Offering

On December 9, 2015, we completed an unregistered Rule 144A offering of $345.0 million aggregate principal amount of our 1.75% Convertible Senior Notes due 2020 (the "Notes"). The Notes were offered only to qualified institutional buyers pursuant to Rule 144A under the Securities Act. In connection with the offering of the Notes, we entered into capped call transactions with the initial purchaser of the Notes and an additional financial institution ("capped call transactions"), which are designed to reduce the potential dilutive effect of issuing shares in connection with the future conversion of the Notes, if any. The net proceeds from the sale of the Notes were approximately $336.5 million, after deducting the initial purchaser's fees and other estimated expenses. We used approximately $43.2 million of the net proceeds to pay the cost of the capped call transactions, and we intend to use the remainder of the net proceeds for general corporate purposes, including funding expansion of our business and to pursue additional growth opportunities. Refer to Note 7 "Debt Instruments" in the Notes to Consolidated Financial Statements for further details.

Factors Affecting our Business Model

A majority of our listener hours occur on mobile devices and as such, we face challenges in optimizing our advertising products for delivery on mobile and other connected device platforms and monetizing inventory, or opportunities to sell advertisements, generated by listeners using these platforms. As a greater share of our listener hours is consumed on mobile devices, our ability to monetize increased mobile streaming may not achieve the levels of monetization of streaming we have achieved on computers.

In addition, our monetization strategy includes increasing the number of ad campaigns for computer, mobile and other connected device platforms sold to local advertisers, placing us in more direct competition with broadcast radio for advertiser spending, especially for audio advertisements. Key to the success of our strategy to increase local advertising is our ability to convince a substantial base of local advertisers of the benefits of advertising on the Pandora service, including demonstrating the effectiveness and relevance of our advertising products, in particular audio advertising products, across the range of our delivery platforms.

Growth in our active users and distribution platforms has fueled a corresponding growth in listener hours. Our total number of listener hours is a key driver for both revenue generation opportunities and content acquisition costs, which are the largest component of our expenses.

- *Revenue.* Listener hours define the number of opportunities we have to sell advertisements, which we refer to as inventory. Our ability to attract advertisers depends in large part on our ability to offer sufficient inventory within desired demographics. In turn, our ability to generate revenue depends on the extent to which we are able to sell the inventory we have.

- *Cost of Revenue—Content Acquisition Costs.* The number of sound recordings we transmit to users of the Pandora service, as generally reflected by listener hours, drives a substantial majority of our content acquisition costs, although historically certain of our licensing agreements required us to pay fees for public performances of musical works based on a percentage of revenue.

We pay content acquisition costs, or royalties, to the copyright owners and performers, or their agents, of each sound recording that we stream, as well as to the publishers and songwriters, or their agents, for the musical works embodied in each of those sound recordings, subject to certain exclusions. Royalties for sound recordings are negotiated with and paid to record labels, rights organizations or to SoundExchange, Inc. ("SoundExchange") and Merlin Networks B.V ("Merlin"). Royalties for musical works are most often negotiated with and paid to performing rights organizations ("PROs") such as ASCAP, BMI and SESAC, Inc. ("SESAC") or directly to publishing companies. Royalties are calculated based on the number of sound recordings streamed, revenue earned or other usage measures.

We stream spoken word comedy content pursuant to a federal statutory license, for which the underlying literary works are not currently entitled to eligibility for licensing by any PRO for the United States. Rather, pursuant to industry-wide custom and practice, this content is performed absent a specific license from any such PRO or the copyright owner of such content. However, we pay royalties to SoundExchange at rates negotiated between representatives of online music services and SoundExchange for the right to stream this spoken word comedy content.

Given the current royalty structures in effect through the end of 2020 with respect to the public performance of sound recordings in the United States, our content acquisition costs increase with each additional listener hour, regardless of whether we are able to generate more revenue. As such, our ability to achieve and sustain profitability and operating leverage depends on our ability to increase our revenue per hour of streaming through increased advertising revenue across all of our delivery platforms.

In 2016, we expect to substantially increase our investments in our operations to drive anticipated future growth. One of our key objectives is to be the most powerful music discovery platform, which we believe will strengthen our brand and help us to convince advertisers to allocate spending towards our ad products. As such, a central focus is adding, retaining and engaging listeners to build market share and grow our listener hours. As our business has begun to mature, our revenue growth has begun to exceed the growth in our listener hours. However, we expect to incur increasing annual net losses in the near term because our current strategy is to leverage improvements in gross profit by investing in broadening distribution channels and developing innovative and scalable products. These investments are intended to drive further growth in our business through both increased listener hours and monetization of those hours, and as a result we are targeting gradual improvements in gross profit over time. Our planned reinvestment of the resulting incremental gross profit will continue to depress the growth of our profitability.

We completed four acquisitions in 2015, and we may continue to pursue acquisitions as a means of expanding our product offerings and technology assets. Our completed and potential acquisitions require extensive management time and capital resources to complete and integrate, and there is no assurance that we will ultimately realize the expected benefits of our acquisitions.

Key Metrics

The below key metrics do not include Ticketfly amounts unless otherwise specifically stated.

Listener Hours

We track listener hours because it is a key indicator of the growth of our business. Beginning with the listener hours disclosed in this annual report, we are also including listener hours related to our non-radio content offerings in the definition of listener hours. These offerings include non-music content such as podcasts, as well as custom music content such as Pandora Premiers and artist mixtapes. Historically, listener hours related to non-radio content represented a negligible number of listener hours. Including non-radio content in the listener hours we have previously reported for 2013, 2014 and 2015 would not have changed the reported listener hours for any such period. We calculate listener hours based on the total bytes served for each track that is requested and served from our servers, as measured by our internal analytics systems, whether or not a listener listens to the entire track. For non-music content such as podcasts, episodes are divided into approximately track-length parts, which are treated as tracks under this definition. To the extent that third-party measurements of listener hours are not calculated using a similar server-based approach, the third-party measurements may differ from our measurements.

The table below sets forth our total listener hours for theeleven months ended December 31, 2013and the twelve months ended December 31, 2014 and 2015.

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
		(in billions)	
Listener hours	15.31	20.03	21.11

Active Users

We track the number of active users as an additional indicator of the breadth of audience we are reaching at a given time. We define active users as the number of distinct registered users, including subscribers that have requested audio from our servers within the trailing 30 days to the end of the final calendar month of the period. The number of active users may overstate the number of unique individuals who actively use our service within a month as one individual may register for, and use, multiple accounts. Beginning with the active users disclosed in this annual report, we are also including active users who only request non-radio content offerings in the definition of active users. Including users who only request non-radio content in the calculation of active users would not have materially changed the reported active users for 2013, 2014 or 2015.

The table below sets forth our total active users as ofDecember 31, 2014 and 2015.

	As of December 31,	
	2014	2015
	(in millions)	
Active users	81.5	81.1

We define advertising-based active users ("ad-based active users") as the number of users, excluding subscribers, that have requested audio from our servers within the trailing 30 days to the end of the final calendar month of the period. We define subscribers as the number of distinct users at the end of the period that have subscribed to our service. Inactive subscribers are included as they contribute towards revenue per thousand listener hours ("RPMs"), which are described in further detail below.

The table below sets forth our users on an advertising and subscription basis as of December 31, 2014 and 2015.

	As of December 31,	
	2014	2015
User Type	Users (in millions)	
Ad-based active users	78.5	77.6
Subscribers*	3.6	3.9
Total	82.1	81.5

* Includes subscribers that have not used our service within the trailing 30 days to the end of the final calendar month of the period.

The table below sets forth our listener hours on an advertising and subscription basis for the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015.

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
User Type	Listener hours (in billions)		
Ad-based active users	13.34	17.58	18.47
Subscribers	1.97	2.45	2.64
Total	15.31	20.03	21.11

Advertising Revenue per Thousand Listener Hours ("ad RPMs")

We track ad RPMs for our non-subscription, ad-supported service because it is a key indicator of our ability to monetize advertising inventory created by our listener hours. We focus on ad RPMs across all of our delivery platforms. We believe ad RPMs to be the central top-line indicator for evaluating the results of our monetization efforts. Ad RPMs are calculated by dividing advertising revenue by the number of thousands of listener hours of our advertising-based service.

Subscription and Other Revenue per Thousand Listener Hours ("subscription RPMs")

We track subscription RPMs because it is a key indicator of the performance of our subscription service. We focus on subscription RPMs across all of our delivery platforms. Subscription RPMs are calculated by dividing subscription and other revenue by the number of thousands of listener hours of our subscription service.

Total Revenue per Thousand Listener Hours ("total RPMs")

We track total RPMs for our service, which includes ad and subscription RPMs, because it is a key indicator of our ability to monetize our listener hours. Total RPMs compare advertising and subscription and other revenue in a given period to total listener hours in the period. We calculate total RPMs by dividing the total revenue by the number of thousands of listener hours.

Licensing Costs per Thousand Listener Hours ("LPMs")

We track LPMs and analyze them in combination with our analysis of RPMs as they provide a key indicator of our profitability. LPMs are relatively fixed licensing costs with scheduled annual rate increases that drive period-over-period changes in LPMs. As such, the margin on our business varies principally with variances in ad RPMs and subscription RPMs.

Estimated RPMs and LPMs by Platform

We also provide estimates of disaggregated ad RPMs, subscription RPMs, total RPMs and related LPMs for our computer platform as well as our mobile and other connected devices platforms, which we calculate by dividing the estimated revenue and costs generated through the respective platforms by the number of thousands of listener hours of our services delivered through such platforms. While we believe that such disaggregated data provides directional insight for evaluating our efforts to monetize our service, we do not validate such disaggregated data to the level of financial statement reporting. Such data should be seen as indicative only and as management's best estimate.

Period-to-period results should not be regarded as precise nor can they be relied upon as indicative of results for future periods. In addition, as our business matures and in response to technological evolutions, we anticipate that the relevant indicators we monitor for evaluating our business may change.

The table below sets forth our RPMs and LPMs, including total, computer and mobile and other connected devices, on an ad, subscription and total basis for the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015.

	Eleven Months Ended December 31,		Twelve Months Ended December 31,			
	2013		2014		2015	
	RPM	LPM*	RPM	LPM*	RPM**	LPM*
Advertising						
Computer	$ 56.79	$ 18.94	$ 62.00	$ 20.76	$ 67.99	$ 28.79
Mobile and other connected devices	31.97	18.63	37.84	20.23	47.56	25.68
Total advertising	$ 36.70	$ 18.69	$ 41.66	$ 20.31	$ 50.52	$ 26.13
Subscription						
Computer	$ 52.38	$ 31.83	$ 60.56	$ 33.37	$ 71.75	$ 45.70
Mobile and other connected devices	57.77	33.87	82.25	37.41	86.80	49.18
Total subscription	$ 56.27	$ 33.30	$ 76.89	$ 36.41	$ 83.66	$ 48.45
Total						
Total computer	$ 56.01	$ 21.23	$ 61.74	$ 23.02	$ 68.63	$ 31.68
Total mobile and other connected devices	34.98	20.41	42.77	22.14	52.13	28.42
Total	$ 39.22	$ 20.57	$ 45.97	$ 22.28	$ 54.65	$ 28.92

* Under the Pureplay Settlement, we pay per-performance rates for the streaming of sound recordings for our Pandora One subscription service that are higher than the per-performance rates for our non-subscription, ad-supported service.
**The calculation of RPMs does not include revenue generated by Ticketfly or Next Big Sound.

Total Ad RPMs

For the twelve months ended December 31, 2015 compared to 2014, total ad RPMs increased primarily due to an increase in ad RPMs on the mobile and other connected devices platform. Ad RPMs on the mobile and other connected devices platform increased as advertising revenue growth outpaced the growth in advertising listener hours as a result of an increase in the average price per ad sold on that platform, due in part to our increase in relative volume of local ad sales.

For the twelve months ended December 31, 2014 compared to theeleven months ended December 31, 2013, total ad RPMs increased primarily due to an increase in ad RPMs on the mobile and other connected devices platform. Ad RPMs on the mobile and other connected devices platform increased as advertising revenue growth outpaced the growth in advertising listener hours as a result of an increase in the average price per ad sold on that platform, due in part to our increase in relative volume of local ad sales.

Total Subscription RPMs

For the twelve months ended December 31, 2015 compared to 2014, total subscription RPMs increased primarily due to an increase in subscription RPMs on the mobile and other connected devices platform. Subscription RPMs on the mobile and other connected devices platform increased as the growth in subscription and other revenue outpaced the growth in subscription listener hours, primarily due to an increase in the average price per subscriber as a result of the increase in the Pandora One pricing structure and an increase in subscribers.

For the twelve months ended December 31, 2014 compared to theeleven months ended December 31, 2013, total subscription RPMs increased as the growth in subscription and other revenue outpaced the growth in subscription listener hours on both the computer and the mobile and other connected devices platforms, primarily due to an increase in the average price per subscriber as a result of the increase in the Pandora One pricing structure. In addition, the changes in subscription RPMs for the twelve months ended December 31, 2014 reflect a $14.2 million increase in subscription revenue in connection with the one-time recognition of the accumulation of deferred revenue related to certain subscriptions purchased through mobile app stores. Refer to “Deferred Revenue” below for further details regarding these mobile subscriptions.

Total Ad LPMs

Total ad LPMs in the twelve months ended December 31, 2015 compared to 2014 increased as the growth in cost of revenue - content acquisition costs outpaced the growth in advertising listener hours. Cost of revenue - content acquisition costs increased by $65.4 million in the twelve months ended December 31, 2015, of which $57.9 million was related to a one-time cumulative charge to cost of revenue - content acquisition costs for the pre-1972 sound recordings settlement. In addition, cost of revenue - content acquisition costs increased by $28.2 million in the twelve months ended December 31, 2015, of which $23.9 million was related to a one-time cumulative charge to cost of revenue - content acquisition as a result of our decision to forgo the application of the RMLC publisher royalty rate from June 2013 to September 2015. Total ad LPMs also increased as a result of scheduled rate increases for sound recordings paid to SoundExchange.

Total ad LPMs in the twelve months ended December 31, 2014 compared to the eleven months ended December 31, 2013 increased primarily due to scheduled rate increases for sound recording royalties paid to SoundExchange.

Total Subscription LPMs

Total subscription LPMs in the twelve months ended December 31, 2015 compared to 2014 increased as the growth in cost of revenue - content acquisition costs outpaced the growth in subscription listener hours. Cost of revenue - content acquisition costs increased by $65.4 million in the twelve months ended December 31, 2015, of which $57.9 million was related to a one-time cumulative charge to cost of revenue - content acquisition costs for the pre-1972 sound recordings settlement. In addition, cost of revenue - content acquisition costs increased by $28.2 million in the twelve months ended December 31, 2015, of which $23.9 million was related to a one-time cumulative charge to cost of revenue - content acquisition as a result of our decision to forgo the application of the RMLC publisher royalty rate from June 2013 to September 2015. Total subscription LPMs also increased as a result of scheduled rate increases for sound recordings paid to SoundExchange.

Total subscription LPMs in the twelve months ended December 31, 2014 compared to the eleven months ended December 31, 2013 increased primarily due to scheduled rate increases for sound recording royalties paid to SoundExchange.

Basis of Presentation and Results of Operations

The following table presents our results of operations for the periods indicated as a percentage of total revenue. Our results of operations for the twelve months ended December 31, 2015 include operating results of Ticketfly for the two months ended December 31, 2015. The period-to-period comparisons of results are not necessarily indicative of results for future periods.

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
Revenue			
Advertising	82 %	80 %	80 %
Subscription and other	18	20	19
Ticketing service	—	—	1
Total revenue	100	100	100
Cost of revenue			
Cost of revenue—Content acquisition costs	52	48	52
Cost of revenue—Other(1)	7	7	7
Cost of revenue—Ticketing service(1)	—	—	1
Total cost of revenue	59	55	60
Gross profit	41	45	40
Operating expenses			
Product development(1)	5	6	7
Sales and marketing(1)	28	30	34
General and administrative(1)	12	12	13
Total operating expenses	45	48	55
Loss from operations	(4)	(3)	(15)
Other income (expense), net	—	—	—
Loss before provision for income taxes	(4)	(3)	(15)
Provision for income taxes	—	—	—
Net loss	(5)%	(3)%	(15)%
(1) Includes stock-based compensation as follows:			
Cost of revenue—Other	0.3 %	0.5 %	0.5 %
Cost of revenue—Ticketing service	—	—	—
Product development	1.5	1.9	2.0
Sales and marketing	3.4	4.6	4.5
General and administrative	1.5	2.5	2.5

Note: Amounts may not recalculate due to rounding

Revenue

	Eleven Months Ended December 31,	Twelve Months Ended December 31,		Twelve Months Ended December 31,		
	2013	2014	$ Change	2014	2015	$ Change
	(in thousands)			(in thousands)		
Revenue						
Advertising	$ 489,340	$ 732,338	$ 242,998	$ 732,338	$ 933,305	$ 200,967
Subscription and other	110,893	188,464	77,571	188,464	220,571	32,107
Ticketing service	—	—	—	—	10,167	10,167
Total revenue	$ 600,233	$ 920,802	$ 320,569	$ 920,802	$ 1,164,043	$ 243,241

Advertising Revenue

We generate advertising revenue primarily from audio, display and video advertising, which is typically sold on a cost-per-thousand impressions, or CPM, basis. Advertising campaigns typically range from one to twelve months, and advertisers generally pay us based on the number of delivered impressions or the satisfaction of other criteria, such as click-throughs. We also have arrangements with advertising agencies under which these agencies sell advertising inventory on our service directly to advertisers. We report revenue under these arrangements net of amounts due to agencies. For the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015, advertising revenue accounted for 82%, 80% and 80%, of our total revenue, respectively. We expect that advertising will comprise a substantial majority of revenue for the foreseeable future.

For the twelve months ended December 31, 2015 compared to 2014, advertising revenue increased $201.0 million or 27%, primarily due to an approximate 25% increase in the average price per ad sold, due in part to our increase in relative volume of local ad sales and our focus on monetizing mobile inventory, and an approximate 5% increase in the number of ads sold, primarily due to an increase in advertising listener hours.

For the twelve months ended December 31, 2014 compared to the eleven months ended December 31, 2013, advertising revenue increased by $243.0 million or 50%, primarily due to an approximate 25% increase in the average price per ad sold, due in part to our increase in relative volume of local ad sales and our focus on monetizing mobile inventory, and an approximate 15% increase in the number of ads sold, primarily due to an increase in advertising listener hours. In addition, the remaining increase in advertising revenue was due to the twelve months ended December 31, 2014 having one additional month as compared to the eleven months ended December 31, 2013.

Subscription and other revenue

Subscription and other revenue is generated primarily through the sale of Pandora One, a daily, monthly or annual subscription to a premium version of the Pandora service, which currently includes advertisement-free access and higher audio quality on supported devices. Subscription revenue is recognized on a straight-line basis over the duration of the subscription period. For the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015, subscription and other revenue accounted for 18%, 20% and 19% of our total revenue, respectively.

Effective in March 2014, we implemented a change in the pricing structure for Pandora One under which the $36 annual subscription option was eliminated. In addition, effective in May 2014, the monthly pricing option for Pandora One was increased to $4.99 per-month for new subscribers. Existing monthly subscribers who did not lapse maintained the $3.99 per-month pricing structure, and existing annual subscribers who did not lapse were migrated to the $3.99 per-month monthly pricing structure. Effective in December 2014, we reinstated the annual subscription option at $54.89 per year.

For the twelve months ended December 31, 2015 compared to 2014, subscription revenue increased $32.1 million or 17%, primarily due to an approximate 15% increase in the average price per subscription as a result of the change in the Pandora One pricing structure and due to an approximate 10% increase in the number of subscribers.

For the twelve months ended December 31, 2014 compared to the eleven months ended December 31, 2013, subscription and other revenue increased by $77.6 million, or 70%, primarily due to an approximate 25% increase in the average price per subscription as a result of the change in the Pandora One pricing structure and due to an approximate 10%

increase in the number of subscribers. The increase in subscription revenue for the twelve months ended December 31, 2014 was also due to a $14.2 million increase in subscription revenue in connection with the one-time recognition of the accumulation of deferred revenue related to certain subscriptions purchased through mobile app stores. Refer to "Deferred Revenue" below for further details regarding these mobile subscriptions. In addition, the remaining increase in subscription revenue was due to the twelve months ended December 31, 2014 having one additional month as compared to the eleven months ended December 31, 2013.

Ticketing service

Ticketing service revenue is generated primarily from service and merchant processing fees generated on ticket sales through the Ticketfly platform. Ticketfly sells tickets to fans for events on behalf of clients and charges a fee per ticket, which generally increases as the face value of the ticket increases, or a percentage of the total convenience charge and order processing fee, for its services at the time the ticket for an event is sold. Ticketing service revenue is recorded net of the face value of the ticket at the time of the sale, as Ticketfly generally acts as the agent in these transactions. As Ticketfly was acquired on October 31, 2015, the consolidated statements of operations include ticketing service revenue for the two months ended December 31, 2015. For the two months ended December 31, 2015, ticketing service revenue accounted for approximately 1% of our total revenue. We had no ticketing service revenue in the eleven months ended December 31, 2013 or the twelve months ended December 31, 2014.

Deferred revenue

Our deferred revenue consists principally of both prepaid but unrecognized subscription revenue and advertising fees received or billed in advance of the delivery or completion of the delivery of services. Deferred revenue is recognized as revenue when the services are provided and all other revenue recognition criteria have been met.

In addition, subscription revenue derived from sales through certain mobile devices may be subject to refund or cancellation terms which may affect the timing or amount of the subscription revenue recognition. When refund rights exist, we recognize revenue when services have been provided and the rights lapse or when we have developed sufficient transaction history to estimate a return reserve.

We were required to defer revenue for certain subscriptions purchased through mobile app stores that contained refund rights until the refund rights lapsed or until we developed sufficient operating history to estimate a return reserve. As of December 31, 2013, we had deferred all revenue related to these mobile subscriptions subject to refund rights totaling approximately $14.2 million, as we did not have sufficient transaction history to estimate a return reserve. Beginning in January 2014, we had sufficient transaction history that enabled us to estimate future returns. Accordingly, in January 2014, we began recording revenue related to these mobile subscriptions net of estimated returns. This resulted in a one-time increase in subscription revenue in the three months ended March 31, 2014 of approximately $14.2 million, as the previously deferred revenue was recognized. As of December 31, 2015, the deferred revenue related to the return reserve was not significant.

Costs and Expenses

Cost of revenue consists of cost of revenue—content acquisition costs, cost of revenue—other and cost of revenue - ticketing. Our operating expenses consist of product development, sales and marketing and general and administrative costs. Cost of revenue—content acquisition costs are the most significant component of our costs and expenses, followed by employee-related costs, which include stock-based compensation expenses. We expect to continue to hire additional employees in order to support our anticipated growth and our product development initiatives. In any particular period, the timing of additional hires could materially affect our cost of revenue and operating expenses, both in absolute dollars and as a percentage of revenue. We anticipate that our costs and expenses will increase in the future.

Cost of revenue—Content Acquisition Costs

	Eleven Months Ended December 31,	Twelve Months Ended December 31,		Twelve Months Ended December 31,		
	2013	2014	$ Change	2014	2015	$ Change
	(in thousands)			(in thousands)		
Cost of revenue—Content acquisition costs	$ 314,866	$ 446,377	$ 131,511	$ 446,377	$ 610,362	$ 163,985

Content Acquisition Costs as a Percentage of Advertising Revenue by Platform

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
Computer	34%	34%	41%
Mobile and other connected devices	58%	53%	55%

Cost of revenue—content acquisition costs principally consist of royalties paid for streaming music or other content to our listeners. Royalties are currently calculated using negotiated rates documented in agreements. The majority of our royalties are payable based on a fee per public performance of a sound recording, while in other cases our royalties are payable based on a percentage of our revenue or a formula that involves a combination of per performance and revenue metrics. For certain royalty arrangements, we accrue for estimated royalties based on the available facts and circumstances and adjust these estimates as more information becomes available. The results of any finalized negotiation may be materially different from our estimates.

We estimate our advertising-based content acquisition costs attributable to specific platforms by allocating costs from royalties payable based on a fee per track to the platform for which the track is served and by allocating costs from royalties based on a percentage of our revenue in accordance with the overall percentage of our revenue estimated to be attributable to such platforms. While we believe that comparing disaggregated content acquisition costs and revenues across our delivery platforms may provide directional insight for evaluating our efforts to monetize our service by platform, we do not validate such disaggregated metrics to the level of financial statement reporting. We continue to refine our systems and methodologies used to categorize such metrics across our delivery platforms and the period-to-period comparisons of results are not necessarily indicative of results for future periods.

For the twelve months ended December 31, 2015 compared to 2014, content acquisition costs increased $164.0 million or 37%, primarily due to an increase of $65.4 million related to pre-1972 sound recordings in the twelve months ended December 31, 2015, of which $57.9 million was related to a one-time cumulative charge to cost of revenue - content acquisition costs for the pre-1972 sound recordings settlement. In addition, cost of revenue - content acquisition costs increased by $28.2 million related to publisher royalty rate increases in the twelve months ended December 31, 2015, of which $23.9 million was related to a one-time cumulative charge to cost of revenue - content acquisition as a result of our decision to forgo the application of the RMLC publisher royalty rate from June 2013 to September 2015. Cost of revenue - content acquisition costs also increased due to scheduled sound-recording royalty rate increases of 8%. Content acquisition costs as a percentage of total revenue increased from 48% to 52%, primarily due to the increased royalties related to pre-1972 sound recordings, RMLC publisher royalties and scheduled sound-recording royalty rate increases of 8%, offset by an increase in advertising sales. Estimated content acquisition costs as a percentage of the advertising revenue attributable to our computer platform increased from 34% to 41%, and estimated content acquisition costs as a percentage of the advertising revenue attributable to our mobile and other connected devices platform increased from 53% to 55%, in each case primarily due to the increased royalties related to the pre-1972 sound recordings settlement, RMLC publisher royalties and scheduled sound-recording royalty rate increases of 8%, offset by an increase in advertising sales on both the computer and mobile and other connected devices platforms.

For the twelve months ended December 31, 2014 compared to the eleven months ended December 31, 2013, content acquisition costs increased by $131.5 million or 42%, primarily due to an approximate 20% increase in listener hours and scheduled sound-recording royalty rate increases of 8%. In addition, the remaining increase in content acquisition costs was due to the twelve months ended December 31, 2014 having one additional month as compared to the eleven months ended December 31, 2013. Content acquisition costs as a percentage of total revenue decreased from 52% to 48%, primarily due to an increase in advertising revenue and a $14.2 million increase in subscription revenue in connection with the one-time recognition of the accumulation of deferred revenue related to certain subscriptions purchased through mobile app stores. Refer to "Deferred Revenue" above for further details regarding these mobile subscriptions. Estimated content acquisition costs as a

percentage of the advertising revenue attributable to our computer platform were 34% in both the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014, primarily due to an increase in advertising revenue on the computer platform as a result of an increase in the average price per ad sold, offset by scheduled rate increases. Estimated content acquisition costs as a percentage of the advertising revenue attributable to our mobile and other connected devices platform decreased from 58% to 53%, primarily due to an increase in advertising revenue on the mobile and other connected devices platform as a result of an increase in the average price per ad sold and an increase in the number of ads sold. The decrease in estimated content acquisition costs as a percentage of the advertising revenue attributable to our mobile and other connected devices platform was also due to the effect of measures we have adopted to manage the growth of mobile content acquisition costs while minimizing adverse effects on the listener experience, such as adjusting the number of times users can skip songs during a given listening session, as well as optimizing time-based thresholds whereby music will stop playing after a certain length of user inactivity with the service, partially offset by scheduled rate increases.

Cost of Revenue—Other

	Eleven Months Ended December 31,	Twelve Months Ended December 31,		Twelve Months Ended December 31,		
	2013	2014	$ Change	2014	2015	$ Change
	(in thousands)			(in thousands)		
Cost of revenue—Other	$ 42,217	$ 61,627	$ 19,410	$ 61,627	$ 79,858	$ 18,231

Cost of revenue—other consists primarily of ad and music serving costs, employee-related and facilities and equipment costs and other costs of ad sales. Ad and music serving costs consist of content streaming, maintaining our internet radio service and creating and serving advertisements through third-party ad servers. We make payments to third-party ad servers for the period the advertising impressions are delivered or click-through actions occur, and accordingly, we record this as a cost of revenue in the related period. Employee-related costs include salaries and benefits associated with supporting music and ad serving functions. Other costs of ad sales include costs related to music events that are sold as part of advertising arrangements.

For the twelve months ended December 31, 2015 compared to 2014, cost of revenue—other increased $18.2 million or 30%, primarily due to an $11.3 million increase in ad and music serving costs driven by an increase in impressions served and a $6.7 million increase in employee-related and facilities and equipment costs, which were driven by an approximate 75% increase in headcount.

For the twelve months ended December 31, 2014 compared to the eleven months ended December 31, 2013, cost of revenue—other increased by $19.4 million or 46%, primarily due to a $7.3 million increase in employee-related and facilities and equipment costs, which were driven by an approximate 20% increase in headcount, a $4.2 million increase in ad and music serving costs driven by an increase in impressions served and a $2.3 million increase in other costs of ad sales related to events sold as part of advertising arrangements. In addition, the remaining increase in cost of revenue—other was due to the twelve months ended December 31, 2014 having one additional month as compared to the eleven months ended December 31, 2013.

Cost of Revenue - Ticketing Service

	Eleven Months Ended December 31,	Twelve Months Ended December 31,		Twelve Months Ended December 31,		
	2013	2014	$ Change	2014	2015	$ Change
	(in thousands)			(in thousands)		
Cost of revenue—Ticketing service	$ —	$ —	$ —	$ —	$ 7,121	$ 7,121

Cost of revenue—ticketing service consists primarily of ticketing revenue share costs, credit card fees and other cost of revenue and intangible amortization expense. The majority of these costs are related to revenue share costs, which consist of royalties paid to clients for their share of convenience and order processing fees. Intangible amortization expense is related to amortization of developed technology acquired in connection with the Ticketfly acquisition.

For the two months ended December 31, 2015, cost of revenue—ticketing service was $7.1 million and consisted of $4.4 million in revenue share costs, $1.7 million in credit card fees and other cost of revenue and $1.0 million in intangible amortization of developed technology.

Gross Profit

	Eleven Months Ended December 31,	Twelve Months Ended December 31,		Twelve Months Ended December 31,		
	2013	2014	$ Change	2014	2015	$ Change
		(in thousands)			(in thousands)	
Gross profit						
Total revenue	$ 600,233	$ 920,802	$ 320,569	$ 920,802	$ 1,164,043	$ 243,241
Total cost of revenue	357,083	508,004	150,921	508,004	697,341	189,337
Gross profit	$ 243,150	$ 412,798	$ 169,648	$ 412,798	$ 466,702	$ 53,904
Gross margin	41%	45%		45%	40%	

For the twelve months ended December 31, 2015 compared to 2014, gross profit increased by $53.9 million or 13%, primarily due to an increase in advertising revenue as a result of an increase in the average price per ad sold and an increase in the number of ads sold. Gross margin decreased from 45% to 40% as the growth in content acquisition costs outpaced the growth in revenue primarily due to the increase of $65.4 million related to pre-1972 sound recordings settlement, the increase of $28.2 million related to publisher royalty rate increases and scheduled sound-recording royalty rate increases of 8%.

For the twelve months ended December 31, 2014 compared to the eleven months ended December 31, 2013, gross profit increased by $169.6 million or 70%, primarily due to an increase in advertising revenue as a result of an increase in the average price per ad sold and an increase in the number of ads sold. In addition, the remaining increase in gross profit was due to the twelve months ended December 31, 2014 having one additional month as compared to the eleven months ended December 31, 2013. Gross margin increased from 41% to 45% as the growth in revenue outpaced the growth in content acquisition costs primarily due to an increase in advertising revenue and the effect of measures we have adopted to manage the growth of mobile content acquisition costs while minimizing adverse effects on the listener experience, such as adjusting the number of times users can skip songs during a given listening session, as well as optimizing time-based thresholds whereby music will stop playing after a certain length of user inactivity with the service. The increase in gross margin was also due to an increase in subscription and other revenue driven by a $14.2 million increase in connection with the one-time recognition of the accumulation of deferred revenue related to certain subscriptions purchased through mobile app stores. Refer to “Deferred Revenue” above for further details regarding these mobile subscriptions.

Product Development

	Eleven Months Ended December 31,	Twelve Months Ended December 31,		Twelve Months Ended December 31,		
	2013	2014	$ Change	2014	2015	$ Change
		(in thousands)			(in thousands)	
Product development	$ 31,294	$ 53,153	$ 21,859	$ 53,153	$ 84,581	$ 31,428

Product development consists primarily of employee-related and facilities and equipment costs, including salaries and benefits related to employees in software engineering, music analysis and product management departments, information technology and costs associated with supporting consumer connected-device manufacturers in implementing our service in their products. We incur product development expenses primarily for improvements to our website and the Pandora app, development of new advertising products and development and enhancement of our personalized station generating system. We have generally expensed product development as incurred. Certain website development and internal use software development costs are capitalized when specific criteria are met. In such cases, the capitalized amounts are amortized over the useful life of the related application once the application is placed in service. We intend to substantially increase investments in developing new products and enhancing the functionality of our existing products.

For the twelve months ended December 31, 2015 compared to 2014, product development expenses increased $31.4 million or 59%, primarily due to a $29.2 million increase in employee-related and facilities and equipment costs, which were driven by an approximate 115% increase in headcount and a $1.3 million increase in professional fees.

For the twelve months ended December 31, 2014 compared to the eleven months ended December 31, 2013, product development expenses increased by $21.9 million or 70%, primarily due to a $18.1 million increase in employee-related and facilities and equipment costs, which were driven by an approximate 35% increase in headcount. In addition, the remaining increase in product development expenses was due to the twelve months ended December 31, 2014 having one additional month as compared to the eleven months ended December 31, 2013.

Sales and Marketing

	Eleven Months Ended December 31,	Twelve Months Ended December 31,		Twelve Months Ended December 31,		
	2013	2014	$ Change	2014	2015	$ Change
	(in thousands)			(in thousands)		
Sales and marketing	$ 169,005	$ 277,330	$ 108,325	$ 277,330	$ 398,169	$ 120,839

Sales and marketing consists primarily of employee-related and facilities and equipment costs, including salaries, commissions and benefits related to employees in sales, sales support, marketing, advertising and music maker group departments. In addition, sales and marketing expenses include transaction processing commissions on subscription purchases through mobile app stores, external sales and marketing expenses such as brand marketing, advertising, direct response and search engine marketing costs, public relations expenses, costs related to music events, agency platform and media measurement expenses, infrastructure costs and amortization expense related to acquired intangible assets.

We expect sales and marketing expenses to increase as we hire additional personnel to build out our sales and sales support teams, particularly as we continue to build out our local market sales team. While we have historically relied on the success of viral marketing to expand consumer awareness of our service, in 2014 we began to launch marketing campaigns to increase consumer awareness and expand our listener base and in 2015, we began to launch advertising campaigns. We anticipate that we will continue to utilize these types of marketing and advertising campaigns in the future. As such, we anticipate higher overall levels of sales and marketing expense going forward.

For the twelve months ended December 31, 2015 compared to 2014, sales and marketing expenses increased $120.8 million or 44%, primarily due to a $54.0 million increase in employee-related and facilities and equipment costs, which were driven by an approximate 40% increase in headcount, a $45.3 million increase in brand marketing, advertising, direct response and search costs, which were driven by advertising campaigns that were launched in the twelve months ended December 31, 2015, an $11.2 million increase in transaction processing commissions on subscription purchases through mobile app stores, a $5.3 million increase in costs related to music events, a $2.2 million increase in professional fees, a $1.4 million increase in agency platform and media measurement expenses and a $1.1 million increase in amortization expense related to acquired intangible assets.

For the twelve months ended December 31, 2014 compared to the eleven months ended December 31, 2013, sales and marketing expenses increased by $108.3 million or 64%, primarily due to a $64.5 million increase in employee-related and facilities and equipment costs, which were driven by an approximate 30% increase in headcount, a $10.3 million increase in brand marketing, advertising, direct response and search costs, a $9.0 million increase in transaction processing commissions on subscription purchases through mobile app stores, a $2.3 million increase in agency platform and media measurement expenses, a $1.9 million increase in costs related to music events and a $1.2 million increase in public relations expenses. In addition, the remaining increase in sales and marketing expenses was due to the twelve months ended December 31, 2014 having one additional month as compared to the eleven months ended December 31, 2013.

General and Administrative

	Eleven Months Ended December 31,	Twelve Months Ended December 31,		Twelve Months Ended December 31,		
	2013	2014	$ Change	2014	2015	$ Change
		(in thousands)			(in thousands)	
General and administrative	$ 69,300	$ 112,443	$ 43,143	$ 112,443	$ 153,943	$ 41,500

General and administrative consists primarily of employee-related and facilities and equipment costs, including salaries and benefits for finance, accounting, legal, internal information technology and other administrative personnel. In addition, general and administrative expenses include professional services costs for outside legal and accounting services, infrastructure costs and credit card fees. We expect general and administrative expenses to increase in future periods as we continue to invest in corporate infrastructure, including adding personnel and systems to our administrative functions.

For the twelve months ended December 31, 2015 compared to 2014, general and administrative expenses increased $41.5 million or 37%, primarily due to a $22.4 million increase in employee-related, facilities and equipment costs, which were driven by an approximate 45% increase in headcount, a $13.8 million increase in professional services costs primarily due to royalty and other legal matters and a $3.0 million increase in credit card fees.

For the twelve months ended December 31, 2014 compared to the eleven months ended December 31, 2013, general and administrative expenses increased by $43.1 million or 62%, primarily due to a $26.4 million increase in employee-related and facilities and equipment costs, which were driven by an approximate 40% increase in headcount, a $5.5 million increase in professional services costs primarily due to royalty-related legal matters, a $1.2 million increase in credit card fees and a $1.0 million increase in infrastructure costs. In addition, the remaining increase in general and administrative expenses was due to the twelve months ended December 31, 2014 having one additional month as compared to the eleven months ended December 31, 2013.

Other income (expense), net

Other income (expense), net in the twelve months ended December 31, 2015 consists primarily of interest expense on our 1.75% Convertible Senior Notes due 2020, offset by interest income from available-for-sale securities. We expect interest expense to grow significantly as a result of the issuance of our Notes in December 2015. Refer to Note 7 “Debt Instruments” in the Notes to Consolidated Financial Statements for further details on our Notes.

Provision for (Benefit from) Income Taxes

We have historically been subject to income taxes in the United States, Australia and New Zealand. As we expand our operations outside of these locations, we become subject to taxation based on the applicable foreign statutory rates and our effective tax rate could fluctuate accordingly.

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

During the year ended December 31, 2015, we released $1.8 million of our valuation allowance as a result of acquisitions. Deferred tax liabilities were established for the book-tax basis difference related to acquired intangible assets. The net deferred tax liabilities provided an additional source of income to support the realizability of pre-existing deferred tax assets.

Liquidity and Capital Resources

As of December 31, 2015, we had cash, cash equivalents and investments totaling $416.9 million, which consisted of cash and money market funds held at major financial institutions, commercial paper, investment-grade corporate debt securities and U.S. government and government agency debt securities.

On December 9, 2015, we completed an unregistered Rule 144A offering of $345.0 million aggregate principal amount

of our 1.75% Convertible Senior Notes due 2020. The net proceeds from the sale of the Notes were approximately $336.5 million, after deducting the initial purchaser's fees and other estimated expenses. We used approximately $43.2 million of the net proceeds to pay the cost of the capped call transactions. Refer to Note 7 "Debt Instruments" in the Notes to Consolidated Financial Statements for further details on our Notes.

In September 2013, we completed a follow-on public equity offering in which we sold an aggregate of 15,730,000 shares of our common stock at a public offering price of $25.00 per share. We received aggregate net proceeds of $378.7 million, after deducting underwriting discounts and commissions and offering expenses from sales of our shares in the offering.

Our principal uses of cash during the twelve months ended December 31, 2015 were funding our operations, as described below, the acquisitions of Ticketfly, Rdio and NBS, royalty settlements and capital expenditures.

Sources of Funds

We believe, based on our current operating plan, that our existing cash and cash equivalents and available borrowings under our credit facility will be sufficient to meet our anticipated cash needs for at least the next twelve months.

From time to time, we may explore additional financing sources and means to lower our cost of capital, which could include equity, equity-linked and debt financing. In addition, in connection with any future acquisitions, we may require additional funding which may be provided in the form of additional debt, equity or equity-linked financing or a combination thereof. There can be no assurance that any additional financing will be available to us on acceptable terms.

Our Indebtedness

Credit Facility

In May 2011, we entered into a $30.0 million credit facility with a syndicate of financial institutions. In September 2013, we amended this credit facility. The amendment increased the aggregate commitment amount from $30.0 million to $60.0 million, extended the maturity date from May 12, 2015 to September 12, 2018 and decreased the interest rate on borrowings. In December 2015, we further amended this credit facility. The amendment increased the aggregate commitment amount to a maximum aggregate commitment amount of $120.0 million. Refer to Note 7 "Debt Instruments" in the Notes to Consolidated Financial Statements for further details regarding our credit facility.

1.75% Convertible Senior Notes Due 2020

On December 9, 2015, we completed an unregistered Rule 144A offering of $345.0 million aggregate principal amount of our 1.75% Convertible Senior Notes due 2020. The net proceeds from the sale of the Notes were approximately $336.5 million, after deducting the initial purchaser's fees and other estimated expenses. We used approximately $43.2 million of the net proceeds to pay the cost of the capped call transactions. Refer to Note 7 "Debt Instruments" in the Notes to Consolidated Financial Statements for further details on our Notes.

The Notes are unsecured, senior obligations of Pandora, and interest is payable semi-annually at a rate of 1.75% per annum. The Notes will mature on December 1, 2020, unless earlier repurchased or redeemed by Pandora or converted in accordance with their terms prior to such date. Prior to July 1, 2020, the Notes are convertible at the option of holders only upon the occurrence of specified events or during certain periods; thereafter, until the second scheduled trading day prior to maturity, the Notes will be convertible at the option of holders at any time.

The conversion rate for the Notes is initially 60.9050 shares of common stock per $1,000 principal amount of the Notes, which is equivalent to an initial conversion price of approximately $16.42 per share of our common stock, and is subject to adjustment in certain circumstances.

The Notes were separated into debt and equity components and assigned a fair value. The value assigned to the debt component is the estimated fair value as of the issuance date of similar debt without the conversion feature. The difference between the cash proceeds and this estimated fair value represents the value which has been assigned to the equity component and recorded as a debt discount. The debt discount is being amortized using the effective interest method.

The capped call transactions are expected generally to reduce the potential dilution to our common stock and/or offset the cash payments we would be required to make in excess of the principal amount of the converted Notes in the event that the market price of our common stock, as measured under the terms of the capped call transaction, is greater than the strike price of

the capped call transaction, with such reduction and/or offset subject to a cap based on the cap price of the capped call transactions. The strike price of the capped call transactions corresponds to the initial conversion price of the Notes and is subject to certain adjustments under the terms of the capped call transactions. The capped call transactions have an initial cap price of $25.26 per share and are subject to certain adjustments under the terms of the capped call transactions. The capped call transactions have been included as a net reduction to additional paid-in capital within stockholders' equity.

Capital Expenditures

Consistent with previous periods, future capital expenditures will primarily focus on acquiring additional hosting and general corporate infrastructure. Our access to capital is adequate to meet our anticipated capital expenditures for our current plans.

Historical Trends

The following table summarizes our cash flow data for the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015. Our cash flow data for the twelve months ended December 31, 2015 include cash flow data of Ticketfly for the two months ended December 31, 2015.

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
		(in thousands)	
Net cash provided by (used in) operating activities	$ (2,986)	$ 21,029	$ (42,082)
Net cash used in investing activities	(211,919)	(112,200)	(102,266)
Net cash provided by financing activities	394,997	21,661	303,135

Operating activities

In the twelve months ended December 31, 2015, net cash used by operating activities was $42.1 million and primarily consisted of our net loss of $169.7 million and increases in accounts receivable and prepaid and other assets of $55.9 million and $18.9 million, offset by decreases in accounts payable, accrued and other current liabilities and accrued royalties of $18.1 million and $23.7 million, and non-cash charges of $141.2 million, primarily related to $111.6 million in stock-based compensation charges and $24.5 million in depreciation and amortization charges. Cash provided by operating activities decreased $63.1 million from the twelve months ended December 31, 2014, primarily due to a $139.3 million increase in our net loss, offset by a $24.6 million increase in stock-based compensation expense as a result of an increase in headcount.

In the twelve months ended December 31, 2014, net cash provided by operating activities was $21.0 million and primarily consisted of non-cash charges of $106.3 million, primarily related to $87.1 million in stock-based compensation charges, offset by an increase in accounts receivable of $55.5 million driven by an increase in revenue and our net loss of $30.4 million. Net cash provided by operating activities also included a $28.2 million decrease in deferred revenue from December 31, 2013, primarily due to the one-time recognition of the accumulation of deferred revenue related to certain subscriptions purchased through mobile app stores of $14.2 million and due to a decrease in deferred revenue as a result of the elimination of the annual subscription option from March through December 2014, as we collected less cash upfront under the one-month subscription period as opposed to the twelve-month subscription period under the annual subscription option. Cash provided by operating activities increased $24.0 million from the eleven months ended December 31, 2013, primarily due to a $47.0 million increase in stock-based compensation expense as a result of an increase in headcount, offset by a $3.4 million increase in our net loss.

In the eleven months ended December 31, 2013, net cash used in operating activities was $3.0 million, including our net loss of $27.0 million, which was offset by non-cash charges of $50.6 million primarily related to $40.0 million in stock-based compensation expense. Net cash used in operating activities benefited from a $13.4 million increase in deferred revenue from the prior period primarily due to an increase in subscriptions, partially driven by the temporary implementation of the mobile listening limit and an increase in accrued royalties of $13.0 million due to schedule rate increases, offset by a $60.6 million increase in accounts receivable driven by an increase in revenue.

Investing activities

In the twelve months ended December 31, 2015, net cash used in investing activities was $102.3 million, primarily due to $269.6 million in payments related to acquisitions, net of cash acquired due to the acquisitions of Rdio, Ticketfly, NBS and KXMZ, $141.0 million of purchases of investments and $32.1 million of capital expenditures for leasehold improvements and server equipment, offset by $229.0 million in maturities of investments and $111.4 million in proceeds from sale of investments.

In the twelve months ended December 31, 2014, net cash used in investing activities was $112.2 million, primarily due to $340.7 million of purchases of investments and $30.0 million of capital expenditures for leasehold improvements and server equipment, partially offset by $258.5 million in maturities of investments.

In the eleven months ended December 31, 2013, net cash used in investing activities was $211.9 million, primarily due to $224.5 million for purchases of investments, $21.2 million for capital expenditures for server equipment and leasehold improvements and $8.0 million for the purchase of patents, offset by $42.2 million in maturities of short-term investments.

Financing activities

In the twelve months ended December 31, 2015, net cash provided by financing activities was $303.1 million, primarily consisting of $345.0 million in proceeds from issuance of the Notes, offset by $43.2 million in payments pursuant to the capped call transaction and $8.9 million in payment of debt issuance costs related to the issuance of the Notes and the amendment to our line of credit facility.

In the twelve months ended December 31, 2014, net cash provided by financing activities was $21.7 million, primarily consisting of $16.9 million in proceeds from the exercise of stock options and $6.4 million in proceeds from our employee stock purchase plan.

In the eleven months ended December 31, 2013, net cash provided by financing activities was $395.0 million, primarily consisting of net proceeds from the follow-on public equity offering of $378.7 million and cash proceeds from the issuance of common stock of $17.3 million.

Contractual Obligations and Commitments

The following summarizes our contractual obligations as of December 31, 2015:

	Payments Due by Period				
	Total	Less Than 1 Year	1 - 3 Years	4 - 5 Years	More Than 5 Years
			(in thousands)		
Purchase obligations	$ 153,252	$ 60,252	$ 93,000	$ —	$ —
Operating lease obligations	162,634	19,044	45,941	41,747	55,902
Total	$ 315,886	$ 79,296	$ 138,941	$ 41,747	$ 55,902

Purchase Obligation

As of December 31, 2015, we had various non-cancelable minimum payments, primarily in connection with the publishing agreements signed in 2015, of which $124.0 million is recoupable against future royalty payments and $29.3 million of which is not recoupable against future royalty payments, through 2018.

Off-Balance Sheet Arrangements

As of December 31, 2014 and 2015, we did not have any off-balance sheet arrangements.

Business Trends

Our operating results fluctuate from quarter to quarter as a result of a variety of factors. We expect our operating results

to continue to fluctuate in future quarters.

Our results reflect the effects of seasonal trends in listener and advertising behavior. We expect to experience both higher advertising sales due to greater advertiser demand during the holiday season and increased usage due to the popularity of holiday music during the last three months of each calendar year. In addition, we expect to experience lower advertising sales in the first three months of each calendar year due to reduced advertiser demand and increased usage due to increased use of media-streaming devices received as gifts during the holiday season. We believe these seasonal trends have affected, and will continue to affect our operating results, particularly as increases in content acquisition costs from increased usage are not offset by increases in advertising sales in the first calendar quarter.

In addition, expenditures by advertisers tend to be cyclical and discretionary in nature, reflecting overall economic conditions, the economic prospects of specific advertisers or industries, budgeting constraints and buying patterns and a variety of other factors, many of which are outside our control. As a result of these and other factors, the results of any prior quarterly or annual periods should not be relied upon as indications of our future operating performance.

We have invested in building a local advertising sales force in major radio markets and as of December 31, 2015, we had 154 local sellers in 39 markets in the United States. As a result, we experienced an increase in local advertising revenue as a percentage of total advertising revenue in the twelve months ended December 31, 2015 compared to the twelve months ended December 31, 2014, and we intend to continue investing to extend our local market presence for the foreseeable future.

Critical Accounting Policies and Estimates

Our discussion and analysis of our consolidated financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with U.S. GAAP. The preparation of these consolidated financial statements requires us to make estimates, judgments and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses and the related disclosure of contingent assets and liabilities. We base our estimates on historical experience and on various other assumptions that we believe are reasonable under the circumstances. Our estimates form the basis for our judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates.

An accounting policy is considered to be critical if it requires an accounting estimate to be made based on assumptions about matters that are highly uncertain at the time the estimate is made, and if different estimates that reasonably could have been used, or changes in the accounting estimate that are reasonably likely to occur, could materially impact the consolidated financial statements. We believe that our critical accounting policies reflect the most significant estimates and assumptions used in the preparation of the consolidated financial statements.

We believe that the assumptions and estimates associated with our royalties for performance rights of musical works, advertising revenue, subscription and other revenue, business combinations, goodwill and intangible assets and stock based compensation and the valuation of stock option grants and market stock units have the greatest potential impact on our financial statements. Therefore, we consider these to be our critical accounting policies and estimates.

Royalties for Performance Rights of Musical Works

We incur royalty expenses from our public performance of musical works. This includes royalties that we pay for public performance rights to the owners of those musical works or their agents, such as ASCAP, BMI, SESAC and individual publishers. We record a liability for public performance royalties based on our best estimate of the amount owed to each licensor, PRO or individual copyright owner, based on historical rates, third-party evidence and legal developments consistent with our past practices. For each quarterly period, we evaluate our estimates to assess the adequacy of recorded liabilities. If actual royalty rates differ from estimates, revisions to the estimated royalty liabilities may be required, which could materially affect our results of operations.

Revenue Recognition

We recognize revenue when four basic criteria are met: (1) persuasive evidence exists of an arrangement with the customer reflecting the terms and conditions under which the products or services will be provided; (2) delivery has occurred or services have been provided; (3) the fee is fixed or determinable; and (4) collection is reasonably assured. We consider a signed agreement, a binding insertion order or other similar documentation to be persuasive evidence of an arrangement. Collectability is assessed based on a number of factors, including transaction history and the creditworthiness of a customer. If it is

determined that collection is not reasonably assured, revenue is not recognized until collection becomes reasonably assured, which is generally upon receipt of cash. We record cash received in advance of revenue recognition as deferred revenue.

Advertising revenue

We generate advertising revenue primarily from audio, display and video advertising. We generate the majority of our advertising revenue through the delivery of advertising impressions sold on a cost per thousand, or CPM, basis. In determining whether an arrangement exists, we ensure that a binding arrangement, such as an insertion order or a fully executed customer-specific agreement, is in place. We generally recognize revenue based on delivery information from our campaign trafficking systems.

We also generate advertising revenue pursuant to arrangements with advertising agencies and brokers. Under these arrangements, we provide the agencies and brokers the ability to sell advertising inventory on our service directly to advertisers. We report this revenue net of amounts due to agencies and brokers because we are not the primary obligor under these arrangements, we do not set the pricing and do not establish or maintain the relationship with the advertisers.

Subscription and other revenue

Subscription and other revenue is generated primarily through the sale of a premium version of the Pandora service which currently includes advertisement-free access and higher audio quality on supported devices. Subscription revenue derived from direct sales to listeners is recognized on a straight-line basis over the duration of the subscription period. Subscription revenue derived from sales through some mobile operating systems may be subject to refund or cancellation terms which may affect the timing or amount of the subscription revenue recognition. When refund rights exist, we recognize revenue when services have been provided and the rights lapse or when we have developed sufficient transaction history to estimate a reserve.

We were required to defer revenue for certain subscriptions purchased through mobile app stores that contained refund rights until the refund rights lapsed or until we developed sufficient operating history to estimate a return reserve. As of December 31, 2013, we had deferred all revenue related to these mobile subscriptions subject to refund rights totaling approximately $14.2 million, as we did not have sufficient history to estimate a return reserve. Beginning in January 2014, we had sufficient historic transactional information which enabled us to estimate future returns. Accordingly, in January 2014, we began recording revenue related to these mobile subscriptions net of estimated returns. This change resulted in a one-time increase in subscription revenue in the three months ended March 31, 2014 of approximately $14.2 million, as the previously deferred revenue was recognized. As of December 31, 2015, the deferred revenue related to the return reserve was not significant.

Ticketing service revenue

Ticketing service revenue is generated from service and merchant processing fees generated on ticket sales through the Ticketfly platform. Ticketfly sells tickets to fans for events on behalf of clients and charges a fixed fee or a percentage of the total convenience charge and order processing fee for its services at the time the ticket for an event is sold. Ticketing service revenue is recorded net of the face value of the ticket at the time of the sale, as Ticketfly generally acts as the agent in these transactions.

Business Combinations, Goodwill and Intangible Assets, net

We allocate the fair value of purchase consideration to the tangible assets acquired, liabilities assumed and intangible assets acquired based on their estimated fair values. The excess of the fair value of purchase consideration over the fair values of these identifiable assets and liabilities is recorded as goodwill. Such valuations require management to make significant estimates and assumptions, especially with respect to intangible assets. Significant estimates in valuing certain intangible assets include, but are not limited to, future expected cash flows from acquired users, acquired technology, and trade names from a market participant perspective, useful lives and discount rates. Management's estimates of fair value are based upon assumptions believed to be reasonable, but which are inherently uncertain and unpredictable and, as a result, actual results may differ from estimates. During the measurement period, which is one year from the acquisition date, we may record adjustments to the assets acquired and liabilities assumed, with the corresponding offset to goodwill. Upon the conclusion of the measurement period, any subsequent adjustments are recorded to earnings.

We review goodwill for impairment at least annually or more frequently if events or changes in circumstances would more likely than not reduce the fair value of our single reporting unit below its carrying value. We evaluate indefinite-lived intangible assets for impairment annually or more frequently if events or changes in circumstances indicate that it is more likely than not that the asset is impaired. As of December 31, 2015, no impairment of goodwill or indefinite-lived intangible assets has been identified.

Acquired finite-lived intangible assets are amortized over the estimated useful lives of the assets, which range from two to four years. Acquired finite-lived intangible assets consist primarily of patents, customer relationships, developed technology and trade names resulting from business combinations. We evaluate the recoverability of our intangible assets for potential impairment whenever events or circumstances indicate that the carrying amount of such assets may not be recoverable. Recoverability of these assets is measured by a comparison of the carrying amounts to the future undiscounted cash flows the assets are expected to generate. If such review indicates that the carrying amount of intangible assets is not recoverable, the carrying amount of such assets is reduced to the fair value.

In addition to the recoverability assessment, we routinely review the remaining estimated useful lives of finite-lived intangible assets. If we reduce the estimated useful life assumption for any asset, the remaining unamortized balance would be amortized over the revised estimated useful life. We record the amortization of intangible assets to the financial statement line item in our consolidated statement of operations that the asset directly relates to. To the extent that purchased intangibles are used in revenue generating activities, we record the amortization of these intangible assets to cost of revenue.

Stock-Based Compensation

Stock-based compensation expenses are classified in the statement of operations based on the department to which the related employee reports. We measure stock-based compensation expense for employees at the grant date fair value of the award, and recognize expense on a straight-line basis over the requisite service period, which is generally the vesting period, net of estimated forfeitures.

We generally estimate the grant date fair value of stock options using the Black-Scholes option-pricing model. The Black-Scholes option-pricing model is affected by our stock price on the date of grant, the expected stock price volatility over the expected term of the award, which is based on projected employee stock option exercise behaviors, the risk-free interest rate for the expected term of the award and expected dividends.

Stock-based compensation expense is recorded net of estimated forfeitures in the statement of operations for only those stock-based awards that we expect to vest. We estimate the forfeiture rate based on historical forfeitures of equity awards and adjust the rate to reflect changes in facts and circumstances, if any. We will revise our estimated forfeiture rate if actual forfeitures differ from our initial estimates.

Stock-Based Compensation — Market Stock Units ("MSUs")

We implemented a market stock unit program in March 2015 for certain key executives. Specifically, MSUs measure Pandora’s total stockholder return ("TSR”) performance against that of the Russell 2000 Index across three performance periods.

We have determined the grant-date fair value of the MSUs using a Monte Carlo simulation performed by a third-party valuation firm. The Monte Carlo simulation model utilizes multiple input variables to estimate the probability that market conditions will be achieved. These variables include our expected stock price volatility over the expected term of the award, actual and projected employee stock option exercise behaviors and the risk-free interest rate for the expected term of the award. The variables used in these models are reviewed on an annual basis and adjusted, as needed. We recognize stock-based compensation for the MSUs over the requisite service period using the accelerated attribution method.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to market risks in the ordinary course of our business, including interest rate and inflation risks.

Interest Rate Fluctuation Risk

Our exposure to interest rates relates to the increase or decrease in the amount of interest we must pay on our outstanding debt instruments. In May 2011, we entered into a credit facility and in December 2015, we amended this credit facility to increase the aggregate commitment amount to $120.0 million, with a maturity date of September 12, 2018. The amendment further increased the minimum liquidity financial covenant requirement from $5.0 million to $10.0 million at any time. Any outstanding borrowings under the credit facility bear a variable interest rate and therefore the interest we pay as well as the fair value of our outstanding borrowings will fluctuate as changes occur in certain benchmark interest rates. As of December 31, 2015, we had no amounts drawn under the credit facility and had $1.1 million in outstanding letters of credit.

On December 9, 2015, we completed an unregistered Rule 144A offering for the issuance of$345.0 million aggregate principal amount of our 1.75% Convertible Senior Notes due 2020 (the “Notes”). The Notes were offered only to qualified institutional buyers pursuant to Rule 144A under the Securities Act. In connection with the issuance of the Notes, we entered into capped call transactions with the initial purchaser of the Notes and an additional financial institution (“capped call transactions”). The Notes are unsecured, senior obligations of Pandora, and interest is payable semi-annually at a rate of 1.75% per annum, with no interest rate fluctuation risk.

Refer to Note 7 “Debt Instruments” in the Notes to Consolidated Financial Statements for further details regarding our credit facility and convertible notes.

The primary objective of our investment activities is to preserve principal while maximizing income without significantly increasing risk. Approximately74% of our portfolio consists of cash and cash equivalents that have a relatively short maturity, and a fair value relatively insensitive to interest rate changes. Our available-for-sale investments consist of corporate debt securities, commercial paper and U.S. government and government agency debt securities which may be subject to market risk due to changes in prevailing interest rates that may cause the fair values of our investments to fluctuate. Based on a sensitivity analysis, we have determined that a hypothetical 100 basis points increase in interest rates would have resulted in a decrease in the fair values of our investments of approximately $0.9 million as of December 31, 2015. Such losses would only be realized if we sold the investments prior to maturity. In future periods, we will continue to evaluate our investment policy in order to ensure that we continue to meet our overall objectives.

Inflation Risk

Effective January 1, 2016, the royalties we pay are set by the Web IV rate-setting proceeding. The rates for the calendar years 2017 through 2020 will be adjusted by the CRB to reflect the increases or decreases, if any, in the Consumer Price Index ("CPI"), applicable to that rate year. A material increase in the CPI could potentially result in a material impact to our cost of revenue - content acquisition costs.

Other than inflation risk related to the CPI, we do not believe that inflation has had a material effect on our business, financial condition or results of operations. If our costs were to become subject to significant inflationary pressures, we may not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our business, financial condition and results of operations.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

PANDORA MEDIA, INC.
INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders
Pandora Media, Inc.

We have audited the accompanying consolidated balance sheets of Pandora Media, Inc. as of December 31, 2014 and 2015, and the related consolidated statements of operations, comprehensive loss, stockholders' equity and cash flows for the eleven month period ended December 31, 2013 and the twelve month periods ended December 31, 2014 and 2015. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements 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. An audit 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 consolidated financial position of Pandora Media, Inc. at December 31, 2014 and 2015, and the consolidated results of its operations and its cash flows for the eleven month period ended December 31, 2013 and the twelve month periods ended December 31, 2014 and 2015, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), Pandora Media, Inc.'s internal control over financial reporting as of December 31, 2015, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) and our report dated February 18, 2016 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

San Francisco, California
February 18, 2016

Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders
Pandora Media, Inc.

We have audited Pandora Media, Inc.'s internal control over financial reporting as of December 31, 2015, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). Pandora Media, Inc.'s management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit 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 effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

As indicated in the accompanying Management’s Report on Internal Control Over Financial Reporting, management’s assessment of and conclusion on the effectiveness of internal control over financial reporting did not include the internal controls of Ticketfly, which is included in the 2015 consolidated financial statements of Pandora Media, Inc. and constituted 3% and 2% of total and net assets, respectively, as of December 31, 2015 and 1% and 4% of revenues and net loss, respectively, for the year then ended. Our audit of internal control over financial reporting of Pandora Media, Inc. also did not include an evaluation of the internal control over financial reporting of Ticketfly.

In our opinion, Pandora Media, Inc. maintained, in all material respects, effective internal control over financial reporting as of December 31, 2015, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the 2015 consolidated financial statements of Pandora Media, Inc. and our report dated February 18, 2016 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

San Francisco, California
February 18, 2016

Pandora Media, Inc.
Consolidated Balance Sheets
(in thousands, except share and per share amounts)

	As of December 31,	
	2014	**2015**
Assets		
Current assets		
Cash and cash equivalents	$ 175,957	$ 334,667
Short-term investments	178,631	35,844
Accounts receivable, net of allowance of $1,218 at December 31, 2014 and $2,165 at December 31, 2015	218,437	277,075
Prepaid expenses and other current assets	15,389	35,920
Total current assets	588,414	683,506
Long-term investments	104,243	46,369
Property and equipment, net	42,921	66,370
Goodwill	—	303,875
Intangible assets, net	6,939	110,745
Other long-term assets	6,773	29,792
Total assets	$ 749,290	$ 1,240,657
Liabilities and stockholders' equity		
Current liabilities		
Accounts payable	$ 10,825	$ 17,897
Accrued liabilities	15,754	37,185
Accrued royalties	73,693	97,390
Deferred revenue	14,412	19,939
Accrued compensation	34,476	43,788
Other current liabilities	—	15,632
Total current liabilities	149,160	231,831
Long-term debt, net	—	234,577
Other long-term liabilities	16,773	30,862
Total liabilities	165,933	497,270
Stockholders' equity		
Common stock, $0.0001 par value, 1,000,000,000 shares authorized: 209,071,488 shares issued and outstanding at December 31, 2014 and 224,970,412 at December 31, 2015	21	23
Additional paid-in capital	781,009	1,110,539
Accumulated deficit	(196,997)	(366,658)
Accumulated other comprehensive loss	(676)	(517)
Total stockholders' equity	583,357	743,387
Total liabilities and stockholders' equity	$ 749,290	$ 1,240,657

The accompanying notes are an integral part of the consolidated financial statements.

Pandora Media, Inc.
Consolidated Statements of Operations
(in thousands, except per share amounts)

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
Revenue			
Advertising	$ 489,340	$ 732,338	$ 933,305
Subscription and other	110,893	188,464	220,571
Ticketing service	—	—	10,167
Total revenue	600,233	920,802	1,164,043
Cost of revenue			
Cost of revenue—Content acquisition costs	314,866	446,377	610,362
Cost of revenue—Other	42,217	61,627	79,858
Cost of revenue—Ticketing service	—	—	7,121
Total cost of revenue	357,083	508,004	697,341
Gross profit	243,150	412,798	466,702
Operating expenses			
Product development	31,294	53,153	84,581
Sales and marketing	169,005	277,330	398,169
General and administrative	69,300	112,443	153,943
Total operating expenses	269,599	442,926	636,693
Loss from operations	(26,449)	(30,128)	(169,991)
Other income (expense), net	(474)	306	(1,220)
Loss before benefit from (provision for) income taxes	(26,923)	(29,822)	(171,211)
Benefit from (provision for) income taxes	(94)	(584)	1,550
Net loss	$ (27,017)	$ (30,406)	$ (169,661)
Weighted-average common shares outstanding used in computing basic and diluted net loss per share	180,968	205,273	213,790
Net loss per share, basic and diluted	$ (0.15)	$ (0.15)	$ (0.79)

The accompanying notes are an integral part of the consolidated financial statements.

Pandora Media, Inc.
Consolidated Statements of Comprehensive Loss
(in thousands)

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
Net loss	$ (27,017)	$ (30,406)	$ (169,661)
Change in foreign currency translation adjustment	(42)	(184)	53
Change in net unrealized losses on marketable securities	(253)	(191)	106
Other comprehensive income (loss)	(295)	(375)	159
Total comprehensive loss	$ (27,312)	$ (30,781)	$ (169,502)

The accompanying notes are an integral part of the consolidated financial statements.

Pandora Media, Inc.
Consolidated Statements of Stockholders' Equity
(in thousands, except share amounts)

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total Stockholders' Equity
	Shares	Par Amount				
Balances as of January 31, 2013	172,506,051	$ 17	$ 238,552	$ (6)	$ (139,574)	$ 98,989
Issuance of common stock upon exercise of stock options	5,659,377	1	18,355	—	—	18,356
Issuance of common stock in connection with secondary offering, net issuance costs	15,730,000	2	378,635	—	—	378,637
Stock-based compensation	—	—	40,041	—	—	40,041
Vesting of restricted stock units	1,520,516	—	—	—	—	—
Share cancellations to satisfy tax withholding on vesting of restricted stock units	(20,004)	—	(480)	—	—	(480)
Components of comprehensive loss:						—
Net loss	—	—	—	—	(27,017)	(27,017)
Other comprehensive loss	—	—	—	(295)	—	(295)
Balances as of December 31, 2013	195,395,940	$ 20	$ 675,103	$ (301)	$ (166,591)	$ 508,231
Issuance of common stock upon exercise of stock options	10,437,509	1	17,115	—	—	17,116
Stock-based compensation	—	—	87,055	—	—	87,055
Vesting of restricted stock units	3,169,456	—	—	—	—	—
Share cancellations to satisfy tax withholding on vesting of restricted stock units	(73,682)	—	(2,019)	—	—	(2,019)
Stock issued under employee stock purchase plan	142,265	—	3,407	—	—	3,407
Excess tax benefit from stock-based awards	—	—	348	—	—	348
Components of comprehensive loss:						
Net loss	—	—	—	—	(30,406)	(30,406)
Other comprehensive loss	—	—	—	(375)	—	(375)
Balances as of December 31, 2014	209,071,488	$ 21	$ 781,009	$ (676)	$ (196,997)	$ 583,357
Issuance of common stock upon exercise of stock options	1,077,797	—	5,156	—	—	5,156
Issuance of common stock related to acquisitions	10,246,616	2	148,488			148,490
Stock-based compensation	—	—	111,645	—	—	111,645
Vesting of restricted stock units	4,184,415	—	—	—	—	—
Share cancellations to satisfy tax withholding on vesting of restricted stock units	(148,302)	—	(2,540)	—	—	(2,540)
Stock issued under employee stock purchase plan	538,398	—	6,973	—	—	6,973
Equity component of convertible note issuance, net of issuance costs	—	—	102,968	—	—	102,968
Purchase of capped call	—	—	(43,160)	—	—	(43,160)
Components of comprehensive loss:						
Net loss	—	—	—	—	(169,661)	(169,661)
Other comprehensive income	—	—	—	159	—	159
Balances as of December 31, 2015	224,970,412	$ 23	$ 1,110,539	$ (517)	$ (366,658)	$ 743,387

The accompanying notes are an integral part of the consolidated financial statements.

Pandora Media, Inc.
Consolidated Statements of Cash Flows
(in thousands)

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
Operating activities			
Net loss	$ (27,017)	$ (30,406)	$ (169,661)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities			
Depreciation and amortization	10,112	15,431	24,458
Stock-based compensation	40,041	87,055	111,645
Amortization of premium on investments	237	2,833	1,911
Excess tax benefit from stock-based awards	—	(348)	—
Amortization of debt discount	—	—	1,084
Other operating activities	220	1,366	2,134
Changes in assets and liabilities			
Accounts receivable	(60,613)	(55,478)	(55,904)
Prepaid expenses and other assets	(7,891)	(9,219)	(18,918)
Accounts payable, accrued and other current liabilities	11,745	4,830	18,080
Accrued royalties	13,027	7,608	23,736
Accrued compensation	(3,393)	13,736	7,378
Other long-term liabilities	5,607	7,690	6,005
Deferred revenue	13,384	(28,238)	4,946
Reimbursement of cost of leasehold improvements	1,555	4,169	1,024
Net cash provided by (used in) operating activities	(2,986)	21,029	(42,082)
Investing activities			
Purchases of property and equipment	(21,180)	(30,039)	(32,074)
Purchases of patents	(8,000)	—	—
Purchases of investments	(224,549)	(340,679)	(140,980)
Proceeds from maturities of investments	42,210	258,518	228,998
Proceeds from sale of investments	—	—	111,356
Payments related to acquisitions, net of cash acquired	(400)	—	(269,566)
Net cash used in investing activities	(211,919)	(112,200)	(102,266)
Financing activities			
Proceeds from issuance of convertible notes	—	—	345,000
Payments for purchase of capped call	—	—	(43,160)
Payment of debt issuance costs	(450)	—	(8,909)
Borrowings under debt arrangements	10,000	—	—
Repayments of debt	(10,000)	—	—
Proceeds from follow-on offering, net of issuance costs	378,654	—	—
Proceeds from exercise of stock options	17,273	16,894	5,192
Tax payments from net share settlements of restricted stock units	(480)	(2,019)	(2,540)
Excess tax benefit from stock-based awards	—	348	—
Proceeds from employee stock purchase plan	—	6,438	7,552
Net cash provided by financing activities	394,997	21,661	303,135
Effect of exchange rate changes on cash and cash equivalents	(62)	(288)	(77)
Net increase (decrease) in cash and cash equivalents	180,030	(69,798)	158,710
Cash and cash equivalents at beginning of period	65,725	245,755	175,957
Cash and cash equivalents at end of period	$ 245,755	$ 175,957	$ 334,667
Supplemental disclosures of cash flow information			
Cash paid during the period for income taxes	$ 26	$ 164	$ 389
Cash paid during the period for interest	$ 18	$ 314	$ 351
Purchases of property and equipment recorded in accounts payable and accrued liabilities	$ 7,910	$ 751	$ 5,890
Fair value of shares issued related to the acquisition of a business	$ —	$ —	$ 146,855

The accompanying notes are an integral part of the consolidated financial statements.

Pandora Media, Inc.
Notes to Consolidated Financial Statements

1. Description of Business and Basis of Presentation

Pandora

Pandora is the world's most powerful music discovery platform, offering a personalized experience for each of our listeners wherever and whenever they want to listen to music - whether through earbuds, car speakers or live on stage. Our vision is to be the definitive source of music discovery and enjoyment for billions. The majority of our listener hours occur on mobile devices, with the majority of our revenue generated from advertising on these devices. We offer both local and national advertisers the opportunity to deliver targeted messages to our listeners using a combination of audio, display and video advertisements. We also generate revenue by offering an advertising-free subscription service which we call Pandora One. We were incorporated as a California corporation in January 2000 and reincorporated as a Delaware corporation in December 2010. Our principal operations are located in the United States, and we also operate in Australia, New Zealand and Canada.

Ticketfly

We completed the acquisition of Ticketfly on October 31, 2015. Ticketfly is a leading live events technology company that provides ticketing and marketing software and services for venues and event promoters across North America. Ticketfly's ticketing, digital marketing and analytics software helps promoters book talent, sell tickets and drive in-venue revenue, while Ticketfly's consumer tools help fans find and purchase tickets to events. Ticketfly's revenue primarily consists of service and merchant processing fees from ticketing operations.

As used herein, "Pandora," "we," "our," the "Company" and similar terms include Pandora Media, Inc. and its subsidiaries, unless the context indicates otherwise.

Basis of Presentation

The consolidated financial statements and accompanying notes have been prepared in accordance with United States generally accepted accounting principles ("U.S. GAAP") and include the accounts of Pandora and our wholly owned subsidiaries. All intercompany balances and transactions have been eliminated in consolidation.

Certain changes in presentation have been made to conform the prior period presentation to current period reporting. We have reclassified goodwill and intangible assets from the other long-term assets line item to the goodwill and intangible assets, net line items in our consolidated balance sheets. We have also reclassified certain non-cash amounts from the amortization of debt issuance costs and the change in accounts receivable line items to the other operating activities line item in our consolidated statements of cash flows. Additionally, we have reclassified certain non-cash amounts from the purchases of property and equipment line item to the prepaid expenses and other assets line item of our consolidated statements of cash flows. Lastly, we have reclassified certain amounts from the accounts payable, accrued and other current liabilities line item to the long-term liabilities line item of our consolidated statements of cash flows.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make certain estimates, judgments and assumptions that affect the reported amounts of assets and liabilities and the related disclosures at the date of the financial statements, as well as the reported amounts of revenue and expenses during the periods presented. Estimates are used in several areas including, but not limited to determining accrued royalties, selling prices for elements sold in multiple-element arrangements, the allowance for doubtful accounts, the fair value of stock options, market stock units ("MSUs") and the Employee Stock Purchase Plan ("ESPP"), the impact of forfeitures on stock-based compensation, the provision for (benefit from) income taxes, the subscription return reserve, the fair value of convertible debt, the fair value of acquired property and equipment, intangible assets and goodwill and the useful lives of acquired intangible assets. To the extent there are material differences between these estimates, judgments or assumptions and actual results, our financial statements could be affected. In many cases, the accounting treatment of a particular transaction is specifically dictated by U.S. GAAP and does not require management's judgment in its application. There are also areas in which management's judgment in selecting among available alternatives would not produce a materially different result.

Segments

Our chief operating decision maker (the "CODM"), our Chief Executive Officer, manages our operations on a consolidated basis for purposes of allocating resources. When evaluating our financial performance, the CODM reviews separate revenue information for our advertising, subscription, ticketing and other offerings, while all other financial information is reviewed on a consolidated basis. There are no segment managers who are held accountable by the CODM, or anyone else, for operations, operating results, and planning for levels or components below the consolidated unit level. Accordingly, we have determined that we have a single reportable segment and operating unit structure.

Fiscal year

We changed our fiscal year from the twelve months ending January 31 to the calendar twelve months ending December 31, effective beginning with the year ended December 31, 2013. As a result, the period ended December 31, 2013 was shortened from twelve months to an eleven-month transition period. In these consolidated financial statements, including the notes thereto, the most recent financial results for the years ended December 31, 2014 and 2015 are for twelve-month periods.

2. Summary of Significant Accounting Policies

Revenue Recognition

We recognize revenue when four basic criteria are met: (1) persuasive evidence exists of an arrangement with the customer reflecting the terms and conditions under which the products or services will be provided; (2) delivery has occurred or services have been provided; (3) the fee is fixed or determinable; and (4) collection is reasonably assured. We consider a signed agreement, a binding insertion order or other similar documentation to be persuasive evidence of an arrangement. Collectability is assessed based on a number of factors, including transaction history and the creditworthiness of a customer. If it is determined that collection is not reasonably assured, revenue is not recognized until collection becomes reasonably assured, which is generally upon receipt of cash. We record cash received in advance of revenue recognition as deferred revenue.

Gross versus net revenue recognition. We report revenue on a gross or net basis based on management's assessment of whether we act as a principal or agent in the transaction. To the extent we act as the principal, revenue is reported on a gross basis. The determination of whether we act as a principal or an agent in a transaction is based on an evaluation of whether we have the substantial risks and rewards of ownership under the terms of an arrangement.

Advertising revenue. We generate advertising revenue primarily from audio, display and video advertising. We generate the majority of our advertising revenue through the delivery of advertising impressions sold on a cost per thousand, or CPM, basis. In determining whether an arrangement exists, we ensure that a binding arrangement, such as an insertion order or a fully executed customer-specific agreement, is in place. We generally recognize revenue based on delivery information from our campaign trafficking systems.

We also generate advertising revenue pursuant to arrangements with advertising agencies and brokers. Under these arrangements, we provide the agencies and brokers the ability to sell advertising inventory on our service directly to advertisers. We report this revenue net of amounts due to agencies and brokers because we are not the primary obligor under these arrangements, we do not set the pricing nor do we establish or maintain the relationships with the advertisers.

Subscription and other revenue. Subscription and other revenue is generated primarily through the sale of a premium version of the Pandora service which currently includes advertisement-free access and higher audio quality on supported devices. We offer both an annual and a monthly subscription option. Subscription revenue derived from direct sales to listeners is recognized on a straight-line basis over the duration of the subscription period. Subscription revenue derived from sales through some mobile operating systems may be subject to refund or cancellation terms which may affect the timing or amount of the subscription revenue recognition. When refund rights exist, we recognize revenue when services have been provided and the rights lapse or when we have developed sufficient transaction history to estimate a reserve.

We were required to defer revenue for certain subscriptions purchased through mobile app stores that contained refund rights until the refund rights lapsed or until we developed sufficient operating history to estimate a return reserve. As of December 31, 2013, we had deferred all revenue related to these mobile subscriptions subject to refund rights totaling approximately $14.2 million, as we did not have sufficient history to estimate a return reserve. Beginning in January 2014, we

had sufficient historic transactional information which enabled us to estimate future returns. Accordingly, in January 2014, we began recording revenue related to these mobile subscriptions net of estimated returns. This change resulted in a one-time increase in subscription revenue in the three months ended March 31, 2014 of approximately $14.2 million, as the previously deferred revenue was recognized. As ofDecember 31, 2014 and 2015, the deferred revenue related to the return reserve was not significant.

Multiple-element arrangements. We enter into arrangements with customers to sell advertising packages that include different media placements or ad services that are delivered at the same time, or within close proximity of one another. We recognize the relative fair value of the media placements or ad services as they are delivered assuming all other revenue recognition criteria are met.

We allocate arrangement consideration in multiple-deliverable revenue arrangements at the inception of an arrangement to all deliverables or those packages in which all components of the package are delivered at the same time, based on the relative selling price method in accordance with the selling price hierarchy, which includes: (1) vendor-specific objective evidence ("VSOE") if available; (2) third-party evidence ("TPE") if VSOE is not available; and (3) best estimate of selling price ("BESP") if neither VSOE nor TPE is available.

We determine VSOE based on our historical pricing and discounting practices for the specific product or service when sold separately. In determining VSOE, we require that a substantial majority of the selling prices for these services fall within a reasonably narrow pricing range. We have not historically priced our advertising products within a narrow range. As a result, we have not been able to establish VSOE for any of our advertising products.

When VSOE cannot be established for deliverables in multiple element arrangements, we apply judgment with respect to whether it can establish a selling price based on TPE. TPE is determined based on competitor prices for similar deliverables when sold separately. Generally, our go-to-market strategy differs from that of our peers and our offerings contain a significant level of differentiation such that the comparable pricing of services cannot be obtained. Furthermore, we are unable to reliably determine what similar competitor services' selling prices are on a stand-alone basis. As a result, we have not been able to establish selling price based on TPE.

When we are unable to establish selling price using VSOE or TPE, we use BESP in our allocation of arrangement consideration. The objective of BESP is to determine the price at which we would transact a sale if the service were sold on a stand-alone basis. BESP is generally used to allocate the selling price to deliverables in our multiple element arrangements. We determine BESP for deliverables by considering multiple factors including, but not limited to, prices we charge for similar offerings, market conditions, competitive landscape and pricing practices. We limit the amount of allocable arrangement consideration to amounts that are fixed or determinable and that are not contingent on future performance or future deliverables. We regularly review BESP. Changes in assumptions or judgments or changes to the elements in the arrangement may cause an increase or decrease in the amount of revenue that we report in a particular period.

Ticketing service revenue. Ticketing service revenue is generated primarily from service and merchant processing fees generated on ticket sales through the Ticketfly platform. Ticketfly sells tickets to fans for events on behalf of clients and charges a fee per ticket, which generally increases as the face value of the ticket increases, or a percentage of the total convenience charge and order processing fee, for its services at the time the ticket for an event is sold. Ticketing service revenue is recorded net of the face value of the ticket at the time of the sale, as Ticketfly generally acts as the agent in these transactions.

Concentration of Credit Risk

Financial instruments that potentially subject us to concentrations of credit risk consist principally of cash and cash equivalents, investments and trade accounts receivable. We maintain cash and cash equivalents with domestic financial institutions of high credit quality. We perform periodic evaluations of the relative credit standing of such institutions.

We perform ongoing credit evaluations of customers to assess the probability of accounts receivable collection based on a number of factors, including past transaction experience with the customer, evaluation of their credit history, and review of the invoicing terms of the contract. We generally do not require collateral. We maintain reserves for potential credit losses on customer accounts when deemed necessary. Actual credit losses during the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015 were $0.4 million, $1.1 million and $1.1 million, respectively.

For the eleven months ended December 31, 2013, the twelve months ended December 31, 2014 and 2015, we had no customers that accounted for 10% or more of total revenue. As of December 31, 2014 and 2015, there were no customers that

accounted for 10% or more of our total accounts receivable.

Cash, Cash Equivalents and Investments

We classify our highly liquid investments with maturities of three months or less at the date of purchase as cash equivalents. Our investments consist of commercial paper, corporate debt securities and U.S. government and government agency debt securities. These investments are classified as available-for-sale securities and are carried at fair value with the unrealized gains and losses reported as a component of stockholders' equity. Management determines the appropriate classification of our investments at the time of purchase and reevaluates the available-for-sale designations as of each balance sheet date. We classify our investments as either short-term or long-term based on each instrument's underlying contractual maturity date. Investments with maturities of twelve months or less are classified as short-term and those with maturities greater than twelve months are classified as long-term. The cost basis for investments sold is based upon the specific identification method.

Accounts Receivable and Allowance for Doubtful Accounts

Accounts receivable are recorded net of an allowance for doubtful accounts. Our allowance for doubtful accounts is based upon historical loss patterns, the number of days that billings are past due and an evaluation of the potential risk of loss associated with delinquent accounts. We also consider any changes to the financial condition of our customers and any other external market factors that could impact the collectability of our receivables in the determination of our allowance for doubtful accounts. Accounts receivable amounts that are deemed uncollectable are charged against the allowance for doubtful accounts when identified.

Property and Equipment, net

Property and equipment is recorded at cost, less accumulated depreciation and amortization. Depreciation is computed using the straight-line method based on the estimated useful lives of the assets, which typically range from three to five years. Leasehold improvements are amortized over the shorter of the lease term or expected useful lives of the improvements.

Property and equipment is reviewed for impairment whenever events or changes in circumstances indicate the carrying amount of an asset may not be recoverable. Recoverability of these assets is measured by a comparison of the carrying amounts to the future undiscounted cash flows the assets are expected to generate. If property and equipment are considered to be impaired, the impairment to be recognized equals the amount by which the carrying value of the asset exceeds its fair market value. If we reduce the estimated useful life assumption for any asset, the remaining unamortized balance would be amortized or depreciated over the revised estimated useful life.

Costs incurred to develop software for internal use are required to be capitalized and amortized over the estimated useful life of the asset if certain criteria are met. Costs related to preliminary project activities and post implementation activities are expensed as incurred. We evaluate the costs incurred during the application development stage of website development to determine whether the costs meet the criteria for capitalization. As of December 31, 2014 and 2015, we had approximately $2.8 million and $6.3 million of capitalized internal use software and website development costs, net of accumulated amortization. These costs are being amortized over their three-year estimated useful lives. Internal use software and website development costs are included in property and equipment.

Ticketing Contract Advances

Ticketing contract advances, which are either recoupable or non-recoupable, represent amounts paid in advance to clients pursuant to ticketing agreements. These amounts are reflected in prepaid expenses and other current assets if the amount is expected to be recouped or recognized over a period of twelve months or less or in other long-term assets if the amount is expected to be recouped or recognized over a period of more than twelve months. Recoupable ticketing contract advances are generally recoupable against future royalties earned by clients, based on the contract terms, over the lives of their contracts which typically range between three and five years. Non-recoupable ticketing contract advances are fixed incentives paid by Ticketfly to secure exclusive rights with certain clients and are amortized to sales and marketing expense over the life of the contract on a straight-line basis. Amortization expense for the two months ended December 31, 2015 was $0.7 million.

We maintain an allowance for doubtful accounts to reserve for recoupable ticketing contract advances that we potentially do not expect to recoup. Our allowance is based on historical loss patterns, the aging of balances and known factors about customers’ current financial conditions.

Business Combinations, Goodwill and Intangible Assets, net

We allocate the fair value of purchase consideration to the tangible assets acquired, liabilities assumed and intangible assets acquired based on their estimated fair values. The excess of the fair value of purchase consideration over the fair values of these identifiable assets and liabilities is recorded as goodwill. Such valuations require management to make significant estimates and assumptions, especially with respect to intangible assets. Significant estimates in valuing certain intangible assets include, but are not limited to, future expected cash flows from acquired users, acquired technology, and trade names from a market participant perspective, useful lives and discount rates. Management's estimates of fair value are based upon assumptions believed to be reasonable, but which are inherently uncertain and unpredictable and, as a result, actual results may differ from estimates. During the measurement period, which is one year from the acquisition date, we may record adjustments to the assets acquired and liabilities assumed, with the corresponding offset to goodwill. Upon the conclusion of the measurement period, any subsequent adjustments are recorded to earnings.

We review goodwill for impairment at least annually or more frequently if events or changes in circumstances would more likely than not reduce the fair value of our single reporting unit below its carrying value. We evaluate indefinite-lived intangible assets for impairment annually or more frequently if events or changes in circumstances indicate that it is more likely than not that the asset is impaired. As of December 31, 2015, no impairment of goodwill or indefinite-lived intangible assets has been identified.

Acquired finite-lived intangible assets are amortized over the estimated useful lives of the assets, which range from two to eleven years. Acquired finite-lived intangible assets consist primarily of patents, customer relationships, developed technology and trade names resulting from business combinations. We evaluate the recoverability of our intangible assets for potential impairment whenever events or circumstances indicate that the carrying amount of such assets may not be recoverable. Recoverability of these assets is measured by a comparison of the carrying amounts to the future undiscounted cash flows the assets are expected to generate. If such review indicates that the carrying amount of intangible assets is not recoverable, the carrying amount of such assets is reduced to the fair value.

In addition to the recoverability assessment, we routinely review the remaining estimated useful lives of finite-lived intangible assets. If we reduce the estimated useful life assumption for any asset, the remaining unamortized balance would be amortized over the revised estimated useful life. We record the amortization of intangible assets to the financial statement line item in our consolidated statement of operations that the asset directly relates to. To the extent that purchased intangibles are used in revenue generating activities, we record the amortization of these intangible assets to cost of revenue.

Stock-Based Compensation—Restricted Stock Units and Stock Options

Stock-based awards granted to employees, including grants of restricted stock units ("RSUs") and stock options, are recognized as expense in our statements of operations based on their grant date fair value. We recognize stock-based compensation expense on a straight-line basis over the service period of the award, which is generally four years. We estimate the fair value of RSUs at our stock price on the grant date. We generally estimate the grant date fair value of stock options using the Black-Scholes option-pricing model. The Black-Scholes option-pricing model is affected by our stock price on the date of grant, the expected stock price volatility over the expected term of the award, which is based on projected employee stock option exercise behaviors, the risk-free interest rate for the expected term of the award and expected dividends.

Stock-based compensation expense is recorded net of estimated forfeitures in the statement of operations for only those stock-based awards that we expect to vest. We estimate the forfeiture rate based on historical forfeitures of equity awards and adjust the rate to reflect changes in facts and circumstances, if any. We revise our estimated forfeiture rate if actual forfeitures differ from our initial estimates.

We have elected to use the "with and without" approach as described in Accounting Standards Codification 740 -*Income Taxes* in determining the order in which tax attributes are utilized. As a result, we will only recognize a tax benefit from stock-based awards in additional paid-in capital if an incremental tax benefit is realized after all other tax attributes currently available to us have been utilized. In addition, we have elected to account for the indirect effects of stock-based awards on other tax attributes, such as the research tax credit, through the statement of operations.

Stock-Based Compensation—Employee Stock Purchase Plan

In December 2013, our board of directors approved the Employee Stock Purchase Plan ("ESPP"), which was approved by our stockholders at the annual meeting in June 2014. We estimate the fair value of shares to be issued under the ESPP on the first day of the offering period using the Black-Scholes valuation model. The determination of the fair value is affected by our

stock price on the first date of the offering period, as well as other assumptions including the risk-free interest rate, the estimated volatility of our stock price over the term of the offering period, the expected term of the offering period and the expected dividend rate. Stock-based compensation expense related to the ESPP is recognized on a straight-line basis over the offering period, net of estimated forfeitures.

Stock-Based Compensation — MSUs

We implemented a market stock unit program in March 2015 for certain key executives. Specifically, MSUs measure Pandora's total stockholder return ("TSR") performance against that of the Russell 2000 Index across three performance periods.

We have determined the grant-date fair value of the MSUs using a Monte Carlo simulation performed by a third-party valuation specialist. The Monte Carlo simulation model utilizes multiple input variables to estimate the probability that market conditions will be achieved. These variables include our expected stock price volatility over the expected term of the award, actual and projected employee stock option exercise behaviors and the risk-free interest rate for the expected term of the award. The variables used in these models are reviewed on an annual basis and adjusted, as needed. We recognize stock-based compensation for the MSUs over the requisite service period using the accelerated attribution method.

Cost of Revenue—Content Acquisition Costs

Cost of revenue—content acquisition costs principally consist of royalties paid for streaming music or other content to our listeners. Royalties are currently calculated using negotiated rates documented in agreements. The majority of our royalties are payable based on a fee per public performance of a sound recording, while in other cases our royalties are payable based on a percentage of our revenue or a formula that involves a combination of per performance and revenue metrics. For certain royalty arrangements, we accrue for estimated royalties based on the available facts and circumstances and adjust these estimates as more information becomes available.

Cost of Revenue—Ticketing Service

Cost of revenue—ticketing service consists primarily of ticketing revenue share costs, credit card fees and intangible amortization expense. The majority of the cost is related to revenue share costs which consist of royalties paid to clients for their share of convenience and order processing fees. Payments to clients are recorded as an expense to the extent that the fair value of the identifiable benefit received in the exchange exceeds the amount of the payment to the client. Intangible amortization expense is related to amortization of developed technology.

Cost of Revenue—Other

Cost of revenue—other consists primarily of ad and music serving costs, employee-related and facilities and equipment costs and other costs of ad sales. Ad and music serving costs consist of content streaming, maintaining our internet radio service and creating and serving advertisements through third-party ad servers. We make payments to third-party ad servers for the period the advertising impressions are delivered or click-through actions occur, and accordingly, we record this as a cost of revenue in the related period. Employee-related costs include salaries and benefits associated with supporting music and ad serving functions. Other costs of ad sales include costs related to music events that are sold as part of advertising arrangements.

Product Development

Product development consists primarily of employee-related, facilities and equipment costs, including salaries and benefits related to employees in software engineering, music analysis and product management departments, information technology and costs associated with supporting consumer connected-device manufacturers in implementing our service in their products. We incur product development expenses primarily for improvements to our website and the Pandora app, development of new advertising products and development and enhancement of our personalized station generating system. We have generally expensed product development as incurred.

Certain website development and internal use software development costs are capitalized when specific criteria are met. In such cases, the capitalized amounts are amortized over the useful life of the related application once the application is placed in service.

Sales and Marketing

Sales and marketing consists primarily of employee-related and facilities and equipment costs, including salaries, commissions and benefits related to employees in sales, sales support, marketing, advertising and music maker group departments. In addition, sales and marketing expenses include transaction processing commissions on subscription purchases through mobile app stores, external sales and marketing expenses such as brand marketing, advertising, direct response and search engine marketing costs, public relations expenses, costs related to music events, agency platform and media measurement expenses, infrastructure costs and amortization expense related to acquired intangible assets.

We expense the costs of producing advertisements as they are incurred and expense the cost of communicating advertisements at the time the advertisement airs or the event occurs, in each case as sales and marketing expense within the accompanying consolidated statements of operations. During the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015, we recorded advertising expenses of $4.2 million, $10.4 million and $35.1 million, respectively.

General and Administrative

General and administrative consists primarily of employee-related and facilities and equipment costs, including salaries and benefits for finance, accounting, legal, internal information technology and other administrative personnel. In addition, general and administrative expenses include professional services costs for outside legal and accounting services, infrastructure costs and credit card fees.

Provision for (Benefit from) Income Taxes

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

We recognize a tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized in the financial statements from such positions are then measured based on the largest benefit that has a greater than 50% likelihood of being realized upon settlement. We will recognize interest and penalties related to unrecognized tax benefits in the provision for (benefit from) income taxes in the accompanying statement of operations.

We calculate the current and deferred income tax provision based on estimates and assumptions that could differ from the actual results reflected in income tax returns filed in subsequent years. Adjustments based on filed income tax returns are recorded when identified. The amount of income taxes paid is subject to examination by U.S. federal, state and international tax authorities. The estimate of the potential outcome of any uncertain tax issue is subject to management's assessment of relevant risks, facts and circumstances existing at that time. To the extent that the assessment of such tax positions change, the change in estimate is recorded in the period in which the determination is made.

Net Loss Per Share

Basic net loss per share is computed by dividing the net loss by the weighted-average number of shares of common stock outstanding during the period. Diluted net loss per share is computed by giving effect to all potential shares of common stock, including stock options, restricted stock units and market stock units, to the extent dilutive. Basic and diluted net loss per share were the same for each period presented as the inclusion of all potential common shares outstanding would have been anti-dilutive.

Recently Issued Accounting Standards

In November 20, 2015, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update No. 2015-17,*Income Taxes (Subtopic 740): Balance Sheet Classification of Deferred Taxes* ("ASU 2015-17"). ASU 2015-17 requires all deferred tax assets and liabilities, and any related valuation allowance, to be classified as non-current on the balance sheet. The classification change for all deferred taxes as non-current simplifies entities’ processes as it eliminates the need to separately identify the net current and net non-current deferred tax asset or liability in each jurisdiction and allocate valuation allowances. The guidance is effective for fiscal years beginning after December 15, 2016, although early adoption is permitted. We have elected to early adopt this standard prospectively in the year ended December 31, 2015. The adoption of this guidance

did not have a material effect on our consolidated financial statements. Prior periods in our Consolidated Financial Statements were not retrospectively adjusted.

In September 2015, the FASB issued Accounting Standards Update No. 2015-16, *Business Combinations* ("ASU 2015-16"). ASU 2015-16 eliminates the requirement for an acquirer in a business combination to account for measurement-period adjustments retrospectively. Rather, the acquirer must recognize adjustments during the period in which the amounts are determined, including the effect on earnings of any amounts that would have been recorded in previous periods. The guidance is effective for fiscal years beginning after December 15, 2015, although early adoption is permitted. We early adopted this standard in the year ended December 31, 2015. The adoption of this guidance did not have a material effect on our consolidated financial statements, as there were no measurement period adjustments.

In April 2015, The FASB issued Accounting Standards Update No. 2015-03, *Interest - Imputation of Interest (Subtopic 835-30)* ("ASU 2015-03"). ASU 2015-03 requires that debt issuance costs related to a recognized debt liability be presented in the balance sheet as a direct deduction from the corresponding debt liability, consistent with the presentation of a debt discount. The guidance is effective for fiscal years beginning after December 15, 2015, although early adoption is permitted. We early adopted this standard in the year ended December 31, 2015. This resulted in a $5.9 million and $2.6 million reduction to our convertible senior notes and equity at December 31, 2015 related to issuance costs paid, which will be accreted to interest expense over the term of the notes.

In May 2014, the FASB issued Accounting Standards Update No. 2014-9, *Revenue from Contracts with Customers (Topic 606)* ("ASU 2014-9"). ASU 2014-9 outlines a single comprehensive model for entities to use in accounting for revenue. In August 2015, the FASB issued ASU No. 2015-14, *Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date*, which delays the effective date of ASU 2014-09 by one year. The FASB also agreed to allow entities to choose to adopt the standard as of the original effective date. As such, the updated standard will be effective for us in the first quarter of 2018, with the option to adopt it in the first quarter of 2017. Entities have the option of using either a full retrospective or a modified retrospective approach to adopt the guidance. We are currently evaluating implementation methods and the effect that implementation of this standard will have on our consolidated financial statements upon adoption.

3. Composition of Certain Financial Statement Captions

Cash, Cash Equivalents and Investments

Cash, cash equivalents and investments consisted of the following:

Pandora Media, Inc.
Notes to Consolidated Financial Statements - Continued

	As of December 31,	
	2014	2015
	(in thousands)	
Cash and cash equivalents		
Cash	$ 72,487	$ 104,361
Money market funds	89,113	180,021
Commercial paper	9,349	31,089
Corporate debt securities	5,008	2,000
U.S. government and government agency debt securities	—	17,196
Total cash and cash equivalents	$ 175,957	$ 334,667
Short-term investments		
Commercial paper	$ 45,443	$ 4,792
Corporate debt securities	128,691	31,052
U.S. government and government agency debt securities	4,497	—
Total short-term investments	$ 178,631	$ 35,844
Long-term investments		
Corporate debt securities	$ 100,998	$ 46,369
U.S. government and government agency debt securities	3,245	—
Total long-term investments	$ 104,243	$ 46,369
Total cash, cash equivalents and investments	$ 458,831	$ 416,880

Our short-term investments have maturities of twelve months or less and are classified as available-for-sale. Our long-term investments have maturities of greater than twelve months and are classified as available-for-sale.

The following tables summarizes our available-for-sale securities' adjusted cost, gross unrealized gains, gross unrealized losses and fair value by significant investment category as of December 31, 2014 and 2015.

	As of December 31, 2014			
	Adjusted Cost	Unrealized Gains	Unrealized Losses	Fair Value
	(in thousands)			
Cash equivalents and marketable securities				
Money market funds	$ 89,113	$ —	$ —	$ 89,113
Commercial paper	54,792	—	—	54,792
Corporate debt securities	235,135	6	(444)	234,697
U.S. government and government agency debt securities	7,751	—	(9)	7,742
Total cash equivalents and marketable securities	$ 386,791	$ 6	$ (453)	$ 386,344

Pandora Media, Inc.
Notes to Consolidated Financial Statements - Continued

	As of December 31, 2015			
	Adjusted Cost	Unrealized Gains	Unrealized Losses	Fair Value
	(in thousands)			
Cash equivalents and marketable securities				
Money market funds	$ 180,021	$ —	$ —	$ 180,021
Commercial paper	35,881	—	—	35,881
Corporate debt securities	79,760	8	(347)	79,421
U.S. government and government agency debt securities	17,198	—	(2)	17,196
Total cash equivalents and marketable securities	$ 312,860	$ 8	$ (349)	$ 312,519

The following tables present available-for-sale investments by contractual maturity date as ofDecember 31, 2014 and 2015:

	As of December 31, 2014	
	Adjusted Cost	Fair Value
	(in thousands)	
Due in one year or less	$ 282,206	$ 282,101
Due after one year through three years	104,585	104,243
Total	$ 386,791	$ 386,344

	As of December 31, 2015	
	Adjusted Cost	Fair Value
	(in thousands)	
Due in one year or less	$ 266,205	$ 266,150
Due after one year through three years	46,655	46,369
Total	$ 312,860	$ 312,519

The following tables summarize our available-for-sale securities' fair value and gross unrealized losses aggregated by investment category and length of time that the individual securities have been in a continuous unrealized loss position as of December 31, 2014 and 2015:

	As of December 31, 2014					
	Twelve Months or Less		More than Twelve Months		Total	
	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses
	(in thousands)					
Money market funds	$ —	$ —	$ —	$ —	$ —	$ —
Commercial paper	—	—	—	—	—	—
Corporate debt securities	192,699	(422)	12,148	(22)	204,847	(444)
U.S. government and government agency debt securities	5,240	(9)	—	—	5,240	(9)
Total	$ 197,939	$ (431)	$ 12,148	$ (22)	$ 210,087	$ (453)

Pandora Media, Inc.
Notes to Consolidated Financial Statements - Continued

	As of December 31, 2015					
	Twelve Months or Less		More than Twelve Months		Total	
	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses
	(in thousands)					
Money market funds	$ —	$ —	$ —	$ —	$ —	$ —
Commercial paper	—	—	—	—	—	—
Corporate debt securities	64,804	(293)	8,531	(54)	73,335	(347)
U.S. government and government agency debt securities	16,241	(2)	—	—	16,241	(2)
Total	$ 81,045	$ (295)	$ 8,531	$ (54)	$ 89,576	$ (349)

Our investment policy requires investments to be investment grade, primarily rated “A1” by Standard & Poor’s or “P1” by Moody’s or better for short-term investments and rated “A” by Standard & Poor’s or “A2” by Moody’s or better for long-term investments, with the objective of minimizing the potential risk of principal loss. In addition, the investment policy limits the amount of credit exposure to any one issuer.

The unrealized losses on our available-for-sale securities as ofDecember 31, 2015 were primarily a result of unfavorable changes in interest rates subsequent to the initial purchase of these securities. As of December 31, 2015, we owned 71 securities that were in an unrealized loss position. Based on our cash flow needs, we may be required to sell a portion of these securities prior to maturity. However, we expect to recover the full carrying value of these securities. As a result, no portion of the unrealized losses at December 31, 2015 is deemed to be other-than-temporary and the unrealized losses are not deemed to be credit losses. When evaluating the investments for other-than-temporary impairment, we review factors such as the length of time and extent to which fair value has been below cost basis, the financial condition of the issuer and any changes thereto, and our intent to sell, or whether it is more likely than not we will be required to sell, the investment before recovery of the investment’s amortized cost basis. During the twelve months ended months ended December 31, 2015, we did not recognize any impairment charges. During the twelve months ended December 31, 2015, proceeds from the sale of available-for-sale securities were $111.4 million. We did not recognize a realized gain or loss in connection with these sales.

Accounts Receivable, net

Accounts receivable, net consisted of the following as of December 31, 2014 and 2015:

	As of December 31,	
	2014	2015
	(in thousands)	
Accounts receivable, net		
Accounts receivable	$ 219,655	$ 279,240
Allowance for doubtful accounts	(1,218)	(2,165)
Total accounts receivable, net	$ 218,437	$ 277,075

The following table summarizes our beginning allowance for doubtful accounts balance for each period, additions, write-offs net of recoveries and the balance at the end of each period for the eleven months ended December 31, 2013, the twelve months ended December 31, 2014 and the twelve months ended December 31, 2015:

Allowance for Doubtful Accounts	Balance at Beginning of Period	Additions	Write-offs, Net of Recoveries	Balance at End of Period
		(in thousands)		
For the eleven months ended December 31, 2013	$ 761	948	(437)	$ 1,272
For the twelve months ended December 31, 2014	$ 1,272	1,064	(1,118)	$ 1,218
For the twelve months ended December 31, 2015	$ 1,218	2,085	(1,138)	$ 2,165

Prepaid and Other Current Assets

Prepaid and other current assets consisted of the following as of December 31, 2014 and 2015:

	As of December 31,	
	2014	2015
	(in thousands)	
Prepaid and other current assets		
Other current assets	$ 8,520	$ 15,821
Prepaid expenses	6,169	13,908
Ticketing contract advance - short term, net	—	4,092
Prepaid royalties	700	2,099
Total prepaid and other current assets	$ 15,389	$ 35,920

Other current assets consists primarily of $12.9 million in receivables for the reimbursement of costs of leasehold improvements in connection with our operating leases.

Other Long-Term Assets

Other long-term assets consisted of the following as of December 31, 2014 and 2015:

	As of December 31,	
	2014	2015
	(in thousands)	
Other long-term assets		
Other	$ 1,826	$ 10,929
Ticketing contract advance - long-term	—	9,824
Long-term security deposits	4,947	9,039
Total other long-term assets	$ 6,773	$ 29,792

Property and Equipment, net

Property and equipment, net consisted of the following as of December 31, 2014 and 2015:

	As of December 31,	
	2014	2015
	(in thousands)	
Property and equipment, net		
Servers, computers and other related equipment	$ 39,890	$ 57,309
Leasehold improvements	25,893	35,947
Office furniture and equipment	2,721	5,470
Construction in progress	5,075	12,550
Software developed for internal use	4,519	10,239
Total property and equipment	$ 78,098	$ 121,515
Less accumulated depreciation and amortization	(35,177)	(55,145)
Total property and equipment, net	$ 42,921	$ 66,370

Depreciation expenses totaled $9.7 million, $14.7 million and $20.4 million for the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015, respectively. There were no material write-offs during the eleven months ended December 31, 2013 or the twelve months ended December 31, 2014 or 2015.

Software developed for internal use generally has an expected useful life of three years from the date placed in service. As of December 31, 2014 and 2015 the net carrying amount was $2.8 million and $6.3 million, including accumulated amortization of $1.7 million and $4.0 million. Amortization expense for the eleven months ended December 31, 2013, the twelve months ended December 31, 2014 and the twelve months ended December 31, 2015 was $0.6 million, $1.1 million and $2.2 million, respectively.

Other Current Liabilities

Other current liabilities consisted of the following as of December 31, 2014 and 2015:

	As of December 31,	
	2014	2015
	(in thousands)	
Other current liabilities		
Ticketing amounts due to clients	$ —	$ 13,104
Other	—	2,528
Total other current liabilities	$ —	$ 15,632

Ticketing amounts due to clients consists of the face value of tickets sold and the revenue share costs related to tickets sold on the Ticketfly ticketing platform that are owed to clients. The face value of tickets sold on the Ticketfly ticketing platform is collected by Ticketfly and remitted to clients. Revenue share costs owed to clients related to tickets sold on the Ticketfly ticketing platform consist of fees paid to clients for their share of convenience and order processing fees.

Other Long-Term Liabilities

Other long-term liabilities consisted of the following as of December 31, 2014 and 2015:

	As of December 31,	
	2014	2015
	(in thousands)	
Other long-term liabilities		
Long-term deferred rent	$ 15,068	$ 23,662
Other	1,705	7,200
Total other long-term liabilities	$ 16,773	$ 30,862

For operating leases that include escalation clauses over the term of the lease, tenant improvement reimbursements and rent abatement periods, we recognize rent expense on a straight-line basis over the lease term including expected renewal periods. The difference between rent expense and rent payments is recorded as deferred rent.

4. Fair Value

We record cash equivalents and investments at fair value. Fair value is an exit price, representing the amount that would be received from the sale of an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. Fair value measurements are required to be disclosed by level within the following fair value hierarchy:

Level 1 — Inputs are unadjusted, quoted prices in active markets for identical assets or liabilities at the measurement date.

Level 2 — Inputs (other than quoted prices included in Level 1) are either directly or indirectly observable for the asset or liability through correlation with market data at the measurement date and for the duration of the instrument's anticipated life.

Level 3 — Inputs lack observable market data to corroborate management's estimate of what market participants would use in pricing the asset or liability at the measurement date. Consideration is given to the risk inherent in the valuation technique and the risk inherent in the inputs to the model.

When determining fair value, whenever possible we use observable market data and rely on unobservable inputs only when observable market data is not available.

The fair value of these financial assets and liabilities was determined using the following inputs at December 31, 2014 and 2015:

	As of December 31, 2014		
	Fair Value Measurement Using		
	Quoted Prices in Active Markets for Identical Instruments (Level 1)	Significant Other Observable Inputs (Level 2)	Total
	(in thousands)		
Assets			
Money market funds	$ 89,113	$ —	$ 89,113
Commercial paper	—	54,792	54,792
Corporate debt securities	—	234,697	234,697
U.S. government and government agency debt securities	—	7,742	7,742
Total assets measured at fair value	$ 89,113	$ 297,231	$ 386,344

	As of December 31, 2015		
	Fair Value Measurement Using		
	Quoted Prices in Active Markets for Identical Instruments (Level 1)	Significant Other Observable Inputs (Level 2)	Total
	(in thousands)		
Assets			
Money market funds	$ 180,021	$ —	$ 180,021
Commercial paper	—	35,881	35,881
Corporate debt securities	—	79,421	79,421
U.S. government and government agency debt securities	—	17,196	17,196
Total assets measured at fair value	$ 180,021	$ 132,498	$ 312,519

Our money market funds are classified as Level 1 within the fair value hierarchy because they are valued primarily using quoted market prices. Our other cash equivalents and investments are classified as Level 2 within the fair value hierarchy because they are valued using professional pricing sources for identical or comparable instruments, rather than direct observations of quoted prices in active markets. As of December 31, 2014 and 2015, we held no Level 3 assets or liabilities.

5. Business Combinations

Ticketfly

On October 31, 2015, we completed the acquisition of Ticketfly, a leading live events technology company that provides ticketing and marketing software and services for venues and event promoters across North America, for an aggregate purchase price of $335.3 million of common stock and cash, including 11,193,847 shares of the Company's common stock and approximately $191.5 million in cash paid by the Company. In addition to the purchase price, unvested options and unvested RSUs of Ticketfly held by Ticketfly employees were converted into unvested options to acquire our common stock and our unvested RSUs.

Upon acquisition, Ticketfly became a wholly owned subsidiary of Pandora. The acquisition was accounted for as a business combination, and the financial results of Ticketfly are included in our consolidated financial statements from the date of acquisition.

The following table summarizes the components of the purchase consideration transferred based on the closing price of $12.18 per share of our common stock as of the acquisition date:

	(in thousands)
Cash paid by Pandora	$ 191,479
Cash paid by Ticketfly to option holders	7,238
Common stock (11,193,847 shares at $12.18 per share) issued by Pandora to selling shareholders	136,342
Fair value of stock options and restricted stock units assumed	10,514
Less: purchase price adjustments	(6,995)
Less: post-combination compensation expense	(3,235)
Purchase consideration	$ 335,343

The $3.2 million of post-combination compensation expense (approximately 0.2 million shares of common stock and $1.9 million in cash) is subject to continuous employment and will be recognized over the required service period of up to three years.

The following table summarizes the estimated fair values of assets acquired and liabilities assumed as of the date of acquisition:

	(in thousands)
Current assets	$ 39,809
Long-term assets	15,982
Current liabilities	(21,853)
Long-term liabilities	(6,298)
Deferred tax liability	(1,738)
Intangible assets	76,800
Goodwill	232,641
Total	$ 335,343

The fair value of assets acquired and liabilities assumed from our acquisition of Ticketfly was based on a preliminary valuation and our estimates and assumptions are subject to change. We will recognize any subsequent adjustments to the purchase price prospectively in the period in which the adjustments are determined. A portion of the purchase price is held in escrow and may be recovered from this escrow amount. The primary areas of the purchase accounting that are not yet finalized are estimated liabilities for taxes and other liabilities totaling $7.0 million. We have recorded a receivable in the amount of $7.0 million related to these liabilities, as we expect to recover any amounts required to be paid by us from the escrow amount.

The following unaudited pro forma information presents the combined results of operations as if the acquisition had been completed on January 1, 2014, the beginning of the comparable prior annual reporting period. The unaudited pro forma results include: (i) amortization associated with preliminary estimates for the acquired intangible assets; (ii) recognition of the post-combination compensation expense; and (iii) share-based compensation expense related to the RSUs and options granted to Ticketfly employees.

The unaudited pro forma results do not reflect any cost saving synergies from operating efficiencies or the effect of the incremental costs incurred in integrating the two companies. Accordingly, these unaudited pro forma results are presented for informational purpose only and are not necessarily indicative of what the actual results of operations of the combined company would have been if the acquisition had occurred at the beginning of the period presented, nor are they indicative of future results of operations:

	Twelve Months Ended December 31,	
	2014	2015
	(in thousands)	
Revenue	$ 975,712	$ 1,222,452
Net loss	$ (58,195)	$ (210,111)

Rdio, Inc. ("Rdio")

On December 23, 2015, we completed the acquisition of technology and intellectual property from Rdio for $77.5 million, which includes $2.5 million in additional purchase consideration transferred prior to the closing of the acquisition. In November 2015, Rdio sought protection in the United States Bankruptcy Court for the Northern District of California and began to wind down its business. Our acquisition of technology and employees from Rdio was subject to the approval of the Court, which was obtained on December 22, 2015. Goodwill generated from the assets acquired is primarily attributable to expected synergies that will allow us to broaden our subscription business and roll out a multi-tier product offering. We have accounted for this acquisition as a business combination, and the financial results of Rdio are included in our consolidated financial statements from the date of acquisition. As a result of the sale of assets, Rdio discontinued its service as of December 22, 2015.

Other acquisitions

During the year ended December 31, 2015, we completed the acquisitions of Next Big Sound ("NBS") and KXMZ-FM ("KXMZ"). These acquisitions were not material to our consolidated financial statements, either individually or in the aggregate.

We have included the financial results of Ticketfly, Rdio, NBS and KXMZ in our consolidated financial statements from their respective dates of acquisition. Pro forma results of operations related to our acquisitions, other than Ticketfly, during the year ended December 31, 2015 have not been presented because they are not material to our consolidated statements of operations, either individually or in the aggregate.

The fair value of assets acquired and liabilities assumed from our acquisitions were based on a preliminary valuation and our estimates and assumptions are subject to change within the measurement period. Measurement period adjustments that we determine to be material will be applied to the period in which the amounts are determined in our consolidated financial statements.

The following table summarizes the allocation of estimated fair values of the net assets acquired during the year ended December 31, 2015, including the related estimated useful lives, where applicable:

	Ticketfly		Rdio		Other	
	Estimated fair value	Estimated useful life in years	Estimated fair value	Estimated useful life in years	Estimated fair value	Estimated useful life in years
	(in thousands, except for estimated useful life)					
Intangible assets:						
Customer relationships - clients	$ 37,300	8	$ —		$ —	
Developed technology	28,100	5	26,400	2-5	1,550	4
Tradename	10,400	8	1,000	3	320	2
Customer relationships - users	1,000	2	—		940	2
FCC license - broadcast radio	—		—		193	
Tangible assets acquired, net	27,640		1,969		(490)	
Deferred tax liabilities	(1,738)		—		(49)	
Net assets acquired	$ 102,702		$ 29,369		$ 2,464	
Goodwill	232,641		48,131		23,103	
Total fair value consideration	$ 335,343		$ 77,500		$ 25,567	

Goodwill generated from the Ticketfly acquisition is primarily attributable to expected synergies from future growth and strategic advantages in the ticketing industry. Goodwill generated from Rdio is primarily attributable to expected synergies from future growth and strategic advantages in the online streaming music industry. Goodwill generated from all other business acquisitions during the year ended December 31, 2015 is primarily attributed to expected synergies from future growth and, also for NBS, the potential to expand our Artist Marketing Platform ("AMP"). Goodwill generated during the period related to Ticketfly and NBS is not deductible for tax purposes and goodwill generated during the period related to Rdio and KXMZ is deductible for tax purposes.

6. Goodwill and Other Intangible Assets

The changes in the carrying amount of goodwill for the twelve months ended December 31, 2015 are as follows:

	Goodwill
	(in thousands)
Balance as of December 31, 2014	$ —
Goodwill resulting from business combinations	303,875
Balance as of December 31, 2015	$ 303,875

The following summarizes information regarding the gross carrying amounts and accumulated amortization of intangibles:

Pandora Media, Inc.
Notes to Consolidated Financial Statements - Continued

	Weighted average remaining useful lives (in years)	As of December 31, 2014			As of December 31, 2015		
		Gross Carrying Amount	Accumulated Amortization	Net Carrying Value	Gross Carrying Amount	Accumulated Amortization	Net Carrying Value
		(in thousands)					
Finite-lived intangible assets							
Patents	8.5	$ 8,030	$ (1,091)	$ 6,939	$ 8,030	$ (1,824)	$ 6,206
Developed technology	4.7	—	—	—	56,050	(1,265)	54,785
Customer relationships - clients	7.8	—	—	—	37,300	(777)	36,523
Customer relationships - users	1.7	—	—	—	1,940	(318)	1,622
Trade names	7.3	—	—	—	11,720	(304)	11,416
Total finite-lived intangible assets	6.2	$ 8,030	$ (1,091)	$ 6,939	$ 115,040	$ (4,488)	$ 110,552
Indefinite-lived intangible assets							
FCC license - broadcast radio		$ —	$ —	$ —	$ 193	$ —	$ 193
Total intangible assets		$ 8,030	$ (1,091)	$ 6,939	$ 115,233	$ (4,488)	$ 110,745

Amortization expense of intangible assets was $0.4 million, $0.7 million and $3.4 million for the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015, respectively.

The following is a schedule of future amortization expense related to finite-lived intangible assets as of December 31, 2015.

	As of December 31, 2015
	(in thousands)
2016	$ 20,437
2017	20,002
2018	17,649
2019	17,129
2020	15,896
Thereafter	19,439
Total future amortization expense	$ 110,552

7. Debt Instruments

Long-term debt, net consisted of the following:

	As of December 31,	
	2014	2015
	(in thousands)	
1.75% convertible senior notes due 2020	$ —	$ 345,000
Unamortized discount on convertible senior notes	—	(110,423)
Long-term debt, net	$ —	$ 234,577

Convertible Debt Offering

On December 9, 2015, we completed an unregistered Rule 144A offering for the issuance of $345.0 million aggregate principal amount of our 1.75% Convertible Senior Notes due 2020 (the "Notes"). In connection with the issuance of the Notes, we entered into capped call transactions with the initial purchaser of the Notes and an additional financial institution ("capped call transactions").

The net proceeds from the sale of the Notes were approximately $336.5 million, after deducting the initial purchasers' fees and other estimated expenses. We used approximately $43.2 million of the net proceeds to pay the cost of the capped call transactions.

The Notes are unsecured, senior obligations of Pandora, and interest is payable semi-annually at a rate of 1.75% per annum. The Notes will mature on December 1, 2020, unless earlier repurchased or redeemed by Pandora or converted in accordance with their terms prior to such date. Prior to July 1, 2020, the Notes are convertible at the option of holders only upon the occurrence of specified events or during certain periods; thereafter, until the second scheduled trading day prior to maturity, the Notes will be convertible at the option of holders at any time.

The conversion rate for the Notes is initially 60.9050 shares of common stock per $1,000 principal amount of the Notes, which is equivalent to an initial conversion price of approximately $16.42 per share of our common stock, and is subject to adjustment in certain circumstances.

We will not have the right to redeem the Notes prior to December 5, 2018. We may redeem all or any portion of the Notes for cash at our option on or after December 5, 2018 if the last reported sale price of our common stock is at least 130% of the conversion price then in effect for at least 20 trading days, whether or not consecutive, during any 30 consecutive trading day period, including the last trading day of such period, ending on, and including, any of the five trading days immediately preceding the date on which we provide notice of redemption. Any optional redemption of the Notes will be at a redemption price equal to 100% of the principal amount of the Notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. The maximum number of shares of common stock the Notes are convertible into is approximately 27.3 million, and is subject to adjustment under certain circumstances.

The Notes will be convertible at the option of holders only under the following circumstances:

- Prior to the close of business on the business day immediately preceding July 1, 2020, during any calendar quarter commencing after the calendar quarter ending on March 31, 2016 (and only during such calendar quarter), if the last reported sale price of our common stock for at least 20 trading days (whether or not consecutive), during a period of 30 consecutive trading days ending on the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day;

- Prior to the close of business on the business day immediately preceding July 1, 2020, during the five business day period after any ten consecutive trading day period (the "measurement period") in which the trading price per $1,000 principal amount of Notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of our common stock and the conversion rate on each such trading day;

- Prior to the business day immediately preceding July 1, 2020, upon the occurrence of specified corporate events; or

- At any time on or after July 1, 2020 until the close of business on the second scheduled trading day immediately preceding the December 1, 2020 maturity date.

Upon the occurrence of a make-whole fundamental change or if we call all or any portion of the Notes for redemption prior to July 1, 2020, we will, in certain circumstances, increase the conversion rate by a number of additional shares for a holder that elects to convert its Notes in connection with such make-whole fundamental change or during the related redemption period.

The Notes were separated into debt and equity components and assigned a fair value. The value assigned to the debt component is the estimated fair value as of the issuance date of similar debt without the conversion feature. The difference between the cash proceeds and this estimated fair value represents the value which has been assigned to the equity component and recorded as a debt discount. The debt discount is being amortized using the effective interest method over the period from the date of issuance through the December 1, 2020 maturity date.

The initial debt component of the Notes was valued at$233.5 million, based on the contractual cash flows discounted at an appropriate market rate for non-convertible debt at the date of issuance. The carrying value of the permanent equity component reported in additional paid-in-capital was initially valued at $103.0 million, which is net of $2.6 million of fees and expenses allocated to the equity component.

The following table outlines the effective interest rate, contractually stated interest expense and costs related to the amortization of the discount for the Notes:

	Twelve Months Ended December 31,	
	2015	
	(in thousands except for effective interest rate)	
Effective interest rate		10.18 %
Contractually stated interest expense	$	369
Amortization of discount	$	1,084

The capped call transactions are expected generally to reduce the potential dilution to our common stock and/or offset the cash payments we would be required to make in excess of the principal amount of the converted Notes in the event that the market price of our common stock, as measured under the terms of the capped call transaction, is greater than the strike price of the capped call transaction, with such reduction and/or offset subject to a cap based on the cap price of the capped call transactions. The strike price of the capped call transactions corresponds to the initial conversion price of the Notes and is subject to certain adjustments under the terms of the capped call transactions. The capped call transactions have an initial cap price of $25.26 per share and are subject to certain adjustments under the terms of the capped call transactions. The capped call transactions have been included as a net reduction to additional paid-in capital within stockholders' equity.

Credit Facility

In May 2011, we entered into a credit facility and in December 2015, we amended this credit facility to increase the aggregate commitment amount to$120.0 million, with a maturity date of September 12, 2018. The amendment further increased the minimum liquidity financial covenant requirement from $5.0 million to $10.0 million at any time.

The credit facility interest rate on US borrowings is based on analternate base rate plus 1.00% - 1.25% and Eurocurrency borrowings are based on the LIBO rate plus 2.00% - 2.25%, both of which are per annum rates based on outstanding borrowings. The non-usage fee is0.375% per annum. The available letters of credit under the amended credit facility is $15.0 million, and the annual charge for outstanding letters of credit is 2.00% - 2.25% per annum based on outstanding borrowings.

The amount of borrowings available under the credit facility at any time is based on our monthly accounts receivable balance at such time and the amounts borrowed are collateralized by our personal property, including such accounts receivable but excluding intellectual property. The credit facility contains customary events of default, conditions to borrowing and

covenants, including restrictions on our ability to dispose of assets, make acquisitions, incur debt, incur liens and make distributions to stockholders. During the continuance of an event of a default, the lenders may accelerate amounts outstanding, terminate the credit facility and foreclose on all collateral.

As of December 31, 2014 and 2015, we had no outstanding borrowings, $1.1 million in letters of credit outstanding and $58.9 million and $118.9 million of available borrowing capacity under the credit facility.

Total debt issuance costs associated with the 2015 credit facility amendment were $0.4 million, which will be amortized as interest expense over the four-year remaining term of credit facility agreement. For eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015, $0.2 million, $0.2 million and $0.2 million of debt issuance costs, respectively, were amortized and included in interest expense.

8. Commitments and Contingencies

Leases

The following is a schedule of future minimum lease payments and future minimum sublease income under noncancelable operating leases as of December 31, 2015:

	As of December 31, 2015	
	Future Minimum Lease Payments	Future Minimum Sublease Income
	(in thousands)	
2016	$ 19,044	$ 1,246
2017	23,219	1,277
2018	22,722	541
2019	22,148	—
2020	19,599	—
Thereafter	55,902	—
Total	$ 162,634	$ 3,064

We conduct our operations using leased office facilities in various locations. We lease office space under arrangements expiring through 2025. Rent expenses for eleven months ended December 31, 2013, the twelve months ended December 31, 2014 and the twelve months ended December 31, 2015 were $5.7 million, $8.6 million and $12.2 million, respectively.

For operating leases that include escalation clauses over the term of the lease, tenant improvement reimbursements and rent abatement periods, we recognize rent expense on a straight-line basis over the lease term including expected renewal periods. The difference between rent expense and rent payments is recorded as deferred rent in current and long-term liabilities. As of December 31, 2014 and 2015 deferred rent was $15.3 million and $23.9 million.

Purchase Obligations

As of December 31, 2015, we had various non-cancelable minimum payments of $153.3 million, primarily in connection with the publishing agreements signed in 2015, of which $124.0 million is recoupable against future royalty payments and $29.3 million of which is not recoupable against future royalty payments, through 2018.

Legal Proceedings

We have been in the past, and continue to be, a party to various legal proceedings, which have consumed, and may continue to consume, financial and managerial resources. We record a liability when we believe that it is both probable that a loss has been incurred and the amount can be reasonably estimated. Our management periodically evaluates developments that could affect the amount, if any, of liability that we have previously accrued and make adjustments as appropriate. Determining both the likelihood and the estimated amount of a loss requires significant judgment, and management's judgment may be

incorrect. We do not believe the ultimate resolution of any pending legal matters is likely to have a material adverse effect on our business, financial position, results of operations or cash flows.

RMLC ("Radio Music Licensing Committee")

In June 2013, we entered into an agreement to purchase the assets of KXMZ-FM and in June 2015 the Federal Communications Commission ("FCC") approved the transfer of the FCC licenses and the acquisition was completed. The agreement to purchase the assets of KXMZ allowed us to qualify for the RMLC royalty rate of 1.7% of revenue for a license to the ASCAP and BMI repertoires, before certain deductions, beginning in June 2013. As a result, we recorded cost of revenue - content acquisition costs at the RMLC royalty rate starting in June 2013, rather than the rate that was set in rate court proceedings in March 2014 for ASCAP and in May 2015 for BMI.

In September 2015, despite confidence in our legal position that we were entitled to the RMLC royalty rate starting in June 2013, and as part of our strategy to strengthen our partnership with the music industry, management decided to forgo the application of the RMLC royalty rate from June 2013 through September 2015. As a result, cost of revenue - content acquisition costs increased by $28.2 million in the twelve months ended December 31, 2015, of which $23.9 million was related to a one-time cumulative charge to cost of revenue - content acquisition costs related to spins played from June 2013 through September 30, 2015 in order to align the cumulative cost of revenue - content acquisition costs to the amounts previously paid at the rates that were set in the rate court proceedings in March 2014 for ASCAP and May 2015 for BMI. We recorded cost of revenue - content acquisition costs for the performing rights organizations at the rates established by the rate courts for the three months ended December 31, 2015, and we intend to record such costs at the rates established by our direct licensing agreements beginning in 2016.

Pre-1972 copyright litigation

On April 17, 2014, UMG Recordings, Inc., Sony Music Entertainment, Capitol Records, LLC, Warner Music Group Corp. and ABKCO Music and Records, Inc. filed suit against Pandora Media Inc. in the Supreme Court of the State of New York. The complaint claimed common law copyright infringement and unfair competition arising from allegations that Pandora owed royalties for the public performance of sound recordings recorded prior to February 15, 1972.

In October 2015, the parties reached an agreement ("pre-1972 settlement") whereby we agreed to pay the plaintiffs a total of$90 million. The settlement resolves all past claims as to our use of pre-1972 recordings owned or controlled by the plaintiffs and enables us, without any additional payment, to reproduce, perform and broadcast such recordings in the United States through December 31, 2016. This agreement was approved by our board of directors and executed on October 21, 2015. Pursuant to this settlement, we paid the plaintiffs $60 million in October 2015 and the plaintiffs dismissed the case with prejudice. As a result, cost of revenue - content acquisition costs increased by $65.4 million in the twelve months ended December 31, 2015, of which $57.9 million was related to a one-time cumulative charge to cost of revenue - content acquisition costs related to pre-1972 spins played through September 30, 2015. The remaining charge of $24.6 million will be recorded in cost of revenue - content acquisition costs over the future service period of January 1, 2016 through December 31, 2016 based on expected streaming of pre-1972 recordings over the period. The pre-72 settlement further requires that we make four additional installment payments of $7.5 million each. The first was paid in 2015, and the remainingthree installments will be paid on or before April 1, 2016, July 1, 2016 and October 1, 2016.

On October 2, 2014, Flo & Eddie Inc. filed a class action suit against Pandora Media Inc. in the federal district court for the Central District of California. The complaint alleges misappropriation and conversion in connection with the public performance of sound recordings recorded prior to February 15, 1972. On December 19, 2014, Pandora filed a motion to strike the complaint pursuant to California's Anti-Strategic Lawsuit Against Public Participation ("Anti-SLAPP") statute. This motion was denied, and we have appealed the ruling to the Ninth Circuit Court of Appeals. As a result, the district court litigation has been stayed pending the Ninth Circuit's review.

On September 14, 2015, Arthur and Barbara Sheridan, et al filed a class action suit against Pandora Media, Inc. in the federal district court for the Northern District of California. The complaint alleges common law misappropriation, unfair competition, conversion, unjust enrichment and violation of California rights of publicity arising from allegations that we owe royalties for the public performance of sound recordings recorded prior to February 15, 1972. On October 28, 2015, the Court granted the parties' stipulation to stay the district court action pending the Ninth Circuit's review of Pandora's appeal in Flo & Eddie et al. v. Pandora Media, Inc., which involves similar allegations.

On September 16, 2015, Arthur and Barbara Sheridan, et al filed a second class action suit against Pandora Media, Inc. in the federal district court for the Southern District of New York. The complaint alleges common law copyright infringement, violation of New York right of publicity, unfair competition and unjust enrichment arising from allegations that we owe royalties for the public performance of sound recordings recorded prior to February 15, 1972. On October 28, 2015 the Court granted the parties' stipulation to stay the district court action pending the Second Circuit's review of Sirius XM's appeal in the Flo & Eddie et al. v. Sirius XM matter, which involves similar allegations.

On October 17, 2015, Arthur and Barbara Sheridan, et al filed a third class action suit against us in the federal district court for the Northern District of Illinois ("Third Class Action Suit"). The complaint alleges common law copyright infringement, violation of the Illinois Uniform Deceptive Trade Practices Act, conversion, and unjust enrichment arising from allegations that we owe royalties for the public performance of sound recordings recorded prior to February 15, 1972. On December 29, 2015, Pandora filed a motion to dismiss and motion to stay the case pending the Second Circuit's decision. The motion to stay was denied, and the motion to dismiss remains pending.

On October 19, 2015, Arthur and Barbara Sheridan, et al filed a fourth class action suit against us in the federal district court for the District of New Jersey ("Fourth Class Action Suit"). The complaint alleges common law copyright infringement, unfair competition and unjust enrichment arising from allegations that we owe royalties for the public performance of sound recordings recorded prior to February 15, 1972. Pandora's response to the complaint was due on December 29, 2015. On December 29, 2015, Pandora filed a motion to dismiss and motion to stay the case pending the Second Circuit's decision. Both motions remain pending.

On February 8, 2016, Ponderosa Twins Plus One et al filed a class action suit against Pandora Media, Inc. in the federal district court for the Southern District of New York. The complaint alleges common law copyright infringement, misappropriation, unfair competition and unjust enrichment arising from allegations that we owe royalties for the public performance of sound recordings recorded prior to February 15, 1972. We are currently preparing our response to these allegations.

The outcome of any litigation is inherently uncertain. Except as noted above, including with respect to the$90 million settlement for UMG Recordings, Inc. et al v. Pandora Media Inc. in the Supreme Court of the State of New York, we do not believe it is probable that the final outcome of the matters discussed above will, individually or in the aggregate, have a material adverse effect on our business, financial position, results of operations or cash flows; however, in light of the uncertainties involved in such matters, there can be no assurance that the outcome of each case or the costs of litigation, regardless of outcome, will not have a material adverse effect on our business. In particular, rate court proceedings could take years to complete, could be very costly and may result in current and past royalty rates that are materially less favorable than rates we currently pay or have paid in the past.

Indemnification Agreements, Guarantees and Contingencies

In the ordinary course of business, we are party to certain contractual agreements under which we may provide indemnifications of varying scope, terms and duration to customers, vendors, lessors, business partners and other parties with respect to certain matters, including, but not limited to, losses arising out of breach of such agreements, services to be provided by us or from intellectual property infringement claims made by third parties. In addition, we have entered into indemnification agreements with directors and certain officers and employees that will require us, among other things, to indemnify them against certain liabilities that may arise by reason of their status or service as directors, officers or employees. Such indemnification provisions are accounted for in accordance with guarantor's accounting and disclosure requirements for guarantees, including indirect guarantees of indebtedness of others. To date, we have not incurred, do not anticipate incurring and therefore have not accrued for, any costs related to such indemnification provisions.

While the outcome of these matters cannot be predicted with certainty, we do not believe that the outcome of any claims under indemnification arrangements will have a material adverse effect on our consolidated financial position, results of operations or cash flows.

9. Provision for Income Taxes

Loss before provision for income taxes by jurisdiction consists of the following:

Pandora Media, Inc.
Notes to Consolidated Financial Statements - Continued

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
		(in thousands)	
Jurisdiction			
Domestic	$ (24,005)	$ (24,230)	$ (163,460)
Foreign	(2,918)	(5,592)	(7,751)
Loss before provision for income taxes	$ (26,923)	$ (29,822)	$ (171,211)

The provision for income taxes consists of the following:

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
		(in thousands)	
Current			
Federal	$ —	$ —	$ —
State and local	7	353	9
International	87	231	214
Total current income tax expense	$ 94	$ 584	$ 223
Deferred			
Federal	(10,166)	(9,996)	(17,943)
State and local	(2,027)	(6,238)	(2,174)
Valuation allowance	12,193	16,234	18,344
Total deferred income tax expense (benefit)	$ —	$ —	$ (1,773)
Total provision for (benefit from) income taxes	$ 94	$ 584	$ (1,550)

The provision for income taxes decreased by $2.1 million during the twelve months ended December 31, 2015 as a result of benefits recognized from the valuation allowance release through acquisition accounting and state income taxes computed without the benefit of stock options.

The following table presents a reconciliation of the statutory federal rate and our effective tax rate:

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
U.S. federal taxes at statutory rate	34 %	34 %	34 %
State taxes, net of federal benefit	—	(1)	—
Permanent differences	5	4	3
Foreign rate differential	(4)	(7)	(1)
Federal and state credits, net of reserve	8	11	2
Impact of acquired DTAs and DTLs	—	—	1
Change in valuation allowance	(46)	(55)	(33)
Change in rate	—	6	(1)
Deferred adjustments	3	6	(4)
Effective tax rate	— %	(2)%	1 %

The major components of deferred tax assets and liabilities consist of the following:

	As of December 31,	
	2014	2015
	(in thousands)	
Deferred tax assets		
Net operating loss carryforwards	$ 27,487	$ 91,658
Tax credit carryforwards	10,839	14,204
Allowances and other	13,832	21,802
Stock options	24,215	29,927
Depreciation and amortization	255	—
Total deferred tax assets	$ 76,628	$ 157,591
Valuation allowance	(73,983)	(92,772)
Total deferred tax assets, net of valuation allowance	$ 2,645	$ 64,819
Deferred tax liabilities		
Convertible debt	—	(37,580)
Depreciation and amortization	(2,645)	(27,252)
Total deferred tax liabilities	$ (2,645)	$ (64,832)
Net deferred tax assets (liabilities)	$ —	$ (13)

During the year ended December 31, 2015, we released $1.8 million of our valuation allowance as a result of acquisitions. Deferred tax liabilities were established for the book-tax basis difference related to acquired intangible assets. The net deferred tax liabilities provided an additional source of income to support the realizability of pre-existing deferred tax assets.

At December 31, 2015, we had federal net operating loss carryforwards of approximately $613.0 million and tax credit carryforwards of approximately $9.7 million. If realized, approximately $377.0 million of the net operating loss carryforwards will be recognized as a benefit through additional paid in capital. The federal net operating losses and tax credits expire in years beginning in 2021. At December 31, 2015, we had state net operating loss carryforwards of approximately $480.0 million which expire in years beginning in 2016. In addition, we had state tax credit carryforwards of approximately $10.7 million that do not expire and approximately $4.9 million of credits that will expire beginning in 2024.

At December 31, 2015, we had foreign net operating loss carryforwards of approximately $4.3 million which expire in years beginning in 2033.

Included in the net operating loss carryforward amounts above are approximately $67.6 million of federal, $42.9 million of state and $4.3 million of foreign net operating loss carryforwards related to acquisitions.

Under Section 382 and 383 of the Internal Revenue Code of 1986, as amended, or the Code, if a corporation undergoes an "ownership change," the corporation's ability to use its pre-change net operating loss carryforwards and other pre-change attributes, such as research tax credits, to offset its post-change income may be limited. In general, an "ownership change" will occur if there is a cumulative change in our ownership by "5-percent shareholders" that exceeds 50 percentage points over a rolling three-year period. Similar rules may apply under state tax laws. Utilization of our net operating loss and tax credit carryforwards may be subject to annual limitations due to ownership changes. Such annual limitations could result in the expiration of our net operating loss and tax credit carryforwards before utilized.

During the twelve months ended December 31, 2015, our valuation allowance increased by $18.8 million. At December 31, 2014 and 2015, we maintained a full valuation allowance on our net deferred tax assets. The valuation allowance was determined in accordance with the provisions of Accounting Standards Codification 740 - *Income Taxes*, which requires an assessment of both positive and negative evidence when determining whether it is more likely than not that deferred tax assets are recoverable. Such assessment is required on a jurisdiction by jurisdiction basis. Our history of cumulative losses, along with expected future U.S. losses required that a full valuation allowance be recorded against all net deferred tax assets. We intend to maintain a full valuation allowance on net deferred tax assets until sufficient positive evidence exists to support reversal of the valuation allowance.

At December 31, 2014 and 2015 we have unrecognized tax benefits of approximately $5.8 million and $6.9 million. The

increase in our unrecognized tax benefits was primarily attributable to current year activities. A reconciliation of the beginning and ending amounts of unrecognized tax benefits (excluding interest and penalties) is as follows:

	Twelve Months Ended December 31,	
	2014	2015
	(in thousands)	
Beginning balance	$ 5,220	$ 5,793
Increases related to tax positions taken during a prior year	1,161	—
Decreases related to tax positions taken during a prior year	(1,924)	(74)
Increases related to tax positions taken during the current year	1,336	1,145
Ending balance	$ 5,793	$ 6,864

The total unrecognized tax benefits, if recognized, would not affect the Company's effective tax rate as the tax benefit would increase a deferred tax asset, which is currently offset with a full valuation allowance. We do not anticipate that the amount of existing unrecognized tax benefits will significantly increase or decrease within the next twelve months. Accrued interest and penalties related to unrecognized tax benefits are recorded in the provision for income taxes. We did not have such interest, penalties or tax benefits during the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014 and 2015.

We file income tax returns in the United States, California, other states and international jurisdictions. Tax years 2000 to 2015 remain subject to examination for U.S. federal, state and international purposes. All net operating loss and tax credits generated to date are subject to adjustment for U.S. federal and state purposes. We are not currently under examination in federal, state or international jurisdictions.

10. Stock-based Compensation Plans and Awards

Stock Compensation Plans

In 2000, our board of directors adopted the 2000 Stock Incentive Plan, as amended (the "2000 Plan"). In 2004, our board of directors adopted the 2004 Stock Option Plan (the "2004 Plan"), which replaced the 2000 Plan and provided for the issuance of incentive and non-statutory stock options to employees and other service providers of Pandora. In 2011, our board of directors adopted the Pandora Media, Inc. 2011 Equity Incentive Plan (the "2011 Plan" and, together with the 2000 Plan and the 2004 Plan, the "Plans"), which replaced the 2004 Plan. The Plans are administered by the compensation committee of our board of directors (the "Plan Administrator").

The 2011 Plan provides for the issuance of stock options, restricted stock units and other stock-based awards. Shares of common stock reserved for issuance under the 2011 Plan include 12,000,000 shares of common stock reserved for issuance under the 2011 Plan and 1,506,424 shares of common stock previously reserved but unissued under the 2004 Plan as of June 14, 2011. To the extent awards outstanding as of June 14, 2011 under the 2004 Plan expire or terminate for any reason prior to exercise or would otherwise return to the share reserve under the 2004 Plan, the shares of common stock subject to such awards will instead be available for future issuance under the 2011 Plan. Each year, the number of shares in the reserve under the Plan may be increased by the lesser of 10,000,000 shares, 4.0% of the outstanding shares of common stock on the last day of the prior fiscal year or another amount determined by our board of directors. The 2011 Plan is scheduled to terminate in 2021, unless our board of directors determines otherwise.

Under the 2011 Plan, the Plan Administrator determines various terms and conditions of awards including option expiration dates (no more than ten years from the date of grant), vesting terms (generally over a four-year period) and payment terms. For stock option grants the exercise price is determined by the Plan Administrator, but generally may not be less than the fair market value of the common stock on the date of grant.

In December 2013, our board of directors approved the ESPP, which was approved by our stockholders at the annual meeting in June 2014. The ESPP allows eligible employees to purchase shares of our common stock through payroll deductions of up to 15% of their eligible compensation, subject to a maximum of their eligible compensation, subject to a maximum of $25,000 per calendar year. Shares reserved for issuance under the ESPP include 4,000,000 shares of common stock. The ESPP provides for six- month offering periods, commencing in February and August of each year. At the end of each offering period employees are able to purchase shares at 85% of the lower of the fair market value of our common stock on the first trading day of the offering period or on the last day of the offering period.

Shares available for grant as of December 31, 2015 and the activity during the twelve months ended December 31, 2015 are as follows:

	Shares Available for Grant		
	Equity Awards	ESPP	Total
Balance as of December 31, 2014	14,326,460	3,857,735	18,184,195
Additional shares authorized	8,323,469	—	8,323,469
Ticketfly shares authorized	3,215,223	—	3,215,223
Options granted	(2,940,736)	—	(2,940,736)
Restricted stock granted	(11,678,792)	—	(11,678,792)
Market stock units granted	(776,000)	—	(776,000)
ESPP shares issued	—	(538,398)	(538,398)
Options forfeited	7,709	—	7,709
Restricted stock forfeited	1,245,994	—	1,245,994
Balance as of December 31, 2015	11,723,327	3,319,337	15,042,664

Employee Stock Purchase Plan ("ESPP")

We estimate the fair value of shares to be issued under the ESPP on the first day of the offering period using the Black-Scholes valuation model. The determination of the fair value is affected by our stock price on the first date of the offering period, as well as other assumptions including the risk-free interest rate, the estimated volatility of our stock price over the term of the offering period, the expected term of the offering period and the expected dividend rate. Stock-based compensation expense related to the ESPP is recognized on a straight-line basis over the offering period, net of estimated forfeitures.

The per-share fair value of shares to be granted under the ESPP is determined on the first day of the offering period using the Black-Scholes option pricing model using the following assumptions:

	Twelve Months Ended December 31,	
	2014	2015
Expected life (in years)	0.5	0.5
Risk-free interest rate	0.06%	0.12%
Expected volatility	42%	52%
Expected dividend yield	0%	0%

During the twelve months ended December 31, 2014 and 2015, we withheld $6.4 million and $7.6 million in contributions from employees and recognized $2.1 million and $3.3 million of stock-based compensation expense related to the ESPP. In the twelve months ended December 31, 2014 and 2015, 149,378 and 538,398 shares of common stock were issued under the ESPP at a weighted average purchase price of $23.95 and $17.80. There was no stock-based compensation expense related to the ESPP or shares of common stock issued under the ESPP in the eleven months ended December 31, 2013.

Stock Options

Stock option activity during the twelve months ended December 31, 2015 was as follows:

	Options Outstanding			
	Outstanding Stock Options	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value (1)
	(in thousands, except share and per share data)			
Balance as of December 31, 2014	10,980,256	$ 7.91	1.08	$ 120,033
Granted	2,940,736	3.44		
Exercised	(1,077,797)	4.78		
Forfeited	(27,304)	6.09		
Balance as of December 31, 2015	12,815,891	7.15	1.09	101,151
Vested and exercisable as of December 31, 2015	9,292,855	5.74	0.57	81,541
Expected to vest as of December 31, 2015 (2)	3,259,020	$ 10.81	2.47	$ 18,156

(1)Amounts represent the difference between the exercise price and the fair value of common stock at each period end for all in the money options outstanding based on the fair value per share of common stock of $17.83 and $13.41 as of December 31, 2014 and 2015.

(2)Options expected to vest reflect an estimated forfeiture rate.

The per-share fair value of stock options granted during theeleven months ended December 31, 2013, the twelve months ended December 31, 2014 and the twelve months ended December 31, 2015 was determined on the grant date using the Black-Scholes option pricing model with the following assumptions:

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
Expected life (in years)	5.99 - 6.32	6.08	6.08
Risk-free interest rate	1.00% - 2.04%	1.71% - 1.93%	1.75% - 1.92%
Expected volatility	58% - 59%	58% - 59%	49% - 50%
Expected dividend yield	0%	0%	0%

The expected term of stock options granted represents the weighted average period that the stock options are expected to remain outstanding. We determined the expected term assumption based on our historical exercise behavior combined with estimates of the post-vesting holding period. Expected volatility is based on historical volatility of peer companies in our industry that have similar vesting and contractual terms. The risk free interest rate is based on the implied yield currently available on U.S. Treasury issues with terms approximately equal to the expected life of the option. We currently have no history or expectation of paying cash dividends on our common stock.

During the eleven months ended December 31, 2013, the twelve months ended December 31, 2014 and the twelve months ended December 31, 2015, we recorded stock-based compensation expense related to stock options of approximately $10.6 million, $14.7 million and $10.7 million, respectively.

As of December 31, 2015, there was $32.2 million of unrecognized compensation cost related to outstanding employee stock options. This amount is expected to be recognized over a weighted-average period of 2.47 years. To the extent the actual forfeiture rate differs from our estimates, stock-based compensation related to these awards could differ from our expectations.

The weighted-average fair value of stock option grants made during theeleven months ended December 31, 2013, the twelve months ended December 31, 2014 and the twelve months ended December 31, 2015 was $9.34, $19.74 and $9.08 per share, respectively.

The total grant date fair value of stock options vested during theeleven months ended December 31, 2013, the twelve

months ended December 31, 2014 and the twelve months ended December 31, 2015 was $9.1 million, $16.0 million and $17.6 million, respectively.

The aggregate intrinsic value of stock options exercised during the eleven months ended December 31, 2013, the twelve months ended December 31, 2014 and the twelve months ended December 31, 2015 was $93.8 million, $169.2 million and $9.5 million, respectively. The total fair value of options vested during the eleven months ended December 31, 2013, the twelve months ended December 31, 2014 and the twelve months ended December 31, 2015 was $9.4 million, $16.5 million and $17.6 million, respectively.

Restricted Stock Units

The fair value of the restricted stock units is expensed ratably over the vesting period. RSUs vest annually on a cliff basis over the service period, which is generally four years. During the eleven months ended December 31, 2013, the twelve months ended December 31, 2014 and the twelve months ended December 31, 2015, we recorded stock-based compensation expense related to restricted stock units of approximately $28.9 million, $69.9 million and $96.1 million, respectively. As of December 31, 2015, total compensation cost not yet recognized of approximately $256.1 million related to non-vested restricted stock units, is expected to be recognized over a weighted average period of 2.75 years.

The following table summarizes the activities for our RSUs for the twelve months ended December 31, 2015:

	Number of RSUs	Weighted-Average Grant Date Fair Value
Unvested as of December 31, 2014	11,024,068	$ 21.99
Granted	11,678,792	15.40
Vested	(4,184,415)	21.06
Forfeited	(1,246,360)	19.89
Unvested as of December 31, 2015	17,272,085	17.91
Expected to vest as of December 31, 2015 (1)	15,595,029	$ 17.90

(1) RSUs expected to vest reflect an estimated forfeiture rate.

MSUs

We implemented a market stock unit program in March 2015 for certain key executives. MSUs are earned as a function of Pandora's TSR performance measured against that of the Russell 2000 Index across three performance periods:

- One-third of the target MSUs are eligible to be earned for a performance period that is the first calendar year of the MSU grant (the "One-Year Performance Period");
- One-third of the target MSUs are eligible to be earned for a performance period that is the first two calendar years of the MSU grant (the "Two-Year Performance Period"); and
- Any remaining portion of the target MSUs are eligible to be earned for a performance period that is the entire three calendar years of the MSU grant (the "Three-Year Performance Period").

For each performance period, a "performance multiplier" is calculated by comparing Pandora's TSR for the period to the Russell 2000 Index TSR for the same period, using the average adjusted closing stock price of Pandora stock, and the Russell 2000 Index, for ninety calendar days prior to the beginning of the performance period and the last ninety calendar days of the performance period. In each period, the target number of shares will vest if the Pandora TSR is equal to the Russell 2000 Index TSR. For each percentage point that the Pandora TSR falls below the Russell 2000 Index TSR for the period, the performance multiplier is decreased by three percentage points. The performance multiplier is capped at 100% for the One-Year and Two-Year Performance Periods. However, the full award is eligible for a payout up to 200% of target, less any shares earned in prior periods, in the Three-Year Performance Period. Specifically, for each percentage point that the Pandora TSR exceeds the Russell 2000 Index TSR for the Three-Year Performance Period, the performance multiplier is increased by 2%. As such, the ability to exceed the target number of shares is determined exclusively with respect to Pandora's three-year TSR during the term of the award.

We have determined the grant-date fair value of the MSUs using a Monte Carlo simulation performed by a third-party valuation firm. We recognize stock-based compensation for the MSUs over the requisite service period, which is approximately three years, using the accelerated attribution method. During the twelve months ended December 31, 2015, we granted 776,000 MSUs at a total grant-date fair value of $4.3 million. During the twelve months ended December 31, 2015, we recorded stock-based compensation expense from MSUs of approximately $1.5 million. As of December 31, 2015, total compensation cost not yet recognized of approximately $2.8 million related to non-vested MSUs, is expected to be recognized over a weighted average period of 2.13 years. There was no stock-based compensation expense related to MSUs or shares of common stock issued under the MSU plan in the eleven months ended December 31, 2013 and the twelve months ended December 31, 2014.

The following table summarizes the activities for our MSUs for the twelve months ended December 31, 2015:

	Number of MSUs	Weighted-Average Grant Date Fair Value
Unvested as of December 31, 2014	—	$ —
Granted	776,000	5.60
Vested	—	—
Forfeited	—	—
Unvested as of December 31, 2015	776,000	5.60
Expected to vest as of December 31, 2015 (1)	710,882	$ 5.60

(1) MSUs expected to vest reflect an estimated forfeiture rate.

Stock-based Compensation Expense

Stock-based compensation expense includes expense related to Ticketfly employees for the two months ended December 31, 2015. Stock-based compensation expense related to all employee and non-employee stock-based awards was as follows:

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
		(in thousands)	
Stock-based compensation expense			
Cost of revenue—Other	$ 1,946	$ 4,414	$ 5,531
Cost of revenue—Ticketing service	—	—	40
Product development	8,802	17,546	23,671
Sales and marketing	20,222	42,165	52,747
General and administrative	9,071	22,930	29,656
Total stock-based compensation expense	$ 40,041	$ 87,055	$ 111,645

During the eleven months ended December 31, 2013 and twelve months ended December 31, 2014 and 2015, we capitalized $0.7 million, $1.3 million and $2.7 million of stock-based compensation as internal use software and website development costs, respectively.

11. Common Stock and Net Loss per Share

Each share of common stock has the right to one vote per share. The holders of common stock are also entitled to receive dividends as and when declared by our board of directors, whenever funds are legally available.

Follow-on Public Offering

In September 2013, we completed a follow-on public equity offering in which we sold an aggregate of 15,730,000 shares of our common stock, inclusive of 2,730,000 shares sold pursuant to the exercise by the underwriters of an option to purchase

additional shares, at a public offering price of$25.00 per share. In addition, another 5,200,000 shares were sold by certain selling stockholders. We received aggregate net proceeds of $378.7 million, after deducting underwriting discounts and commissions and offering expenses from sales of our shares in the offering. We did not receive any of the proceeds from the sales of shares by the selling stockholders.

Net Loss per Share

Basic net loss per share is computed by dividing the net loss by the weighted-average number of shares of common stock outstanding during the period.

Diluted net loss per share is computed by giving effect to all potential shares of common stock, including stock options and restricted stock units, to the extent dilutive. Basic and diluted net loss per share were the same for the eleven months ended December 31, 2013, the twelve months ended December 31, 2014and the twelve months ended December 31, 2015, as the inclusion of all potential common shares outstanding would have been anti-dilutive.

The following table sets forth the computation of historical basic and diluted net loss per share:

	Eleven Months Ended December 31,	Twelve Months Ended December 31,	
	2013	2014	2015
	(in thousands except per share amounts)		
Numerator			
Net loss	$ (27,017)	$ (30,406)	$ (169,661)
Denominator			
Weighted-average common shares outstanding used in computing basic and diluted net loss per share	180,968	205,273	213,790
Net loss per share, basic and diluted	$ (0.15)	$ (0.15)	$ (0.79)

The following potential common shares outstanding were excluded from the computation of diluted net loss per share because including them would have been anti-dilutive:

	As of December 31, 2013	As of December 31, 2014	As of December 31, 2015
	(in thousands)		
Options to purchase common stock	22,708	10,980	12,816
Restricted stock units	10,366	11,024	17,272
Market stock units	—	—	776
Total common stock equivalents	33,074	22,004	30,864

On December 9, 2015, we completed an offering of our 1.75% convertible senior notes due 2020. Under the treasury stock method, the Notes will generally have a dilutive impact on earnings per share if our average stock price for the period exceeds approximately $16.42 per share of our common stock, the conversion price of the Notes. For the period from the issuance of the offering of the Notes through December 31, 2015, the conversion feature of the Notes was anti-dilutive.

In connection with the pricing of the Notes, we entered into capped call transactions which increase the effective conversion price of the Notes, and are designed to reduce potential dilution upon conversion of the Notes. Since the beneficial impact of the capped call is anti-dilutive, it is excluded from the calculation of earnings per share. Refer to Note 7 "Debt Instruments" for further details regarding our Notes.

Pandora Media, Inc.
Notes to Consolidated Financial Statements - Continued

12. Selected Quarterly Financial Data (unaudited)

	Three months ended							
	March 31, 2014	June 30, 2014	September 30, 2014	December 31, 2014	March 31, 2015	June 30, 2015	September 30, 2015	December 31, 2015
	(in thousands, except per share data)							
Total revenue (1)	$ 194,315	$ 218,894	$ 239,593	$ 268,000	$ 230,764	$ 285,560	$ 311,562	$ 336,157
Cost of revenue								
Cost of Revenue—Content acquisition costs	108,275	111,461	111,315	115,326	126,023	130,134	211,272	142,933
Cost of revenue—Other	14,979	13,989	15,453	17,206	16,233	20,043	21,414	22,168
Cost of revenue—Ticketing service (1)	—	—	—	—	—	—	—	7,121
Total cost of revenue	123,254	125,450	126,768	132,532	142,256	150,177	232,686	172,222
Gross profit	71,061	93,444	112,825	135,468	88,508	135,383	78,876	163,935
Operating expenses								
Product development (1)	11,831	13,076	13,381	14,865	15,875	18,742	21,849	28,115
Sales and marketing (1)	61,864	66,232	72,320	76,914	84,274	94,035	107,286	112,574
General and administrative (1)	26,361	25,865	29,143	31,074	36,754	38,812	35,603	42,774
Total operating expenses	100,056	105,173	114,844	122,853	136,903	151,589	164,738	183,463
Income (loss) from operations	(28,995)	(11,729)	(2,019)	12,615	(48,395)	(16,206)	(85,862)	(19,528)
Net income (loss)	(28,931)	(11,728)	(2,025)	12,278	(48,257)	(16,065)	(85,930)	(19,409)
Net income (loss) per share, basic	(0.14)	(0.06)	(0.01)	0.06	(0.23)	(0.08)	(0.40)	(0.09)
Net income (loss) per share, diluted	$ (0.14)	$ (0.06)	$ (0.01)	$ 0.06	$ (0.23)	$ (0.08)	$ (0.40)	$ (0.09)

(1) Includes two months of revenue and expense for Ticketfly from the acquisition date of October 31, 2015 to December 31, 2015.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURES

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

We maintain "disclosure controls and procedures," as such term is defined in Rule 13a-15(e) under the Exchange Act, that are designed to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and that such information is accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate to allow timely decisions regarding required disclosure. In designing and evaluating our disclosure controls and procedures, management recognizes that disclosure controls and procedures, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the disclosure controls and procedures are met. Additionally, in designing disclosure controls and procedures, our management necessarily was required to apply judgment in evaluating the cost-benefit relationship of possible disclosure controls and procedures. Based on their evaluation at the end of the period covered by this Annual Report on Form 10-K, our chief executive officer and chief financial officer have concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of December 31, 2015.

Management's Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. Our internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of consolidated financial statements for external purposes in accordance with generally accepted accounting principles. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of internal control effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management has assessed the effectiveness of the internal control over financial reporting as ofDecember 31, 2015. In making this assessment, our management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in Internal Control-Integrated Framework (2013 framework).

In accordance with guidance issued by the Securities and Exchange Commission, companies are permitted to exclude acquisitions from their final assessment of internal control over financial reporting for the first fiscal year in which the acquisition occurred. Our management’s evaluation of internal control over financial reporting excluded the internal control activities of Ticketfly, which we acquired on October 31, 2015, as discussed in Note 5, “Business Combinations,” of the Notes to the Consolidated Financial Statements. We have included the financial results of Ticketfly in the consolidated financial statements from the date of acquisition. Total revenues subject to Ticketfly's internal control over financial reporting represented approximately one percent of our consolidated total revenues for the twelve months ended December 31, 2015. Total assets and net assets subject to Ticketfly's internal control over financial reporting represented approximately three percent and approximately two percent of our consolidated total assets and consolidated net assets, excluding acquisition method fair value adjustments, as of December 31, 2015.

Based on the results of this evaluation, our management has concluded that our internal control over financial reporting was effective as oDecember 31, 2015.

The effectiveness of our internal control over financial reporting as ofDecember 31, 2015 has been audited by Ernst & Young LLP, an independent registered public accounting firm, as stated in their report which is included in this Annual Report on Form 10-K.

Changes in Internal Control over Financial Reporting

We are in the process of implementing a new enterprise resource planning ("ERP") system, which will occur over a period of more than one year. During the year ended December 31, 2015, we completed the implementation of several significant ERP modules including core financial and purchasing modules. In connection with the implementation of the ERP

system, we updated the processes that constitute our internal control over financial reporting, as necessary, to accommodate related changes to our business processes and accounting procedures. We will continue to implement additional ERP modules in a phased approach.

Although the processes that constitute our internal control over financial reporting have been materially affected by the implementation of several significant ERP modules and will require testing for effectiveness as the implementation progresses, we do not believe that the implementation of the ERP system has had or will have a material adverse effect on our internal control over financial reporting.

Except as otherwise described above, there have been no other changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the three months ended December 31, 2015, that has materially affected, or is reasonably likely to materially affect our internal control over financial reporting.

ITEM 9B. OTHER INFORMATION

None.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Information required by this Item regarding our directors and executive officers is incorporated by reference to the sections of our proxy statement to be filed with the SEC in connection with our 2016 annual meeting of stockholders (the "Proxy Statement") entitled "Election of Class III Directors" and "Management."

Information required by this Item regarding our corporate governance, including our audit committee and code of business conduct and ethics, is incorporated by reference to the sections of the Proxy Statement entitled "Corporate Governance" and "Board of Directors."

Information required by this Item regarding compliance with Section 16(a) of the Exchange Act required by this Item is incorporated by reference to the section of the Proxy Statement entitled "Section 16(a) Beneficial Ownership Reporting Compliance."

ITEM 11. EXECUTIVE COMPENSATION

Information required by this Item is incorporated by reference to the sections of the Proxy Statement entitled "Executive Compensation," "Board of Directors—Compensation of Directors," "Corporate Governance—Compensation Committee Interlocks and Insider Participation."

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

Information regarding security ownership of certain beneficial owners and management is incorporated by reference to the section of the Proxy Statement entitled "Security Ownership of Certain Beneficial Owners and Management."

Information regarding our stockholder approved and non-approved equity compensation plans is incorporated by reference to the section of the Proxy Statement entitled "Equity Compensation Plan Information."

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

Information required by this Item is incorporated by reference to the sections of the Proxy Statement entitled "Certain Relationships and Related Party Transactions" and "Corporate Governance-Director Independence."

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

Information required by this Item is incorporated by reference to the section of the Proxy Statement entitled "Ratification of Appointment of Independent Registered Public Accounting Firm."

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) The following documents are included as part of this Annual Report on Form 10-K.

1. Index to Financial Statements

2. Financial Statement Schedules

All other schedules are omitted as the information required is inapplicable or the information is presented in the consolidated financial statements or the related notes.

3. Exhibits

See the Exhibit Index immediately following the signature page of this Annual Report on Form 10-K.

SIGNATURES

Pursuant to the requirements Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized on February 18, 2016.

PANDORA MEDIA, INC.

By: /s/ BRIAN MCANDREWS

Name: Brian McAndrews

Title: *Chief Executive Officer, President and Chairman of the Board*

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Brian McAndrews, Michael S. Herring and Stephen Bené and each of them, his or her true and lawful attorneys-in-fact and agents, with full power to act separately and full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments to this Annual Report on Form 10-K, and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto each said attorney-in-fact and agent full power and authority to do and perform each and every act in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or either of them or his or her or their substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1934, as amended, this report has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ BRIAN MCANDREWS Brian McAndrews	Chief Executive Officer, President and Chairman of the Board (Principal Executive Officer)	February 18, 2016
/s/ MICHAEL S. HERRING Michael S. Herring	Chief Financial Officer (Principal Financial and Accounting Officer)	February 18, 2016
/s/ PETER CHERNIN Peter Chernin	Director	February 18, 2016
/s/ ROGER FAXON Roger Faxon	Director	February 18, 2016
/s/ JAMES M. P. FEUILLE James M. P. Feuille	Director	February 18, 2016
/s/ PETER GOTCHER Peter Gotcher	Director	February 18, 2016
/s/ TIMOTHY LEIWEKE Timothy Leiweke	Director	February 18, 2016
 Elizabeth A. Nelson	Director	
/s/ MICKIE ROSEN Mickie Rosen	Director	February 18, 2016
/s/ TIM WESTERGREN Tim Westergren	Director	February 18, 2016

EXHIBIT INDEX

Exhibit No.	Exhibit Description	Incorporated by Reference					Filed Herewith
		Form	File No.	Exhibit	Filing Date	Filed By	
2.01	Agreement and Plan of Merger, dated as of October 7, 2015, among the Company, Ticketfly, Inc., Tennessee Acquisition Sub I, Inc., Tennessee Acquisition Sub II, LLC and Shareholder Representative Services LLC	8-K/A	001-35198	2.1	10/8/2015		
2.02	Asset Purchase Agreement, dated as of November 16, 2015, by and between Pandora Media, Inc. and Rdio, Inc.						X
3.01	Amended and Restated Certificate of Incorporation	S-1/A	333-172215	3.1	5/4/2011		
3.02	Amended and Restated Bylaws	S-1/A	333-172215	3.2	5/4/2011		
4.01	Fifth Amended and Restated Investor Rights Agreement, by and among Pandora Media, Inc. and the investors listed on Exhibit A thereto, dated May 20, 2010, as amended	S-1/A	333-172215	4.2	2/22/2011		
4.02	Indenture, dated as of December 9, 2015, between Pandora Media, Inc. and Citibank, N.A., as Trustee	8-K	001-35198	4.1	12/9/2015		
4.03	Form of 1.75% Convertible Senior Note due 2020 (included in Exhibit 4.02)						
10.01†	2011 Long Term Incentive Plan and Form of Stock Option Agreement under 2011 Long Term Incentive Plan	S-1/A	333-172215	10.1	5/26/2011		
10.02†	Ticketfly, Inc. 2008 Stock Plan	S-8	333-208005	99.1	11/13/2015		
10.03†	2004 Stock Plan, as amended, and Forms of Stock Option Agreement and Restricted Stock Purchase Agreement under 2004 Stock Plan	S-1/A	333-172215	10.3	2/22/2011		
10.04†	2000 Stock Incentive Plan, as amended, and Forms of NSO Stock Option Agreement and ISO Stock Option Agreement under 2000 Stock Plan	S-1/A	333-172215	10.4	2/22/2011		
10.05†	Form of Indemnification Agreement by and between Pandora Media, Inc. and each of its executive officers and its directors not affiliated with an investment fund	S-1/A	333-172215	10.5	2/22/2011		
10.06†	Form of Indemnification Agreement by and between Pandora Media, Inc. and each of its directors affiliated with an investment fund	S-1/A	333-172215	10.5A	2/22/2011		
10.7†	Employment Agreement with Tim Westergren, dated April 28, 2004	S-1/A	333-172215	10.7	2/22/2011		
10.9†	Offer Letter with John Trimble, dated February 18, 2009	S-1/A	333-172215	10.1	2/22/2011		
10.10	Office Lease between CIM/Oakland Center 21, LP and Pandora Media, Inc., dated July 23, 2009	S-1/A	333-172215	10.12	2/22/2011		
10.10A	First Amendment to Lease between CIM/Oakland Center 21, LP and Pandora Media, Inc., dated April 13, 2010	S-1/A	333-172215	10.12A	2/22/2011		
10.10B	Second Amendment to Lease between CIM/Oakland Center 21, LP and Pandora Media, Inc., dated June 16, 2010	S-1/A	333-172215	10.12B	2/22/2011		
10.10C	Third Amendment to Lease between CIM/Oakland Center 21, LP and Pandora Media, Inc., dated December 15, 2010	10-Q	001-35198	10.12C	9/4/2012		
10.10D	Fourth Amendment to Lease between CIM/Oakland Center 21, LP and Pandora Media, Inc., dated March 10, 2011	10-Q	001-35198	10.12D	9/4/2012		
10.10E	Fifth Amendment to Lease between CIM/Oakland Center 21, LP and Pandora Media, Inc., dated July 1, 2011	10-Q	001-35198	10.12E	9/4/2012		

10.10F	Sixth Amendment to Lease between CIM/Oakland Center 21, LP and Pandora Media, Inc., dated September 27, 2011	10-Q	001-35198	10.12F	9/4/2012	
10.10G	Seventh Amendment to Lease between CIM/Oakland Center 21, LP and Pandora Media, Inc., dated July 12, 2012	10-Q	001-35198	10.12G	9/4/2012	
10.10H	Eighth Amendment to Lease between CIM/Oakland Center 21, LP and Pandora Media, Inc., dated February 1, 2013	10-Q	001-35198	10.12H	5/29/2013	
10.10I	Ninth Amendment to Lease between CIM/Oakland Center 21, LP and Pandora Media, Inc., dated August 15, 2013	10-Q	001-35198	10.12I	10/28/2014	
10.10J	Tenth Amendment to Lease between CIM/Oakland Center 21, LP and Pandora Media, Inc., dated October 1, 2014	10-Q	001-35198	10.12J	10/28/2014	
10.10K	Sublease between Cerexa, Inc. and Pandora Media, Inc. dated January 1, 2015	10-K	001-35198	10.10K	2/11/2015	
10.10L	First Lease Modification and Term Extension and Additional Space Agreement between 125 Park Owner LLC and Pandora Media, Inc., dated July 22, 2015	10-Q	001-35198	10.10L	7/24/2015	
10.10M	Eleventh Amendment to Lease between CIM/Oakland Center 21, LP and Pandora Media, Inc., dated July 28, 2015*					X
10.12	License Agreement by and between SESAC and Pandora Media, Inc., dated July 1, 2007	S-1/A	333-172215	10.14	2/22/2011	
10.13	Credit Agreement among Pandora Media, Inc., the Lenders party thereto and JPMorgan Chase Bank, N.A. as Administrative Agent, dated as of May 13, 2011	S-1/A	333-172215	10.17	6/10/2011	
10.13A	Amendment and Restatement Agreement to Credit Agreement among Pandora Media, Inc., the Lenders party thereto and JPMorgan Chase Bank, N.A. as Administrative Agent, dated as of September 12, 2013	10-Q	001-35198	10.15	11/26/2013	
10.13B	Amendment No. 1 to Credit Agreement, as amended and restated as of September 12, 2013, among Pandora Media, Inc., the Lenders party thereto and JPMorgan Chase Bank, N.A. as Administrative Agent, dated as of December 2, 2015					X
10.13C	Amendment and Restatement Agreement to Credit Agreement, as previously amended and restated as of September 12, 2013, among Pandora Media, Inc., the Lenders party thereto and JPMorgan Chase Bank, N.A. as Administrative Agent, dated as of December 21, 2015					X
10.14†	Form of Restricted Stock Unit Agreement under the 2011 Equity Incentive Plan	10-Q	001-35198	10.01	9/2/2011	
10.15†	Amended Executive Severance and Change in Control Policy	10-K	001-35198	10.18	3/19/2012	
10.16†	Offer Letter with Simon Fleming-Wood, dated August 5, 2012	10-Q	001-35198	10.19	6/4/2012	
10.17†	Calendar 2014 Corporate Incentive Plan	10-Q	001-35198	10.19C	4/29/2014	
10.18†	2015 Corporate Incentive Plan	10-Q	001-35198	10.17D	4/27/2015	
10.20†	Australian Form of Restricted Stock Unit Agreement under the 2011 Equity Incentive Plan	10-K	001-35198	10.22	3/18/2013	
10.21†	Offer Letter with Michael Herring, dated December 21, 2012	10-K	001-35198	10.23	3/18/2013	
10.22†	New Zealand Form of Restricted Stock Unit Agreement under the 2011 Equity Incentive Plan	10-Q	001-35198	10.24	5/29/2013	
10.23†	Offer Letter with Brian McAndrews, dated September 11, 2013	10-Q	001-35198	10.25	11/26/2013	
10.24†	2014 Employee Stock Purchase Plan	S-8	333-193612	99.2	1/28/2014	

10.25†	Offer Letter with Sara Clemens, dated January 22, 2014	10-Q	001-35198	10.25	4/27/2015	
10.26†	Offer Letter with Stephen Bené, dated October 14, 2014	10-Q	001-35198	10.26	4/27/2015	
10.27†	Offer Letter with Christopher Phillips, dated October 20, 2014	10-Q	001-35198	10.27	4/27/2015	
10.28†	Form of MSU Grant Notice and Award Agreement	10-Q	001-35198	10.28	4/27/2015	
10.29	Settlement Agreement by and among Pandora Media, Inc. and Capitol Records, LLC et al.**	10-Q	001-35198	10.29	10/26/2015	
10.30	Capped call transaction confirmation, dated as of December 3, 2015, by and between Morgan Stanley & Co. LLC and Pandora Media, Inc.	8-K	001-35198	10.1	12/9/2015	
10.31	Additional capped call transaction confirmation, dated as of December 4, 2015, by and between Morgan Stanley & Co. LLC and Pandora Media, Inc.	8-K	001-35198	10.2	12/9/2015	
10.32	Capped call transaction confirmation, dated as of December 3, 2015, by and between JPMorgan Chase Bank, National Association, London Branch and Pandora Media, Inc.	8-K	001-35198	10.3	12/9/2015	
10.33	Additional capped call transaction confirmation, dated as of December 4, 2015, by and between JPMorgan Chase Bank, National Association, London Branch and Pandora Media, Inc.	8-K	001-35198	10.4	12/9/2015	
23.01	Consent of Independent Registered Public Accounting Firm					X
24.01	Power of Attorney (included on signature page of this Annual Report on Form 10-K)					X
31.01	Certification of the Principal Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act					X
31.02	Certification of the Principal Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act					X
32.01	Certification of the Principal Executive Officer and Principal Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act					X
101	Interactive Data Files Pursuant to Rule 405 of Regulation S-T: (i) Balance Sheets as of December 31, 2015 and December 31, 2014, (ii) Statements of Operations for the Twelve months ended December 31, 2015 and 2014 and the Eleven months ended December 31, 2013, (iii) Statements of Comprehensive Loss for the Twelve months ended December 31, 2015 and 2014 and the Eleven months Ended December 31, 2013, (iv) Statements of Cash Flows for the Twelve months ended December 31, 2015 and 2014 and the Eleven months ended December 31, 2013 and (v) Notes to Financial Statements						X

† Indicates management contract or compensatory plan.

* Schedules and exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-K. A copy of any omitted schedule or exhibit will be furnished on a supplemental basis to the Securities and Exchange Commission upon request; provided, however that we may request confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended, for any schedules or exhibits so furnished.

** Confidential treatment requested as to certain portions of this exhibit, which portions have been omitted and submitted separately to the Securities and Exchange Commission.

ASSET PURCHASE AGREEMENT

BY AND BETWEEN

PANDORA MEDIA, INC.

AND

RDIO, INC.,

DATED AS OF NOVEMBER 16, 2015

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "**Agreement**"), is made and entered into as of November 16, 2015, by and between Pandora Media, Inc., a Delaware corporation ("**Purchaser**"), and Rdio, Inc., a Delaware corporation ("**Seller**"). Each of the parties hereto is referred to herein individually as a "**Party**," and collectively as the "**Parties**".

RECITALS

A. Seller will, not later than one (1) Business Day after the date of this Agreement, file a voluntary petition commencing a chapter 11 Bankruptcy Case (hereinafter, the "**Bankruptcy Case**") pursuant to Title 11 of United States Code, 11 U.S.C. Sections 101 et seq. (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the Northern District of California (the "**Bankruptcy Court**") (the date such petitions are filed the "**Petition Date**").

B. Seller wishes to transfer, free and clear of all Liens, to Purchaser or its Affiliates all the Transferred Assets, in exchange for the consideration set forth below and the Parties intend to effectuate the transactions contemplated by this Agreement through a sale of the Transferred Assets pursuant to Section 363 of the Bankruptcy Code.

C. Prior to or concurrently with the execution and delivery of this Agreement, and as a condition and material inducement to Purchaser to enter into this Agreement, certain Employees, as set forth on **Schedule 2.2(c)**, have entered into "at will" employment arrangements with Purchaser or a Subsidiary thereof to be effective immediately after the Closing pursuant to the execution and delivery by such Employees of offer letters, in a form acceptable to Purchaser (each, an "**Employee Offer Letter**" and, collectively, the "**Employee Offer Letters**"), and a proprietary information and inventions assignment agreement, in a form acceptable to Purchaser (each, a "**Proprietary Information and Inventions Assignment Agreement**" and collectively, the "**Proprietary Information and Inventions Assignment Agreements**").

D. Concurrently with the execution and delivery of this Agreement, and as a condition and material inducement to Purchaser to enter into this Agreement, Janus Friis has entered into a Non-Competition Agreement (the "**Non-Competition Agreement**") to be effective immediately after the Closing.

E. At or prior to the Closing, Purchaser, Seller, and the Escrow Agent (as defined below) shall enter into an escrow agreement substantially in the form attached hereto as **Exhibit A** (with such changes as the Escrow Agent may reasonably request, the "**Escrow Agreement**"), pursuant to which Purchaser shall deposit the Escrow Amount in an escrow account to satisfy and secure the obligations set forth in **Article 8**.

F. Concurrently with the execution and delivery of this Agreement, and as a condition and inducement to Purchaser to enter into this Agreement, Purchaser and Seller have entered into a Master Services Agreement (the "**Master Services Agreement**") in substantially the form attached hereto as **Exhibit B**. As a partial advance (the "**Services Fees Advance**") of amounts due by Purchaser pursuant to the terms of the Master Services Agreement, Purchaser hereby agrees to make a onetime wire transfer of immediately available funds equal to $1,250,000 to an account designated in writing by Seller within three (3) Business Days following the execution and delivery of this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements, covenants and other premises set forth herein, the mutual benefits to be gained by the performance thereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and accepted, the Parties hereby agree as follows:

Article 1
DEFINITIONS

1.1 Capitalized Terms.

For purposes of this Agreement, the following terms shall have the following respective meanings:

(a) "**280G Stockholder Approval**" has the meaning set forth in **Section 6.11**.

(b) "**Action**" means any claim, action, cause of action, suit, demand, inquiry, proceeding, audit or investigation by or before any Governmental Entity, or any other arbitration, mediation or similar proceeding.

(c) "**Additional Asset**" has the meaning set forth in **Section 2.9**.

(d) "**Additional Assignment Order**" has the meaning set forth in **Section 2.1(b)**.

(e) "**Additional Designated Contract**" has the meaning set forth in **Section 2.1(b)**.

(f) "**Affiliate**", with respect to any Person, means a Person that, directly or indirectly, through one or more intermediaries controls, is controlled by or is under common control with the first-mentioned Person. For the purposes of this definition, (i) "**control**," including the terms "**controlled by**" and "**under common control with**," means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, as trustee or executor, as general partner or managing member, by Contract or otherwise, including the ownership, directly or indirectly, of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such Person, and (ii) Seller's Affiliates shall consist of Parent and Parent's Subsidiaries.

(g) "**Aggregate Consideration**" has the meaning set forth in Section 2.2(a).

(h) "**Agreement**" has the meaning specified in the preamble to this Agreement.

(i) "**Allocation**" means an allocation of the Aggregate Consideration and Assumed Liabilities, if any, among the Transferred Assets in accordance with Section 1060 of the Code including, to the extent any Transferred Assets are acquired by an Affiliate of Purchaser pursuant to **Section 2.1(a)**, a similar allocation with respect to such Transferred Assets (including related Assumed Liabilities).

(j) "**Alternative Transaction**" means at any time within one (1) year after the date hereof one of the following transactions with or by a party other than Purchaser or its Affiliates resulting in (a) the sale of a majority of the Transferred Assets, (b) a merger, consolidation or similar transaction involving Seller, or (c) a sale, lease or other disposition directly or indirectly by merger, consolidation, tender offer, share exchange or otherwise of assets of Seller.

(k) "**Ancillary Agreements**" means the Assignment and Bill of Sale, the Creditor Indemnity Agreement, the Trademark Assignment Agreement, the Patent Assignment Agreement, the Domain Name Assignment, the Master Services Agreement, the Employee Offer Letters, the Proprietary Information and Invention Assignment Agreements, the Transferred Lease Assignment, the Non-Competition Agreement, and the Escrow Agreement.

(l) "**Anti-Corruption Laws**" has the meaning set forth in **Section 3.10(b)**.

(m) "**Applicable Law**" means any federal, state, national, local, municipal, foreign, international, supranational or other constitution, act, statute, law, principle of common law, code, edict, ordinance, treaty, rule, regulation or any official interpretation of, or judgment, injunction, Order, decision, decree, license, permit, authorization, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Entity.

(n) "**Approval Order**" means the Sale Order or any other order entered by the Bankruptcy Court approving the assignment of the Designated Contracts.

(o) "**Assignment and Bill of Sale**" means the assignment and bill of sale, in the form set forth as **Exhibit C**, to be executed and delivered by Seller and Purchaser at the Closing.

(p) "**Assumed Liabilities**" has the meaning set forth in **Section 2.1(d)**.

(q) "**Auction**" has the meaning specified in **Section 6.1(a)**.

(r) "**Bankruptcy Case**" has the meaning specified in the recitals.

(s) "**Bankruptcy Code**" has the meaning specified in the recitals.

(t) "**Bankruptcy Court**" has the meaning specified in the recitals.

(u) "**Basket**" has the meaning set forth in **Section 8.3(a)**.

(v) "**Behavioral Data**" means data collected from an IP address, web beacon, pixel tag, ad tag, cookie, Flash local storage object, software, or by any other means, or from a particular computer, Web browser, mobile telephone, or other device or application, where such data (i) is collected from a particular computer or device regarding Web viewing or other activities; or (ii) is or is readily able to be used to identify, locate or contact a natural person or a device or application, to predict or infer the preferences, interests, or other characteristics of the device or application or of a user of such device or application, or to target advertisements or other content to a natural person or a device or application.

(w) "**Benefit Plan**" means any plan, program, policy, practice, contract, agreement or other arrangement providing for compensation, severance, termination pay, deferred compensation, performance awards, stock or stock-related awards, fringe benefits or other employee benefits or remuneration of any kind, whether written or unwritten or otherwise, funded or unfunded, including without limitation, each "employee benefit plan," within the meaning of Section 3(3) of ERISA which is maintained, contributed to, or required to be contributed to, by Seller or any ERISA Affiliate for the benefit of any Employee, or with respect to which Seller or any ERISA Affiliate has or may have any Liability or obligation.

(x) "**Bidding Procedures Motion**" shall have the meaning set forth in **Section 6.1(b)**.

(y) "**Bidding Procedures Order**" shall have the meaning set forth in **Section 6.1(b)**.

(z) "**Break-Up Fee**" shall have the meaning set forth in **Section 9.3(a)(ii)**.

(aa) "**Business**" means the business of licensing, marketing, selling and digitally distributing music and related advertising as conducted by Seller and its Affiliates.

(bb) "**Business Content**" means any sound recordings, musical works, album cover artwork, photographs, images, audiovisual works, third party metadata (including editorial content) and other copyrighted materials made available by Seller through the Business Products, but excluding the Business Product Software and Incorporated Software.

(cc) "**Business Day**" means each day that is not a Saturday, Sunday or other day on which banking institutions located in Oakland, California are authorized or obligated by law or executive order to close.

(dd) "**Business Facility**" means any property including the land, the improvements thereon, the groundwater thereunder and the surface water thereon, that is or at any time has been owned, operated, occupied, controlled or leased by Seller or any of its Affiliates.

(ee) "**Business Products**" means all versions of all products of Seller, including, without limitation, discontinued, predecessor and legacy products of Seller and all versions of such products currently under development.

(ff) "**Business Product Software**" means all Software that is owned by Seller that is incorporated into, distributed with, or used in the provision of any version of the Business Products, including, without limitation, websites, mobile applications, tablet applications, and internal-use Software.

(gg) "**Closing**" has the meaning set forth in **Section 2.3**.

(hh) "**Closing Date**" has the meaning set forth in **Section 2.3**.

(ii) "**Code**" means the United States Internal Revenue Code of 1986, as amended.

(jj) "**Consent**" means any consent, assignment, permit, Order, certification, concession, franchise, approval, authorization, registration, waiver, declaration or filing with, of or from any Governmental Entity, parties to Contracts or any third Person.

(kk) "**Consultant Proprietary Information Agreement**" has the meaning set forth in **Section 3.9(k)**.

(ll) "**Continuing Employees**" has the meaning set forth in **Section 6.4(c)**.

(mm) "**Contract**" means any note, bond, mortgage, indenture, lease, sublease, contract, covenant, plan, insurance policy, undertaking or other agreement, instrument, arrangement, obligation, understanding or commitment, permit, concession, franchise or license, including any amendment or modifications made thereto, whether oral or written or express or implied.

(nn) "**Creditor**" means Iconical Investments II LP.

(oo) "**Creditor Indemnity Agreement**" means that certain Indemnity and Guarantee Agreement dated as of the date hereof, between Purchaser and Creditor.

(pp) "**Cure Costs**" has the meaning set forth in **Section 6.10**.

(qq) "**Customer Data**" means (i) all data and content uploaded or otherwise provided by or on behalf of customers of Seller and its Affiliates to, or stored by customers of Seller and its Affiliates on, the Business Products; (ii) all data and content created, compiled, inferred, derived, or otherwise collected or

obtained by or for the Business Products or by or for Seller and its Affiliates in their provision of the Business Products or operation of the Business about customers; and (iii) data and content compiled, inferred, or derived directly or indirectly from any of the data and content described in subclauses (i) and (ii) above.

(rr) "**Designated Contracts**" has the meaning set forth in **Section 2.1(a)(i)**.

(ss) "**Designated Employee**" means the Employees listed on **Schedule 1.1(ss)**, as such Schedule may be updated from time to time by Purchaser.

(tt) "**Disclosed Additional Designated Contract**" means an Additional Designated Contract which was made available by Seller to Purchaser, provided that the San Francisco Lease shall not be a Disclosed Additional Designated Contract.

(uu) "**Disclosure Schedule**" has the meaning set forth in the preamble to **Article 3**.

(vv) "**Disputed Amounts**" has the meaning set forth in **Section 8.7**.

(ww) "**Domain Name Assignment**" means the Assignment of Domain Names in the form set forth as **Exhibit D**, to be executed and delivered by Seller and Purchaser at the Closing.

(xx) "**Employee**" means any current or former employee, consultant, independent contractor or director of (i) Seller and (ii) as set forth on **Schedule 1.1(ss)**, Rdio UK Ltd.

(yy) "**Employee Offer Letter**" and "**Employee Offer Letters**" have the meanings specified in the recitals.

(zz) "**Employee Proprietary Information Agreement**" has the meaning set forth in **Section 3.9(k)**.

(aaa) "**Employment Agreement**" shall mean each management, employment, severance, consulting, relocation, repatriation, expatriation, visa, work permit or other agreement, contract or understanding between Seller or any or any of its Affiliates and any Employee.

(bbb) "**Employment Liabilities**" shall mean any and all claims, debts, liabilities, commitments and obligations, whether fixed, contingent or absolute, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, known or unknown, whenever or however arising, including all costs and expenses relating thereto arising under law, rule, regulation, permit, action or proceeding before any governmental authority, order or consent decree or any award of any arbitrator of any kind relating to any Benefit Plan, Employment Agreement or otherwise relating to an Employee and his or her employment with Seller or any ERISA Affiliate.

(ccc) "**Enforceability Limitations**" has the meaning set forth in **Section 3.3**.

(ddd) "**Environmental Laws**" means all applicable laws (including common laws), directives, guidance, rules, regulations, orders, treaties, statutes, and codes promulgated by any Governmental Entity which prohibit, regulate or control any Hazardous Material or any Hazardous Material Activity, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Resource Recovery and Conservation Act of 1976, the Federal Water Pollution Control Act, the Clean Air Act, the Hazardous Materials Transportation Act, the Clean Water Act, the European Union Directive 2012/19/EU on waste electrical and electronic equipment ("**WEEE Directive**"), the European Union

Directive 2011/65/EU on the restriction on the use of hazardous substances ("**EU RoHS Directive**"), and the Administrative Measures on the Control of Pollution Caused by Electronic Information Products ("**China RoHS**"), all as amended at any time.

(eee) "**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended, and the regulations issued thereunder.

(fff) "**ERISA Affiliate**" means each subsidiary of Seller and any other person or entity under common control with Seller or any of its subsidiaries within the meaning of Section 4001(b) of ERISA or Section 414(b), (c), (m) or (o) of the Code from time to time.

(ggg) "**Escrow Account**" has the meaning set forth in **Section 2.2(b)**.

(hhh) "**Escrow Agent**" has the meaning set forth in **Section 2.2(b)**.

(iii) "**Escrow Agreement**" has the meaning specified in the recitals.

(jjj) "**Escrow Amount**" means $11,250,000.

(kkk) "**Escrow Fund**" has the meaning set forth in **Section 2.2(b)**.

(lll) "**Escrow Release Date**" has the meaning set forth in **Section 8.7**.

(mmm) "**Excess Indemnification Amounts**" has the meaning set forth in **Section 8.5(a)**.

(nnn) "**Excluded Assets**" has the meaning set forth in **Section 2.1(c)**.

(ooo) "**Excluded Employee Liabilities**" means:

(i) Employment Liabilities, including but not limited to payments or entitlements that Seller or its Affiliates may owe or have promised to pay to the Continuing Employees or any other Employees, including wages, other remuneration, holiday or vacation pay, bonus, severance pay (statutory or otherwise), commission, pension contributions, Taxes, and any other liability, payment or obligations related to Employees;

(ii) all payments with respect to the Continuing Employees that are due to be paid prior to or on the Closing Date (including, without prejudice to the generality of the foregoing, pension contributions, insurance premiums and Taxes) to any third party in connection with the employment of any of the Continuing Employees;

(iii) any non-forfeitable claims or expectancies of any Continuing Employees from their prior employment with Seller or an ERISA Affiliate which have been incurred or accrued prior to the Closing; and

(iv) all costs and disbursements incurred in connection with the termination of any employment of a Continuing Employee or any other Employee prior to or in connection with the Closing (including any Employee who does not accept an offer of employment with Purchaser).

(ppp) "**Excluded Liabilities**" has the meaning set forth in **Section 2.1(e)**.

(qqq) "**Expense Reimbursement**" has the meaning set forth in **Section 9.3(a)(i).**

(rrr) "**Exploit**" or "**Exploitation**" means to use, reproduce, distribute, modify, develop, prepare derivative works, license, make, have made, offer for sale, sell, market, import, maintain, support or otherwise exploit.

(sss) "**Final Order**" means an action taken or Order issued by the applicable Governmental Entity as to which no stay of the action or Order is pending and no such stay is in effect.

(ttt) "Fundamental Representations" has the meaning set forth in **Section 8.1**.

(uuu) "**Governmental Entity"** means any federal, national, supranational, state, provincial, local or similar government, governmental, regulatory, legislative, administrative or quasi-governmental authority, branch, office agency, commission or other body, or any court, tribunal, or arbitral or judicial body (including any grand jury), whether domestic or foreign, including any securities exchange.

(vvv) "**Hazardous Material**" means any material, chemical, emission or substance that has been designated by any Governmental Entity to be radioactive, toxic, hazardous, a pollutant, a contaminant or otherwise a danger to health, reproduction or the environment.

(www) "**Hazardous Materials Activity**" means the transportation, transfer, recycling, storage, use, treatment, manufacture, removal, disposal, remediation, release, exposure of others to, sale, labeling, or distribution of any Hazardous Material or any product or waste containing a Hazardous Material, including, without limitation, any required labeling, payment of waste fees or charges (including so-called e-waste fees) and compliance with any recycling, product take-back or product content requirements, including without limitation, the WEEE Directive, EU RoHS Directive, and China RoHS.

(xxx) "**Incorporated Open Source Software**" means Open Source Software that has been incorporated into any Business Product, or distributed with or used in the provision of any Business Product.

(yyy) "**Incorporated Other Software**" means any Software other than Open Source Software owned by a third party that has been incorporated into or distributed with any Business Product.

(zzz) "**Incorporated Software**" means the Incorporated Open Source Software and Incorporated Other Software.

(aaaa) "**Indebtedness**" means with respect to any Person, all Liabilities, indebtedness, or obligations of any kind or nature, contingent or otherwise, related to (i) indebtedness for borrowed money or for the deferred purchase price of property or services; (ii) any other indebtedness that is evidenced by a note, bond, debenture, letter of credit or similar instrument or facility; (iii) obligations under financing and operating leases or capital leases; (iv) all conditional sale obligations and all obligations under any title retention agreement; (v) all obligations under any currency, interest rate or other hedge agreement or any other hedging arrangement; (vi) all indebtedness referred to in clauses (i) through (v) above secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property (including, without limitation, accounts and Contract rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such indebtedness; and (vii) all accrued interest, prepayment premiums, penalties and other amounts related to any of the foregoing.

(bbbb) "**Indemnifiable Matters**" shall have the meaning set forth in **Section 8.2(a)**.

(cccc) "**Indemnified Party**" and "**Indemnified Parties**" have the meaning set forth in **Section 8.2(a)**.

(dddd) "**Infrastructure Assets**" means any Technology licensed or leased to Seller or its Affiliates pursuant to a Contract that is not a Designated Contract. Infrastructure Assets explicitly exclude all Business Product Software and Incorporated Software.

(eeee) "**Insurance Policies**" has the meaning set forth in **Section 3.15**.

(ffff) "**Intellectual Property Rights**" means any and all industrial and intellectual property rights in any jurisdiction, whether statutory or common law rights, including all such rights in the following: (i) patents and applications therefor and all reissues, divisionals, renewals, extensions, provisionals, continuations and continuations-in-part thereof, (ii) all industrial designs and any registrations and applications therefor, (iii) all common law trademarks and service marks rights, trademark and service mark registrations and applications therefor, (iv) domain name registrations, (v) all copyrights, copyright registrations and applications therefor, (vi) all rights in databases and data collections, including in user and customer records and databases, (vii) all moral rights of authors, however denominated, (viii) proprietary rights in trade secrets and other confidential information, (ix) proprietary rights in, arising out of, or associated with a person's name, voice, signature, photograph, or likeness, including rights of personality, privacy and publicity, and (x) any analogous or similar proprietary rights to any of the foregoing anywhere in the world; *provided*, *however*, that to the extent that the term "Intellectual Property Rights" is used in this Agreement in the context of selling, conveying, transferring, assigning or delivering Intellectual Property Rights, sub-clause (vii) above should be read as follows: "all moral rights of authors, however denominated, except to the extent that such personal rights are non-assignable by Applicable Law".

(gggg) "**IP Rep Cap**" means an aggregate amount equal to $18,750,000, inclusive of the Escrow Amount. For the avoidance of doubt, any Losses applied against the Escrow Amount shall correspondingly reduce the IP Rep Cap.

(hhhh) "**Knowledge**" means, with respect to Seller, the actual knowledge of Anthony Bay, Ron Buell, Maikao Grare, Greg Norman, Elliott Peters and Jim Rondinelli and the knowledge such individuals would have or reasonably be expected to have after appropriate inquiry of such individuals that would reasonably be expected to have actual knowledge of such matters as a result of their duties for Seller.

(iiii) "**Lease**" means any lease, lease guaranty, license, sublease, agreement for the leasing, use or occupancy of, or other instrument granting a right in or relating to the Leased Premises, together with all amendments, modifications or supplements thereto.

(jjjj) "**Leased Premises**" means the real property together with all rights, easements and privileges appertaining or relating to such real property, and all improvements located thereon, that is leased, subleased or licensed by Seller and used or held for use by Seller or any of its Affiliates.

(kkkk) "**Liability**" means any liability, Indebtedness, duty, expense, charge, cost, fee, claim, deficiency, commitment, loss, damage, guaranty, endorsement or other obligation of any type, whether known or unknown, asserted or unasserted, matured or unmatured, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, incurred or consequential, determined, determinable or otherwise, due or to become due, on- or off-balance sheet, including those arising under any Contract, Applicable Law or Action, accounts payable, royalties payable, reserves, accrued bonuses, accrued vacation, Employee expenses obligations and liabilities for Taxes.

(llll) "**Lien**" means any mortgage, pledge, lien, security interest, charge, claim, community or other marital property interest, equity, encumbrance, restriction on transfer, use, voting or any other attribute of ownership, conditional sale or other title retention device or arrangement (including a capital lease), transfer for the purpose of subjection to the payment of any Indebtedness, or restriction on the creation of any of the foregoing, whether relating to any property or right or the income or profits therefrom, *provided* that "Lien" does not include any license of Intellectual Property.

(mmmm) "**Loss**" and "**Losses**" have the meaning set forth in **Section 8.2(a)**.

(nnnn) "**Master Services Agreement**" shall have the meaning set forth in the Recitals.

(oooo) "**Master Services Fees**" means those fees due pursuant to the terms of the Master Services Agreement.

(pppp) "**Material Adverse Effect**" with respect to Seller shall mean any state of facts, condition, change, development, event or effect (each, an "**Effect**") that, either alone or in combination with any other Effect(s) is, or would be reasonably likely to have a material adverse effect on the Transferred Assets; *provided, however*, that any Effect(s) arising from or relating to any of the following shall not be deemed, either alone or in combination, to constitute, and shall not be taken into account in determining whether there has been or will be, a Material Adverse Effect: (A) conditions affecting the industries in which the Business operates (which Effect(s), in each case, do not disproportionately affect Seller, Parent or their respective Subsidiaries, as the case may be, relative to other businesses licensing, marketing, selling and digitally distributing music and related advertising); (B) general economic, financial market or geopolitical conditions (which Effect(s), in each case, do not disproportionately affect Seller, Parent or their respective Subsidiaries, as the case may be, relative to other businesses licensing, marketing, selling and digitally distributing music and related advertising); (C) any failure to meet any projections or forecasts for the Business for any period ending (or for which revenues or earnings are released) on or after the date hereof (provided that the underlying causes of any such failure (subject to the other provisions of this definition) shall not be excluded); (D) any change in accounting rules (including GAAP), or the enforcement, implementation or interpretation thereof, after the date hereof; (E) any Effect caused by, relating to or resulting from the announcement or pendency of the transactions contemplated by this Agreement, including losses or threatened losses of employees, customers, suppliers, distributors, licensors or others having relationships with Seller, Parent or their respective Subsidiaries; or (G) any Effect caused by, relating to or resulting from Seller's cessation of the Business following the date hereof.

(qqqq) "**Material Contracts**" has the meaning set forth in **Section 3.8(b)**.

(rrrr) "**MRI**" has the meaning set forth in **Section 2.1(c)(viii)**.

(ssss) "**NDA**" means that certain Nondisclosure Agreement, dated as of November 6, 2014, between Seller and Purchaser, as amended.

(tttt) "**Non-Competition Agreement**" has the meaning set forth in the recitals.

(uuuu) "**Non-Paying Party**" has the meaning set forth in **Section 6.5(a)**.

(vvvv) "**Notification**" has the meaning set forth in Section **2.1(b)(i)**.

(wwww) "**Objection Notice**" has the meaning set forth in **Section 8.5(a)**.

(xxxx) "**Officer's Certificate**" means a certificate signed by any officer of an Indemnified Party (or in the case of an Indemnified Party that is an individual, signed by such individual): (i) stating that an Indemnified Party has paid, sustained, incurred or properly accrued, or in good faith reasonably anticipates that it will pay, sustain, incur or accrue Losses, and (ii) specifying in reasonable detail the individual items of Losses included in the amount so stated (to the extent such amount is determinable and known), the date each such item was paid, sustained, incurred or properly accrued, or the basis for such anticipated Loss; provided that the Officer's Certificate need only specify such information to the knowledge of such officer or such Indemnified Party as of the date of delivery of such Officer's Certificate, shall not limit any of the rights or remedies of any of the Indemnified Parties, and may be updated and amended from time to time by the Indemnified Party by delivering an updated or amended Officer's Certificate.

(yyyy) "**Open Source Software**" means any Software or other material that is distributed as "free software", "open source software" or under a substantially equivalent licensing or distribution model (including the GNU General Public License (GPL), GNU Lesser General Public License (LGPL), Mozilla Public License (MPL), BSD licenses, the Artistic License, the Netscape Public License, the Sun Community Source License (SCSL), the Sun Industry Standards License (SISL) and the Apache License).

(zzzz) "**Order**" means any order, writ, injunction, judgment, decree, ruling, assessment or arbitration award of any Governmental Entity.

(aaaaa) "**Other Excluded Assets**" has the meaning set forth in **Section 2.1(c)(iv)**.

(bbbbb) "**Parent**" means Pulser Media, Inc., a Delaware corporation.

(ccccc) "**Party**" and "**Parties**" have the meanings specified in the preamble to this Agreement.

(ddddd) "**Payable Claim**" has the meaning set forth in **Section 8.5(d)**.

(eeeee) "**Paying Party**" has the meaning set forth in **Section 6.5(a)**.

(fffff) "**Permit**" means any license, permit, franchise, approval, certificate, waiver, concession, exemption, variance, Order, certificate of occupancy, registration, notice, authorization or consent of, or filing with, any Governmental Entity or any other Person.

(ggggg) "**Permitted Liens**" means (i) statutory, mechanics', materialmens', workmens', landlords' and other like Liens arising out of operation of Applicable Law with respect to a Liability incurred in the ordinary course of business and which is not delinquent and is not material and (ii) Liens for Taxes not yet due and payable.

(hhhhh) "**Person**" means an individual, partnership, corporation, limited liability company, association, joint venture, trust, unincorporated organization, Governmental Entity or other organization organized or recognized under any Applicable Law.

(iiiii) "**Personal Data**" means any: (i) a natural person's name, street address, telephone number, e-mail address, photograph, social security number or tax identification number, driver's license number, passport number, credit card number, bank information, or customer or account number, or any biometric identifier, device or machine identifier, IP address, or any other piece of information that alone or in combination with other information collected, held, or otherwise processed by or for Seller or its Affiliates, allows the identification or location of, or contact with, a natural person or a particular computing system or device specifically associated with such natural person (and for greater certainty includes all such

information with respect to employees); (ii) any other information if such information is defined as "personal data", "personally identifiable information", "individually identifiable health information", "protected health information" or "personal information" under any Privacy Legal Requirement; and (iii) any information that is associated (by, for example, records linked via unique keys) with any of the foregoing.

(jjjjj) "**Petition Date**" has the meaning set forth in the recitals.

(kkkkk) "**Privacy Legal Requirement**" has the meaning set forth in **Section 3.9(m)**.

(llllll) "**Private Data**" means Behavioral Data and Personal Data.

(mmmmm) "**Property Taxes**" has the meaning set forth in **Section 6.5(a)**.

(nnnnn) "**Proprietary Information and Inventions Assignment Agreement**" and "**Proprietary Information and Inventions Assignment Agreements**" have the meanings specified in the recitals.

(ooooo) "**Purchaser**" has the meaning specified in the preamble to this Agreement.

(ppppp) "**Registered IP**" means Intellectual Property Rights that are or have been registered, filed, certified, issued, or otherwise recorded with or by any public or quasi-public legal authority or Governmental Entity, and any applications for any of the foregoing, including all applications, reissues, divisions, re-examinations, renewals, extensions, provisionals, continuations, and continuations-in-part associated with patent rights.

(qqqqq) "**Related Agreements**" means the Ancillary Agreements and all other certificates, instruments and ancillary documents delivered in connection with this Agreement or any of the foregoing.

(rrrrr) "**Representatives**" with respect to a particular Person, means any designee, director, administrator, officer, manager, partner, employee, agent, advisor, accountant, financial advisor, legal counsel or other representative of that Person.

(sssss) "**Resolved Claim**" has the meaning set forth in **Section 8.5(c)**.

(ttttt) "**Sale Hearing**" has the meaning set forth in **Section 6.1(b)**.

(uuuuu) "**Sale Motion**" has the meaning set forth in **Section 6.1(c)**.

(vvvvv) "**Sale Order**" has the meaning set forth in **Section 6.1(c)**.

(wwwww) "**San Francisco Lease**" shall mean the Office Lease dated May 1, 2011 by and between Seller and DP 1550 Bryant, LLC, a Delaware limited liability company, as amended on August 6, 2012, July 22, 2014 and August 3, 2015.

(xxxxx) "**Section 280G Payments**" has the meaning set forth in **Section 6.11**.

(yyyyy) "**Seller**" has the meaning specified in the preamble to this Agreement.

(zzzzz) "**Seller Privacy Policy**" means each external or internal, past or present privacy policy, representation or other policy of Seller or any of its Subsidiaries relating to privacy, data security, or

the collection, obtainment, interception, compilation, creation, retention, storage, security, disclosure, transfer, disposal, use, and other processing of any Private Data.

(aaaaaa) "**Seller's Participation Right**" has the meaning set forth in **Section 8.6**.

(bbbbbb) "**Seller's Retained Environmental Liabilities**" means any liability, obligation, judgment, penalty, fine, cost or expense, of any kind or nature, or the duty to indemnify, defend or reimburse any Person with respect to: (i) the presence prior to the Closing of any Hazardous Materials in the soil, groundwater, surface water, air or building materials of any Business Facility ("**Pre-Existing Contamination**"); (ii) the migration at any time prior to or after the Closing of Pre-Existing Contamination to any other real property, or the soil, groundwater, surface water, air or building materials thereof; (iii) any Hazardous Materials Activity conducted on any Business Facility prior to the Closing or otherwise occurring prior to the Closing ("**Pre-Closing Hazardous Materials Activities**"); (iv) the exposure of any person to Pre-Existing Contamination or to Hazardous Materials in the course of or as a consequence of any Pre-Closing Hazardous Materials Activities, without regard to whether any health effect of the exposure has been manifested as of the Closing; (v) the violation of any Environmental Laws by Seller or any of its Affiliates, or their agents, employees, predecessors in interest, contractors, invitees or licensees, prior to the Closing or in connection with any Pre-Closing Hazardous Materials Activities prior to the Closing; (vi) any actions or proceedings brought or threatened by any third party with respect to any of the foregoing; and (viii) any of the foregoing to the extent they continue after the Closing.

(cccccc) "**Services Fees Advance**" has the meaning set forth in the Recitals.

(dddddd) "**Services Motion**" has the meaning set forth in **Section 6.1(e)**.

(eeeeee) "**Services Order**" has the meaning set forth in **Section 6.1(e)**.

(ffffff) "**Settled Claim**" has the meaning set forth in **Section 8.5(b)**.

(gggggg) "**Software**" means computer software, computer programs and code, including assemblers, applets, compilers, source code (including source code listings and documentation), object code, design tools, and user interfaces, in any form or format, however fixed.

(hhhhhh) "**Storage Medium**" has the meaning set forth in **Section 2.1(c)(viii)**.

(iiiiii) "**Straddle Period Taxes**" has the meaning set forth in **Section 6.5(a)**.

(jjjjjj) "**Subsidiary**" shall mean, with respect to any party, any corporation or other organization or Person, whether incorporated or unincorporated, of which (a) such party or any other subsidiary of such party is a general partner (excluding such partnerships where such party or any subsidiary of such party does not have a majority of the voting interest in such partnership), or (b) at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors or others performing similar functions with respect to such corporation or other organization is directly or indirectly owned or controlled by such party or by any one or more of its subsidiaries or affiliates.

(kkkkkk) "**Survival Date**" has the meaning set forth in **Section 8.1**.

(llllll) "**Tax**" and "**Taxes**" means (i) any and all U.S. federal, state, provincial, local and non-U.S. taxes, assessments, and other governmental charges, customs, duties, impositions and liabilities, including taxes based upon or measured by gross receipts, income, profits, sales, use and occupation, and

value-added, ad valorem, transfer, franchise, withholding, payroll, recapture, employment, social insurance, stamp, escheat, unclaimed property, excise and property taxes, or other tax of any kind whatsoever, whether computed on a separate or consolidated, unitary or combined basis or in any other manner, together with all interest, penalties and additions imposed with respect to such amounts; (ii) any liability for the payment of any amounts of the type described in this **Section 1.1(llllll)** as a result of being or having been a member of an affiliated, consolidated, combined or similar group for any period (including any arrangement for group or consortium relief or similar arrangement); and (iii) any liability for the payment of any amounts of the type described in this **Section 1.1(llllll)** as a result of any express or implied obligation to indemnify any other Person or as a result of any obligations under any agreements or arrangements with any other Person or entity with respect to such amounts and including any Liability for taxes of a predecessor or transferor or otherwise by operation of law.

(mmmmmm) "**Tax Contests**" has the meaning set forth in **Section 6.5(c)**.

(nnnnnn) "**Tax Returns**" means all returns, forms, estimates, amendments, information statements and reports, and any attachments, schedules, appendices or addenda thereto, that are prepared or filed or required to be prepared or filed with respect to Taxes.

(oooooo) "**Taxing Authority**" means any Governmental Entity responsible for the administration or imposition of any Tax.

(pppppp) "**Technology**" means all embodiments of Intellectual Property Rights in technology pursuant to subsections (i), (ii), (v), (vi) and (viii) of the definition of Intellectual Property Rights, regardless of form, including: (i) published and unpublished works of authorship, including audiovisual works, collective works, Software, compilations, databases, derivative works, literary works, photographs, musical works, sound recordings and maskworks; (ii) inventions and discoveries, including articles of manufacture, business methods, compositions of matter, improvements, machines, methods, and processes and new uses for any of the preceding items; (iii) technical information that is not generally known or readily ascertainable through proper means, whether tangible or intangible, including algorithms, ideas, designs, formulas, know-how, methods, processes, programs, prototypes, systems and techniques; and (iv) other technical data; but in all cases excluding Intellectual Property Rights.

(qqqqqq) "**Third Party Claim**" has the meaning set forth in **Section 8.6**.

(rrrrrr) "**Transactions**" means the transactions contemplated by this Agreement and the Related Agreements.

(ssssss) "**Transfer Tax**" means any federal, state, local or non-U.S. sales, use, value-added, goods and services, gross receipts, excise, registration, stamp duty, transfer, documentary, real property transfer or gains Tax, real property records recordation fees, or other similar Tax or governmental charge or fee, together with any interest, additions, penalties, expenses or fees with respect thereto.

(tttttt) "**Transferred Assets**" has the meaning set forth in **Section 2.1(a)**.

(uuuuuu) "**Transferred IP**" means the Transferred Technology and the Transferred IPR.

(vvvvvv) "**Transferred IPR**" has the meaning set forth in **Section 2.1(a)(iii)**.

(wwwwww) "**Transferred Lease**" means each Lease included in the Designated Contracts.

(xxxxxx) "**Transferred Lease Assignment**" means with respect to each Transferred Lease, (A) an Assignment and Assumption of Lease in a form reasonably acceptable to Purchaser and (B) for each such Transferred Lease, to the extent required by its terms, a written agreement in a form satisfactory to Purchaser, signed by the party or parties (other than Seller) to such Lease pursuant to which such party or parties thereto consent to the transfer and assignment of such Lease to Purchaser.

(yyyyyy) "**Transferred Registered IP**" has the meaning set forth in **Section 3.9(d)**.

(zzzzzz) "**Transferred Technology**" has the meaning set forth in **Section 2.1(a)(ii)**.

(aaaaaaa) "**Undisclosed Additional Designated Contract**" means an Additional Designated Contract which was not made available by Seller to Purchaser.

(bbbbbbb) "**Unobjected Claim**" has the meaning set forth in **Section 8.5(a).**

(ccccccc) "**User Data**" has the meaning set forth in **Section 2.1(a)(vii)**.

ARTICLE 2
THE TRANSACTIONS

2.1 The Transactions.

(a) Transfer of Transferred Assets. Upon the terms and subject to the conditions contained in this Agreement, at the Closing, Seller shall sell, convey, transfer, assign and deliver to Purchaser or its Affiliates, and Purchaser and such Affiliates shall acquire from Seller, free and clear of all Liens, all of Seller's right, title and interest in, to and under all of the assets, properties and rights of every kind and nature, whether real, personal or mixed, tangible or intangible, wherever located and whether now existing or hereafter acquired, except for the Excluded Assets (collectively, the "**Transferred Assets**"), including the following:

(i) the Contracts set forth on **Schedule 2.1(a)(i)** and those Additional Designated Contracts that Purchaser has elected to assume in accordance with **Section 2.1(b)** below (collectively, the "**Designated Contracts**"); provided, that at any time prior to the Closing Purchaser may amend **Schedule 2.1(a)(i)** to remove any Contract originally included therein and such removed contract would then be an Excluded Asset pursuant to **Section 2.1(c)(i)**;

(ii) copies and tangible embodiments of all Technology used in, held for use in, or necessary to Exploit the Business Products, including the Business Product Software, Incorporated Open Source Software, Incorporated Other Software to the extent licensed under a Designated Contract, and other Technology listed on **Schedule 2.1(a)(ii)** (the "**Transferred Technology**"), provided, that at any time prior to the Closing Purchaser may designate any Technology as no longer constituting Transferred Technology and such Technology would then be an Excluded Asset pursuant to **Section 2.1(c)(i)**;

(iii) all Intellectual Property Rights owned or purported to be owned by Seller (either individually or with another Person), including the Intellectual Property Rights set forth on **Schedule 2.1(a)(iii)**, and the Transferred Registered IP (collectively, the "**Transferred IPR**");

(iv) the right to register, prosecute, maintain or record any Transferred IPR with any Governmental Entity, the right to all past, present, and future income, royalties, damages and payments due with respect to Transferred IPR, and all goodwill associated with or appurtenant to the Transferred IPR;

(v) all copies of all books, files, papers, data, databases, information systems, documentation and records (whether in paper or electronic form) related to the Transferred Assets;

(vi) all supplies, brochures, promotional literature, customer, supplier and distributor lists, art work, other marketing materials, telephone and fax numbers and purchasing records related to the Transferred Assets;

(vii) all files, data, and information relating to current, former and potential customers and users of any current or former Business Products, including all Private Data and Customer Data relating to all such Persons and information relating to the handling thereof, and any data or information derived from any of the foregoing (collectively, "**User Data**");

(viii) all claims, causes of action, choses in action, rights of recovery and rights of set-off (of any kind, at any time or in any manner arising or existing, whether choate or inchoate, known or unknown, contingent or non-contingent) in favor of Seller, against any Person, relating to any Transferred Asset, including the right to sue for past, present and future infringement, violation, or misappropriation of any Transferred IPR, and including all transferable warranties and guarantees of third parties;

(ix) all prepaid expenses, credits, advance payments, claims, security, refunds, rights of recovery, rights of set-off, rights of recoupment, deposits, charges, sums and fees, to the extent the foregoing relate to the Transferred Assets or as set forth in **Schedule 2.1(a)(ix)**;

(x) all benefits of Seller against any third person relating to the Transferred Assets and Assumed Liabilities, including any guarantees, warranties, indemnities and similar rights contained in the Designated Contracts or otherwise relating to the Transferred Assets and rights to Actions of any nature available to or being pursued by Seller relating to the Transferred Assets and Assumed Liabilities;

(xi) all benefits of Seller under Seller's insurance policies, including rights to assert claims and to proceeds, to the extent the foregoing relate to the Transferred Assets; and

(xii) all equipment, fixtures, furniture, computers, tools, parts, supplies and other tangible personal property.

(b) Assignments.

(i) Purchaser shall have the right at any time after the date hereof through the thirtieth (30th) day after the Closing Date, subject to the assignment and/or transfer provisions thereof, to add any contract to which Seller or any of its Affiliates is a party and which has been used in the conduct of the Business to **Schedule 2.1(a)(i)** as a Designated Contract (the "**Additional Designated Contract**") and shall immediately notify Seller of such designation in writing (the "**Notification**") and, Purchaser shall have the right, in its sole discretion, to require Seller to file one or more motions with the Bankruptcy Court (which motion(s) shall be in form and substance reasonably satisfactory to Purchaser) seeking the entry of an order (the "**Additional Assignment Order**"), pursuant to Sections 363 and 365 of the Bankruptcy Code, to assign, transfer, convey and deliver to Purchaser or one of its designated Affiliates such Additional Designated Contract as if it had been originally scheduled on **Schedule 2.1(a)(i)**, or to otherwise transfer the benefits of such Additional Designated Contract to the Purchaser or one of its designated Affiliates without any additional consideration, by written notice to Seller. In the event that Seller is not a party to any Additional Designated Contract, subject to the transfer and assignment provisions thereof Seller will cause its Affiliate that is party to such Additional Designated Contract to assign to Purchaser or its Affiliate such Additional Designated Contract, effective as of the Closing; provided, however, that to the extent a consent is required

pursuant to the terms of such Additional Designated Contract, Seller shall cause its Affiliate that is a party to such Additional Designated Contract to use commercially reasonable efforts to obtain such consent; provided, further, that if the counterparty to such Additional Designated Contract conditions the consent upon the payment of a consent fee, payment or other consideration, Purchaser shall be solely responsible for making all such payments on terms acceptable to Purchaser. Any Cure Costs in relation to any such Additional Designated Contract shall be paid by Purchaser. In the event that Purchaser delivers a Notification Seller shall, as soon as practicable after receiving such Notification, file with Bankruptcy Court the motion(s) seeking the entry of the Additional Assignment Order. In addition, Seller shall (i) use commercially reasonable efforts to cause the Additional Assignment Order to become a Final Order and (ii) not take any action that would reasonably be expected to delay, prevent or impede the entry of, or result in the revocation, modification or amendment of, the Additional Assignment Order. Any Additional Designated Contract that Purchaser elects to acquire pursuant to this **Section 2.1(b)** for which an Additional Assignment Order is entered and becomes a Final Order shall constitute a Transferred Asset.

(ii) With respect to each Designated Contract, Seller shall (1) on the Closing Date, assume such Designated Contract in the Bankruptcy Case and (2) (A) subject to Purchaser curing all defaults under each such Designated Contract that is a Disclosed Additional Designated Contract and (B) subject to entry of an Approval Order (which Approval Order shall not be subject to any stay), Seller curing, within fourteen (14) days (or such shorter period as may be required by the Bankruptcy Court) after the Closing, all defaults under each such Designated Contract that is not an Additional Designated Contract, each Undisclosed Additional Designated Contract and the San Francisco Lease if it is an Additional Designated Contract (provided that any Cure Costs with respect to the San Francisco Lease that Seller is responsible for shall not be increased by any amendments to the San Francisco Lease entered into between the landlord thereunder and the Purchaser, and, provided further, that Purchaser shall be responsible for the amount by which the Cure Costs are increased as a result of any such amendment) and Purchaser providing adequate assurance of performance to the counterparty thereto to the extent required by the Bankruptcy Court, assign such Designated Contract to Purchaser pursuant to an Approval Order (which may be the Sale Order). Effective on the Closing Date, Purchaser shall assume each such Designated Contract.

(iii) The Sale Order shall provide that as of the Closing, Seller shall assign to Purchaser the Designated Contracts and each Designated Contract shall be identified by (i) the name and date of such Designated Contract (if available), (ii) the other party to such Designated Contract and (iii) the address of such party for notice purposes, all included on an exhibit attached to either the motion filed in connection with the Sale Order or a motion for authority to assume and assign such Designated Contract or a notice filed pursuant to the Bidding Procedures Order. Such exhibit shall also set forth the amounts necessary to cure any defaults under each of the Designated Contracts as determined by Seller based on Seller's books and records or as otherwise determined by the Bankruptcy Court.

(iv) In the case of licenses, certificates, approvals, authorizations, leases, Contracts and other commitments included in the Transferred Assets that cannot be transferred or assigned effectively without the consent of any third party, which consent has not been obtained prior to the Closing (after giving effect to the Sale Order and the Bankruptcy Code), Seller shall cooperate with Purchaser (using Seller's commercially reasonable efforts for a period of thirty (30) days following the Closing) in endeavoring to obtain such consent.

(c) Excluded Assets. Notwithstanding anything to the contrary set forth in this Agreement, Purchaser shall not acquire, and Seller shall retain, the following assets, properties and rights owned or leased by Seller (collectively, the "**Excluded Assets**"):

(i) all Contracts of Seller that are not Transferred Assets;

(ii) all cash, cash equivalents and accounts receivable of Seller;

(iii) any interests in real property other than the Transferred Leases;

(iv) the financial and accounting assets set forth on **Schedule 2.1(c)(iv)** ("**Other Excluded Assets**");

(v) all capital stock or other equity interests (including any options, warrants or other derivative securities giving any right to acquire any such capital stock or equity interests) issued by any Subsidiary of Seller;

(vi) the corporate seals, minute books, stock books, Tax Returns, other similar records solely relating to the corporate organization of Seller, and all employee-related or employee benefit-related files or records, other than personnel files of Continuing Employees;

(vii) all Infrastructure Assets not set forth on **Schedule 2.1(a)(ii)**;

(viii) the Business Content. Notwithstanding the foregoing, Purchaser desires to take possession of copies of third-party elements of the Business Content stored on the servers identified on Schedule 2.1(c)(viii) (the "**Storage Medium**"). To the extent that Purchaser engages Music Reports Inc. ("**MRI**") to handle Purchaser's clearance of rights to reproduce and/or distribute musical works as embodied in sound recordings authorized for delivery to Purchaser by the copyright owners of such sound recordings and Purchaser provides sufficient documentation of having engaged MRI for such purposes, then Seller will waive any confidentiality provisions that Seller has with respect to work performed for Seller by MRI and take all other steps necessary to direct MRI to assist Purchaser in securing necessary authorizations to receive Purchaser-requested elements of Business Content from Seller. Upon Sellers's receipt of confirmation from MRI that MRI has initiated MRI's standard rights clearance efforts to obtain musical work copyright owner (or their agent's) authorization for transfer on behalf of Seller to Purchaser, Seller will deliver the Storage Medium containing only such Purchaser-requested Business Content to Purchaser. For further clarity, (i) Seller is not making any representations, warranties or covenants with respect to such Purchaser-requested Business Content, (ii) such Purchaser-requested Business Content will be acquired by Purchaser "as is", (iii) Purchaser's acquisition of the Storage Medium and/or the Purchaser-requested Business Content thereon shall be conducted at Purchaser's sole cost and expense, (iv) Seller will have no cure, payment or other obligations (including, without limitation, pursuant to the provisions of **Article 8**) with respect to any Purchaser-requested Business Content acquired by Purchaser or under Seller's prior Contracts in connection with such acquisition (all of which Contracts shall continue to be Excluded Assets), (v) Purchaser's use and exploitation of any Purchaser-requested Business Content on the Storage Medium, including obtaining the requisite rights in connection therewith shall also be the sole responsibility of Purchaser and at Purchaser's sole cost and expense, and (vi) Seller will not transfer to Purchaser any elements of Business Content not requested by Purchaser. Seller will use commercially reasonable efforts to provide all assistance reasonably requested by Purchaser for securing relevant third party consents for any items of Purchaser-requested Business Content, including, but not limited to, (A) providing in writing the names and contact information for each licensor of sound recordings and, to the extent known by Seller, musical works to Seller, including collecting societies, (B) identifying in writing in a searchable database or spreadsheet the sound recordings owned or controlled by each sound recording copyright licensor of Seller, to the extent known by Seller or any agent of Seller and not otherwise prohibited from disclosure pursuant to any written agreement between Seller and any such agent which prohibition will be waived by Seller to the extent within Seller's control, (C) identifying in writing in a searchable database or spreadsheet the musical works embodied in sound

recordings on a sound recording-by-sound recording basis owned or controlled by each musical work copyright licensor of Seller, to the extent known by Seller or any agent of Seller and not otherwise prohibited from disclosure pursuant to any written agreement between Seller and any such agent, which prohibition will be waived by Seller to the extent within Seller's control, provided that with respect to such musical composition-related information to the extent Seller does not have the right to compel any agent to provide, directly or through Seller, any such information, Seller shall use commercially reasonable efforts to encourage or facilitate such cooperation, and (D) instructing any agent of Seller to provide any information identified in clauses (A), (B) or (C) of this sentence to Purchaser in a timely manner, provided that with respect to such musical composition-related information to the extent Seller does not have the right to compel any agent to provide, directly or through Seller, any such information, Seller shall use commercially reasonable efforts to encourage or facilitate such cooperation. Purchaser will indemnify, defend, and hold Seller harmless from and against any and all claims, liability, debts, rights, remedies, actions, suits, damages, losses, obligations, causes of action, costs, expenses, and demands arising from Seller's transfer of any Purchaser-requested Business Content to Purchaser on the Storage Medium or Purchaser's use or exploitation thereof, including, for the avoidance of doubt, any claims for the unauthorized distribution of musical works embodied in sound recordings to Purchaser, notwithstanding and not limited to the provisions of **Article 8**;

(ix) all benefits of Seller against any third person solely relating to the Excluded Assets expressly contemplated in **Sections 2.1(c)(i)** through **2.1(c)(viii)**, including, only to the extent solely related to the Excluded Assets, any guarantees, warranties, indemnities and similar rights contained in such Excluded Assets or otherwise relating to such Excluded Assets and rights to Actions of any nature available to or being pursued by Seller relating to such Excluded Assets; and

(x) all rights to all claims, causes of action, choses in action, rights of recovery and rights of set-off (of any kind, at any time or in any manner arising or existing, whether choate or inchoate, known or unknown, contingent or non-contingent) in favor of Seller, against any Person, relating solely to any Excluded Assets expressly contemplated in **Sections 2.1(c)(i)** through **2.1(c)(ix)**, including, only to the extent solely related to the Excluded Assets, the right to sue for past, present and future infringement, violation, or misappropriation of such Excluded Assets, and including all transferable warranties and guarantees of third parties.

(d) Assumed Liabilities. Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, Purchaser shall assume (or, where applicable, shall cause its Subsidiaries to assume) and thereafter pay, perform and discharge (or, where applicable, shall cause its Subsidiaries to pay, perform or discharge) when due, all of the following Liabilities of Seller (collectively, the "**Assumed Liabilities**") and no others: all Liabilities of Seller under the Designated Contracts but only to the extent that such Liabilities arise and are required to be performed on or after the Closing and do not arise from a breach, failure to perform, warranty, default or other violation by Seller or its Affiliate on or prior to the Closing, and all Cure Costs for Disclosed Additional Designated Contracts.

(e) Excluded Liabilities. Notwithstanding anything to the contrary in this Agreement, neither Purchaser nor any of its Subsidiaries shall assume or otherwise be responsible for any Liabilities or Losses of Seller or its Affiliates of whatever nature, whether presently in existence or arising hereafter, which are not Assumed Liabilities (collectively, the "**Excluded Liabilities**"). Seller shall be responsible for the Excluded Liabilities. Without limiting the foregoing, Excluded Liabilities shall include the following Liabilities:

(i) all Liabilities of Seller to the extent arising out of the operation or conduct by Seller of any business other than the Business or relating to the operation or conduct of the Business prior to the Closing;

(ii) all Liabilities with respect to any Designated Contract arising from a breach, failure to perform, warranty, default or other violation by Seller prior to the Closing, other than Cure Costs for Disclosed Additional Designated Contracts which Purchaser shall be obligated to pay;

(iii) any Liabilities of Seller arising out of any Excluded Asset, including any Liabilities related to any claim of breach of contract or any successor liability, tortious interference, fraudulent conveyance or other claim related thereto, whether brought against Seller or any Affiliate of Seller or against any other Person, including Purchaser or any of its Affiliates, with respect to any Contract which is an Excluded Asset;

(iv) accounts payable of Seller or otherwise arising from the conduct of the Business prior to the Closing;

(v) performance, warranty or support obligations, express or implied, under Contracts or otherwise, to third parties, other than to the extent that the foregoing arise and are required to be performed on or after the Closing with respect to the Transferred Assets and do not arise from a breach, failure to perform, warranty, default or other violation by Seller or its Affiliate on or prior to the Closing; provided that the foregoing shall not limit the obligations of the Purchaser with respect to Cure Costs provided for elsewhere in this **Article 2**;

(vi) any Excluded Employee Liabilities;

(vii) any fees or expenses incurred by or on behalf of Seller in connection with this Agreement, any of the Related Agreements, the Transactions or any equity or debt financing or sale transactions contemplated by Seller;

(viii) any non-compliance with any applicable bulk sale or bulk transfer laws of any jurisdiction in connection with the sale and transfer of the Transferred Assets;

(ix) all Liabilities of Seller related to, based on or arising from any Actions that are threatened or pending at any time against or involving Seller or any of its Affiliates;

(x) the Seller's Retained Environmental Liabilities; and

(xi) (A) Taxes related to the Transferred Assets to the extent attributable to periods (or portions thereof) ending on or prior to the Closing Date, (B) all Transfer Taxes pursuant to **Section 2.5**, (C) any Taxes of Seller or its Affiliates, and (D) any Taxes that relate to Excluded Assets and Excluded Liabilities.

2.2 Consideration and Payment; Deposit of Escrow Funds.

(a) As consideration for the conveyance of the Transferred Assets to Purchaser, at the Closing Purchaser shall pay to Seller, by wire transfer of immediately available funds to an account designated in writing by Seller, $75,000,000, subject to adjustment pursuant to **Section 2.2(c)** (the "**Aggregate Consideration**"), less the Escrow Amount.

(b) At the Closing, the Escrow Amount shall be withheld and deposited by Purchaser with JPMorgan Chase Bank, N.A. (the " **Escrow Agent**") to be held in the Escrow Fund (as defined below) pursuant to the terms of the Escrow Agreement and this Agreement. The Escrow Amount net of any distributions pursuant to the terms of this Agreement or the Escrow Agreement, held in escrow from time to time (the " **Escrow Fund**") shall be held, pursuant to the terms of the Escrow Agreement and this Agreement, by the Escrow Agent in a dedicated escrow account (the " **Escrow Account**") as security for the indemnification

obligations of Seller set forth in **Article 8**. To the extent not used for such purposes, such Escrow Fund shall be released, all as provided in **Article 8**.

(c) In the event that at or prior to the Closing Seller shall not have delivered, or caused to be delivered, to Purchaser countersigned Employee Offer Letters and Proprietary Information and Invention Assignment Agreements that are effective as of the Closing, as further set forth in **Schedule 2.2(c)**, Purchaser shall be entitled to withhold from the Aggregate Consideration (and shall have no further obligation to pay to Seller) an amount up to $15,000,000 in accordance with the adjustment provisions set forth in **Schedule 2.2(c)**.

2.3 Closing. Subject to the terms and conditions of this Agreement, the closing of the sale of the Transferred Assets to Purchaser and the other Transactions (the "**Closing**") shall take place at the offices of Wilson Sonsini Goodrich & Rosati, Professional Corporation, One Market Plaza, Spear Tower, Suite 3300, San Francisco, California 94105 no later than the third (3rd) Business Day following the date on which the conditions set forth in **Article 7** have been satisfied or (if permissible) waived (other than the conditions which by their nature are to be satisfied by actions taken at the Closing, but subject to the satisfaction or (if permissible) waiver of such conditions), or at such other place or time as Purchaser and Seller may mutually agree. The day on which the Closing takes place is referred to as the "**Closing Date**."

2.4 Allocation of Purchase Price. The Parties intend that the transactions contemplated by this Agreement shall be treated as a sale of assets pursuant to Section 1001 of the Code. Within sixty (60) days after the Closing Date and provided that Seller complies with its obligations under **Section 6.5(c)**, Purchaser shall provide Seller with a draft Allocation, which Allocation shall limit the allocation for tangible personal property to the book value thereof. Within fifteen (15) days after any subsequent payment pursuant to this Agreement that has the effect of increasing or decreasing the Aggregate Consideration, Purchaser shall provide Seller with a draft amended Allocation. For a period of ten (10) days after Purchaser provides Seller with a draft Allocation (including a draft amended Allocation), Seller shall have the opportunity to review and comment on such draft, and Purchaser shall consider Seller's comments in good faith and provide Seller with a final Allocation following such period. The final Allocation and any amendments thereto shall be conclusive and binding upon Purchaser and Seller and their Affiliates for all purposes, and the Parties agree that all Tax Returns (including but not limited to IRS Form 8594) and reports and all financial statements related to Taxes shall be prepared in a manner consistent with, and the Parties shall not otherwise take any position inconsistent with, the Allocation unless required by the Internal Revenue Service or any other applicable Taxing Authority.

2.5 Transfer Taxes. All Transfer Taxes imposed or levied by reason of, in connection with or attributable to this Agreement and the transactions contemplated by this Agreement shall be borne solely by Seller. Seller shall timely file all Tax Returns with respect to such Transfer Taxes and shall timely pay all such Transfer Taxes in accordance with Applicable Law. Purchaser and Seller shall use commercially reasonable efforts to minimize any Transfer Taxes payable in connection with the purchase and sale of the Transferred Assets.

2.6 Tax Withholding and Information. Notwithstanding any other provision in this Agreement, Purchaser, each of its Affiliates, and the Escrow Agent shall be entitled to deduct and withhold from any consideration payable or otherwise deliverable pursuant to this Agreement such amounts as may be required to be deducted or withheld therefrom under any provision of the U.S. federal, state, local or non-U.S. Tax law or under any other Applicable Law. To the extent any amounts are deducted or withheld pursuant to this **Section 2.6**, such amounts shall be treated for all purposes under this Agreement as having been paid to the Person to whom such amounts would otherwise have been paid.

2.7 Transfer of Transferred Assets and Assumed Liabilities.

(a) The Transferred Assets shall be sold, conveyed, transferred, assigned and delivered, and the Assumed Liabilities shall be assumed, pursuant to transfer and assumption agreements and such other instruments in such form as may be necessary or appropriate to effect a conveyance of the Transferred Assets and an assumption of the Assumed Liabilities in the jurisdictions in which such transfers are to be made. Such transfer and assumption agreements shall be jointly prepared by Purchaser and Seller and shall include the Assignment and Bill of Sale, which shall be executed no later than at or as of the Closing by Seller and Purchaser and/or one or more of its Subsidiaries, as appropriate.

(b) From time to time following the Closing, Seller and Purchaser shall, and shall cause their respective Affiliates to, execute, acknowledge and deliver all such further conveyances, notices, assumptions, releases and acquittances and such other instruments, and shall take such further actions, as may be necessary or appropriate to fully and effectively transfer, assign and convey to Purchaser and its Subsidiaries, the Transferred Assets, free and clear of all Liens, and to fully and effectively transfer, assign and convey to Purchaser and its Subsidiaries, the Assumed Liabilities, and to otherwise make effective the transactions contemplated hereby and to (i) promptly upon discovery of any asset or Liability not contemplated by this Agreement to be a Transferred Asset or an Assumed Liability, respectively, notify Seller of any such asset or Liability in Purchaser's possession or control and transfer and/or deliver back to Seller such asset or Liability, which asset or Liability was transferred and/or delivered to Purchaser and its Subsidiaries at Closing and (ii) transfer and/or deliver to Purchaser and its Subsidiaries any asset or Liability contemplated by this Agreement to be a Transferred Asset (including, for the avoidance of doubt, Additional Designated Contracts) or an Assumed Liability, respectively, which was not transferred and/or delivered to Purchaser and its Subsidiaries at Closing.

2.8 Technology Retention. Following the Closing, neither Seller nor its Affiliates shall retain copies of any Technology or User Data included in the Transferred Assets, even if such Transferred Assets are such that more than one copy may exist, subject to Seller's and its Affiliates' legal or regulatory compliance obligations and policies to comply with such obligations, and their right to retain one copy of such Transferred Assets for legal archival purposes. Effective as of the Closing Seller hereby assigns to Purchaser and its Affiliates, any rights to which Seller is entitled under any employee confidential information and invention assignment agreement or similar Contract or arising under Applicable Law with respect to the subject matter thereof.

2.9 Misplaced Assets. If after the Closing, Purchaser in good faith identifies in writing to Seller any asset of Seller properly transferable as a Transferred Asset (except for the Excluded Assets expressly contemplated in **Sections 2.1(c)(i)** through **2.1(c)(x)**) that was not included in the Transferred Assets transferred at the Closing (any such asset, an "**Additional Asset**"), then Seller will, as promptly as practicable after written notice by Purchaser, transfer, convey, assign, deliver, or cause to be transferred, conveyed, assigned, or delivered to Purchaser or its Affiliates, all right, title and interest of Seller in and to such Additional Asset which is transferable, and such Additional Assets shall be deemed to be Transferred Assets for purposes of this Agreement (without any additional consideration payable by Purchaser) and any applicable Ancillary Agreements, effective as of the date of transfer, conveyance, assignment, or delivery. If within thirty (30) days after the Closing, Seller specifically identifies in writing to Purchaser an Excluded Asset that was transferred, conveyed, assigned, or delivered inadvertently by Seller pursuant to this Agreement or the Ancillary Agreements, then Purchaser will as promptly as practicable after written notice by Seller, transfer, convey, assign, or deliver back or cause to be transferred, conveyed, assigned or delivered back to Seller all such transferred right, title and interest of Purchaser and its Subsidiaries in and to such Excluded Asset which is transferable.

2.10 Expenses. Except as expressly set forth in this Agreement, each party shall be solely responsible for its own costs and expenses (including those of its Representatives) incurred in connection with the negotiation and execution of this Agreement and the consummation of the transactions contemplated hereby.

2.11 Further Assurances; Assistance.

(a) From and after the Closing, Seller shall (and shall cause its Subsidiaries to) execute such documents and instruments, provide such information, cooperation, assistance and otherwise take such steps as Purchaser may reasonably require, at Seller's cost and expense (other than as otherwise explicitly provided herein), to fulfill the provisions of and to give Purchaser the full benefit of this Agreement, including the execution and delivery of documents and instruments evidencing the transfer or assignment to Purchaser, free and clear of all Liens, of specific Transferred Assets, enabling the perfection of Purchaser's ownership of the Transferred Assets and the registration, recordation and prosecution of the Transferred IPR and any other matters relating to the use of the Transferred Assets.

(b) To the extent that the sale, conveyance, transfer and assignment of the Transferred IP does not have full force or effect in any jurisdiction (for whatever reason), Seller hereby grants to Purchaser a royalty free, fully paid-up, fully sublicensable, fully transferrable, perpetual, irrevocable, sole and exclusive, worldwide license to use and exploit in any and all media, whether now existing or hereinafter devised, the Transferred IP and to do all such things and exercise all such rights as the owner of the Transferred IP is entitled to do in relation to any such Technology and related Intellectual Property Rights.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Purchaser, subject to such exceptions as are specifically disclosed in the disclosure schedule (which disclosure schedule shall delineate the section or subsection to which disclosure items apply, it being understood that any information set forth in one section or subsection of the disclosure schedule shall be deemed to apply to and qualify any other section or subsection of this Agreement to the extent that it is clear on its face from a reading of the disclosure item that such information is relevant to such other section or subsection) supplied by Seller to Purchaser (the "**Disclosure Schedule**"), as of the date hereof and as of the Closing Date (as though made on the Closing Date, except where a representation or warranty is expressly limited to the date of this Agreement or the Closing Date), as follows:

3.1 Organization and Standing. Seller is a corporation duly organized and validly existing and in good standing under the laws of the State of Delaware. Seller has the requisite corporate power and authority to conduct its business as it is presently being conducted, and to own or lease, as applicable, the Transferred Assets, and to perform all its obligations under the Contracts to which it is a party.

3.2 Subsidiaries. **Section 3.2 of the Disclosure Schedule** lists each corporation, limited liability company, partnership, association, joint venture or other business entity in which Seller owns, or has owned, any shares of capital stock or holds, or has held, any interest in, or otherwise controls, or has controlled, directly or indirectly, and lists each Subsidiary of Seller. Each such Subsidiary of Seller is a corporation or other business entity duly organized, validly existing and in good standing (to the extent such concept is applicable) under the laws of the jurisdiction of its incorporation or organization. Each such Subsidiary of Seller has the power to own its properties and to carry on its business as currently conducted.

3.3 Authorization of Transactions. Seller has all requisite power and authority to enter into this Agreement and the Related Agreements to which Seller is a party and, subject to entry of the Sale Order, to

consummate the Transactions to which Seller is a party. The execution, delivery and performance by Seller of this Agreement and the Related Agreements to which Seller is a party, subject to entry of the Sale Order, and the consummation of the Transactions to which Seller is a party have been duly authorized by all necessary action on the part of Seller and all necessary action on the part of the board of directors of Seller. Subject to entry of the Sale Order, no further actions will be required on the part of Seller or any stockholders of Seller for Seller to perform all of its obligations under this Agreement or any Related Agreement to which Seller is a party or to consummate the Transactions to which Seller is a party. This Agreement and, as of the Closing Date, each Related Agreement to which Seller is a party have been duly executed and delivered by Seller and, when executed and delivered by the other parties thereto and subject to entry of the Sale Order, will constitute the valid and binding obligation of Seller, enforceable in accordance with its terms, except as such enforceability may be subject to Applicable Law relating to bankruptcy, insolvency and the relief of debtors and Applicable Law governing specific performance, injunctive relief or other equitable remedies (collectively, the "**Enforceability Limitations**").

3.4 Noncontravention.

(a) Except as set forth on **Section 3.4 of the Disclosure Schedule**, neither the execution, delivery and performance by Seller of this Agreement and the Related Agreements to which Seller is a party, nor the consummation of the Transactions to which Seller is a party, does or will conflict with or result in any violation of or default under (with or without notice or lapse of time, or both) or give rise to a right of termination, cancellation, modification or acceleration of any obligation or loss of any benefit under any Transferred Asset in connection with (i) any provision of the certificate of incorporation or bylaws of Seller, (ii) any Designated Contract, (iii) any material authorization by any Governmental Entity that is held by Seller, (iv) any Applicable Law or Order applicable to Seller or any of its properties or assets (including the Transferred Assets), or (v) any Privacy Legal Requirement.

(b) Other than the Sale Order, no Consent of or notice to any Governmental Entity or any third party is required by, or with respect to, Seller in connection with the execution, delivery and performance by Seller of this Agreement or any of the Related Agreements to which Seller is a party or the consummation of the Transactions.

3.5 Title to and Condition of Transferred Assets. Seller is the sole and exclusive owner of, and has good, exclusive and transferable title to, all of the Transferred Assets, and, subject to entry of the Sale Order, has the power to sell the Transferred Assets, in each case, free and clear of all Liens. No Transferred Asset (i) is subject to any Action or outstanding Order that restricts in any manner the use or transfer thereof or that may materially affect the validity, use or enforceability thereof or any rights or remedies relating thereto or (ii) is owned or held, in whole or in any part, by any Person other than Seller. At the Closing, Purchaser will obtain good and valid title to the Transferred Assets, free and clear of all Liens (subject to the entry of the Sale Order), without incurring any penalty or other adverse consequence, including, without limitation, any increase in royalties, or license or other fees imposed as a result of, or arising from, the consummation of the Transactions. The Transferred Assets do not include any shares in the capital of, or any other equity interests in, any Person, including Seller's Subsidiaries. All tangible assets and properties which are part of the Transferred Assets are in good operating condition and repair and are usable in the ordinary course of business.

3.6 Sufficiency of Transferred Assets.

(a) The Transferred Assets constitute all of the properties, assets, rights and interests, whether tangible or intangible, owned, used, held for use or leased by Seller and its Affiliates in connection with the

operation of the Business, other than the Excluded Assets, provided that for purposes of the foregoing, no Contract of Seller or its Affiliates which was not made available to Purchaser by Seller shall be considered an Excluded Asset.

(b) The Transferred IPR and User Data constitute all of the Intellectual Property Rights and data owned by Seller and its Affiliates that: (i) are used in, held for use in, related to or reasonably necessary for the operation of the Business as currently conducted; or (ii) are reasonably necessary for Purchaser to Exploit the Business Products after Closing. The Transferred Technology and User Data, together with the Infrastructure Assets and Business Content, constitutes all of the Technology and data that is used in, held for use in, related to or reasonably necessary for the operation of the Business as currently conducted, provided that for purposes of the foregoing, no Infrastructure Asset licensed or leased to Seller or its Affiliates pursuant to a Contract which was not made available to Purchaser by Seller shall be considered an Infrastructure Asset.

3.7 Absence of Certain Changes or Events. Since June 30, 2015, Seller has used commercially reasonable efforts to preserve the Transferred Assets, and there has or have not been, occurred or arisen:

(a) any event or condition of any character that has had or would reasonably be expected to have a Material Adverse Effect;

(b) any material loss, damage or destruction to any of the Transferred Assets (or any property, asset or right that would have constituted a Transferred Asset);

(c) any sale, assignment or transfer of any material assets;

(d) any waiver of any rights of substantial value related to any Transferred Asset;

(e) any amendment, cancellation or termination (other than in accordance with the terms thereof) of any Designated Contract, or Permit material to the Transferred Assets;

(f) any failure to pay any material obligations or notification of material breach with respect to any Designated Contract except those contested in good faith;

(g) any Lien (other than Permitted Liens) against any of the Transferred Assets; and

(h) any agreement or commitment to do any of the foregoing.

3.8 Material Contracts.

(a) **Section 3.8 of the Disclosure Schedule** lists (referencing the applicable subsection of **Section 3.8(b)**) all of the Material Contracts to which Seller or any of its Subsidiaries is a party or is bound as of the date of this Agreement.

(b) "**Material Contracts**" shall mean Contracts:

(i) that are Designated Contracts containing covenants limiting the freedom of Seller or any officer, director, Employee, or other Affiliates of Seller, to engage in any line of business or compete with any Person;

(ii) that are Designated Contracts containing non-solicitation, no hire or similar provisions that prevent Seller from soliciting, hiring, engaging, retaining or employing any other Person's current or former employees, in a manner that individually or in the aggregate is material to Seller and its Subsidiaries, taken as a whole;

(iii) that are Designated Contracts containing provisions of most favored nations, exclusivity, or rights of first refusal or negotiation;

(iv) pursuant to which Seller or any of its Subsidiaries leases, licenses or otherwise has the right to use any material properties or assets, other than the Business Content; and

(v) relating to Indebtedness of Seller.

(c) True, correct and complete copies of all of the Material Contracts which are written, or written summaries of oral Material Contracts, including all amendments and supplements thereto, have been made available by Seller. Each of the Designated Contracts is, with respect to Seller, and to the Knowledge of Seller is, with respect to each third party thereto, valid, binding and enforceable in accordance with its terms except as enforcement may be subject to the Enforceability Limitations. Except as set forth on **Section 3.8(c) of the Disclosure Schedule**, Seller and its Subsidiaries are not in breach of, or default under, any Designated Contract, and no notice, whether written or oral, of any claim of default has been given to Seller or its Subsidiaries. To the Knowledge of Seller, all other parties to such Designated Contracts have complied with the provisions thereof and are not in default thereunder. To the Knowledge of Seller, no party to any Designated Contract intends to terminate or amend the terms thereof or to refuse to renew any such Designated Contract upon expiration of its term.

3.9 Intellectual Property.

(a) Seller is the sole and exclusive owner of, and has good and valid title to, all of the Transferred IPR, free and clear of all Liens (other than Permitted Liens), and no other Person has any other ownership rights thereto or interest therein. Seller exclusively owns and has a valid right to assign to Purchaser all right, title and interest in and to the Transferred IPR and to transfer and deliver to Purchaser the Transferred Technology.

(b) **Section 3.9(b) of the Disclosure Schedule** lists all Business Products by name and version number.

(c) Seller's Exploitation of the Transferred Technology in the operation of the Business has not and as of the Closing does not infringe or constitute a misappropriation of any Intellectual Property Rights of any Person. Neither Seller nor any of its Affiliates have received any written notice or communication within the three (3)-year period prior to the date hereof from any Person constituting an invitation or offer to license, or otherwise claiming that the operation of the Business and/or the Exploitation of the Business Products infringes upon or constitutes a misappropriation of any Intellectual Property Rights of any Person.

(d) **Section 3.9(d) of the Disclosure Schedule** lists (i) all Registered IP included in the Transferred IPR (" **Transferred Registered IP**"), (ii) any actions that must be taken by Seller within ninety (90) days following the date hereof with respect to any of the foregoing with respect to office actions, maintenance fees or renewal fees therefor, and (iii) any actions before any court or tribunal to which Seller is currently a party relating to any of the Transferred Registered IP. Each item of Transferred Registered IP is valid and subsisting (or in the case of applications, applied for), all registration, maintenance and renewal fees currently due in connection with such Transferred Registered IP have been paid and all documents,

recordations and certificates in connection with such Transferred Registered IP currently required to be filed have been filed with the relevant patent, copyright, trademark or other authorities in the United States or foreign jurisdictions, as the case may be, for the purposes of prosecuting, maintaining and perfecting such Transferred Registered IP and recording Seller's ownership interests therein.

(e) To the Knowledge of Seller, no Person is infringing, misappropriating or violating any of the Transferred IPR.

(f) At the Closing, Seller will have delivered to Purchaser in the format set forth on **Section 3.9(f) of the Disclosure Schedule** all copies and tangible embodiments of the Transferred Technology in Seller's control, including all Business Product Software (including in source code form) and all documentation related thereto, and none of Seller, any of its Subsidiaries or any third party (other than Purchaser and its Representatives) will be in possession of any copy of any source code of such Software or documentation after the Closing; provided, however, that Seller may maintain a record of all Transferred Technology delivered to Purchaser (but, for the avoidance of doubt, not the Transferred Technology itself) for legal archival purposes. Neither Seller nor any other Person acting on its behalf has disclosed, delivered or licensed to any Person, agreed to disclose, deliver or license to any Person, or permitted the disclosure or delivery to any escrow agent or other Person of, any source code for Business Product Software except for disclosures to Employees, contractors or consultants under binding written agreements that prohibit use or disclosure thereof except in the performance of services to or for the benefit of Seller.

(g) **Section 3.9(g)(1) of the Disclosure Schedule** lists all Incorporated Other Software. **Section 3.9(g)(2) of the Disclosure Schedule** lists all Business Product Software that is distributed as Open Source Software. **Section 3.9(g)(3) of the Disclosure Schedule** lists all Incorporated Open Source Software and describes the manner in which such Open Source Software was incorporated, used or distributed (such description shall include whether the Open Source Software was modified and/or distributed by Seller and whether (and, if so, how) such Open Source Software was incorporated into and linked in any product). None of Seller nor any party acting on behalf of Seller or its Subsidiaries has used Open Source Software in any manner that would, with respect to any Business Product, (i) require its disclosure or distribution in source code form, (ii) require the licensing thereof for the purpose of making derivative works, (iii) impose any restriction on the consideration to be charged for the distribution thereof, or (iv) create, or purport to create, obligations for Seller with respect to Intellectual Property Rights owned by Seller or grant, or purport to grant, to any third party, any rights or immunities under Intellectual Property Rights owned by Seller. Seller and its Subsidiaries have been and are in compliance with all applicable licenses with respect to any such Open Source Software.

(h) No funding, facilities or resources of any Governmental Entity, inter-governmental organization, university, college, other educational institution or research center was used in the development of the Transferred IP. **Section 3.9(h) of the Disclosure Schedule** lists all Contracts to which Seller or any of its Subsidiaries are a party and under which Seller or any of its Subsidiaries have any obligations to any industry standards body or similar organization.

(i) Neither the execution and delivery or performance of this Agreement, the Ancillary Agreements, nor the assignment of the Designated Contracts, nor the Transactions will, with or without notice or lapse of time, result in (i) a loss or impairment of any Transferred IP; (ii) any encumbrance on any Transferred IP; (iii) a payment or increased royalty or an obligation to offer any discount or be bound by any "most favored royalty" or "most favored pricing" terms under any Designated Contract; (iv) pursuant to any Contract, other than a Designated Contract, to which any Seller or any of its Subsidiaries is bound, the grant, assignment or transfer to any other Person of any license or other right or interest in, under, or

with respect to, any Transferred IP; (v) Purchaser granting to any third party any right to any Intellectual Property Rights owned by Purchaser, (vi) Purchaser being bound by, or subject to, any non-compete or other restriction on the operation or scope of its businesses, properties or assets, including any restriction on providing services to customers or potential customers in any geographic area during any period time or in any segment of the market, or (vii) Purchaser being obligated to pay any royalties or other amounts to any third party.

(j) Seller and its Subsidiaries have maintained, protected and preserved the confidentiality of all confidential information and trade secrets included within the Transferred Assets. Seller and its Subsidiaries have taken reasonable steps to protect their rights in any confidential information and trade secrets with respect to the Transferred Technology. There has been no unauthorized disclosure by any Person of any such confidential information and trade secrets.

(k) Copies of Seller's current standard form(s) of proprietary information, confidentiality and assignment agreement for employees (the "**Employee Proprietary Information Agreement**") and Seller's current standard form(s) of consulting agreement containing proprietary information, confidentiality and assignment provisions (the "**Consultant Proprietary Information Agreement**") are attached to **Section 3.9(k) of the Disclosure Schedule**. Each (a) current and former employee of Seller and (b) current and former consultant of Seller, in each case has executed an agreement with Seller in substantially similar form as the Employee Proprietary Information Agreement or Consultant Proprietary Information Agreement, as applicable. To the extent that any Transferred IP was created or developed by any stockholder, founder, director or other non-employee of Seller, or a contractor or any other third party, Seller has a written agreement with such person or persons with respect thereto pursuant to which Seller has obtained ownership of its Intellectual Property Rights therein and thereto, free and clear of all Liens (other than Permitted Liens). No such person who has licensed or otherwise provided to Seller or its Subsidiaries any Transferred IP has ownership rights or license rights to the Transferred IP or modifications or improvements thereof or the right to receive royalties or other payments not previously paid as of the date hereof.

(l) Seller and its Affiliates have taken reasonable steps and implemented reasonable procedures (based on standard industry practices) to ensure that all Business Products and other items of Transferred Technology (and all parts thereof) are free of any "back door," "time bomb," "Trojan horse," "worm," "drop dead device," "virus" or other software routines or hardware components that permit unauthorized access or the unauthorized disablement or erasure of such Transferred Technology (or all parts thereof) or data.

(m) Each Seller Privacy Policy relating to any of the Transferred Assets in effect since December 31, 2013, has been made available by Seller to Purchaser. Seller, each of its Affiliates, and, to the Knowledge of Seller, all third parties who have performed services for Seller or any of its Affiliates and have had access to Private Data or Customer Data in connection with the performance of such services comply, and have at all times complied, with all (i) Applicable Laws, (ii) Seller Privacy Policies, (iii) contractual obligations, (iv) rules of any applicable self-regulatory organizations in which Seller or any of its Affiliates is or has been a member or Seller or any of its Affiliates has been contractually obligated to comply with (including, to the extent applicable to Seller or any of its Affiliates, the PCI Data Security Standard), and (v) applicable published industry standards (collectively, "**Privacy Legal Requirements**") relating to (A) the privacy of users of (including visitors to, and consumer end users of) all current and former Business Products; (B) customer protection, marketing, promotion, and text messaging, email, and other communications; and (C) the use, collection, obtainment, interception, retention, storage, security, disclosure, transfer, disposal, and other processing of Private Data or Customer Data. The Seller and each of its Affiliates has conducted reasonable and appropriate diligence in selecting all third parties who have performed services for Seller or its Affiliates and have had access to Private Data or Customer Data, and has exercised reasonable and

appropriate oversight and control with regard to such third parties' activities as they relate to such provision of services. The Seller Privacy Policies permit transfer of the Private Data and Customer Data included in the Transferred Assets as part of the sale of the Business. There is not and has not been any written complaint to, or any audit, proceeding, investigation (including any formal or, to the Knowledge of Seller, informal investigation) or claim against, Seller, any of its Affiliates, or any of their respective customers, (in the case of customers, to the extent relating to the Transferred Assets or the practices of Seller or any of its Affiliates) by any private party, data protection authority, the Federal Trade Commission, any state attorney general or similar state official or any other Governmental Entity, foreign or domestic, with respect to the collection, use, obtainment, interception, retention, disclosure, transfer, storage, security, disposal, or other processing of Private Data or Customer Data.

3.10 Compliance with Applicable Laws.

(a) Seller and each of its Subsidiaries has complied in all material respects with, and has not received any notices of violation with respect to, any Applicable Laws or Orders applicable to the Transferred Assets or Seller's or its Subsidiaries' ownership or use of any Transferred Assets.

(b) Neither Seller, any of its Subsidiaries, nor any of their officers, directors, employees, distributors, resellers, agents, or any person working on their behalf, directly or indirectly, has: (i) taken any action that would cause it to be in violation, in any material respect, of the U.S. Foreign Corrupt Practices Act of 1977, as amended, the U.S. Travel Act, U.K. Bribery Act of 2010, Organization of Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or any foreign or domestic commercial bribery statute or any other applicable Law from any jurisdiction relating to anti-corruption or anti-bribery law or regulation (collectively, the "**Anti-Corruption Laws**"); (ii) used any corporate funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity; (iii) made, offered, promised, or authorized any unlawful payment or other thing of value to foreign or domestic government officials or employees including individuals working for government owned or controlled entities; (iv) made, offered, promised, or authorized any bribe, rebate, payoff, influence payment, kickback or other similar unlawful payment to any Person; or (v) taken any action that would cause it to be in violation, in any material respect, of the Anti-Corruption Laws.

3.11 Taxes. Except (and then to the extent) as would not adversely affect Purchaser's and its Affiliates' ownership or operation of the Transferred Assets or employment of the Continuing Employees after the Closing:

(a) Seller (i) has timely paid all Taxes they are required to pay (whether or not shown on a Tax Return), (ii) have timely filed all required Tax Returns and such Tax Returns are true and correct in all respects and completed in accordance with Applicable Law, and (iii) have provided such Tax Returns to Purchaser.

(b) Seller has timely paid or withheld with respect to their employees and other third parties (and timely paid over any withheld amounts to the appropriate Taxing Authority) all federal, state, local and non-U.S. income Taxes and social security charges and similar fees, Federal Insurance Contribution Act, Federal Unemployment Tax Act and other Taxes required to be withheld or paid.

(c) There are no Liens for Taxes on any of the Transferred Assets other than Permitted Liens. Seller has no Knowledge of any basis for the assertion of any claim for any liabilities for unpaid Taxes for which Purchaser or any of its Affiliates could become liable as a result of the transactions contemplated by this Agreement or that could result in any Lien on any of the Transferred Assets.

(d) Seller has not been delinquent in the payment of any Tax, nor is there any Tax deficiency outstanding, assessed or proposed against Seller, nor has Seller executed any outstanding waiver of any statute of limitations on or extension of the period for the assessment or collection of any Tax.

(e) No audit or other examination of any Tax Return of Seller is presently in progress, nor has Seller been notified of any request for such an audit or other examination. No adjustment relating to any Tax Return filed by Seller has been proposed formally or, to the Knowledge of Seller, informally by any Taxing Authority to Seller or any Representative.

(f) There is no Contract or plan to which Seller or Parent is a party, including the provisions of this Agreement, covering any individual, which, individually or collectively, could give rise to the payment of any amount that would not be deductible pursuant to Sections 280G or 404 of the Code. There is no contract, agreement, plan or arrangement to which Seller or any ERISA Affiliate is a party or by which it is bound to compensate any Employee for excise taxes paid pursuant to Section 4999 of the Code.

3.12 Restriction on Business Activities. There is no Order to which Seller or any of its Affiliates is a party or otherwise binding upon Seller which has or may reasonably be expected to have the effect of prohibiting or impairing the use of the Transferred Assets or prohibiting or impairing Purchaser from engaging in any line of business or competing with any Person. Seller has not entered into any Designated Contract under which Seller is restricted from selling, licensing, manufacturing or otherwise distributing or using any of the Transferred Assets or from providing services to customers or potential customers or any class of customers, in any geographic area, during any period of time, or in any segment of the market.

3.13 Litigation. There is no Action of any nature pending, or to the Knowledge of Seller, threatened, against Seller, any of its Affiliates or any of their properties or assets (including the Transferred Assets), or with respect to this Agreement, any of the Related Agreements or any of the Transactions.

3.14 Employees; Benefits.

(a) To the Knowledge of Seller, Seller is in compliance with all applicable foreign, federal, state and local laws, rules and regulations respecting employment, employment practices, terms and conditions of employment, worker classification, tax withholding, prohibited discrimination, equal employment, fair employment practices, meal and rest periods, immigration status, employee safety and health, wages (including overtime wages), compensation, and hours of work with respect to the Employees, except as would not result in a material liability to Purchaser. With respect to Employees, Seller: (i) has withheld and reported all amounts required by law or by agreement to be withheld and reported with respect to wages, salaries and other payments to Employees, (ii) is not liable for any arrears of wages, severance pay or any Taxes or any penalty for failure to comply with any of the foregoing, and (iii) is not liable for any payment to any trust or other fund governed by or maintained by or on behalf of any governmental authority, with respect to unemployment compensation benefits, social security or other benefits or obligations for Employees (other than routine payments to be made in the normal course of business and consistent with past practice). There are no actions, suits, claims or administrative matters pending or, to the Knowledge of Seller, threatened or reasonably anticipated against Seller or any of the Employees relating to any Employee or Benefit Plan. To the Knowledge of Seller, Seller has no liability with respect to any misclassification of: (a) any Person as an independent contractor rather than as an employee, (b) any employee leased from another employer, or (c) any employee currently or formerly classified as exempt from overtime wages.

(b) No strike, labor dispute, slowdown, concerted refusal to work overtime, or work stoppage against Seller is pending, or to the Knowledge of Seller, threatened, or reasonably anticipated. Seller has no Knowledge of any activities or proceedings of any labor union to organize any Employees. Seller is not

presently, nor has Seller been in the past, a party to, or bound by, any collective bargaining agreement or union contract with respect to Employees and no collective bargaining agreement is being negotiated by Seller. Seller has not taken any action which would constitute a "plant closing" or "mass layoff" within the meaning of the WARN Act or similar state or local law, issued any notification of a plant closing or mass layoff required by the WARN Act or similar state or local law, or incurred any liability or obligation under WARN or any similar state or local law that remains unsatisfied.

(c) To the Knowledge of Seller, no act or omission has occurred and no condition exists with respect to any Benefit Plan maintained by Seller or any ERISA Affiliate that would subject Seller to any fine, penalty, Tax or Liability of any kind imposed under ERISA or the Code (other than liabilities for benefits accrued under Benefit Plans for Employees and their beneficiaries) that could become a Liability of Purchaser.

(d) Neither Seller nor any ERISA Affiliates ever maintained, sponsored, contributed to or can reasonably be expected to have any Liability with respect to (i) any "defined benefit plan" as defined in Section 3(35) of ERISA or any other plan subject to the funding requirements of Section 412 of the Code or Section 302 of Title IV of ERISA; or (ii) any "multiemployer plan" as defined in Section 3(37) or 4001(a)(3) of ERISA.

(e) Each Benefit Plan intended to be "qualified" within the meaning of Section 401(a) of the Code has received a favorable IRS determination letter or an IRS prototype opinion letter upon which the sponsor is entitled to rely with respect to its qualified status under the Code and to the Knowledge of Seller, nothing has occurred that could be reasonably expected to cause the loss of such qualification or exemption or the imposition of any material Liability, penalty or Tax under applicable Law, including ERISA or the Code.

(f) No Benefit Plan provides, nor has Seller or any ERISA Affiliates promised to provide, post-employment or retiree health or life insurance to any Employee (or the dependent or beneficiary thereof), other than continued health coverage required by COBRA or similar Applicable Law for which the Employee (or the dependent or beneficiary thereof) pays the full cost of coverage.

3.15 Insurance. **Section 3.15 of the Disclosure Schedule** sets forth a complete and accurate list of all current policies of fire, liability, product liability, environmental liability, workmen's compensation, life, property and casualty, directors' and officers' liability and other insurance currently maintained by Seller (the "**Insurance Policies**"). All of the Insurance Policies are, and to the Knowledge of Seller, following the consummation of the Transactions, will remain in full force and effect. Seller is not in default in any material respect under any Insurance Policy, and to the Knowledge of Seller no event has occurred or circumstances exist that could give rise to any such default. There are no open claims with respect to the Insurance Policies, and to the Knowledge of Seller, no event has occurred or circumstances exist that could give rise to a claim under any Insurance Policy. Since the respective dates of the Insurance Policies, no notice of cancellation or non-renewal with respect to, or disallowance of any claim under, any such Insurance Policy has been received by Seller. All premiums due and payable under the Insurance Policies have been fully paid. Seller has made available to Purchaser true and complete copies of all Insurance Policies.

3.16 Brokers' and Finders' Fees. Seller has not incurred, nor will Seller incur, directly or indirectly, any Liability for or in connection with brokerage or finders' fees or agents' commissions or any similar charges in connection with this Agreement, the Related Agreements or any Transaction other than such Liabilities that will be borne entirely by Seller.

3.17 Disclosure. To the Knowledge of Seller, none of the representations or warranties made by Seller in this Agreement (as modified by the Disclosure Schedule), and none of the statements made in any

exhibit, schedule or certificate furnished or to be furnished by or on behalf of Seller to Purchaser or any of its Representatives, contains any untrue statement of a fact or omits to state a fact necessary, in light of the circumstances under which it was made, in order to make the statements contained herein or therein not misleading, in each case, which is material with respect to the Transferred Assets and/or the Continuing Employees.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Seller:

4.1 Organization and Standing. Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Purchaser has the requisite corporate power and authority to own, lease and operate its assets and properties and to carry on its business as currently conducted.

4.2 Authorization of Transactions. Purchaser has all requisite power and authority to enter into this Agreement and the Related Agreements to which Purchaser is a party and to consummate the Transactions to which Purchaser is a party. The execution, delivery and performance by Purchaser of this Agreement and the Related Agreements to which Purchaser is a party and the consummation of the Transactions to which Purchaser is a party have been duly authorized by all necessary corporate action on the part of Purchaser. No further actions will be required on the part of Purchaser for Purchaser to perform all of its obligations under this Agreement or any Related Agreement to which Purchaser is a party or to consummate the Transactions to which Purchaser is a party. This Agreement and each Related Agreement to which Purchaser is a party have been duly executed and delivered by Purchaser and, when executed and delivered by the other parties thereto, will constitute the valid and binding obligation of Purchaser, enforceable in accordance with its terms, except as such enforceability may be subject to the Enforceability Limitations.

4.3 Noncontravention.

(a) Neither the execution, delivery and performance by Purchaser of this Agreement and the Related Agreements to which Purchaser is a party, nor the consummation of the Transactions to which Purchaser is a party, does or will conflict with or result in any violation of or default under (with or without notice or lapse of time, or both) (i) any provision of the certificate of incorporation or bylaws of Purchaser, (ii) any material authorization by any Governmental Entity that is held by Purchaser or (iii) any Applicable Law or Order applicable to Purchaser or any of its properties or assets, in each case, which has or would be reasonably expected to have the effect of prohibiting or materially delaying the Transaction.

(b) No Consent of or with any Governmental Entity or any third party is required by, or with respect to, Purchaser in connection with the execution, delivery and performance by Purchaser of this Agreement or any of the Related Agreements to which Purchaser is a party or the consummation of the Transactions.

4.4 Brokers and Finders. Neither Purchaser nor any of its Affiliates has incurred any Liabilities for any brokerage, finder, investment banking or other similar fees, commissions or expenses in connection with the Transactions, except for such fees, commissions and expenses of which will be paid by Purchaser.

ARTICLE 5
INTERIM CONDUCT OF BUSINESS

5.1 Conduct of Business. Except as expressly required or permitted by this Agreement, as set forth in **Schedule 5.1**, or as Purchaser may otherwise consent in writing (which consent shall not be unreasonably withheld, conditioned or delayed), at all times from the date hereof until the earlier to occur of the Closing and the valid termination of this Agreement in accordance with the terms hereof, Seller shall, subject to the requirements and limitations of the Bankruptcy Code:

(a) use commercially reasonable efforts to preserve and protect the Transferred Assets in good working order and condition, ordinary wear and tear excepted; and

(b) use commercially reasonable efforts which, for purposes of clarity, shall not require Seller to pay any retention bonus or to provide any benefit outside of the ordinary course of business, monetary or otherwise, to keep available the services of its present officers and the Continuing Employees.

5.2 Restrictions on Business. Except as expressly required or permitted by this Agreement, as set forth in **Schedule 5.2**, or as Purchaser may otherwise consent in writing (which consent shall not be unreasonably withheld, conditioned or delayed), at all times from the date hereof until the earlier to occur of the Closing and the valid termination of this Agreement in accordance with the terms hereof, Seller shall not, and shall ensure that its Subsidiaries do not, take any of the following actions or seek approval of the Bankruptcy Court to:

(a) sell, lease, abandon, license (other than non-exclusive licenses in the ordinary course of business), transfer or otherwise dispose of any Transferred Assets, or grant or otherwise create or consent to the creation of any Lien (other than Permitted Liens) affecting any Transferred Assets;

(b) (i) enter into any Contract which would have constituted a Material Contract had such Contract been entered into prior to the date of this Agreement, or (ii) amend or modify, in any material respect, or terminate or waive compliance with the terms of, any Material Contract;

(c) other than pursuant to any Benefit Plan or Material Contract in effect as of the date of this Agreement and specifically disclosed in the Disclosure Schedule, or as required by applicable Law, (i) adopt, establish, enter into, amend or terminate any Benefit Plan (including any agreement that would be a Benefit Plan if entered into on the date hereof) (including any underlying agreements), or agree to pay any special bonus or special remuneration to any employee, consultant or independent contractor, (ii) increase the compensation or other benefits payable to or to become payable to any employee, consultant or independent contractor, (iii) implement any facility closing or other layoff of any employee that could implicate the WARN Act, including due to aggregation with any prior layoff, or (iv) grant or pay any severance, change in control, termination pay or similar pay benefits (in cash or otherwise) to any employee, consultant or independent contractor;

(d) make, change or rescind any Tax election, change any annual Tax accounting period, adopt or change any method of Tax accounting, file any amended Tax Return, settle any Tax claim or assessment, surrender any right to claim a Tax refund, offset or other reduction in Tax liability, consent to any extension or waiver of the limitations period applicable to any Tax claim or assessment, make a request for a written ruling of a Taxing Authority, or enter into a written and legally binding agreement with a Taxing Authority, except, in each case, (and then to the extent) as would not adversely affect Purchaser's and its Affiliates' ownership or operation of the Transferred Assets or employment of the Continuing Employees after the Closing;

(e) abandon or permit to lapse any Transferred IPR (other than patents expiring at the end of their statutory terms (and not as a result of any act or omission by Seller or any of its Affiliates, including a failure by Seller or any of its Affiliates to pay any required registration or maintenance fees));

(f) settle or compromise any Action related to any Transferred Asset;

(g) publish any new Seller Privacy Policy or amend any Seller Privacy Policy; or

(h) take, or agree in writing or otherwise to take, or propose to take, any of the actions described in **Section 5.2(a)** through **Section 5.2(g)**, inclusive.

ARTICLE 6
ADDITIONAL AGREEMENTS

6.1 Bankruptcy Matters; Bidding Process.

(a) Seller and Purchaser acknowledge that this Agreement and the sale of the Transferred Assets are subject to Bankruptcy Court approval. Seller and Purchaser acknowledge that (i) to obtain such approval, Seller must demonstrate that it has taken reasonable steps to obtain the highest or otherwise best offer possible for the Transferred Assets, including, but not limited to, giving notice of the transactions contemplated by this Agreement to creditors and certain other interested parties as ordered by the Bankruptcy Court, and conducting an auction in respect of the Transferred Assets (the "**Auction**"), and (ii) Purchaser or Seller, as set forth in Section 2.1 hereof, must cure all defaults and provide adequate assurance of future performance under the Designated Contracts.

(b) Promptly, but in no event later than one (1) Business Day after the Petition Date, Seller shall file with the Bankruptcy Court a motion (the "**Bidding Procedures Motion**") and notices, each in form and substance reasonably satisfactory to Purchaser, seeking the Bankruptcy Court's entry of an Order substantially in the same form of **Exhibit E** hereto or in such other form and manner as may be acceptable to Purchaser (the "**Bidding Procedures Order**"): (A) approving the Bidding Procedures in substantially the same form as those included in **Exhibit E**; (B) approving the Break-Up Fee and Expense Reimbursement; (C) scheduling the Auction and a hearing to consider the approval of the Transactions (the "**Sale Hearing**"); and (D) approving the form and manner of the notice of the Auction, Sale Motion and Sale Hearing.

(c) Promptly, but in no event later than seven (7) days after the Petition Date, Seller shall file with the Bankruptcy Court a motion (the " **Sale Motion**") and notices, each in form and substance reasonably satisfactory to Purchaser, seeking the Bankruptcy Court's entry of an Order substantially in the form of **Exhibit F** hereto or such other form and manner as may be acceptable to Purchaser (the "**Sale Order**"): (A) finding that notice of the Sale Hearing was given in accordance with the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure, and constitutes proper notice as is appropriate under the particular circumstances; (B) finding that Purchaser is a "good faith" purchaser entitled to the protections afforded by §363(m) of the Bankruptcy Code; (C) finding that the Transferred Assets are sold, assigned and transferred to Purchaser free and clear of all Liens and encumbrances; and (D) approving the Transactions proposed by this Agreement, including, without limitation, the sale, assignment and transfer of the Transferred Assets and the assumption and assignment of the Designated Contracts pursuant to Sections 363 and 365 of the Bankruptcy Code as contemplated in the Sale Motion.

(d) Seller shall serve a copy of the Sale Motion on all known Taxing Authorities in the United States that have jurisdiction over the Business, as reasonably determined by Seller, those Governmental Entities in the United States having jurisdiction over the Business with respect to Environmental Laws, as

reasonably determined by Seller, and on the attorneys general of all states in which the Transferred Assets are located. Seller shall serve a notice of the Sale Motion on all parties to Contracts and Leases (other than Excluded Assets) and to all known creditors of Parent and its United States Subsidiaries, and to all known creditors of Parent's Subsidiaries organized outside of the United States having accounts payable of at least $1,000,000.

(e) Promptly, but in no event later than one (1) Business Day after the Petition Date, and pursuant to the Master Services Agreement, Seller shall file a motion (the "**Services Motion**") with the Bankruptcy Court seeking entry of an order (the " **Services Order**") approving the Master Services Agreement and permitting Seller to provide to Purchaser such services as contemplated in, and upon the terms of, the Master Services Agreement, as expeditiously as possible. The Parties agree to cooperate and use commercially reasonable efforts to obtain Bankruptcy Court approval of such Services Motion. The Master Services Agreement will become effective upon (i) approval by the Bankruptcy Court and (ii) satisfaction of the conditions as set forth in the Master Services Agreement. The Bidding Procedures Order shall provide that if the Bankruptcy Court approves an Alternative Transaction, that any Master Services Fees paid by Purchaser shall be repaid by Seller in accordance with **Section 9.3** hereof. The parties agree to treat the Services Fee Advance as an advance on the amounts due pursuant to the terms of Master Services Agreement for all purposes.

(f) Seller shall use commercially reasonable efforts to provide Purchaser with copies of all motions, applications and supporting papers prepared by or on behalf of Seller (including forms of orders and notices to interested parties) directly relating to the Transferred Assets or this Agreement at least two (2) Business Days, unless the exigencies of time prevent the period from being that long, prior to the filing thereof in the Bankruptcy Case so as to allow Purchaser to provide reasonable comments for incorporation into same; except that the Sale Motion (including forms of orders and notices to interested parties) shall be provided to Purchaser at least three (3) days prior to its filing.

(g) Upon the terms and subject to the conditions of this Agreement, each of the Parties hereto shall use commercially reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable consistent with Applicable Law to consummate and make effective in the most expeditious manner practicable the Transactions. Without limiting the foregoing, prior to the Closing Seller shall not voluntarily dismiss the Bankruptcy Case once filed and shall use commercially reasonable efforts to:

(i) commence the Bankruptcy Case within one (1) Business Day following the date of this Agreement;

(ii) file the Bidding Procedures Motion within one (1) Business Day following the Petition Date;

(iii) file the Sale Motion within seven (7) days following the Petition Date;

(iv) file the Services Motion within one (1) Business Day following the Petition Date and obtain the Bankruptcy Court's entry of the Services Order as expeditiously as possible;

(v) obtain the Bankruptcy Court's entry of the Bidding Procedures Order on or prior to December 1, 2015; and

(vi) obtain the Bankruptcy Court's entry of the Sale Order on or prior to December 23, 2015.

(h) Seller agrees to comply (and cause its Representatives to comply) with each of the procedures, terms, conditions and provisions set forth in **Exhibit E** hereto.

6.2 Confidentiality of Agreement and Public Announcements.

(a) Except as otherwise provided in **Section 6.1** and this **Section 6.2**, and taking into account the fact that this Agreement and the Related Agreements, and all associated or related exhibits and schedules, will be filed with the Bankruptcy Court and thereby become a matter of public record, Seller agrees that the terms, conditions and existence of this Agreement, the Related Agreements, the Transactions (including any claim or dispute arising out of or related to this Agreement or the Related Agreements, or the interpretation, making, performance, breach or termination thereof) and, after the Closing, all information constituting or concerning the Transferred Assets (which shall be treated as Purchaser's confidential information after the Closing) shall be kept confidential in accordance with the NDA (which Seller agrees to comply with as if Seller was a signatory thereto) and not used for any purpose other than as expressly contemplated by this Agreement or any of the Related Agreements, and that such obligation shall survive in accordance with the terms of the NDA.

(b) Other than as required to be disclosed in the Sale Motion or other pleadings in the Bankruptcy Case, Seller shall not, and shall not permit any of its Representatives to, directly or indirectly, issue any statement or communication to any third party (except to any Representatives of Seller that are bound by confidentiality obligations) regarding the existence or subject matter of this Agreement, any Related Agreement or the Transactions contemplated hereby (including any claim or dispute arising out of or related to this Agreement, any Related Agreement or the Transactions, or the interpretation, making, performance, breach or termination hereof) without the consent of Purchaser except as and to the extent that any such Party shall be obligated by law, including as may be required by the Bankruptcy Case, securities laws, or the rule of any securities exchange, in which case the other Party or Parties shall be advised prior to disclosure and the Parties shall use commercially reasonable efforts to cause a mutually agreeable release or announcement to be issued.

(c) Seller shall afford to Purchaser and its Representatives, at Purchaser's expense, access to Seller's accountants, including the financial information (including working papers and data in the possession of Seller's accountants, internal audit reports, and "management letters" from such accountants) in the possession of Seller's accountants, in order to assist Purchaser with the preparation of the Allocation and any amendment thereto.

6.3 Acknowledgement; Waivers; Release of Claims.

(a) Effective as of the Closing, Seller, on its own behalf and on behalf of its agents and assigns, hereby fully and forever releases and discharges Purchaser, its Affiliates and each of Purchaser's and its Affiliates' respective Representatives, investors, stockholders, Affiliates, divisions, subsidiaries, predecessor and successor corporations and assigns (as applicable), from, and agrees not to sue the foregoing parties concerning any Excluded Liabilities.

(b) Effective as of the Closing, Purchaser, on its own behalf and on behalf of its heirs, agents and assigns, hereby fully and forever releases and discharges Seller, its Affiliates and each of its Representatives, investors, stockholders, Affiliates, divisions, subsidiaries, predecessor and successor corporations and assigns (as applicable), from, and agrees not to sue the foregoing parties concerning any Assumed Liabilities.

(c) In addition, effective as of the Closing, Seller, on its own behalf and on behalf of its agents and assigns, hereby fully and forever releases and discharges Purchaser, its Affiliates, the Continuing Employees and each of Purchaser's, its Affiliates' and the Continuing Employees' respective Representatives, investors, stockholders, Affiliates, divisions, subsidiaries, predecessor and successor corporations and assigns, from, and agrees not to sue the foregoing parties concerning any rights (including under confidentiality agreements, proprietary information agreements, employment agreements, non-competition or non-solicitation undertakings and all similar or related agreements) to restrict the Continuing Employees from entering into any and all arrangements with, and providing any and all services and information to, and performing any and all services and activities on behalf of and for the benefit of, Purchaser and its Affiliates and their respective Representatives (including in connection with the Employee Offer Letters), or to require any Employees to assign any Intellectual Property Rights to Seller.

(d) Each of Seller and Purchaser acknowledges that it has been advised and is familiar with the provisions of California Civil Code Section 1542, which provides as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS, HER OR ITS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM, HER OR IT MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Each of Sellers and Purchaser, being aware of said code section, agrees to expressly waive any rights it may have thereunder, as well as under any other statute or common law principles of similar effect.

6.4 Employee Matters.

(a) Prior to the Closing, Purchaser will, or will cause one of its Subsidiaries to, make a written offer of "at-will" employment to each Designated Employee who is actively employed immediately prior to the Closing, in each case effective as of the Closing. Such "at-will" employment arrangements will be subject to and in compliance with Purchaser's standard human resource policies and procedures. Such employment arrangements shall supersede any prior employment agreements and other arrangements with such employees in effect prior to the Closing.

(b) Seller shall and shall cause its Subsidiaries to cooperate (using commercially reasonable efforts which, for purposes of clarity, shall not require Seller or any of its Subsidiaries to pay any retention bonus or to provide any benefit outside of the ordinary course of business, monetary or otherwise) with Purchaser to encourage Designated Employees to accept such offer of employment and to effect any communications, access to populations, and such other actions as may be reasonably necessary to facilitate such employment offer.

(c) Those Designated Employees who accept employment from Purchaser pursuant to the offers of employment made pursuant to **Section 6.4(a)** and who commence employment with Purchaser at the Closing (or such later date with respect to Designated Employees on a leave of absence) are referred to herein collectively as "**Continuing Employees**."

(d) Seller shall have sole responsibility, as between the Parties, for all accrued but unpaid wages, bonuses and the amount of compensation with respect to the accrued and unused vacation time that is due and owing to the Continuing Employees at the Closing and Purchaser shall have no Liability for any such payments on or after the Closing. Effective as of Closing, Seller shall also release any Continuing Employee from any current or future obligation not to compete with any business of Seller.

(e) Nothing in this Agreement shall constitute an agreement by Purchaser to assume or be bound by any previous or existing employment agreement or arrangement between Seller and any of its Employees (including under any Benefit Plan) or to prevent the termination of employment of any individual Continuing Employee or any change in the employee benefits provided to any individual Continuing Employee following Closing. Accordingly, each Continuing Employee shall be considered an employee "at-will."

(f) The terms and provisions of this **Section 6.4** are for the sole benefit of Seller and Purchaser. Nothing contained herein, expressed or implied, (i) shall be construed to establish, amend, or modify any Benefit Plan, or any other benefit plan, program, agreement or arrangement, (ii) is intended to confer or shall confer upon any current or former employee any right to employment or continued employment, or constitute or create an employment agreement with any Continuing Employee, or (iii) is intended to confer or shall confer upon any Person other than the Parties (including employees, retirees, or dependents or beneficiaries of employees or retirees, and collective bargaining agents or representatives) any right (including any right to any payment) as a third-party beneficiary of this Agreement.

(g) At Purchaser's election, Purchaser and Seller shall utilize the alternate procedure set forth in Section 5 of Revenue Procedure 2004-53 with respect to wage withholding for Continuing Employees.

6.5 Tax Matters.

(a) Except as set forth in this **Section 6.5**, Seller will be responsible for the preparation and timely filing of all Tax Returns relating to Seller's operation of the Business or Seller's use or ownership of the Transferred Assets. Such Tax Returns shall be true, complete and correct and prepared in accordance with Applicable Law and consistent with past practices. Seller will be responsible for and will pay when due all Taxes reflected on such Tax Returns. In the case of any real or personal property Taxes or similar ad valorem Taxes relating or attributable to the Transferred Assets (" **Property Taxes**") that are reported on a Tax Return covering a period commencing on or before the Closing Date and ending after the Closing Date (" **Straddle Period Taxes**"), any such Straddle Period Taxes shall be prorated between Purchaser and Seller on a per diem basis. The party required by Applicable Law to pay any such Straddle Period Taxes (the "**Paying Party**") shall prepare and timely file the Tax Returns with respect thereto in the time and manner required by Applicable Law and shall timely pay all Taxes reflected on such Tax Returns. To the extent such payment exceeds the obligation of the Paying Party hereunder, the Paying Party shall be entitled to be reimbursed by the other Party (the "**Non-Paying Party**") for the Non-Paying Party's share of such Straddle Period Taxes within ten (10) days of receipt of reasonably satisfactory evidence of the amount of such Straddle Period Taxes. To the extent either Party receives a refund of Taxes previously paid, such refund will be equitably apportioned between the Parties in a manner consistent with the provisions of this **Section 6.5**.

(b) Seller or Purchaser, as the case may be, shall provide reimbursement for any Tax paid by one Party all or a portion of which is the responsibility of the other Party in accordance with the terms of this **Section 6.5**. Within a reasonable time prior to the payment of any such Tax, the Party paying such Tax shall give notice to the other of the Tax payable and each Party's respective liability therefor, although failure to do so will not relieve the other Party from its liability hereunder.

(c) To the extent relevant to the Transferred Assets, Seller shall, and shall cause its Affiliates to, (i) provide Purchaser with such assistance as may reasonably be required in connection with the preparation of any Tax Return and the conduct of any audit or other examination by any Taxing Authority or in connection with judicial or administrative proceedings relating to any liability for Taxes ("**Tax Contests**") and (ii) retain and provide Purchaser with all records or other information that may be relevant to the preparation of any Tax Returns, or the conduct of any Tax Contest. Seller shall retain all documents, including prior years' Tax

Returns, supporting work schedules and other records or information with respect to all sales, use and employment Tax Returns and, absent the receipt by Seller of the relevant Tax clearance certificates, shall not destroy or otherwise dispose of any such records for six (6) years after the Closing without the prior written consent of Purchaser.

6.6 Commercially Reasonable Efforts. In addition to the items set forth in **Section 6.1**, on the terms and subject to the conditions set forth in this Agreement, each of Purchaser and Seller shall use its commercially reasonable efforts to take promptly, or cause to be taken promptly, all actions, and to do promptly, or cause to be done promptly, all things necessary, proper or advisable under applicable Laws to consummate and make effective, as promptly as practicable, the Transactions and the other transactions contemplated by this Agreement and the Related Agreements, including using commercially reasonable efforts to (a) cause the conditions precedent set forth in **Article 7** to be satisfied as soon as practicable after the date hereof; (b) obtain all necessary or appropriate consents, waivers and approvals required in connection with this Agreement and the consummation of the Transactions and the other transactions contemplated by this Agreement and the other Related Agreements; (c) subject to the rights of and obligations to Licensors under applicable agreements, preserve elements of Business Content under Seller's possession or control following Closing to permit Purchaser time to obtain any third party consents necessary for the transfer of any elements of Business Content from Seller to Purchaser and upon receipt of such consents, steps to effectuate such transfer; (d) obtain all necessary actions or non-actions, waivers, consents, approvals, Orders and authorizations from Governmental Entities, the expiration or termination of any applicable waiting periods, making all necessary registrations, declarations and filings (including registrations, declarations and filings with Governmental Entities, if any); and (e) execute, acknowledge and deliver such assignments, transfers, consents, assumptions and other documents and instruments as may reasonably be requested to consummate the Transactions and the other transactions contemplated hereby. For purposes of clarity, commercially reasonable efforts shall not require Seller to pay any retention bonus or to provide any benefit outside of the ordinary course of business, monetary or otherwise, to any officer or Employee. Notwithstanding anything to the contrary herein, if the lessor or licensor under any Lease conditions its grant of a consent (including by threatening to exercise a "recapture" or other termination right) upon, or otherwise requires in response to a notice or consent request regarding this Agreement, the payment of a consent fee, "profit sharing" payment or other consideration (including increased rent payments), or the provision of additional security (including a guaranty), Purchaser shall be solely responsible for making all such payments or providing all such additional security on terms acceptable to Purchaser.

6.7 Regulatory Filings.

(a) Each of Purchaser, on the one hand, and Seller, on the other hand, shall promptly inform the other of any communication from any Governmental Entity regarding any of the transactions contemplated by this Agreement in connection with any filings or investigations with, by or before any Governmental Entity relating to this Agreement or the transactions contemplated hereby, including any proceedings initiated by a private party. In connection with and without limiting the foregoing, to the extent reasonably practicable and unless prohibited by applicable Law or by the applicable Governmental Entity, each of Purchaser, on the one hand, and Seller, on the other hand, shall (i) give each other reasonable advance notice of all meetings with any Governmental Entity relating to the Transactions, (ii) give each other an opportunity to participate in each of such meetings, (iii) keep such other Party reasonably apprised with respect to any oral communications with any Governmental Entity regarding the Transactions, (iv) cooperate in the filing of any analyses, presentations, memoranda, briefs, arguments, opinions or other written communications explaining or defending the Transactions, articulating any regulatory or competitive argument and/or responding to requests or objections made by any Governmental Entity, (v) provide each other with a reasonable advance opportunity to review and comment upon, and consider in good faith the

views of the other with respect to, all written communications (including any analyses, presentations, memoranda, briefs, arguments and opinions) with a Governmental Entity regarding the Transactions, and (vi) provide each other (or counsel of each Party, as appropriate) with copies of all written communications to or from any Governmental Entity relating to the Transactions. Notwithstanding anything to the contrary in this Agreement and for the avoidance of doubt, Purchaser and its external counsel shall control and direct the antitrust strategy in connection with any investigations with, by or before any Governmental Entity relating to this Agreement or the transactions contemplated hereby, and any proceedings initiated by or against a private party.

(b) Each of Purchaser and Seller shall cooperate with one another in good faith to (i) promptly determine whether any filings not contemplated by this **Section 6.7** are required to be or should be made, and whether any other consents, approvals, permits or authorizations not contemplated by this **Section 6.7** are required to be or should be obtained, from any Governmental Entity under any other applicable Law in connection with the transactions contemplated hereby, and (ii) promptly make any filings, furnish information required in connection therewith and seek to obtain timely any such consents, permits, authorizations, approvals or waivers that the parties determine are required to be or should be made or obtained in connection with the transactions contemplated hereby.

6.8 Access to Information. During the period from the date hereof and the earlier of the Closing or the valid termination of this Agreement in accordance with its terms, Seller shall, and shall cause its Affiliates to, provide to Purchaser and its accountants, counsel and other Representatives, promptly upon reasonable advance notice, reasonable access during Seller's, or, as applicable, its Affiliates', normal business hours to all of the assets (other than source code, user data and other technology and databases), properties, books and records, Contracts and Permits of Seller and its Affiliates or otherwise relating to the transactions contemplated hereby that Purchaser may reasonably request (subject to any limitations that are reasonably required to comply with any applicable Laws or third Person confidentiality obligations or preserve any applicable attorney-client privilege; *provided*, that Seller shall, and shall cause its Affiliates to, use commercially reasonable efforts to provide such information in a manner that would not reasonably be expected to result in the loss of such privilege); *provided*, *however*, that Seller's provision of such information does not unreasonably disrupt the normal operations of the Business or Seller, is subject to Seller's reasonable security measures and insurance requirements and does not include the right to perform any "invasive" testing without Seller's consent, not to be unreasonably withheld. In furtherance and not in limitation of the foregoing, Seller shall, and shall cause its respective Subsidiaries to, cooperate, assist, arrange and provide information to Purchaser to the extent necessary for Purchaser to prepare for the implementation of internal financial controls and procedures and disclosure controls in accordance with Purchaser's policies and in compliance with the Sarbanes Oxley Act of 2002 (including compliance with the requirements of the certifications required under Sections 302 and 906 of Sarbanes Oxley Act of 2002), and for the preparation of any required pro forma financial statements and forms, documents and reports required to be filed or furnished with the Securities and Exchange Commission, including assisting with obtaining the consent of Seller's auditors in connection therewith.

6.9 Notification of Certain Matters.

(a) During the period from the date hereof and the earlier of the Closing or the valid termination of this Agreement in accordance with its terms, Seller shall promptly notify Purchaser upon becoming aware of (i) any representation or warranty of Seller set forth in this Agreement becoming untrue or any inaccuracy in any representation or warranty of Seller such that the condition set forth in **Section 7.2(a)** would not be satisfied if the Closing were to occur at such time, or (ii) any breach of any covenant or agreement of Seller set forth in this Agreement such that the condition set forth in **Section 7.2(b)** would not be satisfied if the

Closing were to occur at such time; *provided*, *however*, that such notification shall not be deemed to (x) cure any inaccuracy in or breach of any representation or warranty contained in this Agreement for purposes of the satisfaction of the condition set forth in **Section 7.2(a)** or the termination rights set forth in **Section 9.1(d)** or (y) otherwise limit or affect in any way the remedies available hereunder or under any Ancillary Agreement to Purchaser. Notwithstanding the foregoing, from time to time prior to the Closing, Seller shall have the right to supplement or amend the Disclosure Schedules and the other schedules hereto solely to account for Purchaser's designation of a Contract as an Additional Designated Contract and solely with respect to such Additional Designated Contract, and such supplement or amendment to such schedules shall be deemed to cure any inaccuracy in or breach of any representation or warranty contained in this Agreement arising solely as a result of the designation of such Additional Designated Contract.

(b) During the period from the date hereof and the earlier of the Closing or the valid termination of this Agreement in accordance with its terms, Purchaser shall promptly notify Seller upon becoming aware of (i) any representation or warranty of Purchaser set forth in this Agreement becoming untrue, or any inaccuracy in any representation or warranty of Purchaser such that the condition set forth in **Section 7.3(a)** would not be satisfied if the Closing were to occur at such time, or (ii) any breach of any covenant or agreement of Purchaser set forth in this Agreement such that the condition set forth in **Section 7.3(b)** would not be satisfied if the Closing were to occur at such time; *provided*, *however*, that such notification shall not be deemed to (x) cure any inaccuracy in or breach of any representation or warranty contained in this Agreement for purposes of the satisfaction of the condition set forth in **Section 7.3(a)** or the termination rights set forth in **Section 9.1(e)** or (y) otherwise limit or affect in any way the remedies available hereunder to Seller.

6.10 Cure Amounts. Set forth on **Schedule 2.1(a)(i)** is a list as of the date hereof of the costs that pursuant to Bankruptcy Code Section 365(b) will be required to cure any default on the part of Seller under the Designated Contracts, which costs must be delivered to the nondebtor counterparty under the Designated Contracts, or with respect to which adequate assurance of prompt delivery by Seller must be provided as a prerequisite to the assumption of such Designated Contracts under Bankruptcy Code Section 365(a) (the "**Cure Costs**"). Appropriate additions and deletions shall be made to **Schedule 2.1(a)(i)**, and the Cure Costs shall be correspondingly amended, to reflect additions and deletions to **Schedule 2.1(a)(i)** made from time to time in accordance with **Section 2.1(b)(i)**. Prior to the Closing, Seller shall cooperate with Purchaser to resolve any disputes with the nondebtor party to any of the Designated Contracts regarding the amount of the Cure Costs. The Cure Costs shall be paid for in the manner set forth in **Section 2.1**.

6.11 Section 280G. Seller shall promptly submit to the stockholders of Seller for approval (in a manner reasonably satisfactory to Purchaser), by such number of stockholders of Seller as is required by the terms of Section 280G(b)(5)(B) of the Code, any payments and/or benefits that may separately or in the aggregate, constitute "parachute payments" pursuant to Section 280G of the Code ("**Section 280G Payments**") (which determination shall be made by Seller and shall be subject to review and approval by Purchaser), such that such payments and benefits shall not be deemed to be Section 280G Payments, and prior to the Closing, Seller shall deliver to Purchaser evidence reasonably satisfactory to Purchaser that (A) a vote of the stockholders of Seller was solicited in conformance with Section 280G and the regulations promulgated thereunder and the requisite stockholder approval was obtained with respect to any payments and/or benefits that were subject to the stockholder vote (the "**280G Stockholder Approval**"), or (B) that the 280G Stockholder Approval was not obtained and as a consequence, that such payments and/or benefits shall not be made or provided to the extent they would cause any amounts to constitute Section 280G Payments, pursuant to the waivers of those payments and/or benefits, which were executed by the affected individuals prior to the stockholder vote.

ARTICLE 7
CLOSING CONDITIONS

7.1 Conditions to Obligations of Each Party. The respective obligations of Purchaser and Seller to consummate the Transactions shall be subject to the satisfaction, at or prior to the Closing Date, of each of the following conditions, any of which may be waived in writing by Purchaser or Seller:

(a) No Laws. No Governmental Entity of competent jurisdiction shall have enacted, issued or promulgated any Applicable Law that is in effect and has the effect of making the Transactions illegal or which has the effect of restraining, prohibiting, enjoining, invalidating or otherwise preventing the consummation of the Transactions.

(b) No Orders. No Governmental Entity of competent jurisdiction shall have enacted, issued or promulgated any Order that is in effect and has the effect of making the Transactions illegal or which has the effect of restraining, prohibiting, enjoining, invalidating or otherwise preventing the consummation of the Transactions.

7.2 Additional Closing Conditions of Purchaser. The obligations of Purchaser to consummate the Transactions shall be subject to the satisfaction at or prior to the Closing of each of the following conditions, any of which may only be waived in writing exclusively by Purchaser:

(a) Accuracy of Representations and Warranties. The representations and warranties of Seller herein and the representations and warranties of Creditor in the Creditor Indemnity Agreement that are qualified by any reference to Material Adverse Effect or any other materiality qualifications shall have been true and correct on and as of the date of this Agreement and shall be true and correct on and as of the Closing Date with the same force and effect as if made on and as of the Closing Date (other than any such representations and warranties that address matters only as of a specified date, which shall have been true and correct as of such date). All other representations and warranties of Seller herein and all other representations and warranties of Creditor in the Creditor Indemnity Agreement shall have been true and correct in all material respects on and as of the date of this Agreement and shall be true and correct in all material respects on and as of the Closing Date with the same force and effect as if made on and as of the Closing Date (other than any such representations and warranties that address matters only as of a specified date, which shall have been true and correct in all material respects as of such date).

(b) Compliance with Covenants. Seller shall have performed and complied in all material respects with the covenants and obligations under this Agreement required to be performed by and complied with by Seller prior to the Closing. Creditor shall have performed and complied in all material respects with the covenants and obligations under the Creditor Indemnity Agreement required to be performed by and complied with by Creditor prior to the Closing.

(c) Absence of Material Adverse Effect. Since the date of this Agreement, there shall not have occurred a Material Adverse Effect.

(d) Seller Closing Certificate. Purchaser shall have received a certificate, duly executed by an authorized officer of each Seller, certifying as to the matters set forth in **Sections 7.2(a)**, **(b)** and **(c)**.

(e) Transaction Agreements. Purchaser shall have received duly executed counterparts to this Agreement and all of the Related Agreements to which Seller is a party.

(f) Officer's Certificate. Purchaser shall have received a certificate, validly executed by an officer of Seller, certifying as to the valid adoption of (i) resolutions of the board of directors of Seller unanimously approving and adopting this Agreement, the Related Agreements to which Seller is a party and the Transactions and (ii) resolutions of the stockholders of Seller whereby the Transactions hereunder were approved.

(g) Transferred Assets. Seller shall have delivered, or caused to be delivered, to Purchaser the Transferred Assets.

(h) Release of Liens. Seller shall have delivered, or caused to be delivered, to Purchaser all agreements, instruments, certificates and other documents that are necessary or appropriate to effect the full and unconditional release of all Liens held by Parent and Creditor encumbering the Transferred Assets.

(i) Employment Agreements. The closing conditions set forth on **Schedule 2.2(c)** shall have been satisfied.

(j) Sale Order. The Bankruptcy Court shall have entered the Sale Order and waived the stay requirements of Federal Rules of Bankruptcy Procedure 6004(h) and 6006(d), such Sale Order shall be in full force and effect and shall not have been reversed, stayed, modified or amended without the written consent of the Purchaser.

(k) FIRPTA Compliance. Seller shall have delivered, or caused to be delivered, to Purchaser, a statement pursuant to Treas. Reg. Section 1.1445-2(b) in a form reasonably acceptable to Purchaser that Seller is not a "foreign person" for purposes of Section 1445 of the Code.

(l) 280G Stockholder Approval. Seller shall deliver evidence to Purchaser that the 280G Stockholder Approval has been obtained.

7.3 Additional Closing Conditions of Seller. The obligations of Seller to consummate the Transactions shall be subject to the satisfaction at or prior to the Closing of each of the following conditions, any of which may only be waived in writing exclusively by Seller:

(a) Accuracy of Purchaser Representations and Warranties. The representations and warranties of Purchasers that are qualified by any reference to Material Adverse Effect or any other materiality qualifications shall have been true and correct on and as of the date of this Agreement and shall be true and correct on and as of the Closing Date with the same force and effect as if made on and as of the Closing Date (other than any such representations and warranties that address matters only as of a specified date, which shall have been true and correct as of such date). All other representations and warranties of Purchasers shall have been true and correct in all material respects on and as of the date of this Agreement and shall be true and correct in all material respects on and as of the Closing Date with the same force and effect as if made on and as of the Closing Date (other than any such representations and warranties that address matters only as of a specified date, which shall have been true and correct in all material respects as of such date).

(b) Compliance with Covenants. Purchaser shall have performed and complied in all material respects with the covenants and obligations under this Agreement required to be performed by and complied with by such Purchaser prior to the Closing; *provided*, *however*, that with respect to covenants and obligations that are qualified by materiality, Purchaser shall have performed and complied with such covenants and obligations, as so qualified, in all respects.

(c) Purchaser Closing Certificate. Seller shall have received a certificate, duly executed by an authorized officer of Purchaser, certifying as to the matters set forth in **Sections 7.3(a)** and **(b)**.

(d) Transaction Agreements. Seller shall have received duly executed counterparts to this Agreement and all of the Related Agreements to which Purchaser is a party.

(e) Aggregate Consideration. Purchaser shall have delivered, or caused to be delivered, to Seller the Aggregate Consideration.

ARTICLE 8
SURVIVAL OF REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION

8.1 Survival of Representations and Warranties. The representations, warranties and covenants required to be performed at or prior to Closing of Seller contained in this Agreement, or in any certificate or other instrument delivered pursuant to this Agreement, shall survive until the date that is eighteen (18) months after the Closing Date (or if such date is not a Business Day, the next Business Day thereafter) (the date of expiration of any such survival period in this **Section 8.1**, the "**Survival Date**"), provided that (a) the representations and warranties contained in **Sections 3.1** (*Organization and Standing*), **3.2** (*Subsidiaries*), **3.3** (*Authorization of Transactions*), **3.5** (*Title to and Condition of Transferred Assets*

8.2 Indemnification.

(a) Seller (by virtue of and with respect to amounts in the Escrow Fund) hereby agrees, from and after the Closing, to indemnify and hold harmless Purchaser and its Affiliates, and their respective Representatives (each, an "**Indemnified Party**" and collectively, the "**Indemnified Parties**"), from and against all Actions, losses, Taxes, Liabilities, damages, diminution in value, interest, awards, judgments, penalties, costs and expenses, including reasonable attorneys' and consultants' fees and expenses and including any such reasonable out-of-pocket expenses incurred in connection with investigating, defending against or settling any of the foregoing (hereinafter individually a "**Loss**" and collectively, "**Losses**"; *provided*, for the avoidance of doubt, that the definition of "Losses" shall not include consequential damages except to the extent reasonably foreseeable) that may be incurred, sustained or accrued by any of them, directly or indirectly, in connection with or as a result of the following (the "**Indemnifiable Matters**"):

(i) any inaccuracies in or breaches of any representation or warranty made by or on behalf of Seller in this Agreement or the Ancillary Agreements;

(ii) any breach of any covenant or agreement required to be performed prior to the Closing by or on behalf of Seller under this Agreement or the Ancillary Agreements; or

(iii) any Excluded Liabilities.

(b) Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement shall limit the rights or remedies of any Indemnified Party in connection with (i) the Non-Competition Agreement, the Creditor Indemnity Agreement, the Master Services Agreement, the Employee Offer Letters or the Proprietary Information and Invention Assignment Agreements, or (ii) any equitable remedy, including specific performance or injunctive relief.

(c) Notwithstanding anything in this Agreement or any Related Agreement to the contrary, the rights and remedies of the Indemnified Parties shall not be limited by the fact that any Indemnified Party had, or could have, knowledge of any breach, event or circumstance prior to the Closing.

(d) Nothing in this **Article 8** shall limit the liability of any party hereto for any breach of any representation or warranty contained in this Agreement, any Related Agreement or any certificate or other instrument delivered pursuant to this Agreement if the Closing does not occur.

8.3 Limitations on Payments.

(a) If the transactions contemplated hereby are consummated, the Indemnified Parties shall not be entitled to indemnification pursuant to **Section 8.2(a)** (except, for the avoidance of doubt, in the case of fraud or intentional misrepresentation) unless and until the aggregate amount of all Losses directly or indirectly paid, sustained, or incurred by the Indemnified Parties (or any of them) exceeds $1,000,000 in the aggregate (the "**Basket**"), and if the aggregate amount of all Losses directly or indirectly paid, sustained or incurred by the Indemnified Parties (or any of them) exceeds the Basket, then the Indemnified Parties shall be entitled to indemnification for all such Losses that would otherwise be indemnifiable pursuant to **Section 8.2(a)** (including all Losses incurred prior to exceeding the Basket), subject to the other limitations contained in this **Section 8.3**.

(b) The maximum amount that the Indemnified Parties may recover for the Indemnifiable Matters described in **Section 8.2(a)(i)** (other than for breach of any Fundamental Representations or breach of any representation or warranty contained in **Section 3.9** (*Intellectual Property*), fraud or intentional misrepresentation with respect to any representation or warranty) shall be limited to the Escrow Amount.

(c) The maximum amount that the Indemnified Parties may recover for the Indemnifiable Matters described in **Section 8.2(a)(i)** as a result of any inaccuracy in or breach of any Fundamental Representations (other than for fraud or intentional misrepresentation) shall be limited to the Aggregate Consideration.

(d) The maximum amount that the Indemnified Parties may recover for (i) the Indemnifiable Matters described in **Section 8.2(a)(i)** as a result of any inaccuracy in or breach of any representation or warranty contained in **Section 3.9** (*Intellectual Property*), and (ii) any Indemnifiable Matters described in **Section 8.2(a)(i)** arising from or relating to infringement by Seller of a third party's Intellectual Property Rights that may be presented as a result of any inaccuracy in or breach of any other representation or warranty contained in **Article 3**, including, without limitation, Section 3.6 (*Sufficiency of Transferred Assets*) in each case other than for fraud or intentional misrepresentation, shall be limited to the IP Rep Cap.

(e) The maximum amount that the Indemnified Parties may recover for the Indemnifiable Matters described in **Section 8.2(a)(ii)** shall be limited (other than for fraud or intentional misrepresentation) to the Aggregate Consideration.

(f) Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement shall limit the liability of Seller for any Losses incurred or sustained by the Indemnified Parties or any of them, as a result of the Indemnifiable Matters described in **Section 8.2(a)(iii)**.

(g) Solely for purposes of determining the amount of any Loss (but not for purposes of determining whether there has been any inaccuracy in or breach of any representation or warranty or breach of any covenant), any qualifications in the representations, warranties and covenants with respect to materiality, material, knowledge or similar terms shall be disregarded and will not have any effect with respect to the calculation of the amount of any Losses attributable to a breach of any representation, warranty or covenant of Seller set forth in this Agreement (including the Disclosure Schedule) or any certificate delivered by Seller to Purchaser.

(h) If an Indemnified Party's claim under this **Article 8** may be brought under different sections of **Section 8.2(a)**, then such Indemnified Party shall have the right to bring such claim under any applicable section it chooses in accordance with this **Article 8**.

(i) Notwithstanding anything in this Agreement to the contrary, (i) nothing in this Agreement shall limit the liability of any Person who commits (including by causing Seller to commit) or has actual knowledge of any fraud or intentional misrepresentation in connection with this Agreement, the Ancillary Agreements or the transactions contemplated hereby for any Losses incurred or sustained by the Indemnified Parties or any of them (including Seller) as a result of such fraud or such intentional misrepresentation committed by such Person or which such Person has actual knowledge of; (ii) none of the Indemnified Parties' legal claims arising out of such fraud or such intentional misrepresentation shall be limited or waived by this **Article 8** or any other provision of this Agreement with respect to any Person committing such fraud or such intentional misrepresentation or any Person that has actual knowledge of such fraud or intentional misrepresentation; and (iii) none of the Indemnified Parties' equitable claims arising out of any fraud or any intentional misrepresentation shall be limited or waived by this **Article 8** or any other provision of this Agreement.

8.4 Exclusive Remedy; Recourse to Escrow Fund. Purchaser acknowledges and agrees that, following the Closing, its sole and exclusive remedy with respect to any and all claims (other than for Losses incurred or sustained by the Indemnified Parties or any of them as a result of the Indemnifiable Matters described in **Section 8.2(a)(iii)** or as a result of fraud or intentional misrepresentation, and other than pursuant to any equitable remedy, including specific performance or injunctive relief or pursuant to the Non-Competition Agreement, the Creditor Indemnity Agreement, the Master Services Agreement, the Employee Offer Letters or the Proprietary Information and Invention Assignment Agreements) for any breach of any representation, warranty, covenant, agreement or obligation set forth herein, shall be pursuant to the indemnification provisions set forth in this **Article 8**.

(a) Without limiting the provisions of **Section 8.4(b)**, the maximum amount that the Indemnified Parties may recover for the Indemnifiable Matters from Seller shall be limited (other than for fraud or intentional misrepresentation with respect to any representation or warranty) to the Escrow Amount, and the Indemnified Parties shall seek to recover amounts in respect of such claims from Seller (other than for fraud or intentional misrepresentation with respect to any representation or warranty) solely from the Escrow Fund.

(b) Without limiting the foregoing, if the Indemnified Parties' Losses for Indemnifiable Matters exceed the Escrow Amount, the Indemnified Parties shall seek to recover such Excess Indemnification Amounts solely pursuant to the terms of the Creditor Indemnity Agreement. So long as funds remain in the Escrow Fund, the Indemnified Parties shall seek to recover amounts in respect of such claims from the Escrow Fund prior to seeking to recover amounts in respect of such claims pursuant to the terms of the Creditor Indemnity Agreement.

8.5 Indemnification Procedure.

(a) If an Indemnified Party seeks indemnification under this **Article 8**, the Indemnified Party shall deliver an Officer's Certificate to Seller with a copy to the Escrow Agent. Seller may object to such claim for indemnification by delivering written notice to Purchaser, with a copy to Escrow Agent, specifying in good faith and in reasonable detail the basis for such objection within thirty (30) days following delivery by the Indemnified Party of notice regarding such claim (such notice, an "**Objection Notice**"). If no Objection Notice is delivered within such thirty (30)-day period, such failure to so object shall be an irrevocable acknowledgement by Seller that the Indemnified Party is entitled to the full amount of the claims for Losses

(subject to **Section 8.3**) set forth in such Officer's Certificate (an "**Unobjected Claim**"). Subject to **Sections 8.3, 8.4** and the Escrow Agreement, within thirty (30) days following a claim becoming an Unobjected Claim, the Escrow Agent shall release to Purchaser out of the Escrow Fund an amount equal to the amount of the claim for such Losses, or if such amount is in excess of the Escrow Amount ("**Excess Indemnification Amounts**"), the Escrow Agent shall release to Purchaser the remaining portion of the Escrow Fund by wire transfer of immediately available funds.

(b) If an Objection Notice is delivered within thirty (30) days after delivery of such Officer's Certificate, Seller and Purchaser shall attempt in good faith to agree upon the rights of the respective parties with respect to each of such claims. If Seller and Purchaser should so agree, a memorandum setting forth such agreement shall be prepared and signed by Seller and Purchaser, a copy of which shall be delivered to Escrow Agent, at which time the Indemnified Party shall be entitled to the amount set forth in the memorandum (if any) for Losses (to the extent limited by **Section 8.3**) (a "**Settled Claim**"). Within thirty (30) days following a claim becoming a Settled Claim, the Escrow Agent shall release to Purchaser out of the Escrow Fund an amount equal to the amount of the claim for such Losses, or in the case of Excess Indemnification Amounts, the Escrow Agent shall release to Purchaser the remaining portion of the Escrow Fund by wire transfer of immediately available funds.

(c) If no such agreement can be reached after good faith negotiation prior to forty-five (45) days after delivery of an Objection Notice, then upon the expiration of such forty-five (45)-day period either Purchaser or Seller may bring a claim in a court of competent jurisdiction for the resolution of such claim. Each claim resolved by a court of competent jurisdiction shall be referred to as a "**Resolved Claim**". Within thirty (30) days following a claim becoming a Resolved Claim, the Escrow Agent shall release to Purchaser out of the Escrow Fund an amount equal to the amount of the claim for such Losses, or in the case of Excess Indemnification Amounts, the Escrow Agent shall release to Purchaser the remaining portion of the Escrow Fund by wire transfer of immediately available funds.

(d) The Unobjected Claims, Settled Claims and Resolved Claims shall be referred to collectively as, the "**Payable Claims**". Seller hereby agrees to deliver any instruction to Escrow Agent requested by Purchaser for the disbursement of amounts due to Purchaser for claims determined to be Payable Claims.

(e) The Parties hereto agree to treat any payments made pursuant to this **Article 8** as adjustments to the Aggregate Consideration, to the extent permitted by Applicable Law.

8.6 Third Party Claims. In the event Purchaser becomes aware of a third party claim (a "**Third Party Claim**") which Purchaser reasonably believes may result in a claim for indemnification pursuant to this **Article 8**, Purchaser shall promptly notify Seller of such claim, and Seller shall be entitled at its expense, to participate in, but not to determine or conduct, the defense of such Third Party Claim. The failure to so notify Seller shall not relieve Seller of any Liability, except to the extent Seller demonstrates that the defense of such Third Party Claim is actually and materially prejudiced as a result thereof. If there is a Third Party Claim that, if adversely determined, would give rise to a right of recovery for Losses hereunder, then any reasonable third party fees incurred by an Indemnified Party in the investigation or defense of such Third Party Claim, regardless of the outcome of such Third Party Claim, shall be deemed Losses hereunder. Purchaser shall have the right in its sole discretion to conduct the defense of, and to settle, any such Third Party Claim, and Seller shall be entitled to participate at its expense in, and Purchaser shall consult in good faith with Seller with respect to, any defense (and the conduct thereof), negotiation, settlement, adjustment or compromise of any such Third Party Claim ("**Seller's Participation Rights**"); *provided, however*, that except with the consent of Seller (such consent not to be unreasonably withheld or delayed), no settlement of any Third Party Claim shall be determinative of the amount of Losses relating to such matter or whether

Purchaser is entitled to indemnification under any provision of this **Article 8**. In the case of any defense of a Third Party Claim Purchaser shall use good faith efforts, subject to Purchaser's good faith determinations of defense strategy and Purchaser's good faith business and commercial objectives and considerations relating to the applicable Third Party Claim, to minimize the Losses arising from such Third Party Claim. In the event that Seller has consented to any such settlement, adjustment or compromise, no Person shall have any power or authority to object under any provision of this **Article 8** to the amount of such settlement, adjustment or compromise constituting a Payable Claim.

8.7 Release of Escrow Fund. Subject to and in accordance with the terms and conditions of the Escrow Agreement, on the date that is eighteen (18) months after the Closing Date (the "**Escrow Release Date**"), an amount in the aggregate equal to (a) the amount then remaining in the Escrow Fund minus (b) such amounts (such amounts, the "**Disputed Amounts**") that are the subject or are reasonably necessary to satisfy any unsatisfied claims specified in an Officer's Certificate and delivered to Seller on or prior to the Escrow Release Date with respect to facts and circumstances relating to a claim pursuant to this **Article 8** specified in such Officer's Certificate and existing, threatened or reasonably anticipated on or prior to the Escrow Release Date, shall promptly (and in no event later than five (5) days after the Escrow Release Date) be delivered to Seller in accordance with this Agreement and the Escrow Agreement. As soon as each such unsatisfied claim has been resolved, Seller and Purchaser shall deliver to the Escrow Agent a written notice executed by each such party instructing the Escrow Agent to promptly (and in no event later than one (1) Business Day after the date of such written notice) deliver to Seller the applicable portion of the Disputed Amount (after deducting any amounts required to be distributed pursuant to the resolution of such claim to the applicable Indemnified Parties) that would have otherwise been distributed on the Escrow Release Date in accordance with this Agreement and the Escrow Agreement.

ARTICLE 9
TERMINATION

9.1 Termination. Except as provided in **Section 9.2**, this Agreement may be terminated and the Transactions abandoned at any time prior to the Closing as follows:

(a) by mutual written consent of Purchaser and Seller;

(b) by either Purchaser or Seller, if the Closing shall not have occurred on or before 11:59 p.m. (Pacific time) on February 15, 2016; *provided*, *however*, that the right to terminate this Agreement under this **Section 9.1(b)** shall not be available to any Party whose action or failure to act has been a principal cause of, or resulted in, the failure of the Transactions to occur on or before such date and such action or failure constitutes a breach of this Agreement;

(c) by either Purchaser or Seller, if:

(i) a Governmental Entity of competent jurisdiction shall have enacted, issued or promulgated a Law that is in effect and has the permanent effect of making the Transactions illegal or which has the permanent effect of prohibiting or otherwise preventing the consummation of the Transactions; or

(ii) a Governmental Entity of competent jurisdiction shall have issued or granted an Order that is in effect and has the permanent effect of making the Transactions illegal or which has the permanent effect of prohibiting or otherwise preventing the consummation of the Transactions, and such Order has become final and non-appealable;

(d) by Purchaser (*provided*, that Purchaser is not then in material breach of this Agreement), if there has been a breach of any representation, warranty, covenant or agreement of Seller set forth in this Agreement such that, if not cured on or prior to the Closing, the conditions set forth in **Sections 7.2(a) or (b)** would not be satisfied at the Closing and such breach has not been cured within twenty (20) Business Days after written notice thereof to Seller;

(e) by Seller (*provided*, that Seller is not then in material breach of this Agreement), if there has been a breach of any representation, warranty, covenant or agreement of Purchaser set forth in this Agreement such that, if not cured on or prior to the Closing, the conditions set forth in **Sections 7.3 (a) or (b)** would not be satisfied at the Closing and such breach has not been cured within twenty (20) Business Days after written notice thereof to Purchaser;

(f) by Purchaser or Seller, immediately upon the occurrence of any of the following events:

(i) The Bankruptcy Court approves an Alternative Transaction, or an Alternative Transaction is consummated;

(ii) The dismissal or conversion of the Bankruptcy Case to a case under Chapter 7 of the Bankruptcy Code;

(iii) The Bidding Procedures Order is not entered by the Bankruptcy Court on or prior to December 1, 2015 or the Sale Order is not entered by the Bankruptcy Court on or prior to December 23, 2015.

(g) By Purchaser, if Seller has not obtained the written consent, in the form attached hereto as **Exhibit G**, of Parent and Creditor to the terms and conditions of this Agreement and the transactions contemplated hereby within one (1) Business Day following the commencement of the Bankruptcy Case.

9.2 Effect of Termination. In the event of the valid termination of this Agreement in accordance with the terms of **Section 9.1**, this Agreement shall thereupon and forthwith become void and of no further force or effect whatsoever, and, subject to **Section 9.3**, there shall be no liability or obligation on the part of Purchaser, Seller or their respective Affiliates or Representatives in connection herewith; *provided, however*, that no such termination shall relieve any Party from liability resulting from fraud or arising out of any willful breach of such Party's representations, warranties, covenants or agreements set forth herein; and *provided, further*, that the provisions of **Section 6.2**, this **Section 9.2** and **Article 10** shall remain in full force and effect and survive any termination of this Agreement under the terms of **Section 9.1**.

9.3 Termination Fees. Notwithstanding anything to the contrary in this Agreement, including **Section 9.2**:

(a) in the event that this Agreement is terminated pursuant to **Section 9.1(f)(i)**, then Seller shall pay by wire transfer of immediately available funds to an account designated by Purchaser:

(i) upon delivery by Purchaser to Seller of a reasonably detailed calculation of the actual out-of-pocket costs and expenses (including, without limitation, reasonable expenses of counsel and other outside consultants and reasonable legal expenses related to the transactions contemplated hereby, preparing and negotiating this Agreement and documents related hereto, investigating Seller or the Transferred Assets) incurred by Purchaser in connection with its due diligence investigation of Seller and the negotiation and execution of this Agreement and the transactions contemplated hereby, cash in an amount equal to such costs

and expenses, subject to a cap of Five Hundred Thousand Dollars ($500,000) in the aggregate (the " **Expense Reimbursement**"), plus

(ii) an amount in cash equal to $2,250,000 (the " **Break-Up Fee**"), plus

(iii) an amount in cash equal to the Master Services Fees.

(b) In the event this Agreement (i) is terminated pursuant to **Section 9.1(b)** (other than by Seller where Purchaser's action or failure to act has been a principal cause of, or resulted in, the failure of the Transactions to occur on or before February 15, 2016 and such action or failure constitutes a breach of this Agreement), **9.1(d)**, **9.1(f)(ii)** or **9.1(f)(iii)** and (ii) Seller consummates an Alternative Transaction that constitutes a higher and better offer for the Transferred Assets, then Seller shall pay the Expense Reimbursement and the Break-Up Fee by wire transfer of immediately available funds to an account designated in writing by Purchaser.

(c) In the event this Agreement is terminated pursuant to **Section 9.1(a)**, **9.1(b)** (other than by Seller where Purchaser's action or failure to act has been a principal cause of, or resulted in, the failure of the Transactions to occur on or before February 15, 2016 and such action or failure constitutes a breach of this Agreement), **9.1(c)**, **9.1(d)**, **9.1(f)(ii)**, **9.1(f)(iii)** or **9.1(g)**, then, within one (1) Business Day following receipt of notice from Purchaser, Seller shall pay to Purchaser an amount in cash equal to the Master Services Fees, by wire transfer of immediately available funds to an account designated in writing by Purchaser.

(d) Any payments of the Expense Reimbursement or the Break-Up Fee pursuant to **Sections 9.3(a)(i)** or **9.3(b)** shall be made concurrently with the consummation of the applicable Alternative Transaction.

(e) Purchaser and Seller hereby agree that the Expense Reimbursement and the Break-Up Fee: (i) are not a penalty, but rather, are reasonable estimates of the damages to be suffered by Purchaser in the event the transactions contemplated by this Agreement are not consummated under the circumstances set forth herein, (ii) are a necessary inducement for Purchaser to enter into the transactions contemplated by this Agreement and (iii) shall be the sole remedy of Purchaser for breach of this Agreement by Seller (other than for non-payment of any amounts due under this **Section 9.3**) if this Agreement is terminated under circumstances where the Break-Up Fee is payable.

ARTICLE 10
GENERAL

10.1 Notices. Any notice or other communication required or permitted to be delivered to any Party under this Agreement shall be in writing and shall be deemed properly delivered, given and received (a) when delivered in person; (b) when transmitted by facsimile (with written confirmation); (c) on the third (3rd) Business Day following the mailing thereof by certified or registered mail, return receipt requested; or (d) when delivered by an express courier (with written confirmation) to the Parties at the following addresses (or to such other address or facsimile number as such Party may have specified in a written notice given to the other Parties):

(a) if to Purchaser, to:

Pandora Media, Inc.
2100 Franklin St. Suite 700
Oakland, CA 94612
Attention: General Counsel
Facsimile No.: (510) 593-2729
Telephone No.: (510) 593-2729
with a copy to:

Wilson Sonsini Goodrich & Rosati
One Market Plaza
Spear Tower, Suite 3300
San Francisco, CA 94105
Attention: Todd Cleary
Telephone No: (415) 947-2000
Facsimile No.: (415) 947-2099

Wilson Sonsini Goodrich & Rosati
1301 Avenue of the Americas
40th Floor
New York, NY 10019-6022
Attention: Benjamin Hoch
Telephone No: (212) 999-5800
Facsimile No.: (212) 999-5899

(b) if to Seller, to:

Rdio, Inc.
1550 Bryant Street, Suite 200
San Francisco, CA 94103
Attention: General Counsel
Facsimile No.: (415) 626-6022

with a copy to:

Levene, Neale, Bender, Yoo & Brill L.L.P.
10250 Constellation Boulevard
Suite 1700
Los Angeles, CA 90067
Attention: Ron Bender
Telephone No: (310) 229-1234
Facsimile No.: (310) 229-1244

10.2 Interpretation. Unless a clear contrary intention appears: (a) the singular number shall include the plural, and vice versa; (b) reference to any gender includes each other gender; (c) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof; (d) ”include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed

by the words "without limitation"; (e) all references in this Agreement to "Schedules," "Sections" and "Exhibits" are intended to refer to Schedules, Sections and Exhibits to this Agreement, except as otherwise indicated; (f) the table of contents and headings in this Agreement are for convenience of reference only, shall not be deemed to be a part of this Agreement, and shall not be referred to in connection with the construction or interpretation of this Agreement; (g) "or" is used in the inclusive sense of "and/or"; (h) with respect to the determination of any period of time, "from" means "from and including" and "to" means "to but excluding"; and (i) "hereunder," "hereof," "hereto," and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article, Section or other provision hereof. Documents or other information and materials shall be deemed to have been "made available" by Seller if and only if Seller has posted such documents and information and other materials to the virtual data room managed by Seller at https://datasite.merrillcorp.com or made such documents and information and other materials available in a physical data room located at 4 Embarcadero, Suite 3000, San Francisco, California, between the dates of October 2, 2015 and October 8, 2015, for review by Purchaser and/or its Representatives, in each case at least 24 hours prior to the execution and delivery of this Agreement by the parties hereto; provided that any documents provided by Gregory Akselrud to Adam Copley at least 24 hours prior to the execution and delivery of this Agreement by the parties hereto, including where Adam Copley is one of several recipients, shall also be deemed to have been "made available" to Purchaser; provided, for the avoidance of doubt, documents shall only be deemed to have been "made available" to the extent that copies of such documents containing all material provisions thereof were made available, including, for the avoidance of doubt, material provisions contained in relevant annexes, exhibits, schedules and the like.

10.3 Counterparts. This 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 and delivered to the other Parties, it being understood that all Parties need not sign the same counterpart. Until and unless each Party has received counterparts hereof signed by the other Parties hereto, this Agreement shall have no effect and no Party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). Any signature page delivered electronically or by facsimile (including transmission by Portable Document Format or other fixed image form) shall be binding to the same extent as an original signature page.

10.4 Entire Agreement; Assignment . This Agreement, the exhibits hereto, the Disclosure Schedule and the Related Agreements to which the Parties are party: (a) constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior agreements and understandings both written and oral, between the Parties with respect to the subject matter hereof; and (b) are not intended to confer upon any other Person any rights or remedies hereunder except that this Agreement shall be for the benefit of not only the Parties but also each of the Indemnified Parties and except that **Section 8.2** shall also be for the benefit of the Persons referenced in **Section 8.2**. Notwithstanding the foregoing, the Parties agree and acknowledge that the NDA survives by its terms. Purchaser shall not assign this Agreement by operation of law or otherwise without the prior written consent of Seller, except that Purchaser may assign its rights and delegate its obligations hereunder to one or more of its Affiliates as long as Purchaser remains ultimately liable for all of Purchaser's obligations hereunder. Seller shall not assign this Agreement by operation of law or otherwise without the prior written consent of Purchaser.

10.5 Severability. If any provision of this Agreement or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision to other Persons or circumstances will be interpreted so as reasonably to effect the intent of the Parties. The Parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision

that will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.

10.6 Other Remedies. Except as otherwise set forth herein, any and all remedies herein expressly conferred upon a Party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such Party, and the exercise by a Party of any one remedy will not preclude the exercise of any other remedy. Without prejudice to remedies at law, the Parties shall be entitled to specific performance in the event of a breach or threatened breach of this Agreement.

10.7 Governing Law; Exclusive Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof. Each of the Parties (a) irrevocably consents to the exclusive jurisdiction and venue of the Bankruptcy Court, or, if the Bankruptcy Court lacks or abstains from exercising jurisdiction, the state and federal courts in the State of California, in connection with any matter based upon or arising out of this Agreement or the matters contemplated herein, (b) agrees that process may be served upon them in any manner authorized by the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure and/or the laws of the State of California, as applicable, for such Persons and (c) waives and covenants not to assert or plead any objection which they might otherwise have to such jurisdiction, venue and such process. Each Party agrees not to commence any legal proceedings related hereto except in such courts. In any Action between the Parties concerning their respective rights and obligations under this Agreement, the prevailing party in such Action shall be entitled to receive a reasonable sum for its attorneys' fees and all other reasonable costs and expenses incurred in such Action.

10.8 Rules of Construction. The Parties agree that they have been represented by counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the Party drafting such agreement or document.

10.9 Amendment; Waiver. This Agreement may be amended by the Parties hereto at any time by execution of an instrument in writing signed on behalf of the Party against whom enforcement is sought. Purchaser, on the one hand, and Seller, on the other hand, may, to the extent legally allowed, (i) extend the time for the performance of any of the obligations of the other Party hereto, and (ii) waive compliance with any of the covenants or agreements for the benefit of such Party contained herein. Any agreement on the part of a Party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such Party. No delay or failure by any Party to assert any of its rights or remedies shall constitute a waiver of such rights or remedies.

10.10 No Third Party Beneficiary. Notwithstanding anything contained in this Agreement to the contrary, nothing in this Agreement, expressed or implied, is intended to confer on any Person other than the Parties hereto or their respective successors and assigns any rights, remedies, or Liabilities under or by reason of this Agreement except that **Article 8** shall also be for the benefit of the Indemnified Parties.

[*SIGNATURE PAGES FOLLOW*]

IN WITNESS WHEREOF, the individuals and entities listed below, in their own capacity or by their duly authorized representatives, have executed this Agreement as of the date first written above.

PANDORA MEDIA, INC.

By: /s/ Steve Bené
Name: Steve Bené
Title: General Counsel

RDIO, INC.

By: /s/ Elliott Peters
Name: Elliott Peters
Title: General Counsel

ELEVENTH AMENDMENT TO LEASE

THIS ELEVENTH AMENDMENT TO LEASE (this "Amendment") is entered into as of July 28, 2015 by and between **CIM/OAKLAND CENTER 21, LP**, a Delaware limited partnership ("Landlord"), and **PANDORA MEDIA, INC.**, a Delaware corporation ("Tenant"), with reference to the following facts:

R E C I T A L S

A. Landlord and Tenant entered into that certain Office Lease dated as of July 23, 2009 (the "Original Lease"), as amended by that certain First Amendment to Lease dated as of April 13, 2010 (the "First Amendment"), that certain Second Amendment to Lease dated June 16, 2010 (the "Second Amendment"), that certain Third Amendment to Lease dated as of December 15, 2010 (the "Third Amendment"), that certain Fourth Amendment to Lease dated March 10, 2011 (the "Fourth Amendment"), that certain Fifth Amendment to Lease dated July 1, 2011 (the "Fifth Amendment"), that certain Sixth Amendment to Lease dated September 27, 2011 (the "Sixth Amendment"), that certain Seventh Amendment to Lease dated as of July 12, 2012 (the "Seventh Amendment"), that certain Eighth Amendment to Lease dated as of February 1, 2013 (the "Eighth Amendment"), that certain Ninth Amendment to Lease dated as of June 28, 2013 (the "Ninth Amendment") and that certain Tenth Amendment to Lease dated as of October 3, 2014 (the "Tenth Amendment, and together with the Original Lease, First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, Sixth Amendment, Seventh Amendment, Eighth Amendment and Ninth Amendment, collectively, the "Lease"), pursuant to which Tenant leases certain premises (the "Existing Premises") consisting of 83,912 rentable square feet on the seventh (7th), eighth (8th), fifteenth (15th) and sixteenth (16th) floors of the building located 2101 Webster Street, Oakland, California (the "2101 Webster Building"), and 50,396 rentable square feet on the sixth (6th) and seventh (7th) floors of the building located at 2100 Franklin Street, Oakland, California (the "2100 Franklin Building", and together with the "2101 Webster Building" the "Buildings"), which are both part of the office project known as "Center 21" comprised of (i) the Buildings, (ii) a subterranean parking garage underneath the Buildings, and (iii) a multi-story parking structure located at 2353 Webster Street (collectively, the "Project").

B. Tenant intends to expand the Premises to include (i) the tenth (10th) floor of the 2101 Webster Building, consisting of 24,214 rentable square feet (the "10th Floor Expansion Space"), as shown on Exhibit A-1 attached hereto, and (ii) the fourth (4th) floor of the 2100 Franklin Building consisting of 25,261 rentable square feet (the "4th Floor Expansion Space"), as shown on Exhibit A-2 attached hereto. The 10th Floor Expansion Space and the 4th Floor Expansion Space are collectively referred to herein as the "11th Amendment Expansion Space".

C. Landlord has agreed to the foregoing expansion, subject to the terms and conditions of this Amendment.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Landlord and Tenant hereby agree as follows (capitalized terms used but not defined herein shall have the meaning given them in the Lease):

A G R E E M E N T

1. Incorporation of Recitals. Recitals A through C above are incorporated herein by reference.

2. The Expanded Premises. Commencing upon delivery of the 11th Amendment Expansion Space to Tenant (the "11th Amendment Expansion Commencement Date"), and continuing until the Second Extended Termination Date (as that term is defined in the Tenth Amendment (September 30, 2020)) (the "11th Amendment Expansion Space Term"), Landlord shall lease to Tenant, and Tenant shall lease from Landlord, the 11th Amendment Expansion Space in addition to the Existing Premises. The 11th Amendment Expansion Space has been measured in accordance with the Building Owners and Management Association Method for Measuring Floor Area in Office Buildings, ANSI Z65.1-1996, as modified by Landlord for purposes of the Buildings. Following the 11th Amendment Expansion Commencement Date, all references in the Lease to the Premises shall refer to the Existing Premises and the 11th Amendment Expansion Space, and the Premises shall consist of a total of approximately 183,783 rentable square feet. The 11th Amendment Expansion Commencement Date is September 1, 2015, provided that Landlord shall not be liable for any delay in delivery of the 11th Amendment Expansion Space. The foregoing notwithstanding, if either or both of the 11th Amendment Expansion Space premises is not delivered by January 15, 2016, for any reason whatsoever, through no fault of Tenant, then the date Tenant is otherwise obligated to commence payment of Base Rent (after any free rent periods) and Additional Rent shall be delayed by one (1) day for each day that delivery of possession of the Premises in the required condition is delayed beyond January 15, 2016. If either or both of the 11th Amendment Expansion Space premises does not occur by February 15, 2016, then the date Tenant is otherwise obligated to commence payment of Base Rent and Additional Rent (after any free rent periods) shall be delayed by two (2) days for each day that delivery of possession of the Premises in the required condition is delayed beyond February 15, 2016.

3. Monthly Base Rent for the 10th Floor Expansion Space. Commencing on March 1, 2016 (the "10th Floor Expansion Space Rent Commencement Date") or such later date pursuant to Section 2 above, Tenant shall pay Base Rent for the 10th Floor Expansion Space in the amount of $76,274.10 per month (based on $3.15 per rentable square foot per month). Thereafter, on each anniversary of the 11th Amendment

Expansion Commencement Date, Base Rent for the 10th Floor Expansion Space shall be increased annually by 3% per annum throughout the 11th Amendment Expansion Space Term.

4. Monthly Base Rent for the 4th Floor Expansion Space. Commencing April 1, 2016 (the "4th Floor Expansion Space Rent Commencement Date") or such later date pursuant to Section 2 above, Tenant shall pay Base Rent for the 4th Floor Expansion Space in the amount of $79,572.15 per month (based on $3.15 per rentable square foot per month). Thereafter, on each anniversary of the 11th Amendment Expansion Commencement Date, Base Rent for the 4th Floor Expansion Space shall be increased annually by 3% per annum throughout the 11th Amendment Expansion Space Term.

5. Base Year; Tenant's Proportionate Share for 10th Floor Expansion Space. Commencing on January 1, 2017, as to the 10th Floor Expansion Space, Tenant shall pay Tenant's Proportionate Share of increases of Operating Costs over the calendar year 2016, which is 5.12% (as to the 10th Floor Expansion Space only), based on 24,214/472,636 (as to the 2101 Webster Building), and 3.51% (as to the Buildings).

6. Base Year; Tenant's Proportionate Share for 4th Floor Expansion Space. Commencing on January 1, 2017, as to the 4th Floor Expansion Space, Tenant shall pay Tenant's Proportionate Share of increases of Operating Costs over the calendar year 2016, which is 11.66% (as to the 4th Floor Expansion Space only), based on 25,261/216,667 (as to the 2100 Franklin Building), and 3.66% (as to the Buildings).

7. Condition of the 11th Amendment Expansion Space. Except for Landlord's Work (as hereinafter defined), Tenant hereby agrees to accept the 11th Amendment Expansion Space in their "as-is, where is" condition (but with all Building systems serving the 11th Amendment Expansion Space in good working order) and Tenant acknowledges that Landlord has no obligation to improve the 11th Amendment Expansion Space nor has Landlord made any representation or warranty regarding the condition of the 11th Amendment Expansion Space other than regarding having the Building systems in good working order). Notwithstanding the foregoing, Landlord shall provide Tenant with a tenant improvement allowance (the "11th Amendment Expansion Allowance") in the amount of $2,473,750.00 (based on $50.00 per rentable square foot of the 11th Amendment Expansion Space), to cover a portion of the costs of designing and constructing the interior improvements that will be permanently affixed to the 11th Amendment Expansion Space (the "11th Amendment Expansion Space Improvements"). The 11th Amendment Expansion Allowance will be disbursed in accordance with the Work Letter attached as Exhibit B. Tenant shall submit preliminary plans and specifications (the "Preliminary Plans") for the 11th Amendment Expansion Space Improvements to Landlord by October 31, 2015 and shall thereafter prosecute the design and construction of the 11th Amendment Expansion Space Improvements in accordance with the Work Letter attached hereto as Exhibit B. For supervising the Expansion Space Improvements, Tenant shall pay to Landlord or a designated affiliate of Landlord a construction supervision fee in the amount of $25,000, which fee may be deducted by Landlord from the 11th Amendment Expansion Allowance. Upon Landlord's approval of the Preliminary Plans and receipt of invoices to be paid, Landlord will reimburse Tenant for one "test-fit" plan in the amount of up to $7,421.25, which amount may be deducted by Landlord from the 11th Amendment Expansion Allowance. Any portion of the 11th Amendment Expansion Allowance not used by December 31st, 2017 shall be retained by Landlord. On or before March 1, 2016, Landlord, at Landlord's sole cost and expense and without deduction from the 11th Amendment Expansion Allowance, shall be responsible for bringing all restrooms on the floors of the 11th Amendment Expansion Space into compliance with current applicable Laws, and covering the exterior of 2101 Webster Building directly adjacent and facing 2100 Franklin Building with sheetrock and drywall (collectively, "Landlord's Work"). The parties acknowledge and agree that the finishes in the 10th Floor Expansion Space and 4th Floor Expansion Space restrooms have been completed and are being delivered to Tenant "as is", and that Landlord's Work shall be done concurrently with and in conjunction with Tenant's construction of the Tenant Improvements. Subject to any patent or latent defects identified by Tenant within six (6) months following the 11th Amendment Expansion Commencement Date, the commencement of any construction within the 11th Amendment Expansion Space by anyone claiming by, through or under Tenant shall be conclusive evidence that: (a) Tenant accepts possession thereof; and (b) the 11th Amendment Expansion Space was in good and satisfactory condition.

8. Condition of the Existing Premises. Subject to Landlord's obligations under the Lease, and this 11th Amendment, Tenant shall continue to lease the Existing Premises in their "as-is, where is" condition and Tenant acknowledges that Landlord has no obligation to improve the Existing Premises nor has Landlord made any representation or warranty regarding the condition of the Existing Premises.

9. Parking. Effective as of the Expansion Space Commencement Date and continuing throughout the Term, Tenant shall have the right to rent the additional following parking spaces: Up to forty-nine (49) unreserved parking passes in the Parking Structure at 2353 Webster, and up to five (5) unreserved parking passes in the Underground Parking Garage. Tenant's rental and use of such additional parking passes shall be in accordance with, and subject to, all provisions of the Lease including, without limitation, any increases in payment of the monthly parking rates as specified therein. Bicycle parking is available on the first deck of the 2353 Webster Parking Structure at no cost to Tenant. The parties acknowledge that Landlord currently operates a courtesy shuttle on non-holiday business days between the Parking Structure and the Building, and between the Building and the 19th Street BART Station between 3:30 p.m. and 8:30 p.m. Tenant should direct any questions regarding such shuttle to the Buildings manager.

10. Option to Extend. The renewal option in Section 11 of the Tenth Amendment shall apply to the entire Premises (as herein expanded).

11. Signage. At no cost to Tenant, Landlord shall provide Buildings standard signage for the 11th Amendment Expansion Space, including 2101 Webster Building directory, 2100 Franklin Building directory, elevator lobby and suite identification signage. Subject to Landlord's prior reasonable approval as to the design of the sign, at Tenant's sole cost, Tenant may place its standard corporate signage, with corporate logo, at the Premises double door entry and in the elevator lobby on any full floor that it occupies.

12. Security Deposit. Tenant is not required to provide any additional Security Deposit (as defined in the Lease) in connection with the 11th Amendment Expansion Space.

13. Authority.

(a) Landlord hereby covenants, represents and warrants to Tenant that: (i) no third party consents or approvals are required, or Landlord has obtained all required consents or approvals (and such consents or approvals have been attached to this Amendment), in order for Landlord to enter into this Amendment; (ii) the execution, delivery and full performance of this Amendment by Landlord does not and shall not constitute a violation of any contract, agreement, mortgage, undertaking, judgment, law, decree, governmental or court or other restriction of any kind to which Landlord is a party or by which Landlord may be bound; (iii) Landlord is duly organized, validly existing and in good standing under the laws of the state of its organization and has full power and authority to enter into this Amendment, to perform its obligations under this Amendment in accordance with its terms, and to transact business in the state in which the Premises are located; (iv) this Amendment does not violate the provisions of any instrument heretofore executed by and/or binding on Landlord, or affecting or encumbering the Premises.

(b) Tenant hereby covenants, represents and warrants to Landlord that: (i) no third party consents or approvals are required, or Tenant has obtained all required consents or approvals (and such consents or approvals have been attached to this Amendment), in order for Tenant to enter into this Amendment; (ii) the execution, delivery and full performance of this Amendment by Tenant does not and shall not constitute a violation of any contract, agreement, mortgage, undertaking, judgment, law, decree, governmental or court or other restriction of any kind to which Tenant is a party or by which Tenant may be bound; (iii) Tenant is duly organized, validly existing and in good standing under the laws of the state of its organization and has full power and authority to enter into this Amendment, to perform its obligations under this Amendment in accordance with its terms, and to transact business in the state in which the Premises are located; (iv) this Amendment does not violate the provisions of any instrument heretofore executed by and/or binding on Tenant.

14. Brokers. Landlord and Tenant each warrant and represent to the other that other than CBRE and Colliers International ("Brokers"), it has not employed or dealt with any real estate broker or finder in connection with this Amendment, and that it knows of no real estate broker, agent or finder who is or might be entitled to a commission or fee in connection with this Amendment. Landlord and Tenant each agree to indemnify, defend and hold the other harmless from and against any and all claims demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including without limitation reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent other than Brokers occurring by, through, or under the indemnifying party in connection with this Amendment.

15. Status of Lease. Except as amended by this Amendment, the Lease remains unchanged, and, as amended by this Amendment, the Lease is in full force and effect.

16. Counterparts. This Amendment may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same Amendment. In addition, properly executed, authorized signatures may be transmitted via facsimile and upon receipt shall constitute an original signature.

17. Entire Agreement. There are no oral or written agreements or representations between the parties hereto affecting the Lease not contained in the Lease or this Amendment. The Lease, as amended, supersedes and cancels any and all previous negotiations, arrangements, representations, brochures, displays, projections, estimates, agreements, and understandings, if any, made by, to, or between Landlord and Tenant and their respective agents and employees with respect to the subject matter thereof, and none shall be used to interpret, construe, supplement or contradict the Lease, including any and all amendments thereto. The Lease, and all amendments thereto, shall be considered to be the only agreement between the parties hereto and their representatives and agents. To be effective and binding on Landlord and Tenant, any amendment, revision, change or modification to the provisions of the Lease must be in writing and executed by both parties.

--Signatures Next Page--

IN WITNESS WHEREOF, Landlord and Tenant have entered into this Amendment as of the date first set forth above.

"**Tenant**":

PANDORA MEDIA, INC.,
a Delaware corporation

By: /s/ Michael Herring
Name: Michael Herring
Its: Chief Financial Officer

"**Landlord**":

CIM/OAKLAND CENTER 21, LP,
a Delaware limited partnership

By:CIM Management, Inc., a California corporation
Its property manager

By: /s/ Terry Wachsner

Terry Wachsner, Vice President

AMENDMENT NO. 1 TO CREDIT AGREEMENT

This AMENDMENT NO. 1, dated as of December 2, 2015 (this "**Amendment**"), is to that certain Credit Agreement, dated as of May 13, 2011, as amended and restated as of September 12, 2013 (as further amended, restated, supplemented, or otherwise modified from time to time, the "**Credit Agreement**"), among PANDORA MEDIA, INC., a Delaware corporation (the "**Borrower**"), the LENDERS party thereto (collectively, the "**Lenders**") and JPMORGAN CHASE BANK, N.A., as the administrative agent. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Credit Agreement.

RECITALS

WHEREAS, the Borrower has requested that certain amendments be made to the Credit Agreement on the terms and conditions set forth below.

WHEREAS, the Required Lenders have agreed to make such requested amendments to the Credit Agreement.

NOW, THEREFORE, in consideration of the continued performance by the Borrower of its obligations under the Credit Agreement and the other Loan Documents, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower and the Required Lenders agree as follows:

AGREEMENT

1. Amendments to the Credit Agreement. Subject to the satisfaction of the conditions precedent set forth in **Section 3** below, the Credit Agreement is hereby amended as follows:

(a) The definition of "Permitted Call Spread Hedge Agreements" in **Section 1.01** of the Credit Agreement is amended (i) to insert the following phrase after the word "call" in clause (a) thereof: "or a capped call" and (ii) to insert the following phrase at the beginning of clause (b) thereof: "if entered by the Borrower in connection with any Hedge Agreement described in clause (a) above,".

(b) The definition of "Permitted Convertible Notes" in **Section 1.01** of the Credit Agreement is amended and restated in its entirety to read as follows:

> ""Permitted Convertible Notes" means any notes issued by the Borrower that are convertible into common stock of the Borrower or cash in lieu of all or any portion of such shares of common stock; provided that (a) the stated final maturity thereof shall be no earlier than 91 days after the Maturity Date, and shall not be subject to any conditions that could result in such stated final maturity occurring on a date that precedes the 91st day after the Maturity Date (it being understood that a repurchase of such notes on account of the occurrence of a "fundamental change" or any redemption of such notes at the option of the Borrower shall not be deemed to constitute a change in the stated final maturity thereof), (b) such notes shall not be required to be repaid, prepaid, redeemed, repurchased or defeased, whether on one or more fixed dates, upon the occurrence of one or more events or at the option of any holder thereof (except, in each case, upon the occurrence of an event of default, a "fundamental change" or following the Borrower's election to redeem such notes) prior to the 91st day after the Maturity Date, (c) the terms, conditions and covenants of such notes

shall be such as are typical and customary for notes of such type (as determined by the Board of Directors of the Borrower in good faith), (d) no Subsidiary that is not a Loan Party shall Guarantee obligations of the Borrower thereunder, and each such Guarantee shall provide for the release and termination thereof, without action by any Person, upon any release and termination of the Guarantee by such Subsidiary of the Loan Document Obligations, and (e) the obligations in respect thereof (and any Guarantee thereof) shall not be secured by any Lien on any asset of the Borrower or any Subsidiary."

(c) **Section 6.01(k)** of the Credit Agreement is amended to delete the figure "$300,000,000" and insert therefor the figure "$500,000,000".

(d) **Section 6.08(a)** of the Credit Agreement is amended to (i) insert the word "and" immediately before **Clause (a)(vii)(B)** thereof and (ii) delete **Clause (a)(vii)(C)** thereof.

(e) **Section 6.08(b)(iii)** of the Credit Agreement is amended to delete the word "solely".

(f) **Section 6.08(b)(v)** of the Credit Agreement is amended (i) to delete the word "and" at the end of clause (v) thereof, (ii) to replace the "." at the end of clause (vi) thereof with ";" and (iii) to insert the following two clauses in numerical order:

"(vii) the repayment of any such Indebtedness on the final stated maturity thereof, provided that such final stated maturity satisfies the respective requirements set forth in the definitions of "Permitted Convertible Notes" and "Permitted Subordinated Notes", as the case may be; and"

"(viii) the documents governing any such Indebtedness may contain customary "fundamental change" or "change of control" provisions, provided that no payments or other distributions may be made under any such provisions except to the extent permitted by the other clauses of this Section 6.08(b)."

(g) **Clause (g)** of **Article VII** of the Credit Agreement is amended to append the following phrase to **Clause (B)** thereof: "or as a result of any voluntary prepayment, repurchase, redemption or defeasance thereof by the Borrower or any Subsidiary in the absence of any default (or a similar event, however denominated) thereunder".

2. Representations and Warranties. The Borrower represents and warrants that:

(a) this Amendment has been duly authorized, executed, and delivered by the Borrower and constitutes a legal, valid, and binding obligation of the Borrower, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium, or other laws affecting creditors' rights generally, concepts of reasonableness, and general principles of equity, regardless of whether considered in a proceeding in equity or at law;

(b) the representations and warranties of each Loan Party set forth in the Credit Agreement and the other Loan Documents are true and correct (i) in the case of the representations and warranties qualified as to materiality, in all respects, and (ii) otherwise, in all material respects, in each case on and as of the date hereof, except in the case of any such representation and warranty that expressly relates to a prior date, in which case the Borrower only represents and warrants that such representation and warranty was so true and correct on and as of such prior date; and

(c) as of the date hereof, no Default or Event of Default has occurred and is continuing.

3. Effectiveness of this Amendment; Conditions Precedent. This Amendment shall become effective on the first date (the "Amendment Effective Date") on which the following conditions shall have been satisfied:

(a) The Administrative Agent shall have executed a counterpart hereto and shall have received from the Borrower and the Required Lenders either (i) a counterpart of this Amendment signed on behalf of such party or (ii) evidence satisfactory to the Administrative Agent (which may include a facsimile transmission or electronic transmission of a "pdf" copy of a signature by such party of a counterpart hereof) that such Person has signed a counterpart of this Amendment.

(b) The Administrative Agent shall have received a certificate, dated the Amendment Effective Date and signed by the chief executive officer or the chief financial officer of the Borrower, certifying that the representations and warranties set forth in Section 2 hereof are true and correct as of the Amendment Effective Date.

(c) The Administrative Agent shall have received reimbursement of all reasonable out-of-pocket expenses (including the reasonable fees, charges and disbursements of counsel) required to be reimbursed by the Borrower under the Credit Agreement in respect of this Amendment.

4. Miscellaneous.

(a) No Novation. Except as expressly set forth herein, this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of the Administrative Agent, the Issuing Banks or the Lenders under the Credit Agreement or any other Loan Document, and shall not alter, modify, amend, or in any way affect any of the terms, conditions, obligations, covenants, or agreements contained in the Credit Agreement or any other Loan Document, all of which shall continue in full force and effect in accordance with the provisions thereof. Nothing herein shall be deemed to entitle any Loan Party to a consent to, or a waiver, amendment, modification, or other change of, any of the terms, conditions, obligations, covenants, or agreements contained in the Credit Agreement or any other Loan Document in similar or different circumstances.

(b) Effect. Upon the effectiveness of this Amendment, each reference in the Credit Agreement to "this Agreement," "hereunder," "hereof," or words of like import shall mean and be a reference to the Credit Agreement as modified hereby and each reference in the other Loan Documents to the Credit Agreement, "thereunder," "thereof," or words of like import shall mean and be a reference to the Credit Agreement as modified hereby. Except as expressly provided in this Amendment, all of the terms, conditions and provisions of the Credit Agreement shall remain the same. This Amendment shall constitute a Loan Document for all purposes of the Credit Agreement and the other Loan Documents.

(c) Governing Law. THIS AMENDMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

(d) Counterparts. This Amendment may be executed by the parties hereto in several counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument. Delivery of an executed counterpart of a signature page

to this Amendment by telecopy, e-mailed .pdf, or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Amendment.

(e) Severability. Any provision of this Amendment held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

(f) Headings. The various headings of this Amendment are inserted for convenience of reference only and shall not affect the meaning or interpretation of this Amendment or any provisions hereof.

*****

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

BORROWER:

PANDORA MEDIA, INC.

By: /s/ Michael S. Herring
Name: Michael Herring
Title: Chief Financial Officer

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

By: /s/ John Kowalczuk
Name: John Kowalczuk
Title: Executive Director

MORGAN STANLEY BANK, N.A.,
as a Lender

By: /s/ Gilroy D'Souza
Name: Gilroy D'Souza
Title: Authorized Signatory

AMENDMENT AND RESTATEMENT AGREEMENT dated as of December 21, 2015 (this "Agreement"), to the Credit Agreement dated as of May 13, 2011, as previously amended and restated as of September 12, 2013 and subsequently amended prior to the date hereof (the "Existing Credit Agreement"), among PANDORA MEDIA, INC., a Delaware corporation (the "Borrower"), the LENDERS party thereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent.

Capitalized terms used but not otherwise defined herein have the meanings assigned to them in the Existing Credit Agreement or the Restated Credit Agreement (as defined below), as the context requires.

WHEREAS, the Borrower has requested (a) an increase in the aggregate amount of the Commitments by $60,000,000 (the "Commitment Increase") to an aggregate total amount of $120,000,000, such additional Commitments to be provided by Persons whose names appear on Schedule 1 hereto (the "Commitment Increase Participants") and (b) certain other modifications be made to the Existing Credit Agreement; and

WHEREAS, the Administrative Agent, the Issuing Bank, each of the Lenders party hereto and each other Commitment Increase Participant are willing to agree to the foregoing, in each case on the terms and subject to the conditions set forth herein.

NOW THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

SECTION 1. Amendment and Restatement of the Existing Credit Agreement and Amendment of the Collateral Agreement. Effective as of the Restatement Effective Date:

(a) the Existing Credit Agreement (excluding all schedules and exhibits thereto (other than Schedule 2.01 and Exhibits H-1, H-2, H-3 and H-4 thereto), each of which shall remain as in effect immediately prior to the Restatement Effective Date) is hereby amended and restated to be in the form attached as Exhibit A hereto (the Existing Credit Agreement, as so amended and restated, being referred to as the "Restated Credit Agreement");

(b) Schedule 2.01 to the Existing Credit Agreement is hereby amended and restated to be in the form of Schedule 2.01 hereto;

(c) each of Exhibits H-1, H-2, H-3 and H-4 to the Existing Credit Agreement is hereby amended by inserting immediately after each occurrence therein of the phrase "IRS Form W-8BEN" the phrase "or IRS Form W-8BEN-E, as applicable,"; and

(d) Article II of the Collateral Agreement is hereby amended by adding at the end thereof the following new Section 2.07:

"SECTION 2.07. Keepwell. Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to honor all of its obligations under the Loan Documents in respect of Swap Obligations (subject to the limitations on its Guarantee under this Agreement). The obligations of each Qualified ECP Guarantor under this Section shall remain in full force and effect until its Guarantee under this Agreement is released. Each Qualified ECP Guarantor intends that this Section 2.07 constitute, and this Section 2.07 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act."

(e) The proviso to clause (a) of Section 3.01 of the Collateral Agreement is hereby amended to replace the word "and" immediately before clause (C) thereof with a comma and to replace the final parenthetical thereof with the following phrase:

"and (D) Equity Interests in any Subsidiary that is not a Material Subsidiary (the Equity Interests so excluded under clauses (A), (B), (C) and (D) above being collectively referred to herein as the "Excluded Equity Interests")".

(f) Morgan Stanley Bank, N.A. shall be deemed to have assigned to Morgan Stanley Senior Funding, Inc., and Morgan Stanley Senior Funding, Inc. shall be deemed to have assumed, the full amount of the Commitment of Morgan Stanley Bank, N.A. as in effect on the Restatement Effective Date. The parties hereto acknowledge and agree that on the Restatement Effective Date, after giving effect to the Commitment Increase, the amount of the Commitment of Morgan Stanley Senior Funding, Inc. shall be $50,000,000, and Morgan Stanley Bank, N.A. shall have no Commitment and shall be released from its obligations under the Restated Credit Agreement (and shall cease to be a party thereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 9.03 thereof).

SECTION 2. Commitment Increase; Letter of Credit Participations. (a) On the Restatement Effective Date, (i) each Lender that is a Commitment Increase Participant will have its Commitment increased by the amount set forth next to the name of such Person on Schedule 1 hereto, (ii) each Lender shall have a Commitment in the amount set forth next to the name of such Person on Schedule 2.01 hereto and (iii) the Revolving Exposure of each Lender, and the Applicable Percentage of all the Lenders, in each case under the Restated Credit Agreement, shall automatically be adjusted to give effect to the Commitments established hereunder. Each Lender acknowledges and agrees that, on the Restatement Effective Date and without any further action on the part of the Issuing Bank or the Lenders, all outstanding participations in Letters of Credit under the Existing Credit Agreement shall be canceled and the Issuing Bank shall have granted to each Lender, and each Lender shall have acquired from the Issuing Bank, a participation in each Letter of

Credit issued by the Issuing Bank and outstanding on the Restatement Effective Date equal to such Lender's Applicable Percentage (as automatically redetermined on the Restatement Effective Date based on the Commitments set forth on Schedule 2.01 to the Restated Credit Agreement) of the aggregate amount available to be drawn under such Letter of Credit. Such participations shall be governed by the terms of Section 2.05 of the Restated Credit Agreement.

(b) It is acknowledged that the Commitment Increase effected hereby shall not reduce the amount by which the Borrower may further increase the Commitments in accordance with the terms and conditions of Section 2.20 of the Restated Credit Agreement.

SECTION 3. Representations and Warranties. The Borrower represents and warrants to each other party hereto that:

(a) this Agreement has been duly authorized, executed and delivered by the Borrower and each Subsidiary Loan Party and constitutes a legal, valid and binding obligation of each of them, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally, concepts of reasonableness and general principles of equity, regardless of whether considered in a proceeding in equity or at law;

(b) the representations and warranties of each Loan Party set forth in the Restated Credit Agreement and the other Loan Documents are true and correct (i) in the case of the representations and warranties qualified as to materiality, in all respects and (ii) otherwise, in all material respects, in each case on and as of the Restatement Effective Date, except in the case of any such representation and warranty that expressly relates to a prior date, in which case the Borrower only represents and warrants that such representation and warranty was so true and correct on and as of such prior date; and

(c) as of the Restatement Effective Date, no Default or Event of Default has occurred and is continuing.

SECTION 4. Effectiveness. The amendment and restatement of the Existing Credit Agreement and Schedule 2.01 thereto and the amendment of each of Exhibits H-1, H-2, H-3 and H-4 and Article II and Section 3.01 of the Collateral Agreement as set forth in Section 1 hereof, and the effectiveness of the Commitment Increase established under Section 2 hereof, shall become effective on the first date (the "Restatement Effective Date") on which the following conditions shall have been satisfied:

(a) The Administrative Agent shall have executed a counterpart hereto and shall have received from the Borrower, each Subsidiary Loan Party, the Issuing Bank, each Commitment Increase Participant and Lenders constituting the Required Lenders either (i) a counterpart of this Agreement signed on behalf of such party or (ii) evidence satisfactory to the Administrative Agent (which may include a facsimile transmission or

electronic transmission of a "pdf" copy of a signature by such party of a counterpart hereof) that such Person has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received customary written opinions (addressed to the Administrative Agent, the Issuing Bank and the Lenders and dated the Restatement Effective Date) of Sidley Austin LLP, counsel for the Borrower, in form and substance reasonably satisfactory to the Administrative Agent.

(c) The Administrative Agent shall have received such customary documents and certificates as the Administrative Agent may reasonably request relating to the organization, existence and good standing of the Loan Parties, the authorization of this Agreement and the transactions contemplated hereby and any other legal matters relating to the Loan Parties or the transactions contemplated hereby, all in form and substance reasonably satisfactory to the Administrative Agent.

(d) The Administrative Agent shall have received a certificate, dated the Restatement Effective Date and signed by the chief executive officer or the chief financial officer of the Borrower, certifying that the representations and warranties set forth in Section 3 hereof are true and correct as of the Restatement Effective Date.

(e) The Borrower shall have prepaid all outstanding Loans, if any, and after giving effect to all such prepayments made on the Restatement Effective Date, there shall be no Revolving Exposure other than LC Exposure.

(f) The Administrative Agent shall have received all fees and other amounts due and payable to it or any of its Affiliates on or prior to the Restatement Effective Date, including, to the extent invoiced at least one Business Day prior to the Restatement Effective Date, reimbursement of all reasonable out-of-pocket expenses (including the reasonable fees, charges and disbursements of counsel) required to be reimbursed by the Borrower under the Existing Credit Agreement or the Restated Credit Agreement, as applicable.

(g) The Administrative Agent shall have received for the account of each Commitment Increase Participant an upfront fee in the amount of 0.25% of the amount of the Commitment increase of such Commitment Increase Participant set forth on Schedule 1 hereto.

(h) The Lenders shall have received all documentation and other information required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, in each case to the extent requested at least five Business Days prior to the Restatement Effective Date.

(i) The Administrative Agent shall have received a completed Restatement Effective Date Perfection Certificate, dated the Restatement Effective Date and

signed by an executive officer or a Financial Officer of the Borrower, together with all attachments contemplated thereby.

The Administrative Agent shall notify the Borrower, the Lenders and the Issuing Bank of the occurrence of the Restatement Effective Date. Each Lender and the Issuing Bank, by delivering its signature page to this Agreement, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Restatement Effective Date.

SECTION 5. Effect of Amendment and Restatement; No Novation. (a) Except as expressly set forth herein, this Agreement shall not by implication or otherwise limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of the Administrative Agent, the Issuing Banks or the Lenders under the Existing Credit Agreement or any other Loan Document, and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Existing Credit Agreement or any other Loan Document, all of which shall continue in full force and effect in accordance with the provisions thereof. Nothing herein shall be deemed to entitle any Loan Party to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Existing Credit Agreement, the Restated Credit Agreement or any other Loan Document in similar or different circumstances.

(b) On and after the Restatement Effective Date, each reference in the Restated Credit Agreement to "this Agreement", "hereunder", "hereof", "herein", or words of like import, as used in the Restated Credit Agreement, shall refer to the Existing Credit Agreement as amended and restated in the form of the Restated Credit Agreement, and the term "Credit Agreement", as used in any Loan Document, shall mean the Restated Credit Agreement. This Agreement shall constitute a "Loan Document" for all purposes of the Restated Credit Agreement and the other Loan Documents.

(c) Neither this Agreement nor the effectiveness of the Restated Credit Agreement shall extinguish the obligations for the payment of money outstanding under the Existing Credit Agreement or discharge or release any Guarantee thereof. Nothing herein contained shall be construed as a substitution or novation of the Loan Document Obligations outstanding under the Existing Credit Agreement or the Security Documents, which shall remain in full force and effect, except as modified hereby. Nothing expressed or implied in this Agreement, the Restated Credit Agreement or any other document contemplated hereby or thereby shall be construed as a release or other discharge of the Borrower under the Existing Credit Agreement or any Loan Party under any Loan Document (as defined in the Existing Credit Agreement) from any of its obligations and liabilities thereunder.

SECTION 6. Applicable Law. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

SECTION 7. Reaffirmation. Each of the Borrower and the Subsidiary Loan Parties (the Borrower and the Subsidiary Loan Parties collectively being referred to as the "Reaffirming Loan Parties") hereby acknowledges that it expects to receive substantial direct and indirect benefits as a result of this Agreement and the transactions contemplated hereby. Each Reaffirming Loan Party hereby further (a) acknowledges that the Loan Document Obligations shall include the due and punctual payment of all the monetary obligations of each Loan Party under or pursuant to the Restated Credit Agreement, including all such obligations in respect of the Commitments as increased hereby and all Loans incurred thereunder (including all such obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), (b) confirms its guarantees, pledges and grants of security interests, as applicable, under each of the Loan Documents to which it is party and (c) agrees that, notwithstanding the effectiveness of this Agreement and the transactions contemplated hereby, such guarantees, pledges and grants of security interests shall continue to be in full force and effect and shall accrue to the benefit of the Secured Parties (and shall be determined after giving effect to this Agreement).

SECTION 8. Counterparts. This Agreement may be executed in any number of counterparts (and by different parties hereto on different counterparts), each of which when so executed and delivered shall be deemed an original, but all of which taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by facsimile transmission or other electronic imaging (such as a 'pdf') shall be as effective as delivery of a manually executed counterpart hereof.

SECTION 9. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 10. Headings. Section headings used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date set forth above.

PANDORA MEDIA, INC.,

By: /s/ Michael Herring
Name: Michael Herring
Title: Chief Financial Officer

PANDORA MEDIA CALIFORNIA, LLC,

By: /s/ Selwa Hussain
Name: Selwa Hussain
Title: Chief Financial Officer

TICKETFLY, LLC,

By: /s/ Selwa Hussain
Name: Selwa Hussain
Title: Chief Financial Officer

JPMORGAN CHASE BANK, N.A., individually and as Administrative Agent and Issuing Bank,

by /s/ John Kowalczuk
Name: John Kowalczuk
Title: Executive Director

MORGAN STANLEY BANK, N.A.,

by /s/ Lisa Hansan
Name: Lisa Hansan
Title: Vice President

Morgan Stanley Senior Funding, Inc. individually as a lender,

By: /s/ Michael King
Name: Michael King
Title: Vice President

SCHEDULE 1

Commitment Increases

Lender	Commitment Increase
JPMorgan Chase Bank, N.A.	$30,000,000
Morgan Stanley Senior Funding, Inc.	$30,000,000
Total Amount	$60,000,000

SCHEDULE 2.01

Commitments as in effect on the Restatement Effective Date

Lender	Commitment
JPMorgan Chase Bank, N.A.	$50,000,000
Morgan Stanley Senior Funding, Inc.	$50,000,000
Silicon Valley Bank	$20,000,000
Total Amount	$120,000,000

EXHIBIT A

Amended and Restated Credit Agreement

CREDIT AGREEMENT

dated as of

May 13, 2011,

as amended and restated as of

December 21, 2015,

among

PANDORA MEDIA, INC.,

The LENDERS Party Hereto

and

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

_____

J.P. MORGAN SECURITIES LLC,
as Sole Lead Arranger

J.P. MORGAN SECURITIES LLC and
MORGAN STANLEY SENIOR FUNDING, INC.,
as Joint Bookrunners

MORGAN STANLEY SENIOR FUNDING, INC and
SILICON VALLEY BANK,
as Co-Documentation Agents

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Exhibit I		Form of Modified Borrowing Base Certificate

CREDIT AGREEMENT dated as of May 13, 2011, as amended and restated as of December 21, 2015, among PANDORA MEDIA, INC., the LENDERS party hereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent.

The parties hereto agree as follows:

ARTICLE I

Definitions

SECTION 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"ABR", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, shall bear interest at a rate determined by reference to the Alternate Base Rate.

"Account" has the meaning assigned to such term in the New York UCC, it being understood that in the case of any Agented Advertising Arrangement, a right to payment from an Agency on behalf of the applicable Advertising Client shall not be deemed to create an Account that is separate or distinct from the Account arising from a right to payment from such Advertising Client.

"Account Debtor" means any Person obligated on an Account, it being understood that in the case of any Agented Advertising Arrangement, the Account Debtor is the applicable Advertising Client and not any Agency.

"Acquisition Consideration" means, with respect to any purchase or other acquisition, the aggregate consideration paid therefor, including Indebtedness assumed in connection therewith, all obligations in respect of deferred purchase price (including obligations under any purchase price adjustment but excluding earnout payments) and all other consideration payable in connection therewith (including payment obligations in respect of noncompetition agreements or other arrangements representing acquisition consideration), but excluding consideration in the form of Equity Interests (other than Disqualified Equity Interests) in the Borrower.

"Adjusted LIBO Rate" means, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

"Administrative Agent" means JPMorgan Chase Bank, N.A., in its capacity as administrative agent hereunder and under the other Loan Documents, and its successors in such capacity as provided in Article VIII.

"Administrative Agent Controlled Account" means a deposit account of the Borrower established with the Administrative Agent and subject to the exclusive dominion and control, including the exclusive right of withdrawal, of the Administrative Agent.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

"Advertising Client" means an advertiser for which an Agency acts as an agent under the applicable Agented Advertising Arrangement.

"Affiliate" means, with respect to a specified Person, another Person that directly or indirectly Controls or is Controlled by or is under common Control with the Person specified; provided that for purposes of Section 6.09 the term "Affiliate" also means any Person that is a director or an executive officer of the Person specified, any Person that directly or indirectly beneficially owns Equity Interests in the Person specified representing 10% or more of the aggregate ordinary voting power or the aggregate equity value represented by the issued and outstanding Equity Interests in the Person specified and any Person that would be an Affiliate of any such beneficial owner pursuant to this definition (but without giving effect to this proviso).

"Agency" means an advertising agency.

"Agency Exposure Information" means, at any time, the aggregate amount (with respect to each of the clauses of this definition) of Accounts of the Loan Parties at such time that arise pursuant to Agented Advertising Arrangements:

(a) with any Agency (i) the securities of which are (or the securities of the Agency Parent Company of which are) rated BBB or better by S&P or Baa3 or better by Moody's (or an equivalent rating from a rating agency of recognized standing providing credit ratings to companies organized outside the United States of America), if the aggregate amount of Accounts arising pursuant to Agented Advertising Arrangements with such Agency (or the Agency Parent Company or any other Affiliate thereof) exceeds 25% of the aggregate amount of all Eligible Accounts of the Loan Parties at the time of determination, or (ii) the securities of which are not (and the securities of the Agency Parent Company of which are not) rated BBB or better by S&P or Baa3 or better by Moody's (or such an equivalent rating) (including any Agency or Agency Parent Company none of the securities of which are rated by any such rating agency), if the aggregate amount of Accounts arising pursuant to Agented Advertising Arrangements with such Agency (or the Agency Parent Company or any other Affiliate thereof) exceeds 15% of the aggregate amount of all Eligible Accounts of the Loan Parties at the time of determination;

(b) with any Agency that, to the knowledge of the Borrower, has (or the Agency Parent Company or any other Affiliate of which has) (i) applied for, suffered, or consented to the appointment of any receiver, interim receiver, receiver-manager,

custodian, trustee or liquidator of its assets, (ii) had possession of all or a material part of its property taken by any receiver, interim receiver, receiver-manager, custodian, trustee or liquidator, (iii) filed, or had filed against it, any request or petition for liquidation, reorganization, arrangement, adjustment of debts, adjudication as bankrupt, winding-up, or voluntary or involuntary case under any state, provincial, territorial or federal bankruptcy laws, (iv) admitted in writing its inability, or is generally unable to, pay its debts as they become due, (v) become insolvent or (vi) ceased operation of its business;

(c) with any Agency that (i) does not maintain its chief executive office in the United States or Canada or (ii) is not organized under applicable law of the United States, any State thereof or the District of Columbia, or of Canada or any province thereof; or

(d) with any Agency that, to the knowledge of the Borrower, has (or the Agency Parent Company or any other Affiliate of which has) any pending commercial dispute with the Borrower or any Subsidiary or any counterclaim, deduction, defense or right of setoff that, in each case, could reasonably be expected to result in a failure by such Agency to pay in full to the applicable Loan Party any funds received by such Agency from the applicable Advertising Client in respect of such Accounts (whether or not such Agency has any legal right to fail to make such payment).

"Agency Parent Company" means, with respect to any Agency that is a subsidiary of any other Person, such other Person.

"Agented Advertising Arrangement" means provision by a Loan Party of advertising services to an Advertising Client pursuant to an agreement entered into by such Loan Party and an Agency, acting on behalf of an Advertising Client, that is governed by the Standard Terms and Conditions for Internet Advertising for Media Buys One Year or Less promulgated by the Interactive Advertising Bureau or similar terms and conditions.

"Aggregate Commitment" means the sum of the Commitments of all the Lenders.

"Aggregate Revolving Exposure" means the sum of the Revolving Exposures of all the Lenders.

"Alternate Base Rate" means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1% per annum and (c) the Adjusted LIBO Rate on such day (or if such day is not a Business Day, the immediately preceding Business Day) for a deposit in U.S. dollars with a maturity of one month plus 1% per annum. For purposes of clause (c) above, the Adjusted LIBO Rate on any day shall be based on the rate per annum equal to the London interbank offered rate as administered by the ICE Benchmark Administration (or any other Person that takes over the administration of such rate) as displayed on the Reuters screen page (currently page LIBOR01) displaying interest rates for deposits in the

London interbank market (or, in the event such rate does not appear on a page of the Reuters screen, on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion) at approximately 11:00 a.m., London time, on such day for deposits in U.S. dollars with a maturity of one month; provided that if such rate shall be less than zero, such rate shall be deemed to be zero. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate, respectively.

"Anti-Corruption Laws" means the United States Foreign Corrupt Practices Act of 1977 and all other laws, rules, and regulations of any jurisdiction concerning or relating to bribery, money laundering or corruption.

"Applicable Percentage" means, at any time, with respect to any Lender, the percentage of the Aggregate Commitment represented by such Lender's Commitment at such time. If all the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments and to any Lender's status as a Defaulting Lender at the time of determination.

"Applicable Rate" means, for any day, with respect to any ABR Loan or Eurocurrency Loan, the applicable rate per annum set forth below under the caption "ABR Rate" or "Eurocurrency Rate", as the case may be, based upon the amount of the Aggregate Revolving Exposure at the close of business on such day compared to the Aggregate Commitment at the close of business on such day:

Facility Utilization	ABR Rate	Eurocurrency Rate
Aggregate Revolving Exposure less than 50% of the Aggregate Commitment	1.00%	2.00%
Aggregate Revolving Exposure greater than or equal to 50% of the Aggregate Commitment	1.25%	2.25%

"Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in commercial loans and similar extensions of credit in the ordinary course of its activities and that is administered or managed 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.

"Arrangers" means (a) J.P. Morgan Securities LLC, in its capacity as the sole lead arranger for the credit facility provided for herein, and (b) J.P. Morgan Securities LLC and Morgan Stanley Senior Funding, Inc., as joint bookrunners for the credit facility provided for herein.

"ASCAP" means the American Society of Composers, Authors and Publishers.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee, with the consent of any Person whose consent is required by Section 9.04, and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

"Availability Period" means the period from and including the Original Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

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

"Board of Governors" means the Board of Governors of the Federal Reserve System of the United States of America.

"Borrower" means Pandora Media, Inc., a Delaware corporation.

"Borrowing" means (a) Revolving Loans of the same Type made, converted or continued on the same date and, in the case of Eurocurrency Revolving Loans, as to which a single Interest Period is in effect, or (b) a Protective Advance.

"Borrowing Base" means, at any time (subject to modification as provided below or in Section 5.09(b)), an amount equal to:

(a) 85% of an amount equal to (i) the Eligible Accounts of the Loan Parties at such time, minus (ii) the Dilution Reserve, minus

(b) the sum of (i) the Designated Secured Obligations Reserve at such time and (ii) without duplication of any deductions made pursuant to clause (a) or (b)(i) of this definition, Other Reserves at such time.

If the Administrative Agent shall have made any determination permitted to be made by it as set forth in the definition of the terms "Eligible Accounts" and "Other Reserves" that shall have the effect of reducing the Borrowing Base, any such reduction shall be effective five Business Days after delivery of notice thereof to the Borrower and the Lenders. Subject to the immediately preceding sentence and to the provisions of Section 5.09(b), the Borrowing Base at any time shall be determined by reference to the most recent Borrowing Base Form delivered to the Administrative Agent pursuant to Section 5.01(f) (or, prior to the first such delivery, the Borrowing Base Form referred to in Section 4.01(m)).

"Borrowing Base Certificate" means a certificate in the form of Exhibit B (with such changes thereto as may be required by the Administrative Agent from time to time to reflect the components of and reserves against the Borrowing Base as provided for hereunder), together with all attachments contemplated thereby, certified as accurate and complete by a Financial Officer of the Borrower.

"Borrowing Base Form" means a Borrowing Base Certificate or a Modified Borrowing Base Certificate.

"Borrowing Request" means a request by the Borrower for a Revolving Borrowing in accordance with Section 2.03, which shall be, in the case of any such written request, in the form of Exhibit C or any other form approved by the Administrative Agent.

"Business" means the commercial webcasting of audio recordings as conducted by the Borrower and the Subsidiaries as of the Original Effective Date or at any time thereafter, and any other business or businesses conducted by the Borrower and the Subsidiaries on or after the Original Effective Date.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurocurrency Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

"Canadian dollars" refers to lawful money of the Commonwealth of Canada.

"Capital Expenditures" means, for any period, (a) the additions to property, plant and equipment and other capital expenditures of the Borrower and its consolidated Subsidiaries that are (or should be) set forth in a consolidated statement of cash flows of the Borrower and its consolidated Subsidiaries for such period prepared in accordance with GAAP, excluding (i) any such expenditures made to restore, replace or rebuild assets to the

condition of such assets immediately prior to any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, such assets to the extent such expenditures are made with insurance proceeds, condemnation awards or damage recovery proceeds relating to any such casualty, damage, taking, condemnation or similar proceeding and (ii) any such expenditures constituting Permitted Acquisitions and (b) such portion of principal payments on Capital Lease Obligations made by the Borrower and its consolidated Subsidiaries during such period as is attributable to additions to property, plant and equipment that have not otherwise been reflected on the consolidated statement of cash flows as additions to property, plant and equipment.

"Capital Lease Obligations" of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP; the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP, and the final maturity of such obligations shall be the date of the last payment of such or any other amounts due under such lease (or other arrangement) prior to the first date on which such lease (or other arrangement) may be terminated by the lessee without payment of a premium or a penalty. For purposes of Section 6.02, a Capital Lease Obligation shall be deemed to be secured by a Lien on the property being leased and such property shall be deemed to be owned by the lessee.

"Cash Dominion Account" has the meaning set forth in Section 2.09(d).

"Cash Dominion Period" means (a) any period commencing on the date the Administrative Agent or the Required Lenders shall deliver to the Borrower a notice stating that an Event of Default has occurred and is continuing and a Cash Dominion Period has commenced and ending on the date on which the Borrower shall have delivered to the Administrative Agent a certificate of a Financial Officer to the effect that no Event of Default is continuing or (b) any period commencing on the date the Administrative Agent or the Required Lenders shall deliver to the Borrower a notice stating that Liquidity has been less than the greater of (i) 12.5% of the Aggregate Commitment and (ii) $7,500,000 for each of at least three consecutive days and a Cash Dominion Period has commenced and ending on the date on which Liquidity has been greater than or equal to the greater of (i) 12.5% of the Aggregate Commitment and (ii) $7,500,000 for at least 30 consecutive days, provided that, whether or not commenced pursuant to clause (a) or (b) above, a Cash Dominion Period shall automatically commence upon a termination of the Commitments, declaration of the Loans, or any part thereof, then outstanding as due and payable or request for a deposit of cash collateral in respect of LC Exposure, in each case pursuant to Article VII.

"CFC" means (a) each Person that is a "controlled foreign corporation" for purposes of the Code and (b) each subsidiary of any such controlled foreign corporation.

"CFC Holding Company" means a Domestic Subsidiary all assets of which consist of voting Equity Interests in one or more CFCs.

"Change in Control" means (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 SEC thereunder), other than the Permitted Holders, of Equity Interests in the Borrower representing more than 35% of either the aggregate ordinary voting power or the aggregate equity value represented by the issued and outstanding Equity Interests in the Borrower, unless the Permitted Holders own, beneficially and of record, Equity Interests in the Borrower representing a greater percentage of the aggregate ordinary voting power and of the aggregate equity value represented by the issued and outstanding Equity Interests in the Borrower than such Person or group; (b) individuals who were (i) directors of the Borrower on the Original Effective Date, (ii) nominated by the board of directors of the Borrower or (iii) appointed by directors who were directors of the Borrower on the Original Effective Date or were nominated as provided in clause (ii) above, in each case other than any individual whose initial nomination or appointment occurred as a result of an actual or threatened solicitation of proxies or consents for the election or removal of one or more directors on the board of directors of the Borrower (other than any such solicitation made by such board of directors), ceasing to occupy a majority of the seats (excluding vacant seats) on the board of directors of the Borrower; or (c) the occurrence of any "change in control" or "fundamental change" (or any similar event, however denominated) with respect to the Borrower under and as defined in any indenture or other agreement or instrument evidencing, governing the rights of the holders of or otherwise relating to any Material Indebtedness of the Borrower or any Subsidiary or any preferred Equity Interests in the Borrower.

"Change in Law" means the occurrence, after the Original Effective Date, of any of the following: (a) the adoption or taking effect of any rule, regulation, treaty or other law, (b) any change in any rule, regulation, treaty or other law 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; provided that, notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted, promulgated or issued.

"Co-Documentation Agents" means Morgan Stanley Senior Funding, Inc. and Silicon Valley Bank.

"Code" means the Internal Revenue Code of 1986.

"Collateral" means any and all assets, whether real or personal, tangible or intangible, on which Liens are purported to be granted pursuant to the Security Documents as security for the Secured Obligations.

"Collateral Agreement" means the Guarantee and Collateral Agreement among the Borrower, the other Loan Parties from time to time party thereto and the Administrative Agent, substantially in the form of Exhibit D, together with all supplements thereto.

"Collateral and Guarantee Requirement" means, at any time, the requirement that:

(a) the Administrative Agent shall have received from the Borrower and each Material Subsidiary that is a Domestic Subsidiary (excluding any Domestic Subsidiary that is not wholly owned and any CFC Holding Company) either (i) a counterpart of the Collateral Agreement duly executed and delivered on behalf of such Person or (ii) in the case of any Person that becomes such a Material Subsidiary after the Original Effective Date, a supplement to the Collateral Agreement, in the form specified therein, duly executed and delivered on behalf of such Person, together with documents and opinions of the type referred to in paragraphs (b) and (c) of Section 4.01 with respect to such Domestic Subsidiary;

(b) all Equity Interests in any Material Subsidiary owned by or on behalf of any Loan Party shall have been pledged pursuant to the Collateral Agreement and, in the case of Equity Interests in any Foreign Subsidiary, where the Administrative Agent so requests in connection with the pledge of such Equity Interests, a Foreign Pledge Agreement (it being agreed that the Administrative Agent shall not be entitled to, and shall not, make any such request to receive a Foreign Pledge Agreement with respect to the Equity Interests in a Foreign Subsidiary (other than, subject to the final paragraph of this definition, any Foreign IP Holdco other than a Foreign IP Holdco organized under the laws of the Cayman Islands) the total assets of which have a book value of $10,000,000 or less), and the Administrative Agent shall, to the extent required by the Collateral Agreement, have received certificates or other instruments representing all such Equity Interests, together with undated stock powers or other instruments of transfer with respect thereto endorsed in blank; provided that the Loan Parties shall not be required to pledge (i) more than 65% of the outstanding voting Equity Interests in any CFC Holding Company or (ii) more than 65% of the outstanding voting Equity Interests in any "first-tier" CFC or any of the outstanding Equity Interests in any other CFC;

(c) all Indebtedness of any Person in a principal amount of $250,000 or more that is owing to any Loan Party and is evidenced by a promissory note shall have been pledged pursuant to the Collateral Agreement, and the Administrative Agent shall have received all such promissory notes, together with undated instruments of transfer with respect thereto endorsed in blank;

(d) all documents and instruments, including Uniform Commercial Code financing statements, required by applicable law or reasonably requested by the Administrative Agent to be filed, registered or recorded to create the Liens intended to be created by the Security Documents and perfect such Liens to the extent required by, and with the priority required by, the Security Documents, shall have been filed, registered or recorded or delivered to the Administrative Agent for filing, registration or recording;

(e) the Administrative Agent shall have received (i) counterparts of a Mortgage with respect to each Mortgaged Property, if any, duly executed and delivered by the record owner or lessee of such Mortgaged Property, (ii) a lender's policy or policies of title insurance issued by a nationally recognized title insurance company insuring the Lien of each such Mortgage, if any, as a valid and enforceable first Lien on the Mortgaged Property described therein, free of any other Liens except as permitted under Section 6.02, together with such endorsements, coinsurance and reinsurance as the Administrative Agent may reasonably request, and (iii) if any Mortgaged Property is located in an area determined by the Federal Emergency Management Agency (or any successor agency) to have special flood hazards, evidence of such flood insurance as may be required under applicable law, including Regulation H issued by the Board of Governors, and (iv) such legal opinions and other documents as the Administrative Agent may reasonably request with respect to any such Mortgage or Mortgaged Property;

(f) the Administrative Agent shall have received a counterpart, duly executed and delivered by the applicable Loan Party and the applicable depositary bank or securities intermediary, as the case may be, of a Control Agreement with respect to (i) each deposit account maintained by any Loan Party with any depositary bank (other than (A) any deposit account the funds in which are used, in the ordinary course of business, solely for the payment of salaries and wages, workers' compensation and similar expenses, (B) any deposit account that is a zero-balance disbursement account, (C) any deposit account the funds in which consist solely of (1) funds held by the Borrower or any Subsidiary in trust for any director, officer or employee of the Borrower or any Subsidiary or any employee benefit plan maintained by the Borrower or any Subsidiary or (2) funds representing deferred compensation for the directors and employees of the Borrower and the Subsidiaries) and (D) other deposit accounts the aggregate balances in which have not, for any period of three consecutive Business Days commencing after the Original Effective Date, exceeded $250,000) and (ii) each securities account maintained by any Loan Party with any securities intermediary (other than any securities account the security entitlements in which consist solely of (A) security entitlements held by the Borrower or any Subsidiary in trust for any director, officer or employee of the Borrower or any Subsidiary or any employee benefit plan maintained by the Borrower or any Subsidiary or (B) security entitlements representing deferred compensation for the directors and employees of the Borrower and the Subsidiaries) or (C) other securities accounts holding assets which, in the aggregate, have not exceeded $250,000 for

any period of three consecutive Business Days commencing after the Original Effective Date), and the requirements of the Collateral Agreement relating to the concentration and application of collections shall have been satisfied; provided that so long as the sum of the aggregate amount of funds on deposit in all Controlled Deposit Accounts and the aggregate fair value of all Permitted Investments credited to all Controlled Securities Accounts (the "Aggregate Controlled Sum") exceeds $120,000,000, no additional Control Agreements in respect of securities accounts shall be required to be executed or delivered by the Loan Parties; provided further that should the Aggregate Controlled Sum cease to exceed $120,000,000, the Loan Parties shall promptly cause additional Control Agreements to be executed and delivered in respect of each securities account a Control Agreement with respect to which has not been theretofore delivered in reliance on the immediately preceding proviso until and unless the Aggregate Controlled Sum shall exceed $120,000,000;

(g) the Borrower and each Loan Party shall have obtained all other consents and approvals required to be obtained by it in connection with the execution and delivery of all Security Documents to which it is a party, the performance of its obligations thereunder and the granting by it of the Liens thereunder.

The foregoing definition shall not require the creation or perfection of pledges of or security interests in, or the obtaining of title insurance, legal opinions or other deliverables with respect to, particular assets of the Loan Parties, or the provision of Guarantees by any Subsidiary, if, and for so long as the Administrative Agent, in consultation with the Borrower, determines that the cost of creating or perfecting such pledges (including pursuant to a Foreign Pledge Agreement) or security interests in such assets, or obtaining such title insurance, legal opinions or other deliverables in respect of such assets, or providing such Guarantees (taking into account any adverse tax consequences to the Borrower and its Affiliates (including the imposition of withholding or other taxes)), shall be excessive in view of the benefits to be obtained by the Lenders therefrom. The Administrative Agent acknowledges that as of the Original Effective Date, based on representations made by the Borrower, no real property owned or held by the Borrower or any Subsidiary constitutes a Mortgaged Property and no Mortgages shall be required on any such real property on the Original Effective Date. The Administrative Agent may grant extensions of time for the creation and perfection of security interests in or the obtaining of title insurance, legal opinions or other deliverables with respect to particular assets or the provision of any Guarantee by any Subsidiary (including extensions beyond the Original Effective Date or in connection with assets acquired, or Subsidiaries formed or acquired, after the Original Effective Date) where it determines that such action cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required to be accomplished by this Agreement or the Security Documents.

"Commitment" means, with respect to each Lender, the commitment of such Lender to make Revolving Loans and to acquire participations in Letters of Credit and Protective Advances hereunder, expressed as an amount representing the maximum aggregate permitted amount of such Lender's Revolving Exposure hereunder, as such

commitment may be (a) reduced from time to time pursuant to Section 2.08, (b) increased from time to time pursuant to Section 2.20 and (c) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The amount of each Lender's Commitment as of the Restatement Effective Date is set forth on Schedule 2.01, or in the Assignment and Assumption or Incremental Facility Agreement pursuant to which such Lender shall have assumed its Commitment, as applicable. The aggregate amount of the Lenders' Commitments on the Restatement Effective Date is $120,000,000.

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

"Communications" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein that is distributed to the Administrative Agent, the Co-Agent, any Lender or any Issuing Bank by means of electronic communications pursuant to Section 9.01, including through the Platform.

"Competitor" means any Person (other than the Borrower and its Affiliates) that (a) is actively engaged as one of its significant businesses in the distribution or other dissemination of recorded music or other audio data or materials and (b)(i) is set forth on Schedule 1.01(a) on the Original Effective Date or (ii) is identified in writing by the Borrower, using its reasonable discretion, to the Administrative Agent from time to time after the Original Effective Date (with the Administrative Agent agreeing to provide prompt notice thereof to the Lenders).

"Compliance Certificate" means a Compliance Certificate in the form of Exhibit E or any other form approved by the Administrative Agent.

"Consolidated Cash Interest Expense" means, for any period, the excess of (a) the sum, without duplication, of (i) the interest expense (including imputed interest expense in respect of Capital Lease Obligations) of the Borrower and its consolidated Subsidiaries accrued for such period, determined on a consolidated basis in accordance with GAAP, (ii) any interest or other financing costs becoming payable during such period in respect of Indebtedness of the Borrower or its consolidated Subsidiaries to the extent such interest or other financing costs shall have been capitalized rather than included in consolidated interest expense for such period in accordance with GAAP, but only if such interest or other financing costs are recurring in respect of such Indebtedness, and (iii) any cash payments becoming payable during such period in respect of obligations referred to in clause (b)(ii) below that were amortized or accrued in a previous period, minus (b) to the extent included in such consolidated interest expense for such period, the sum of (i) noncash amounts attributable to amortization or write-off of capitalized interest or other financing costs previously paid and (ii) noncash amounts attributable to amortization of debt discounts or accrued interest payable in kind for such period.

"Consolidated EBITDA" means, for any period, Consolidated Net Income for such period, plus

(a) without duplication and to the extent deducted in determining such Consolidated Net Income, the sum of

(i) consolidated interest expense for such period (including imputed interest expense in respect of Capital Lease Obligations),

(ii) consolidated income tax expense for such period,

(iii) all amounts attributable to depreciation for such period and amortization of intangible assets and capitalized assets for such period,

(iv) any noncash charges for such period (excluding any additions to bad debt reserves or bad debt expense and any noncash charge to the extent it represents an accrual of or a reserve for cash expenditures in any future period),

(v) any losses attributable to early extinguishment of Indebtedness or obligations under any Hedging Agreement,

(vi) any unrealized losses for such period attributable to the application of "mark to market" accounting in respect of Hedging Agreements, and

(vii) the cumulative effect of a change in accounting principles; and minus

(b) without duplication and to the extent included in determining such Consolidated Net Income,

(i) any extraordinary gains for such period, all determined on a consolidated basis in accordance with GAAP,

(ii) noncash items of income for such period (excluding any noncash items of income (A) in respect of which cash was received in a prior period or will be received in a future period or (B) that represents the reversal of any accrual made in a prior period for anticipated cash charges, but only to the extent such accrual reduced Consolidated EBITDA for such prior period),

(iii) any gains attributable to the early extinguishment of Indebtedness or obligations under any Hedging Agreement,

(iv) any unrealized gains for such period attributable to the application of "mark to market" accounting in respect of Hedging Agreements and

(v) the cumulative effect of a change in accounting principles;

provided that Consolidated EBITDA shall be calculated so as to exclude the effect of any gain or loss that represents after-tax gains or losses attributable to any sale, transfer or other disposition, other than dispositions of inventory and other dispositions in the ordinary course of business. In the event any Subsidiary shall be a Subsidiary that is not wholly owned by the Borrower, all amounts added back in computing Consolidated EBITDA for any period pursuant to clause (a) above, and all amounts subtracted in computing Consolidated EBITDA pursuant to clause (b) above, to the extent such amounts are, in the reasonable judgment of a Financial Officer of the Borrower, attributable to such Subsidiary, shall be reduced by the portion thereof that is attributable to the noncontrolling interest in such Subsidiary.

"Consolidated Fixed Charges" means, for any period, the sum, without duplication, of (a) Consolidated Cash Interest Expense for such period, (b) the aggregate amount of scheduled principal payments made during such period in respect of Long-Term Indebtedness of the Borrower and its consolidated Subsidiaries (other than payments made by the Borrower or any Subsidiary to the Borrower or any Subsidiary), (c) the aggregate amount of principal payments (other than scheduled principal payments) made during such period in respect of Long-Term Indebtedness of the Borrower and its consolidated Subsidiaries (other than payments made by the Borrower or any Subsidiary to the Borrower or any Subsidiary), to the extent that such payments reduced any scheduled principal payments that would have become due within one year after the date of the applicable payment, (d) the aggregate amount of principal payments on Capital Lease Obligations, determined in accordance with GAAP, (e) Capital Expenditures for such period (except to the extent attributable to the incurrence of Capital Lease Obligations or otherwise financed by incurring Long-Term Indebtedness) and (f) the aggregate amount of income taxes paid in cash by the Borrower and the Subsidiaries during such period. In the event any Subsidiary shall be a Subsidiary that is not wholly owned by the Borrower, all amounts included in clauses (a) through (f) above, to the extent such amounts are, in the reasonable judgment of a Financial Officer of the Borrower, attributable to such Subsidiary, shall be reduced by the portion thereof that is attributable to the noncontrolling interest in such Subsidiary.

"Consolidated Net Income" means, for any period, the net income or loss of the Borrower and its consolidated Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP (for the avoidance of doubt, in the case of any Subsidiary that is not a wholly owned Subsidiary, to the extent such net income or loss is attributed to the interest therein of the Borrower and the wholly owned Subsidiaries); provided that there shall be excluded (a) the income of any Person (other than the Borrower) that is not a consolidated Subsidiary except to the extent of the amount of cash dividends or similar cash distributions actually paid by such Person to the Borrower or, subject to clause (b) below, any consolidated Subsidiary during such period and (b) the income of, and any amounts referred to in clause (a) above paid to, any consolidated Subsidiary (other than any Subsidiary Loan Party) to the extent that, on the date of determination, the declaration or payment of cash dividends or similar cash distributions by such Subsidiary is not permitted without any prior approval of any Governmental Authority that has not been obtained or is not permitted by the operation of the terms of the organizational documents of such Subsidiary, any agreement or other

instrument binding upon the Borrower or any Subsidiary or any law applicable to the Borrower or any Subsidiary, unless such restrictions with respect to the payment of cash dividends and other similar cash distributions has been legally and effectively waived.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies, or the dismissal or appointment of the management, of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Control Agreement" means, with respect to any deposit account or securities account maintained by any Loan Party, a control agreement in form and substance reasonably satisfactory to the Administrative Agent, duly executed and delivered by such Loan Party and the depositary bank or the securities intermediary, as the case may be, with which such account is maintained.

"Controlled Deposit Account" means a deposit account of a Loan Party subject to a Control Agreement.

"Controlled Securities Account" means a securities account of a Loan Party subject to a Control Agreement.

"Controlled Accounts" means the Controlled Deposit Accounts, the Controlled Securities Accounts and the Administrative Agent Controlled Account.

"Credit Party" means the Administrative Agent, each Issuing Bank and each Lender.

"Credit/Rebill Transaction" means cancelation of an outstanding invoice that has not been paid and issuance of a new invoice in replacement thereof.

"Default" means any event or condition that constitutes, or upon notice, lapse of time or both would constitute, an Event of Default.

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

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

"Designated Secured Cash Management Obligations" has the meaning set forth in the Collateral Agreement.

"Designated Secured Corporate Credit Card Services Obligations" has the meaning set forth in the Collateral Agreement.

"Designated Secured Foreign Exchange Services Obligations" has the meaning set forth in the Collateral Agreement.

"Designated Secured Hedge Obligations" has the meaning set forth in the Collateral Agreement.

"Designated Secured Other Obligations" means the Designated Secured Cash Management Obligations, the Designated Secured Corporate Credit Card Services Obligations, the Designated Secured Foreign Exchange Services Obligations and the Designated Secured Hedge Obligations.

"Designated Secured Obligations Reserve" means, at any time, a reserve equal to the aggregate amount of the Designated Secured Other Obligations at such time. The Designated Secured Obligations Reserve at any time shall be determined by reference to the most recent Borrowing Base Form delivered to the Administrative Agent pursuant to Section 5.01(f) (or, prior to the first such delivery, the Borrowing Base Form referred to in Section 4.01(m)).

"Dilution Factors" means, without duplication, for any period, the aggregate amount of all deductions, credit memos, returns, adjustments, allowances, bad debt write-offs and other non-cash credits recorded to reduce accounts receivable by the Loan Parties in a manner consistent with current accounting practices of the Borrower; provided that any credits issued in any Credit/Rebill Transaction shall be disregarded for purposes of determining the Dilution Factors except to the extent the amount of the rebilled invoice is less than the amount of the original invoice.

"Dilution Ratio" means, at any date, (a) the ratio (expressed as a percentage) equal to (i) the aggregate amount of the applicable Dilution Factors for the four most recently ended fiscal quarters divided by (ii) total gross invoiced amount (without duplication for

Credit/Rebill Transactions) for the four most recently ended fiscal quarters less (b) 5%; provided that if, at any date, the Dilution Ratio is less than 0%, the Dilution Reserve at such date shall be deemed to be zero.

"Dilution Reserve" means, at any date, the applicable Dilution Ratio multiplied by the Eligible Accounts on such date.

"Disqualified Equity Interest" means, with respect to any Person, any Equity Interest in such Person that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable, either mandatorily or at the option of the holder thereof), or upon the happening of any event or condition:

(a) matures or is mandatorily redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests), whether pursuant to a sinking fund obligation or otherwise;

(b) is convertible or exchangeable, either mandatorily or at the option of the holder thereof, for Indebtedness or Equity Interests (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests); or

(c) is redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests) or is required to be repurchased by the Borrower or any Subsidiary, in whole or in part, at the option of the holder thereof;

in each case, on or prior to the date 180 days after the Maturity Date; provided, however, that (i) an Equity Interest in any Person that would not constitute a Disqualified Equity Interest but for terms thereof giving holders thereof the right to require such Person to redeem or purchase such Equity Interest upon the occurrence of an "asset sale" or a "change of control" (or similar event, however denominated) shall not constitute a Disqualified Equity Interest if any such requirement becomes operative only after repayment in full of all the Loans and all other Loan Document Obligations that are accrued and payable, the cancellation or expiration of all Letters of Credit and the termination or expiration of all the Commitments and (ii) an Equity Interest in any Person that is issued to any employee or to any plan for the benefit of employees or by any such plan to such employees shall not constitute a Disqualified Equity Interest solely because it may be required to be repurchased by such Person or any of its subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability.

"Domestic Permitted Acquisition" means any Permitted Acquisition constituting purchases or other acquisitions of any Equity Interests in a Person that is incorporated or organized under the laws of the United States of America, any State thereof or the District of Columbia (and is not a CFC or a CFC Holding Company), or of any assets that will be owned by a Loan Party.

"Domestic Subsidiary" means any Subsidiary incorporated or organized under the laws of the United States of America, any State thereof or the District of Columbia.

"Eligible Accounts" means, with respect to any Loan Party at any time, each Account of such Loan Party that, at such time, is not ineligible for inclusion in the calculation of the Borrowing Base pursuant to this definition. Without limiting the Administrative Agent's discretion or Permitted Discretion provided elsewhere herein, Eligible Accounts shall not include any Account:

(a) which is not subject to a first priority perfected security interest in favor of the Administrative Agent;

(b) which is subject to any Lien other than (i) a Lien in favor of the Administrative Agent and (ii) Liens thereon permitted by Section 6.02 that do not have priority over the Lien in favor of the Administrative Agent;

(c) with respect to which payment terms are more than 120 days from the original invoice date, or which is unpaid more than 90 days after the original due date or which is unpaid more than 120 days after the original invoice date, or which has been written off the books of such Loan Party or otherwise designated as uncollectible (in determining the aggregate amount due from Account Debtors which is unpaid more than 120 days from the original invoice date or more than 90 days from the original due date the amount of any net credit balance of any Account Debtor otherwise included in such aggregate amount shall be excluded to the extent, but only to the extent, that such Account Debtor is also the Account Debtor in respect of Accounts that do not have payment terms that are more than 120 days from the original invoice date (determined without giving effect to any change in the invoice date as a result of any Credit/Rebill Transaction), that are not unpaid more than 90 days after the original due date (determined without giving effect to any change in the due date as a result of any Credit/Rebill Transaction), that are not unpaid more than 120 days after the original invoice date (determined without giving effect to any change in the invoice date as a result of any Credit/Rebill Transaction) and that have not been written off or otherwise designated as uncollectible);

(d) in the case of any Account subject to a Credit/Rebill Transaction, with respect to which the due date is more than 120 days after the original invoice date (determined without giving effect to any change in the invoice date as a result of such Credit/Rebill Transaction), or which is unpaid more than 90 days after the original due date (determined without giving effect to any change in the due date as a result of such Credit/Rebill Transaction) or which is unpaid more than 120 days after the original invoice date (determined without giving effect to any change in the invoice date as a result of such Credit/Rebill Transaction) (in determining the aggregate amount due from Account Debtors which is unpaid more than 120 days from the original invoice date or more than 90 days from the original due date the amount of any net credit balance of any Account Debtor otherwise included in such aggregate amount shall be excluded to the extent, but only to the extent, that such

Account Debtor is also the Account Debtor in respect of Accounts that do not have payment terms that are more than 120 days from the original invoice date (determined without giving effect to any change in the invoice date as a result of any Credit/Rebill Transaction), that are not unpaid more than 90 days after the original due date (determined without giving effect to any change in the due date as a result of any Credit/Rebill Transaction), that are not unpaid more than 120 days after the original invoice date (determined without giving effect to any change in the invoice date as a result of any Credit/Rebill Transaction) and that have not been written off or otherwise designated as uncollectible);

(e) which is owing by an Account Debtor for which more than 50% of the Accounts owing by such Account Debtor and its Affiliates are ineligible pursuant to clause (c) or (d) above;

(f)(i) which is owing by an Account Debtor whose securities are rated BBB or better by S&P or Baa3 or better by Moody's to the extent the aggregate amount of Eligible Accounts owing by such Account Debtor and its Affiliates to the Loan Parties, taken as a whole, exceeds 25% of the aggregate amount of all Eligible Accounts of the Loan Parties, or (ii) which is owing by an Account Debtor whose securities are not rated BBB or better by S&P or Baa3 or better by Moody's (including any Account Debtor none of the securities of which are rated by such rating agencies) to the extent the aggregate amount of Accounts owing by such Account Debtor and its Affiliates to the Loan Parties, taken as a whole, exceeds 15% of the aggregate amount of all Eligible Accounts of the Loan Parties;

(g)(i) which does not arise from the sale of goods or performance of services in the ordinary course of business, (ii) which is not evidenced by an invoice or other documentation reasonably satisfactory to the Administrative Agent and which has been sent to the Account Debtor (or, in the case of any Account arising pursuant to an Agented Advertising Arrangement, to the applicable Agency), (iii) which represents a progress or retention billing, (iv) for which the services giving rise thereto have not been performed or which is otherwise contingent upon any Loan Party's completion of any further performance, (v) which relates to payments of interest, (vi) which relates to subscription services or (vii) which has been invoiced more than once (other than pursuant to a Credit/Rebill Transaction);

(h) with respect to which any check or other instrument of payment has been returned uncollected for any reason;

(i) which is owed by an Account Debtor that, to the knowledge of the Borrower, has (i) applied for, suffered, or consented to the appointment of any receiver, interim receiver, receiver-manager, custodian, trustee or liquidator of its assets, (ii) had possession of all or a material part of its property taken by any receiver, interim receiver, receiver-manager, custodian, trustee or liquidator, (iii) filed, or had filed against it, any request or petition for liquidation, reorganization, arrangement, adjustment of debts, adjudication as bankrupt, winding-up, or voluntary or

involuntary case under any state, provincial, territorial or federal bankruptcy laws (other than post-petition accounts payable of an Account Debtor that is a debtor-in-possession under the Bankruptcy Code and reasonably acceptable to the Administrative Agent in its Permitted Discretion), (iv) admitted in writing its inability, or is generally unable to, pay its debts as they become due, (v) become insolvent or (vi) ceased operation of its business;

(j) which is owed by any Account Debtor that has sold all or substantially all of its assets (unless such Account has been assumed by a Person that shall have acquired such assets and otherwise satisfies the requirements set forth in this definition);

(k) which is owed by an Account Debtor that (i) does not maintain its chief executive office in the United States or Canada or (ii) is not organized under applicable law of the United States, any State thereof or the District of Columbia, or of Canada or any province thereof, unless, in any such case, such Account is backed by a Letter of Credit acceptable to the Administrative Agent and in the possession of, and directly drawable by, the Administrative Agent;

(l) which is owed in any currency other than U.S. dollars or Canadian dollars;

(m) which is owed by (i) any Governmental Authority of any country other than the United States unless such Account is backed by a Letter of Credit acceptable to the Administrative Agent and in the possession of, and directly drawable by, the Administrative Agent, or (ii) any Governmental Authority of the United States, unless the Federal Assignment of Claims Act of 1940, as amended, and any other actions necessary to perfect the Lien of the Administrative Agent in such Account have been complied with to the Administrative Agent's reasonable satisfaction;

(n) which is owed, to the knowledge of the Borrower, by any Affiliate, employee, officer or director of any Loan Party or by any Permitted Holder;

(o) which is owed by an Account Debtor to which (or, where performance by such Account Debtor of its obligations in respect of such Account could reasonably be expected to be setoff as a result of such payment obligation being owed to an Affiliate of such Account Debtor, to an Affiliate of which) any Loan Party owes a payment obligation, but only to the extent of such payment obligation, or which is subject to any security, deposit, progress payment, retainage or other similar advance made by or for the benefit of an Account Debtor, in each case to the extent thereof;

(p) which is subject to any counterclaim, deduction, defense, setoff or dispute, but only to the extent of any such counterclaim, deduction, defense, setoff or dispute;

(q) which is evidenced by any promissory note, chattel paper or instrument, unless such promissory note, chattel paper or instrument, together with undated

instruments of transfer duly executed in blank, shall have been delivered to the Administrative Agent;

(r) with respect to which a Loan Party has made any agreement with an Account Debtor for any reduction thereof (to the extent of such reduction), other than discounts and adjustments given in the ordinary course of business;

(s) which does not comply in all material respects with the requirements of all applicable laws, including the Federal Consumer Credit Protection Act, the Federal Truth in Lending Act and Regulation Z of the Board of Governors;

(t) which indicates any party other than a Loan Party (and, in the case of any Account arising pursuant to an Agented Advertising Arrangement, the applicable Agency but only as an agent of the Advertising Client) as payee;

(u) which was acquired by, or the interest in which was acquired by, any Loan Party pursuant to a Permitted Acquisition or any other Material Acquisition, unless (i) the Administrative Agent shall have completed a field examination following the date of such Material Acquisition in accordance with Section 5.09(b) or (ii) the Administrative Agent has otherwise determined, in its Permitted Discretion, not to apply with respect thereto the ineligibility criteria set forth in this clause (t); or

(v) which the Administrative Agent determines may not be paid by reason of the Account Debtor's inability to pay or which the Administrative Agent otherwise determines, in its Permitted Discretion (including on the basis of any Agency Exposure Information provided to the Administrative Agent), may not be collected by the applicable Loan Party.

In determining the amount of an Eligible Account, the face amount of an Account may, in the Administrative Agent's Permitted Discretion, be reduced by, without duplication, to the extent not reflected in such face amount, (i) the amount of all accrued and actual discounts, claims, credits or credits pending, promotional program allowances, price adjustments, finance charges or other allowances (including any amount that any Loan Party may be obligated to rebate to an Account Debtor pursuant to the terms of any agreement or understanding (written or oral)) and (ii) the aggregate amount of all cash received by the Loan Parties in respect of such Account but not yet applied by the Loan Parties to reduce the amount of such Account. Standards of eligibility may be made more restrictive from time to time solely by the Administrative Agent, in its Permitted Discretion, with any such changes to be effective three days after delivery of notice thereof to the Borrower and the Lenders.

"Eligible Assignee" means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund and (d) any other Person, other than, in each case, (i) a natural person, (ii) the Borrower, any Subsidiary or any other Affiliate of the Borrower, (iii) a Competitor or an Affiliate of a Competitor or (iv) a Defaulting Lender or a Revolving Lender Parent thereof.

"Engagement Letter" means, collectively, (a) the Engagement Letter dated March 31, 2011, among the Borrower, the Administrative Agent and J.P. Morgan Securities LLC and (b) the Engagement Letter dated August 29, 2013, among the Borrower, the Administrative Agent and J.P. Morgan Securities LLC.

"Environmental Laws" means all applicable rules, regulations, codes, ordinances, judgments, orders, decrees and other laws, and all injunctions, notices or binding agreements, issued, promulgated or entered into by any Governmental Authority and relating in any way to the environment, to preservation or reclamation of natural resources, to the management, Release or threatened Release of any hazardous substances, material or wastes or related to health or safety matters arising from exposure to such hazardous substances, materials or waste.

"Environmental Liability" means any liability, obligation, loss, claim, action, order or cost, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties and indemnities), directly or indirectly 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 or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Equity Interests" means shares of capital stock, partnership interests, membership interests, beneficial interests or other ownership interests, whether voting or nonvoting, in, or interests in the income or profits of, a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing; provided that Permitted Convertible Notes and Permitted Call Spread Hedge Agreements shall not constitute Equity Interests of the Borrower.

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

"ERISA Affiliate" means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or 414(c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414(m) or 414(o) of the Code.

"ERISA Event" means (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived), (b) any failure by any Plan to satisfy the minimum funding standard (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Plan, in each case whether or not waived, (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA, of an application for a waiver of the minimum funding standard with respect to any Plan, (d) a determination that any Plan is, or is expected to be, in "at-risk" status (as defined in

Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code), (e) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan, (f) the receipt by the Borrower or any of its ERISA Affiliates from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan, (g) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan, or (h) the receipt by Borrower or any of its ERISA Affiliates of any notice, or the receipt by any Multiemployer Plan from the Borrower or any of its ERISA Affiliates of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent, within the meaning of Title IV of ERISA or in endangered or critical status, within the meaning of Section 432 of the Code or Section 305 of ERISA.

"Eurocurrency", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, shall bear interest at a rate determined by reference to the Adjusted LIBO Rate.

"Events of Default" has the meaning set forth in Article VII.

"Excess Availability" means, at any time, an amount equal to (a) the lesser of (i) the Aggregate Commitment at such time and (ii) the Borrowing Base in effect at such time minus (b) the Aggregate Revolving Exposure at such time.

"Exchange Act" means the United States Securities Exchange Act of 1934.

"Excluded Swap Obligation" means, with respect to any Loan Party, any Swap Obligation if, and to the extent that, the Guarantee by such Loan Party of, or the grant by such Loan Party of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Party's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act at the time the Guarantee of such Loan Party becomes effective with respect to such related Swap Obligation.

"Excluded Taxes" means, with respect to any payment made by any Loan Party under this Agreement or any other Loan Document, any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient: (a) income Taxes and U.S. federal backup withholding or franchise Taxes imposed on (or measured by) net income by the United States of America or by the jurisdiction under the laws of which such Recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located, (b) any branch profits Taxes imposed by the United States of America or any similar Taxes imposed by any other jurisdiction referred to in clause (a) above, (c) Other Connection Taxes, (d) in the case of a Lender (other than an assignee pursuant to a

request by the Borrower under Section 2.18(b)), any U.S. Federal withholding Taxes resulting from any law in effect on the date such Lender becomes a party to this Agreement (or designates a new lending office) or is attributable to such Lender's failure to comply with Section 2.16(f), except to the extent that such Lender (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 Taxes pursuant to Section 2.16(a) and (e) any Taxes imposed under FATCA (or any version of FATCA that is substantively comparable and not materially more onerous to comply with).

"Existing Credit Agreement" means the Amended and Restated Loan and Security Agreement dated as of September 10, 2009, between the Borrower and Bridge Bank, National Association.

"FATCA" means Sections 1471 through 1474 of the Code, as of the Original Effective Date, any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

"Federal Funds Effective Rate" means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it. Notwithstanding the foregoing, if the Federal Funds Effective Rate, determined as provided above, would otherwise be less than zero, then the Federal Funds Effective Rate shall be deemed to be zero for all purposes of this Agreement.

"Financial Officer" means, with respect to any Person, the chief financial officer, principal accounting officer, treasurer or controller of such Person; provided that, when such term is used in reference to any document executed by, or a certification of, a Financial Officer, the secretary or assistant secretary of such Person shall have delivered an incumbency certificate to or shall have an incumbency certificate on file with the Administrative Agent as to the authority of such individual acting in such capacity.

"First Restatement Agreement" means the Amendment and Restatement Agreement dated as of September 12, 2013, among the Borrower, the Administrative Agent, the Issuing Bank and each Lender as of such date.

"Fixed Charges Coverage Ratio" means, as of any date, the ratio of (a) Consolidated EBITDA to (b) Consolidated Fixed Charges, in each case for the period of four consecutive fiscal quarters ending on such date (or, if such date is not the last day of a fiscal quarter, ending on the last day of the fiscal quarter most recently ended prior to such date).

"Foreign IP Holdco" has the meaning set forth in Section 6.05.

"Foreign Lender" means any Lender that is not a U.S. Person.

"Foreign Pledge Agreement" means a pledge or charge agreement granting a Lien on Equity Interests in a Foreign Subsidiary to secure the Secured Obligations, governed by the law of the jurisdiction of organization of such Foreign Subsidiary and in form and substance reasonably satisfactory to the Administrative Agent.

"Foreign Subsidiary" means any Subsidiary that is not a Domestic Subsidiary.

"GAAP" means generally accepted accounting principles in the United States of America, applied in accordance with the consistency requirements thereof.

"Governmental Approvals" means all authorizations, consents, approvals, permits, licenses and exemptions of, registrations and filings with, and reports to, Governmental Authorities.

"Governmental Authority" means the government of the United States of America, any other nation or 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 body exercising such powers or functions, such as the European Union or the European Central Bank).

"Guarantee" of or by any Person (the "guarantor") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or other obligation; provided that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The amount, as of any date of determination, of any Guarantee shall be the principal amount outstanding on such date of the Indebtedness or other obligation guaranteed thereby (or, in the case of (i) any Guarantee the terms of which limit the monetary exposure of the guarantor or (ii) any Guarantee of an obligation that does not have a principal amount, the maximum monetary exposure as of such date of the guarantor under such Guarantee (as determined, in the case of clause (i), pursuant to such

terms or, in the case of clause (ii), reasonably and in good faith by the chief financial officer of the Borrower)).

"Hazardous Materials" means all explosive, radioactive, hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

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

"Incremental Commitment" means, with respect to any Lender, the commitment, if any, of such Lender, established pursuant to an Incremental Facility Agreement and Section 2.20, to make Loans and to acquire participations in Letters of Credit and Protective Advances hereunder, expressed as an amount representing the maximum aggregate permitted amount of such Lender's Revolving Exposure under such Incremental Facility Agreement.

"Incremental Facility Agreement" means an Incremental Facility Agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Borrower, the Administrative Agent and one or more Incremental Lenders, establishing Incremental Commitments and effecting such other amendments hereto and to the other Loan Documents as are contemplated by Section 2.20.

"Incremental Lender" means a Lender with an Incremental Commitment.

"Indebtedness" of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person (excluding trade accounts payable incurred in the ordinary course of business), (d) all obligations of such Person in respect of the deferred purchase price of property or services (including payments in respect of non-competition agreements or other arrangements representing acquisition consideration, in each case entered into in connection with an acquisition, but excluding (i) accounts payable incurred in the ordinary course of business, (ii) deferred compensation payable to directors, officers or employees of the Borrower or any Subsidiary and (iii) any purchase price adjustment or earnout incurred in connection with an acquisition, except to the extent that the amount payable pursuant to such purchase

price adjustment or earnout is, or becomes, reasonably determinable), (e) all Capital Lease Obligations of such Person, (f) the maximum aggregate amount of all letters of credit and letters of guaranty in respect of which such Person is an account party, (g) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (h) all Disqualified Equity Interests in such Person, valued, as of the date of determination, at the greater of (i) the maximum aggregate amount that would be payable upon maturity, redemption, repayment or repurchase thereof (or of Disqualified Equity Interests or Indebtedness into which such Disqualified Equity Interests are convertible or exchangeable) and (ii) the maximum liquidation preference of such Disqualified Equity Interests, (i) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed by such Person, and (j) all Guarantees by such Person of Indebtedness of others. The Indebtedness of any Person shall include the Indebtedness of any other Person (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such other Person, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by any Loan Party under this Agreement or any other Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

"Indemnitee" has the meaning set forth in Section 9.03(b).

"Intellectual Property" has the meaning set forth in the Collateral Agreement.

"Intercompany Subordination Agreement" means an intercompany subordination agreement in form and substance customary for such agreements and reasonably satisfactory to the Administrative Agent.

"Interest Election Request" means a request by the Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.07, which shall be, in the case of any such written request, in the form of Exhibit F or any other form approved by the Administrative Agent.

"Interest Payment Date" means (a) with respect to any ABR Loan, the first Business Day following the last day of each March, June, September and December and (b) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurocurrency Borrowing with an Interest Period of more than three months' duration, such day or days prior to the last day of such Interest Period as shall occur at intervals of three months' duration after the first day of such Interest Period.

"Interest Period" means, with respect to any Eurocurrency Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months thereafter (or, if agreed to by each Lender participating therein, twelve months thereafter), as the Borrower may elect; provided that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, and (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"Interpolated Screen Rate" means, at any time, with respect to any Eurocurrency Borrowing for any Interest Period, the rate per annum (rounded to the same number of decimal places as the LIBO Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the LIBO Screen Rate for the longest period for which the LIBO Screen Rate is available that is shorter than such Interest Period and (b) the LIBO Screen Rate for the shortest period for which that Screen Rate is available that exceeds such Interest Period, in each case, at such time.

"Investment" means, with respect to a specified Person, any Equity Interests, evidences of Indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, or any capital contribution or loans or advances (other than advances made in the ordinary course of business that would be recorded as accounts receivable on the balance sheet of the specified Person prepared in accordance with GAAP) to, Guarantees of any Indebtedness or other obligations of, or any other investment (including any investment in the form of transfer of property for consideration that is less than the fair value thereof (as determined reasonably and in good faith by the chief financial officer of the Borrower)) in, any other Person that are held or made by the specified Person. The amount, as of any date of determination, of (a) any Investment in the form of a loan or an advance shall be the principal amount thereof outstanding on such date of determination, without any adjustment for write-downs or write-offs (including as a result of forgiveness of any portion thereof) with respect to such loan or advance after the date thereof, (b) any Investment in the form of a Guarantee shall be determined in accordance with the definition of the term "Guarantee", (c) any Investment by the specified Person in the form of a purchase or other acquisition for value of any Equity Interests, evidences of Indebtedness or other securities of any other Person shall be the fair value (as determined reasonably and in good faith by the chief financial officer of the Borrower) of the consideration therefor (including any Indebtedness assumed in connection therewith), plus the fair value (as so determined) of

all additions, as of such date of determination, thereto, and minus the amount, as of such date, of any portion of such Investment repaid to the investor in cash as a repayment of principal or a return of capital, as the case may be, but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the time of such Investment, (d) any Investment (other than any Investment referred to in clause (a), (b) or (c) above) in the form of a transfer of Equity Interests or other property by the investor to the investee, including any such transfer in the form of a capital contribution, shall be the fair value (as determined reasonably and in good faith by the chief financial officer of the Borrower) of such Equity Interests or other property as of the time of such transfer (less, in the case of any investment in the form of transfer of property for consideration that is less than the fair value thereof, the fair value (as so determined) of such consideration as of the time of the transfer), minus the amount, as of such date of determination, of any portion of such Investment repaid to the investor in cash as a return of capital, but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the time of such transfer, and (e) any Investment (other than any Investment referred to in clause (a), (b), (c) or (d) above) by the specified Person in any other Person resulting from the issuance by such other Person of its Equity Interests to the specified Person shall be the fair value (as determined reasonably and in good faith by the chief financial officer of the Borrower) of such Equity Interests at the time of the issuance thereof.

"IRS" means the United States Internal Revenue Service.

"Issuing Bank" means (a) JPMorgan Chase Bank, N.A. and (b) each Lender that shall have become an Issuing Bank hereunder as provided in Section 2.05(j) (other than any Person that shall have ceased to be an Issuing Bank as provided in Section 2.05(k)), each in its capacity as an issuer of Letters of Credit hereunder. Each Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term "Issuing Bank" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate (it being agreed that such Issuing Bank shall, or shall cause such Affiliate to, comply with the requirements of Section 2.05 with respect to such Letters of Credit).

"Joint Venture" means (a) any Subsidiary that is not a wholly owned Subsidiary or (b) any Person in whom the Borrower or any Subsidiary owns any Equity Interest but that is not a Subsidiary.

"LC Disbursement" means a payment made by an Issuing Bank pursuant to a Letter of Credit.

"LC Exposure" means, at any time, the sum of (a) the aggregate amount of all Letters of Credit that remains available for drawing at such time and (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time, adjusted to give effect to any reallocation under Section 2.19 of the LC Exposures of Defaulting Lenders in effect at such time.

"Lenders" means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption or an Incremental Facility Agreement, other than any such Person that shall have ceased to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term "Lenders" includes the Administrative Agent, in its capacity as the lender of Protective Advances.

"Letter of Credit" means any letter of credit issued pursuant to this Agreement, other than any such letter of credit that shall have ceased to be a "Letter of Credit" outstanding hereunder pursuant to Section 9.05.

"LIBO Rate" means, with respect to any Eurocurrency Borrowing for any Interest Period, a rate per annum equal to the London interbank offered rate as administered by the ICE Benchmark Administration (or any other Person that takes over the administration of such rate) for deposits in dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period as displayed on the Reuters screen page (currently page LIBOR01) displaying interest rates for deposits in the London interbank market (or, in the event such rate does not appear on a page of the Reuters screen, on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion) (such applicable rate being called the "LIBO Screen Rate"), at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period. If no LIBO Screen Rate shall be available for a particular Interest Period but LIBO Screen Rates shall be available for maturities both longer and shorter than such Interest Period, then the LIBO Rate for such Interest Period shall be the Interpolated Screen Rate. Notwithstanding the foregoing, if the LIBO Rate, determined as provided above, would otherwise be less than zero, then the LIBO Rate shall be deemed to be zero for all purposes of this Agreement.

"LIBO Screen Rate" has the meaning set forth in the definition of the term "LIBO Rate".

"Lien" means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, charge, security interest or other encumbrance on, in or of such asset, and any arrangement entered into for the purpose of making particular assets available to satisfy any Indebtedness or other obligation and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset.

"Liquidity" means, at any time, the sum of (a) Excess Availability at such time plus (b) the aggregate amount of cash on deposit in the Administrative Agent Controlled Account at such time.

"Loan Documents" means this Agreement, the First Restatement Agreement, the Second Restatement Agreement, the Incremental Facility Agreements, the Collateral Agreement, the other Security Documents, the Post-Closing Letter Agreement, the

Intercompany Subordination Agreement, any agreement designating an additional Issuing Bank as contemplated by Section 2.05(j) and, except for purposes of Section 9.02, any promissory notes delivered pursuant to Section 2.09(c).

"Loan Document Obligations" has the meaning set forth in the Collateral Agreement.

"Loan Parties" means the Borrower and each Subsidiary Loan Party.

"Loans" means the loans (including Protective Advances) made by the Lenders to the Borrower pursuant to this Agreement.

"Long-Term Indebtedness" means any Indebtedness that, in accordance with GAAP, constitutes (or, when incurred, constituted) a long-term liability.

"Material Acquisition" means any acquisition, or a series of related acquisitions, of (a) Equity Interests in any Person if, after giving effect thereto, such Person will become a Subsidiary or (b) assets comprising all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of) any Person; provided that the aggregate consideration therefor (including Indebtedness assumed in connection therewith) exceeds $2,500,000.

"Material Adverse Effect" means a material adverse effect on (a) the business, assets, liabilities, operations or financial condition of the Borrower and the Subsidiaries, taken as a whole, (b) the ability of any Loan Party to perform any of its payment obligations under any Loan Document or (c) the rights of or benefits available to the Lenders under any Loan Document.

"Material Indebtedness" means Indebtedness (other than the Loans, Letters of Credit and Guarantees under the Loan Documents), or obligations in respect of one or more Hedging Agreements, of any one or more of the Borrower and the Subsidiaries in an aggregate principal amount of $2,000,000 or more. For purposes of determining Material Indebtedness, the "principal amount" of the obligations of the Borrower or any Subsidiary in respect of any Hedging Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Borrower or such Subsidiary would be required to pay if such Hedging Agreement were terminated at such time.

"Material IP Subsidiary" means (a) any Foreign IP Holdco and (b) any other Subsidiary that at any time owns or holds any Intellectual Property or rights to Intellectual Property that are material to the business or operations of the Borrower and the Subsidiaries, taken as a whole.

"Material Subsidiary" means (a) each Material IP Subsidiary and (b) each Domestic Subsidiary (i) the consolidated total assets of which equal or exceed the greater of $125,000,000 and 5% of the consolidated total assets of the Borrower or (ii) the

consolidated revenues of which account for 5% or more of the consolidated revenues of the Borrower, in each case as of the end of or for the most recent period of four consecutive fiscal quarters of the Borrower for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b); provided that if at the end of or for any such most recent period of four consecutive fiscal quarters the consolidated total assets or the consolidated revenues of all Subsidiaries (other than CFCs and CFC Holding Companies) that would not constitute Material Subsidiaries shall exceed the greater of $200,000,000 and 10% of the consolidated total assets of the Borrower or 10% of the consolidated revenues of the Borrower, then one or more of such Subsidiaries (other than CFCs and CFC Holding Companies) shall for all purposes of this Agreement be deemed to be Material Subsidiaries in descending order based on the amounts of their consolidated total assets or consolidated revenues, as the case may be, until such excess shall have been eliminated.

"Maturity Date" means September 12, 2018.

"Maximum Rate" has the meaning set forth in Section 9.13.

"MNPI" means material information concerning the Borrower and its Related Parties or its or their respective securities that has not been disseminated in a manner making it available to investors generally, within the meaning of Regulation FD under the Securities Act and the Exchange Act. For purposes of this definition, "material information" means information concerning the Borrower and its Related Parties or its or their respective securities that could reasonably be expected to be material for purposes of the United States federal and state securities laws.

"Modified Borrowing Base Certificate" means a certificate in the form of Exhibit I (with such changes thereto as may be required by the Administrative Agent from time to time to reflect the components of and reserves against the Borrowing Base as provided for hereunder), together with all attachments contemplated thereby, certified as accurate and complete by a Financial Officer of the Borrower (it being acknowledged and agreed that the calculations and certifications set forth therein shall be made on the basis of (a) in the case of the amounts to be set forth on lines 1 through 7(a) and line 7(d) of Schedule 1 to Exhibit I, such amounts as of the close of business on the last day of the fiscal month in respect of which such certificate is delivered and (b) in the case of the amounts to be set forth on line 7(b), line 7(c), lines 8 through 32 and line 35 of Schedule 1 to Exhibit I and lines B, C and I to Exhibit I, such amounts set forth in the Borrowing Base Certificate most recently delivered to the Administrative Agent pursuant to Section 5.01(f)).

"Moody's" means Moody's Investors Service, Inc., and any successor to its rating agency business.

"Mortgage" means a mortgage, deed of trust, assignment of leases and rents, leasehold mortgage or other security document granting a Lien on any Mortgaged Property to secure the Secured Obligations. Each Mortgage shall be in form and substance reasonably satisfactory to the Administrative Agent.

"Mortgaged Property" means each parcel of real property owned in fee by a Loan Party, and the improvements thereto, that (together with such improvements) has a book or fair value of $2,000,000 or more.

"Multiemployer Plan" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"New York UCC" means the Uniform Commercial Code as from time to time in effect in the State of New York.

"Non-Defaulting Lender" means, at any time, any Lender that is not a Defaulting Lender at such time.

"Original Effective Date" means May 13, 2011.

"Other Connection Taxes" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Taxes (other than a connection arising solely from such Recipient having executed, delivered, enforced, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, or engaged in any other transaction pursuant to, or enforced by, this Agreement, or sold or assigned an interest in this Agreement).

"Other Reserves" means any reserves (other than the Designated Secured Obligations Reserve and the Dilution Reserve) that the Administrative Agent deems necessary, in its Permitted Discretion, to maintain with respect to the Collateral or any Loan Party, including reserves for accrued and unpaid interest on any Loan and without duplication of any exclusions made pursuant to clause (v) of the definition of the term "Eligible Accounts", any reserves established on the basis of the Agency Exposure Information.

"Other Taxes" means any present or future stamp, court, documentary, intangible, recording, filing or similar excise or property Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, or from the registration, receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any other Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment under Section 2.18(b)).

"Participant Register" has the meaning set forth in Section 9.04(c).

"Participants" has the meaning set forth in Section 9.04(c).

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Perfection Certificate" means a certificate in the form of Exhibit G or any other form approved by the Administrative Agent.

"Permitted Acquisition" means the purchase or other acquisition by the Borrower or any Subsidiary of Equity Interests in, or all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of), any Person if (a) in the case of any purchase or other acquisition of Equity Interests in a Person, upon the consummation of such acquisition such Person (including each subsidiary of such Person) will be a wholly-owned Subsidiary (including as a result of a merger or consolidation between any Subsidiary and such Person), (b) such purchase or acquisition was not preceded by, or consummated pursuant to, an unsolicited tender offer or proxy contest initiated by or on behalf of the Borrower or any Subsidiary, (c) all transactions related thereto are consummated in accordance with applicable law, (d) the business of such Person, or such assets, as the case may be, constitute a business permitted under Section 6.03(b) and (e) with respect to each such purchase or other acquisition, all actions required to be taken with respect to each newly created or acquired Subsidiary or assets in order to satisfy the requirements set forth in clauses (a), (b), (c), (d) and (g) of the definition of the term "Collateral and Guarantee Requirement" shall have been taken (or arrangements for the taking of such actions satisfactory to the Administrative Agent shall have been made).

"Permitted Call Spread Hedge Agreements" means (a) a Hedge Agreement pursuant to which the Borrower acquires a call or a capped call option requiring the counterparty thereto to deliver to the Borrower shares of common stock of the Borrower, the cash value of such shares or a combination thereof from time to time upon exercise of such option and (b) if entered by the Borrower in connection with any Hedge Agreement described in clause (a) above, a Hedge Agreement pursuant to which the Borrower issues to the counterparty thereto warrants to acquire common stock of the Borrower, in each case entered into by the Borrower concurrently with the issuance of Permitted Convertible Notes; provided that (i) the terms, conditions and covenants of each such Hedge Agreement shall be such as are typical and customary for Hedge Agreements of such type (as determined by the Board of Directors of the Borrower in good faith) and (ii) in the case of clause (b) above, such Hedge Agreement would be classified as an equity instrument in accordance with EITF 00-19, *Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock*, or any successor thereto (including pursuant to the Accounting Standards Codification), and the settlement of such Hedge Agreement does not require the Borrower to make any payment in cash or cash equivalents that would disqualify such Hedge Agreement from so being classified as an equity instrument.

"Permitted Convertible Notes" means any notes issued by the Borrower that are convertible into common stock of the Borrower or cash in lieu of all or any portion of such shares of common stock; provided that (a) the stated final maturity thereof shall be no earlier than 91 days after the Maturity Date, and shall not be subject to any conditions that could result in such stated final maturity occurring on a date that

precedes the 91st day after the Maturity Date (it being understood that a repurchase of such notes on account of the occurrence of a "fundamental change" or any redemption of such notes at the option of the Borrower shall not be deemed to constitute a change in the stated final maturity thereof), (b) such notes shall not be required to be repaid, prepaid, redeemed, repurchased or defeased, whether on one or more fixed dates, upon the occurrence of one or more events or at the option of any holder thereof (except, in each case, upon the occurrence of an event of default, a "fundamental change" or following the Borrower's election to redeem such notes) prior to the 91st day after the Maturity Date, (c) the terms, conditions and covenants of such notes shall be such as are typical and customary for notes of such type (as determined by the Board of Directors of the Borrower in good faith), (d) no Subsidiary that is not a Loan Party shall Guarantee obligations of the Borrower thereunder, and each such Guarantee shall provide for the release and termination thereof, without action by any Person, upon any release and termination of the Guarantee by such Subsidiary of the Loan Document Obligations, and (e) the obligations in respect thereof (and any Guarantee thereof) shall not be secured by any Lien on any asset of the Borrower or any Subsidiary.

"Permitted Discretion" means a determination made by the Administrative Agent in the exercise of its reasonable credit judgment and consistent with its policies applicable to asset based lending transactions similar to the credit facilities established hereunder.

"Permitted Encumbrances" means:

(a) Liens imposed by law for Taxes that are not yet delinquent or are being contested in compliance with Section 5.06;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law (other than any Lien imposed pursuant to Section 430(k) of the Code or Section 303(k) of ERISA or a violation of Section 436 of the Code), arising in the ordinary course of business;

(c) pledges and deposits made (i) in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws and (ii) in respect of letters of credit, bank guarantees or similar instruments issued for the account of the Borrower or any Subsidiary in the ordinary course of business supporting obligations of the type set forth in clause (i) above;

(d) pledges and deposits made (i) to secure the performance of bids, trade contracts, leases (other than Capitalized Lease Obligations), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business and (ii) in respect of letters of credit, bank guarantees or similar instruments issued for the account of the Borrower or any Subsidiary in the ordinary course of business supporting obligations of the type set forth in clause (i) above;

(e) judgment liens in respect of judgments that do not constitute an Event of Default under clause (k) of Article VII;

(f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower or any Subsidiary;

(g) banker's liens, rights of setoff or similar rights and remedies as to deposit accounts, securities accounts or other funds maintained with depository institutions or securities intermediaries; provided that such deposit accounts, securities accounts or funds therein or credited thereto are not established, deposited or made for the purpose of providing collateral for any Indebtedness and are not subject to restrictions on access by the Borrower or any Subsidiary in excess of those required by applicable banking regulations;

(h) Liens arising by virtue of Uniform Commercial Code financing statement filings (or similar filings under applicable law) regarding operating leases entered into by the Borrower and the Subsidiaries in the ordinary course of business;

(i) Liens representing any interest or title of a licensor, lessor or sublicensor or sublessor, or a licensee, lessee or sublicensee or sublessee, in the property subject to any lease (other than Capitalized Lease Obligations), license or sublicense or concession agreement permitted by this Agreement; and

(j) Liens that are contractual rights of set-off;

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness, other than Liens referred to clauses (c) and (d) above securing letters of credit, bank guarantees or similar instruments.

"Permitted Holders" means the Persons set forth on Schedule 1.01(b) hereto.

"Permitted Investments" means:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within two years from the date of acquisition thereof;

(b) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, any State of the United States of America or any political subdivision of any such State or any public instrumentality thereof that (i)

mature within two years from the date of acquisition thereof and (ii) are rated not lower than P-1 or A2 by Moody's or A-1 or A by S&P at such date of acquisition;

(c) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, any agency of the United States of America that (i) mature within two years from the date of acquisition thereof and (ii) are rated not lower than P-1 or A2 by Moody's or A-1 or A by S&P at such date of acquisition;

(d) investments in commercial paper that (i) mature within two years from the date of acquisition thereof and (ii) are rated not lower than P-1 or A2 by Moody's or A-1 or A by S&P at such date of acquisition;

(e) investments in certificates of deposit, banker's acceptances and demand or time deposits, in each case maturing within two years from the date of acquisition thereof, issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof or any domestic branch of any foreign commercial bank;

(f) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above;

(g) investments in corporate notes, bonds or debentures that (i) mature within two years from the date of acquisition thereof and (ii) are rated not lower than P-1 or A-2 by Moody's or A-1 or A by S&P at such date of acquisition;

(h) money market funds that (i) comply with the criteria set forth in Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated AAA by S&P or Aaa by Moody's and (iii) have portfolio assets of at least $5,000,000,000; and

(i) in the case of any Foreign Subsidiary, other short-term investments that are analogous to the foregoing, are of comparable credit quality and are customarily used by companies in the jurisdiction of such Foreign Subsidiary for cash management purposes.

"Permitted Subordinated Notes" means any notes issued by the Borrower, provided that (a) such notes, and any Guarantees thereof, are subordinated in right of payment to the Loan Document Obligations on terms customary at the time of the issuance of such notes for high yield subordinated debt securities issued in a public offering, (b) the stated final maturity thereof shall be no earlier than 91 days after the Maturity Date, and shall not be subject to any conditions that could result in such stated final maturity occurring on a date that precedes the 91st day after the Maturity Date, (c) such notes shall not be required to be repaid, prepaid, redeemed, repurchased or defeased, whether on one or more fixed dates, upon the occurrence of one or more events or at the option of any holder thereof (except, in each case, upon the occurrence of an event of

default, a change in control, an asset disposition or an event of loss) prior to the 91st day after the Maturity Date, (d) the terms, conditions and covenants of such notes shall be such as are typical and customary for notes of such type (as determined by the Board of Directors of the Borrower in good faith), (e) no Subsidiary that is not a Loan Party shall Guarantee obligations of the Borrower thereunder, and each such Guarantee (i) shall provide for the release and termination thereof, without action by any Person, upon any release and termination of the Guarantee by such Subsidiary of the Loan Document Obligations and (ii) shall be subordinated to the Guarantee by such Subsidiary of the Loan Document Obligations on terms no less favorable to the Lenders than the subordination provisions of such notes, and (f) the obligations in respect thereof (and any Guarantee thereof) shall not be secured by any Lien on any asset of the Borrower or any Subsidiary.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Plan" means any "employee pension benefit plan", as defined in Section 3(2) of ERISA (other than a Multiemployer Plan), that is subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA and sponsored, maintained or contributed by the Borrower or any ERISA Affiliate, and in respect of which the Borrower or any of its ERISA Affiliates is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Platform" has the meaning set forth in Section 9.01(d).

"Post-Closing Letter Agreement" means the Post-Closing Letter Agreement dated as of the Original Effective Date, between the Borrower and the Administrative Agent.

"Prime Rate" means the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. as its prime rate in effect at its principal office in New York City. Each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

"Private Side Lender Representatives" means, with respect to any Lender, representatives of such Lender that are not Public Side Lender Representatives.

"Protective Advance" has the meaning set forth in Section 2.04(a).

"Protective Advance Exposure" means, at any time, the sum of the principal amounts of all outstanding Protective Advances at such time. The Protective Advance Exposure of any Lender at any time shall be its Applicable Percentage of the total Protective Advance Exposure at such time, adjusted to give effect to any reallocation

under Section 2.19 of the Protective Advance Exposures of Defaulting Lenders in effect at such time.

"Public Side Lender Representatives" means, with respect to any Lender, representatives of such Lender that do not wish to receive MNPI.

"Qualified ECP Guarantor" means, in respect of any Swap Obligation, each Loan Party that has total assets exceeding $10,000,000 or that otherwise constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder at the time such Swap Obligation is incurred (including as a result of the agreement in Section 2.07 of the Collateral Agreement or any other Guarantee or other support agreement in respect of the obligations of such Loan Party by the Borrower or another Person that constitutes an "eligible contract participant").

"Recipient" has the meaning set forth in Section 2.16(a).

"Refinancing Indebtedness" means, in respect of any Indebtedness (the "Original Indebtedness"), any Indebtedness that extends, renews or refinances such Original Indebtedness (or any Refinancing Indebtedness in respect thereof); provided that (a) the principal amount of such Refinancing Indebtedness shall not exceed the principal amount of such Original Indebtedness except by an amount no greater than accrued and unpaid interest with respect to such Original Indebtedness and premiums, fees and expenses payable in connection with such extension, renewal or refinancing; (b) the stated final maturity of such Refinancing Indebtedness shall not be earlier than that of such Original Indebtedness, and such stated final maturity shall not be subject to any conditions (other than conditions that were applicable to the Original Indebtedness) that could result in such stated final maturity occurring on a date that precedes the stated final maturity of such Original Indebtedness; (c) such Refinancing Indebtedness shall not be required to be repaid, prepaid, redeemed, repurchased or defeased, whether on one or more fixed dates, upon the occurrence of one or more events or at the option of any holder thereof (except, in each case, upon the occurrence of an event of default or a change in control or as and to the extent such repayment, prepayment, redemption, repurchase or defeasance would have been required pursuant to the terms of such Original Indebtedness) prior to the earlier of (i) the maturity of such Original Indebtedness and (ii) the date 180 days after the Maturity Date, provided that, notwithstanding the foregoing, scheduled amortization payments (however denominated) of such Refinancing Indebtedness shall be permitted so long as the weighted average life to maturity of such Refinancing Indebtedness shall be at least as long as the weighted average life to maturity of such Original Indebtedness remaining as of the date of such extension, renewal or refinancing; (d) such Refinancing Indebtedness shall not constitute an obligation (including pursuant to a Guarantee) of any Subsidiary that shall not have been (or, in the case of after-acquired Subsidiaries, shall not have been required to become) an obligor in respect of such Original Indebtedness; (e) if such Original Indebtedness (including any Guarantee thereof) shall have been subordinated to the Loan Document Obligations, such Refinancing Indebtedness (including any Guarantee thereof)

shall also be subordinated to the Loan Document Obligations on terms not less favorable in any material respect to the Lenders; and (f) such Refinancing Indebtedness shall not be secured by any Lien on any asset other than the assets that secured such Original Indebtedness (or would have been required to secure such Original Indebtedness pursuant to the terms thereof) or, in the event Liens securing such Original Indebtedness shall have been contractually subordinated to any Lien securing the Loan Document Obligations, by any Lien that shall not have been contractually subordinated to at least the same extent.

"Register" has the meaning set forth in Section 9.04(b)(iv).

"Related Parties" means, with respect to any specified Person, such Person's Affiliates and the directors, officers, partners, members, trustees, employees, agents, administrators, managers, representatives and advisors of such Person and of such Person's Affiliates.

"Release" means any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into or through the environment or within or upon any building, structure, facility or fixture.

"Reports" means reports prepared by the Administrative Agent or another Person showing the results of appraisals, field examinations or audits pertaining to the assets of the Borrower or any Subsidiary from information furnished by or on behalf of the Borrower or any Subsidiary, which Reports (except where prepared for internal purposes of the Administrative Agent) may be distributed to the Lenders by the Administrative Agent.

"Required Lenders" means, at any time, Lenders having Revolving Exposures and unused Commitments representing more than 50% of the sum of the Aggregate Revolving Exposure and unused Commitments at such time.

"Reserves" means the Dilution Reserve, the Designated Secured Obligations Reserve and the Other Reserves.

"Restatement Effective Date" has the meaning set forth in the Second Restatement Agreement.

"Restricted Payment" means (a) any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of, or any other return of capital with respect to, any Equity Interests in the Borrower or any Subsidiary, and (b) any management, monitoring, transaction, advisory or similar fees payable to the Permitted Holders or any of their Affiliates.

"Revolving Borrowing" means a Borrowing consisting of Revolving Loans.

"Revolving Exposure" means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender's Revolving Loans and such Lender's LC Exposure and Protective Advance Exposure at such time.

"Revolving Lender Parent" means, with respect to any Lender, any Person in respect of which such Lender is a subsidiary.

"Revolving Loan" means a Loan made pursuant to Section 2.01.

"S&P" means Standard & Poor's Financial Services LLC and any successor to its rating agency business.

"Sale/Leaseback Transaction" means an arrangement relating to property owned by the Borrower or any Subsidiary whereby the Borrower or such Subsidiary sells or transfers such property to any Person and the Borrower or any Subsidiary leases such property, or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred, from such Person or its Affiliates.

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of specially designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State or by the United Nations Security Council, the European Union or any EU member state or (b) any Person operating, organized or resident in a country, region or territory that is itself the subject or target of any Sanctions.

"Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State or (b) the United Nations Security Council, the European Union or Her Majesty's Treasury of the United Kingdom.

"SEC" means the United States Securities and Exchange Commission.

"Second Restatement Agreement" means the Amendment and Restatement Agreement dated as of December 21, 2015, among the Borrower, the Administrative Agent, the Issuing Bank and each Lender party thereto.

"Secured Obligations" has the meaning set forth in the Collateral Agreement.

"Secured Parties" has the meaning set forth in the Collateral Agreement.

"Securities Act" means the United States Securities Act of 1933.

"Security Documents" means the Collateral Agreement, the Foreign Pledge Agreements, if any, the Mortgages, if any, the Control Agreements and each other security agreement or other instrument or document executed and delivered pursuant to Section 5.03 or 5.12 to secure the Secured Obligations.

"SoundExchange" means SoundExchange (or any successor agency) as the principal administrator of the statutory licenses under Sections 112 and 114 of the Digital Millennium Copyright Act of 1998.

"Specified Intercompany Indebtedness" means Indebtedness owing by any Subsidiary that is not a Loan Party to any Loan Party, provided that (a) such Indebtedness arises solely as a result of obligations of such Subsidiary in respect of (i) purchases, licenses and research and development cost sharing, in each case in respect of Intellectual Property, and (ii) shared services and overhead allocations and (b) no cash, cash equivalents or other assets (other than the rights in respect of Intellectual Property referred to in clause (a) above and the provision of shared services and other services giving rise to overhead allocations referred to in clause (a) above) shall have been transferred, directly or indirectly, by any Loan Party to such Subsidiary in connection with such Indebtedness.

"Statutory Reserve Rate" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves), expressed as a decimal, established by the Board of Governors to which the Administrative Agent is subject for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board of Governors). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurocurrency Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"Subordinated Indebtedness" means the Permitted Subordinated Notes and any Refinancing Indebtedness in respect thereof.

"subsidiary" means, with respect to any Person (the "parent") at any date, (a) any Person the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date and (b) any other Person (i) of which Equity Interests representing more than 50% of the equity value or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (ii) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Subsidiary" means any subsidiary of the Borrower.

"Subsidiary Loan Party" means each Subsidiary that is a party to the Collateral Agreement.

"Supermajority Lenders" means, at any time, Lenders having Revolving Exposures and unused Commitments representing more than 66% of the sum of the Aggregate Revolving Exposure and unused Commitments at such time.

"Swap Obligation" means, with respect to any Loan Party, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

"Taxes" means any 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.

"Transactions" means the execution, delivery and performance by each Loan Party of the Loan Documents to which it is to be a party, the borrowing of Loans, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

"Type", when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

"U.S. dollars" or "$" refers to lawful money of the United States of America

"U.S. Person" means a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"U.S. Tax Certificate" has the meaning set forth in Section 2.16(f)(ii)(D)(2).

"USA PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001.

"wholly-owned", when used in reference to a subsidiary of any Person, means that all the Equity Interests in such subsidiary (other than directors' qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under applicable law) are owned, beneficially and of record, by such Person, another wholly-owned subsidiary of such Person or any combination thereof.

"Withdrawal Liability" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"Withholding Agent" means any Loan Party or the Administrative Agent.

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Revolving Loans and Revolving Borrowings may be classified and referred to by Type (e.g., a "Eurocurrency Revolving Loan" or an "ABR Revolving Borrowing").

SECTION 1.03. Terms Generally. 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". The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all real and personal, tangible and intangible assets and properties, including cash, securities, accounts and contract rights. The word "law" shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply), and all judgments, orders, writs and decrees, of all Governmental Authorities. Except as otherwise provided herein and unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document (including this Agreement and the other Loan Documents) 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), (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified (including by succession of comparable successor laws), and all references to any statute shall be construed as referring to all rules, regulations, rulings and official interpretations promulgated or issued thereunder, (c) any reference herein to any Person shall be construed to include such Person's successors and assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (d) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof and (e) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement.

SECTION 1.04. Accounting Terms; GAAP; Pro Forma Calculations. (a) Except as otherwise expressly provided herein, all terms of an accounting or financial nature used herein shall be construed in accordance with GAAP as in effect from time to time; provided that (i) if the Borrower, by notice to the Administrative Agent, shall request an amendment to any provision hereof to eliminate the effect of any change occurring after the Original Effective Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent or the Required Lenders, by notice to the Borrower, shall request an amendment to any provision hereof for such purpose), regardless of whether

any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith and (ii) notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, (A) without giving effect to any election under *Accounting Standards Codification 825, Financial Instruments* (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness of the Borrower or any Subsidiary at "fair value", as defined therein, (B) without giving effect to any change to GAAP occurring after the Original Effective Date as a result of the adoption of any proposals set forth in the *Proposed Accounting Standards Update (proposed ASU) No. 2013-270: Leases (Topic 842)* , issued by the Financial Accounting Standards Board on May 16, 2013, a revision of the 2010 *Proposed FASB Accounting Standards Update, Leases (Topic 840)*, issued by the Financial Accounting Standards Board on August 17, 2010, or any other proposals issued by the Financial Accounting Standards Board in connection therewith, in each case if such change would require treating any lease (or similar arrangement conveying the right to use) as a capital lease where such lease (or such similar arrangement) was not required to be so treated under GAAP as in effect on the Original Effective Date and (C) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under *Accounting Standards Codification 470-20, Debt with Conversion and Other Options* (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

(b) All pro forma computations required to be made hereunder giving effect to any transaction shall be calculated after giving pro forma effect thereto (and, in the case of any pro forma computations made hereunder to determine whether such transaction is permitted to be consummated hereunder, to any other such transaction consummated since the first day of the period covered by any component of such pro forma computation and on or prior to the date of such computation) as if such transaction had occurred on the first day of the period of four consecutive fiscal quarters ending with the most recent fiscal quarter for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, ending with the last fiscal quarter included in the consolidated financial statements referred to in Section 3.04(a)), all in accordance with Article 11 of Regulation S-X under the Securities Act. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of determination had been the applicable rate for the entire period (taking into account any Hedging Agreement applicable to such Indebtedness if such Hedging Agreement has a remaining term in excess of 12 months).

SECTION 1.05. Senior Indebtedness. In the event that any Loan Party shall at any time issue or have outstanding any Subordinated Indebtedness, such Loan Party

shall take all such actions as shall be necessary to cause the Loan Document Obligations to constitute "senior indebtedness" and "designated senior indebtedness" (however denominated) in respect of such Subordinated Indebtedness and to enable the Lenders, or an agent on their behalf, to have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness.

SECTION 1.06. Excluded Swap Obligations. Notwithstanding any provision of this Agreement or any other Loan Document to the contrary, no Guarantee by any Loan Party under any Loan Document shall include a Guarantee of any Secured Obligation that, as to such Loan Party, is an Excluded Swap Obligation, and no Collateral provided by any Loan Party shall secure any Secured Obligation that, as to such Loan Party, is an Excluded Swap Obligation. In the event that any payment is made by, or any collection is realized from, any Loan Party as to which any Secured Obligations are Excluded Swap Obligations, or from any Collateral provided by such Loan Party, the proceeds thereof shall be applied to pay the Secured Obligations of such Loan Party as otherwise provided herein without giving effect to such Excluded Swap Obligations and each reference in this Agreement or any other Loan Document to the ratable application of such amounts as among the Secured Obligations or any specified portion of the Secured Obligations that would otherwise include such Excluded Swap Obligations shall be deemed so to provide.

ARTICLE I

The Credits

SECTION 2.01. Commitments. Subject to the terms and conditions set forth herein, each Lender severally agrees to make Revolving Loans in U.S. dollars to the Borrower from time to time during the Availability Period in an aggregate principal amount that will not result in (a) such Lender's Revolving Exposure exceeding such Lender's Commitment or (b) the Aggregate Revolving Exposure exceeding the lesser of (i) the Aggregate Commitment and (ii) the Borrowing Base then in effect. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans.

SECTION 2.02. Loans and Borrowings. (a) Each Revolving Loan shall be made as part of a Revolving Borrowing consisting of Revolving Loans of the same Type made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Revolving Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Revolving Loans as required.

(b) Subject to Section 2.13, each Revolving Borrowing shall be comprised entirely of ABR Revolving Loans or Eurocurrency Revolving Loans as the

Borrower may request in accordance herewith; provided that all Revolving Borrowings made on the Original Effective Date must be made as ABR Revolving Borrowings unless the Borrower shall have given the notice required for a Eurocurrency Revolving Borrowing under Section 2.03 and provided an indemnity letter, in form and substance reasonably satisfactory to the Administrative Agent, extending the benefits of Section 2.15 to Lenders in respect of such Borrowings. Each Protective Advance shall be an ABR Loan. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurocurrency Revolving Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of $1,000,000 and not less than $1,000,000; provided that a Eurocurrency Revolving Borrowing that results from a continuation of an outstanding Eurocurrency Revolving Borrowing may be in an aggregate amount that is equal to such outstanding Borrowing. At the time that each ABR Revolving Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of $250,000 and not less than $500,000; provided that an ABR Revolving Borrowing may be in an aggregate amount (i) that is equal to the entire unused balance of the Aggregate Commitment, (ii) that is required to finance the repayment of a Protective Advance as contemplated by Section 2.04(a) or (iii) that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.05(f). Revolving Borrowings of more than one Type may be outstanding at the same time; provided that there shall not at any time be more than a total of 10 (or such greater number as may be agreed to by the Administrative Agent) Eurocurrency Revolving Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert to or continue, any Eurocurrency Revolving Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

SECTION 2.03. Requests for Borrowings. To request a Revolving Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone (a) in the case of a Eurocurrency Revolving Borrowing, not later than 1:00 p.m., New York City time, three Business Days before the date of the proposed Borrowing (or, in the case of any Eurocurrency Revolving Borrowing to be made on the Original Effective Date, such shorter period of time as may be agreed to by the Administrative Agent) or (b) in the case of an ABR Revolving Borrowing, not later than 1:00 p.m., New York City time, on the date of the proposed Borrowing (which shall be a Business Day). Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or facsimile to the Administrative Agent of an executed written Borrowing Request or by electronic transmission to the Administrative Agent of a Borrowing Request in accordance with Section 9.01(b). Each such telephonic and confirmatory Borrowing Request shall specify the following information in compliance with Section 2.02:

(i) the aggregate amount of such Borrowing;

(ii) the date of such Borrowing, which shall be a Business Day;

(iii) whether such Borrowing is to be an ABR Revolving Borrowing or a Eurocurrency Revolving Borrowing;

(iv) in the case of a Eurocurrency Revolving Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and

(v) the location and number of the account of the Borrower to which funds are to be disbursed or, in the case of any ABR Revolving Borrowing requested to finance the reimbursement of an LC Disbursement as provided in Section 2.05(f), the identity of the Issuing Bank that made such LC Disbursement.

If no election as to the Type of Revolving Borrowing is specified, then the requested Revolving Borrowing shall be an ABR Revolving Borrowing. If no Interest Period is specified with respect to any requested Eurocurrency Revolving Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Revolving Loan to be made as part of the requested Revolving Borrowing.

SECTION 2.04. Protective Advances. (a) Subject to the limitations set forth below, the Administrative Agent is authorized by the Borrower and the Lenders, from time to time during the Availability Period, in the Administrative Agent's Permitted Discretion (but without any obligation), to make Loans to the Borrower, on behalf of all Lenders, which the Administrative Agent, in its Permitted Discretion, deems necessary or desirable (i) to preserve or protect the Collateral, or any portion thereof, (ii) to enhance the likelihood of, or maximize the amount of, repayment of the Loans and other Loan Document Obligations or (iii) to pay any other amount chargeable to or required to be paid by the Borrower pursuant to the terms of this Agreement, including payments of reimbursable expenses (including costs, fees and expenses as described in Section 9.03) and other sums payable under the Loan Documents (any such Loans being referred to herein as "Protective Advances"); provided that, no Protective Advance shall be made if after giving effect thereto (A) the Aggregate Revolving Exposures would exceed the Aggregate Commitment or (B) the aggregate principal amount of the outstanding Protective Advances would exceed 10% of the Aggregate Commitment in effect at the time of the making of such Protective Advance. Protective Advances may be made even if the conditions precedent set forth in Section 4.02 have not been satisfied. The Protective Advances shall constitute Loan Document Obligations hereunder and shall be Guaranteed and secured as provided in the Security Documents. The Administrative Agent's authorization to make Protective Advances may be revoked at any time by the Required Lenders. Any such revocation must be in writing and shall become effective prospectively upon the Administrative Agent's Receipt thereof. The Administrative Agent may at any time (i) subject to the limitations set forth in

Section 2.01 and to the satisfaction of the conditions set forth in Section 4.02, request, on behalf of the Borrower, the Lenders to make ABR Revolving Loans to repay any Protective Advance or (ii) require the Lenders to acquire participations in any Protective Advance as provided in paragraph (b) of this Section.

(b) The Administrative Agent may by notice given not later than 10:00 a.m., New York City time, on any Business Day require the Lenders to acquire participations on such Business Day in all or a portion of the Protective Advances outstanding. Such notice shall specify the aggregate amount of Protective Advances in which the Lenders will be required to participate and each Lender's Applicable Percentage of such Protective Advances. Each Lender hereby absolutely and unconditionally agrees to pay, upon receipt of notice as provided above, to the Administrative Agent such Lender's Applicable Percentage of such Protective Advances. Each Lender acknowledges and agrees that its obligation to acquire participations in Protective Advances pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including nonsatisfaction of any of the conditions precedent set forth in Section 4.02, the occurrence and continuance of a Default or any reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.06 with respect to Loans made by such Lender (and Section 2.06 shall apply, mutatis mutandis, to the payment obligations of the Lenders pursuant to this paragraph). Any amounts received by the Administrative Agent from the Borrower (or other Person on behalf of the Borrower) in respect of a Protective Advance after receipt by the Administrative Agent of the proceeds of a sale of participations therein shall be promptly remitted by the Administrative Agent to the Lenders that shall have made their payments pursuant to this paragraph to the extent of their interests therein; provided that any such payment so remitted shall be repaid to the Administrative Agent if and to the extent such payment is required to be refunded to the Borrower for any reason. The purchase of participations in a Protective Advance pursuant to this paragraph shall not constitute a Loan and shall not relieve the Borrower of its obligation to repay such Protective Advance.

SECTION 2.05. Letters of Credit. (a) General. Subject to the terms and conditions set forth herein, the Borrower may request the issuance of Letters of Credit for its own account, denominated in U.S. dollars and in a form reasonably acceptable to the Administrative Agent and the applicable Issuing Bank, at any time and from time to time during the Availability Period. Notwithstanding anything contained in any letter of credit application furnished to any Issuing Bank in connection with the issuance of any Letter of Credit, (i) all provisions of such letter of credit application purporting to grant liens in favor of the Issuing Bank to secure obligations in respect of such Letter of Credit shall be disregarded, it being agreed that such obligations shall be secured to the extent provided in this Agreement and in the Security Documents, and (ii) in the event of any inconsistency between the terms and conditions of such letter of credit application and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall control.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit or the amendment, renewal or extension of an outstanding Letter of Credit (other than an automatic renewal permitted pursuant to paragraph (c) of this Section), the Borrower shall hand deliver or fax (or transmit by electronic communication, if arrangements for doing so have been approved by the recipient) to the applicable Issuing Bank and the Administrative Agent, prior to 2:00 p.m., New York City time, at least three Business Days prior to (or such later time as is reasonably acceptable to the applicable Issuing Bank in advance of) the requested date of issuance, amendment, renewal or extension, a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the requested date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to enable the applicable Issuing Bank to prepare, amend, renew or extend such Letter of Credit. If requested by the applicable Issuing Bank, the Borrower also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any such request. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon each issuance, amendment, renewal or extension of any Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension, (i) the LC Exposure will not exceed $15,000,000 and (ii) the Aggregate Revolving Exposure will not exceed the lesser of (A) the Aggregate Commitment and (B) the Borrowing Base then in effect. Each Issuing Bank agrees that it shall not permit any issuance, amendment, renewal or extension of a Letter of Credit to occur unless it shall have given to the Administrative Agent written notice thereof required under paragraph (l) of this Section.

(c) Expiration Date. Each Letter of Credit shall by its terms expire at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (ii) the date that is five Business Days prior to the Maturity Date; provided that any Letter of Credit may contain customary automatic renewal provisions agreed upon by the Borrower and the applicable Issuing Bank pursuant to which the expiration date of such Letter of Credit shall automatically be extended for a period of up to 12 months (but not to a date later than the date set forth in clause (ii) above), subject to a right on the part of such Issuing Bank to prevent any such renewal from occurring by giving notice to the beneficiary in advance of any such renewal.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the applicable Issuing Bank or any Lender, the Issuing Bank that is the issuer thereof hereby grants to each Lender, and each Lender hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees

to pay to the Administrative Agent, for the account of such Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by such Issuing Bank under such Letter of Credit and not reimbursed by the Borrower on the date due as provided in paragraph (f) of this Section, or of any reimbursement payment required to be refunded to the Borrower for any reason. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or any reduction or termination of the Commitments or any force majeure or other event that under any rule of law or uniform practices to which any Letter of Credit is subject (including Section 3.14 of ISP 98 or any successor publication of the International Chamber of Commerce) permits a drawing to be made under such Letter of Credit after the expiration thereof or of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender further acknowledges and agrees that, in issuing, amending, renewing or extending any Letter of Credit, the applicable Issuing Bank shall be entitled to rely, and shall not incur any liability for relying, upon the representation and warranty of the Borrower deemed made pursuant to Section 4.02, unless, at least one Business Day prior to the time such Letter of Credit is issued, amended, renewed or extended (or, in the case of an automatic renewal permitted pursuant to paragraph (c) of this Section, at least one Business Day prior to the time by which the election not to extend must be made by the applicable Issuing Bank), the Required Lenders shall have notified the applicable Issuing Bank (with a copy to the Administrative Agent) in writing that, as a result of one or more events or circumstances described in such notice, one or more of the conditions precedent set forth in Section 4.02(a) or 4.02(b) would not be satisfied if such Letter of Credit were then issued, amended, renewed or extended (it being understood and agreed that, in the event any Issuing Bank shall have received any such notice, no Issuing Bank shall have any obligation to issue, amend, renew or extend any Letter of Credit until and unless it shall be satisfied that the events and circumstances described in such notice shall have been cured or otherwise shall have ceased to exist).

(e) Disbursements. Each Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit issued by it and shall promptly notify the Administrative Agent and the Borrower by telephone (confirmed by hand delivery or facsimile) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse such LC Disbursement.

(f) Reimbursements. If an Issuing Bank shall make an LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement not later than (i) if the Borrower shall have received notice of such LC Disbursement prior to 10:00 a.m., New York City time, on any Business Day, then 3:00 p.m., New York City time, on such Business Day or (ii) otherwise, 3:00 p.m., New York City time, on the Business Day immediately following the day that the Borrower receives such notice; provided that the

Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 that such payment be financed with an ABR Revolving Borrowing and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing. If the Borrower fails to reimburse any LC Disbursement by the time specified above, the Administrative Agent shall notify each Lender of such failure, the payment then due from the Borrower in respect of the applicable LC Disbursement and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its Applicable Percentage of the amount then due from the Borrower, in the same manner as provided in Section 2.06 with respect to Loans made by such Lender (and Section 2.06 shall apply, mutatis mutandis, to the payment obligations of the Lenders pursuant to this paragraph), and the Administrative Agent shall promptly remit to the applicable Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Lenders and such Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse an Issuing Bank for an LC Disbursement (other than the funding of an ABR Revolving Borrowing as contemplated above) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such LC Disbursement.

(g) Obligations Absolute. The Borrower's obligation to reimburse LC Disbursements as provided in paragraph (f) of this Section is absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision thereof or hereof, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by an Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, (iv) any force majeure or other event that under any rule of law or uniform practices to which any Letter of Credit is subject (including Section 3.14 of ISP 98 or any successor publication of the International Chamber of Commerce) permits a drawing to be made under such Letter of Credit after the stated expiration date thereof or of the Commitments or (v) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this paragraph, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. None of the Administrative Agent, the Lenders, the Issuing Banks or any of their Related Parties shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit, any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any other act, failure to act or

other event or circumstance; provided that the foregoing shall not be construed to excuse any Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or wilful misconduct on the part of an Issuing Bank (with such absence to be presumed unless otherwise determined by a court of competent jurisdiction in a final and nonappealable judgment), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented that appear on their face to be in substantial compliance with the terms of a Letter of Credit, an Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(h) Interim Interest. If an Issuing Bank shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrower reimburses such LC Disbursement in full, at the rate per annum then applicable to ABR Revolving Loans; provided that, if the Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (f) of this Section, then Section 2.12(c) shall apply. Interest accrued pursuant to this paragraph shall be paid to the Administrative Agent, for the account of the applicable Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (f) of this Section to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment, and shall be payable on demand or, if no demand has been made, on the date on which the Borrower reimburses the applicable LC Disbursement in full.

(i) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders demanding the deposit of cash collateral pursuant to this paragraph, the Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Issuing Banks and the Lenders, an amount in cash equal to 103% of the LC Exposure as of such date; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in clause (h) or (i) of Article VII. The Borrower also shall deposit cash collateral in accordance with this paragraph as and to the extent required by Section 2.10(b) or 2.19, and any such cash collateral (but not in excess of 100% of the LC Exposure) so deposited and held by the Administrative Agent hereunder shall constitute part of the Borrowing Base for

purposes of determining compliance with Section 2.10(b). Each such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and in the Permitted Discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall, notwithstanding anything to the contrary in the Security Documents, be applied by the Administrative Agent to reimburse the Issuing Banks for LC Disbursements for which they have not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to, in the case of any such application at a time when any Lender is a Defaulting Lender (but only if, after giving effect thereto, the remaining cash collateral shall be less than the aggregate LC Exposure of all the Defaulting Lenders), the consent of each Issuing Bank), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within one Business Day after all Events of Default have been cured or waived. If the Borrower is required to provide an amount of cash collateral hereunder pursuant to Section 2.10(b), such amount (to the extent not applied as aforesaid) shall be returned to the Borrower as and to the extent that, after giving effect to such return, the Aggregate Revolving Exposure would not exceed the lesser of the Aggregate Commitment and the Borrowing Base then in effect and no Event of Default shall have occurred and be continuing.

(j) Designation of Additional Issuing Banks. The Borrower may, at any time and from time to time, with the consent of the Administrative Agent (which consent shall not be unreasonably withheld), designate as additional Issuing Banks one or more Lenders that agree to serve in such capacity as provided below. The acceptance by a Lender of an appointment as an Issuing Bank hereunder shall be evidenced by an agreement, which shall be in form and substance reasonably satisfactory to the Administrative Agent, executed by the Borrower, the Administrative Agent and such designated Lender and, from and after the effective date of such agreement, (i) such Lender shall have all the rights and obligations of an Issuing Bank under this Agreement and (ii) references herein and in the other Loan Documents to the term "Issuing Bank" shall be deemed to include such Lender in its capacity as an issuer of Letters of Credit hereunder.

(k) Termination of an Issuing Bank. The Borrower may terminate the appointment of any Issuing Bank as an "Issuing Bank" hereunder by providing a written notice thereof to such Issuing Bank, with a copy to the Administrative Agent. Any such termination shall become effective upon the earlier of (i) such Issuing Bank acknowledging receipt of such notice and (ii) the 10th Business Day following the date of the delivery thereof; provided that no such termination shall become effective until and unless the LC Exposure attributable to Letters of Credit issued by such Issuing Bank (or its Affiliates) shall

have been reduced to zero. At the time any such termination shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the terminated Issuing Bank pursuant to Section 2.11(b). Notwithstanding the effectiveness of any such termination, the terminated Issuing Bank shall remain a party hereto and shall continue to have all the rights of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such termination, but shall not issue any additional Letters of Credit.

(l) Issuing Bank Reports to the Administrative Agent. Unless otherwise agreed by the Administrative Agent, each Issuing Bank shall, in addition to its notification obligations set forth elsewhere in this Section, report in writing to the Administrative Agent (i) periodic activity (for such period or recurrent periods as shall be requested by the Administrative Agent) in respect of Letters of Credit issued by such Issuing Bank, including all issuances, extensions, amendments and renewals, all expirations and cancellations and all disbursements and reimbursements, (ii) reasonably prior to the time that such Issuing Bank issues, amends, renews or extends any Letter of Credit, the date of such issuance, amendment, renewal or extension, and the stated amount of the Letters of Credit issued, amended, renewed or extended by it and outstanding after giving effect to such issuance, amendment, renewal or extension (and whether the amounts thereof shall have changed), (iii) on each Business Day on which such Issuing Bank makes any LC Disbursement, the date and amount of such LC Disbursement, (iv) on any Business Day on which the Borrower fails to reimburse an LC Disbursement required to be reimbursed to such Issuing Bank on such day, the date of such failure and the amount of such LC Disbursement and (v) on any other Business Day, such other information as the Administrative Agent shall reasonably request as to the Letters of Credit issued by such Issuing Bank.

(m) LC Exposure Determination. For all purposes of this Agreement, the amount of a Letter of Credit that, by its terms or the terms of any document related thereto, provides for one or more automatic increases in the stated amount thereof shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases (other than any such increase consisting of the reinstatement of an amount previously drawn thereunder and reimbursed) whether or not such maximum stated amount is in effect at the time of determination.

SECTION 2.06. Funding of Borrowings. (a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 12:00 noon, New York City time, (or, in the case of an ABR Revolving Borrowing made on the same day as the date of the Borrowing Request therefor, 2:30 p.m., New York City time) to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders; provided that Protective Advances shall be made as provided in Section 2.04. The Administrative Agent will make such Loans available to the Borrower by promptly remitting the amounts so received, in like funds, to an account of the Borrower; provided that (i) the proceeds of ABR Revolving Loans made to finance (A) the repayment of a Protective Advance as provided in Section 2.04(a) shall be applied by the Administrative Agent for such purpose and (B) the reimbursement of an LC Disbursement as provided in Section 2.05(f) shall be remitted by the Administrative

Agent to the Issuing Bank specified by the Borrower in the applicable Borrowing Request and (ii) the proceeds of any Protective Advance shall be retained by the Administrative Agent and applied, on behalf of the Borrower, for the purposes for which such Protective Advance shall have been made.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Revolving Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Revolving Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance on 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 Revolving 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 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 (i) in the case of a payment to be made by such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of a payment to be made by the Borrower, the interest rate applicable to the other Loans included in such Revolving Borrowing. 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 such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Revolving Borrowing. Any such payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

SECTION 2.07. Interest Elections. (a) Each Revolving Borrowing initially shall be of the Type and, in the case of a Eurocurrency Revolving Borrowing, shall have an initial Interest Period as specified in the applicable Borrowing Request or as otherwise provided in Section 2.03. Thereafter, the Borrower may elect to convert such Revolving Borrowing to a Revolving Borrowing of a different Type or to continue such Borrowing and, in the case of a Eurocurrency Revolving Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Revolving Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Revolving Loans comprising such Borrowing, and the Revolving Loans comprising each such portion shall be considered a separate Revolving Borrowing. This Section shall not apply to Protective Advances, which may not be converted or continued.

(b) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Revolving Borrowing of the Type resulting from such election to be made on the effective date of such

election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or facsimile to the Administrative Agent of an executed written Interest Election Request or by electronic transmission to the Administrative Agent of an Interest Election Request in accordance with Section 9.01(b). Each telephonic and confirmatory Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Revolving Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Revolving Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Revolving Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Revolving Borrowing is to be an ABR Revolving Borrowing or a Eurocurrency Revolving Borrowing; and

(iv) if the resulting Revolving Borrowing is to be a Eurocurrency Revolving Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurocurrency Revolving Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(c) Promptly following receipt of an Interest Election Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Revolving Borrowing.

(d) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurocurrency Revolving Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Revolving Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default under clause (h) or (i) of Article VII has occurred and is continuing with respect to the Borrower, or if any other Event of Default has occurred and is continuing and the Administrative Agent, at the direction of the Required Lenders, has notified the Borrower of the election to give effect to this sentence on account of such other Event of Default, then, in each such case, so long as such Event of Default is continuing, (i) no outstanding Revolving Borrowing may be converted to or continued as a Eurocurrency Revolving Borrowing and (ii) unless repaid, each Eurocurrency Revolving Borrowing shall be converted to an ABR Revolving Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.08. Termination and Reduction of Commitments. (a) Unless previously terminated, the Commitments shall automatically terminate on the Maturity Date.

(b) The Borrower may at any time terminate, or from time to time permanently reduce, the Commitments; provided that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of $1,000,000 and not less than $1,000,000 and (ii) the Borrower shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.10, the Aggregate Revolving Exposure would exceed the Aggregate Commitment.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least two Business Days prior to the effective date of such termination or reduction, specifying the effective date thereof. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; provided that a notice of termination or reduction of the Commitments under paragraph (b) of this Section may state that such notice is conditioned upon the occurrence of one or more events specified therein, 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. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments.

SECTION 2.09. Repayment of Loans; Evidence of Debt. (a) The Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan of such Lender on the Maturity Date and (ii) to the Administrative Agent the then unpaid principal amount of each Protective Advance on the earlier of the Maturity Date, the 30th day after such Protective Advance is made and the date on which payment shall be demanded by the Administrative Agent.

(b) The records maintained by the Administrative Agent and the Lenders shall be prima facie evidence of the existence and amounts of the obligations of the Borrower in respect of the Loans, LC Disbursements, interest and fees due or accrued hereunder; provided that the failure of the Administrative Agent or any Lender to maintain such records or any error therein shall not in any manner affect the obligation of the Borrower to pay any amounts due hereunder in accordance with the terms of this Agreement.

(c) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more

promissory notes in such form payable to the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

(d) Upon the commencement and during the continuance of a Cash Dominion Period, (i) the Administrative Agent shall instruct each depositary bank party to any Control Agreement to transfer on each Business Day (or with such other frequency as shall be specified by the Administrative Agent) to the account of the Administrative Agent specified by it (the " Cash Dominion Account") all funds then on deposit in the deposit account or deposit accounts subject to such Control Agreement, other than any funds held in the Administrative Agent Controlled Account; provided that the Administrative Agent shall not be required to give such instructions with respect to one or more of such deposit accounts if, and to the extent that, the Administrative Agent shall have determined that the aggregate amount of funds that would otherwise be required to be transferred pursuant to instructions given in accordance with this clause (i) on any Business Day would exceed the aggregate principal amount of Loans and LC Exposure (other than LC Exposure that shall have been theretofore cash collateralized in accordance with Section 2.05(i)) outstanding on such Business Day; and (ii) on each Business Day immediately following the day of receipt by the Administrative Agent of any funds pursuant to a transfer referred to in clause (i) above, shall apply the amounts so received first, to prepay Protective Advances, second, to prepay Revolving Loans and, third, to cash collateralize outstanding LC Exposure in accordance with Section 2.05(i) and, following such application thereof, shall remit the remaining funds, if any, to the Borrower; provided that upon the occurrence and during the continuance of an Event of Default, at the Administrative Agent's election, such funds may be applied as provided in the Collateral Agreement (and, pending such application, may be held as cash collateral). The Borrower hereby directs the Administrative Agent to apply its funds as so specified and authorizes the Administrative Agent to determine the order of application of such funds as among the individual Borrowings and LC Exposures of the Borrower. Each prepayment of a Revolving Borrowing shall be applied ratably to the Revolving Loans included in such Borrowing.

SECTION 2.10. Prepayment of Loans. (a) The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to the requirements of this Section.

(b) In the event and on each occasion that the Aggregate Revolving Exposure exceeds the lesser of (i) the sum of (A) the Borrowing Base then in effect and (B) the Protective Advance Exposure and (ii) the Aggregate Commitment, the Borrower shall prepay Borrowings (or, if no such Borrowings are outstanding, deposit cash collateral in an account with the Administrative Agent in accordance with Section 2.05(i)) in an aggregate amount sufficient to eliminate such excess. Notwithstanding the foregoing, in the case of any prepayment required to be made pursuant to this paragraph due to the Borrowing Base in effect at any time, as a result of any modification thereto made by the Administrative Agent as permitted hereunder, being less than the amount set forth as the "Borrowing Base" in the Borrowing Base Form most recently delivered by the Borrower prior to such time in accordance with Section 4.01(m) or 5.01(f) (other than as a result of the Borrower failing

to deliver any Borrowing Base Form as required under Section 5.01(f)), the Borrower shall not be required to make any prepayment pursuant to this paragraph until the third Business Day after the date of notice of such modification to the Borrower by the Administrative Agent.

(c) Prior to any optional or mandatory prepayment of Borrowings under this Section, the Borrower shall specify the Borrowing or Borrowings to be prepaid in the notice of such prepayment delivered pursuant to paragraph (d) of this Section.

(d) The Borrower shall notify the Administrative Agent by telephone (confirmed by hand delivery, facsimile or electronic transmission in accordance with Section 9.01(b)) of any optional prepayment and, to the extent practicable, any mandatory prepayment hereunder (i) in the case of prepayment of a Eurocurrency Revolving Borrowing, not later than 1:00 p.m., New York City time, three Business Days before the date of prepayment, (ii) in the case of prepayment of an ABR Revolving Borrowing, not later than 1:00 p.m., New York City time, on the date of prepayment (which shall be a Business Day) or (iii) in the case of prepayment of a Protective Advance, not later than 1:00 p.m., New York City time, on the date of prepayment (which shall be a Business Day). Each such notice shall be irrevocable and shall specify the prepayment date, the principal amount of each Borrowing or portion thereof to be prepaid and, in the case of a mandatory prepayment, a reasonably detailed calculation of the amount of such prepayment; provided that if a notice of optional prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.08, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.08. Promptly following receipt of any such notice (other than a notice relating solely to Protective Advances), the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02, except as necessary to apply fully the required amount of a mandatory prepayment. Each prepayment of a Revolving Borrowing shall be applied ratably to the Loans included in such Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.12.

SECTION 2.11. Fees. (a) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a commitment fee, which shall accrue at 0.375% per annum on the daily unused amount of the Commitment of such Lender during the period from and including the Original Effective Date to but excluding the date on which such Commitment terminates. Accrued commitment fees shall be payable in arrears on the first Business Day following the last day of March, June, September and December of each year and on the date on which the Commitments terminate, commencing on the first such date to occur after the Original Effective Date. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). For purposes of computing commitment fees, a Commitment of a Lender shall be deemed to be used to the extent of the outstanding

Revolving Loans and LC Exposure of such Lender (and the Protective Advance Exposure of such Lender shall be disregarded for such purpose).

(b) The Borrower agrees to pay (i) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at the Applicable Rate used to determine the interest rate applicable to Eurocurrency Revolving Loans on the daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Original Effective Date to but excluding the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to each Issuing Bank a fronting fee, which shall accrue at a rate of 0.125% per annum on the average daily amount of the LC Exposure attributable to Letters of Credit issued by such Issuing Bank (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Original Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any such LC Exposure, as well as such Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable on the third Business Day following such last day, commencing on the first such date to occur after the Original Effective Date; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to an Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(c) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(d) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to an Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Lenders entitled thereto. Fees paid shall not be refundable under any circumstances absent manifest error.

SECTION 2.12. Interest. (a) The Loans comprising each ABR Borrowing (including each Protective Advance) shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Eurocurrency Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% per annum plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount, 2% per annum plus the rate applicable to ABR Revolving Loans as provided in paragraph (a) of this Section.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and upon termination of the Commitments; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion or continuation of a Eurocurrency Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion or continuation.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or Adjusted LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.13. Alternate Rate of Interest. If prior to the commencement of any Interest Period for a Eurocurrency Borrowing:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate for such Interest Period; or

(b) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Eurocurrency Borrowing for such Interest Period;

then the Administrative Agent shall give notice (which may be telephonic, by facsimile or by electronic transmission) thereof to the Borrower and the Lenders as promptly as practicable and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurocurrency Borrowing shall be ineffective, and such Borrowing shall be continued as an ABR Borrowing, and (ii) any Borrowing Request for a Eurocurrency Borrowing shall be

treated as a request for an ABR Borrowing. Notwithstanding anything herein to the contrary, the Borrower may rescind a request for a Eurocurrency Revolving Borrowing by giving notice to the Administrative Agent of such rescission (which may be telephonic, by facsimile or by electronic transmission) on the same day that it receives notice of an event described in paragraphs (a) or (b) of this Section 2.13.

SECTION 2.14. Increased Costs. (a) 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 or Issuing Bank (except any such reserve requirement reflected in the Adjusted LIBO Rate);

(ii) impose on any Lender or Issuing Bank or the London interbank market any other condition, cost or expense affecting this Agreement or Eurocurrency Loans made by such Lender or any Letter of Credit or participation therein; or

(iii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (a), (b), (d) or (e) of the definition of the term "Excluded Taxes" and (C) Other Connection Taxes on gross or net income, profits or revenue (including value-added or similar Taxes)) on its loans, letters of credit, commitments or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to such Lender or other Recipient of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any Loan), to increase the cost to such Lender, Issuing Bank or other Recipient of participating in, issuing or maintaining any Letter of Credit or Protective Advance (or of maintaining its obligation to participate in or to issue any Letter of Credit or Protective Advance) or to reduce the amount of any sum received or receivable by such Lender, Issuing Bank or other Recipient hereunder (whether of principal, interest or otherwise) in respect of the Loans or Letters of Credit issued, maintained or participated in by it, then, from time to time upon request of such Lender, Issuing Bank or other Recipient, the Borrower will pay to such Lender, Issuing Bank or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, Issuing Bank or other Recipient, as the case may be, for such additional costs or expenses incurred or reduction suffered.

(b) If any Lender or Issuing Bank determines that any Change in Law affecting such Lender or Issuing Bank or any lending office of such Lender or such Lender's or Issuing Bank's holding company, if any, regarding capital or liquidity requirements has had or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement, the Commitments of or the Loans made by, or participations in Letters of Credit or Protective Advances held by, such Lender, or the Letters of Credit

issued by such Issuing Bank, to a level below that which such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or Issuing Bank's policies and the policies of such Lender's or Issuing Bank's holding company with respect to capital adequacy or liquidity), then, from time to time upon request of such Lender or Issuing Bank, the Borrower will pay to such Lender or Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or Issuing Bank, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or Issuing Bank pursuant to this Section for any increased costs or expenses incurred or reductions suffered more than 180 days prior to the date that such Lender or Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or expenses or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or expenses or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.15. Break Funding Payments. In the event of (a) the payment of any principal of any Eurocurrency Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert or continue any Eurocurrency Loan on the date specified in any notice delivered pursuant hereto, (d) the failure to prepay any Eurocurrency Loan on a date specified therefor in any notice of prepayment given by the Borrower (whether or not such notice may be revoked in accordance with the terms hereof) or (e) the assignment of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.18, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan (but not including the Applicable Rate applicable thereto), for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert

or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest that would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the London interbank market. A certificate of any Lender delivered to the Borrower and setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

SECTION 2.16. Taxes. (a) Withholding of Taxes; Gross-Up. Each payment by a Loan Party under this Agreement or any other Loan Document, whether to the Administrative Agent or any Lender or Issuing Bank (each of the foregoing being referred to as a "Recipient"), shall be made without withholding for any Taxes, unless such withholding is required by any law. If any Withholding Agent determines, in its sole discretion exercised in good faith, that it is so required to withhold Taxes, then such Withholding Agent may so withhold and shall timely pay the full amount of withheld Taxes to the relevant Governmental Authority in accordance with applicable law. If such Taxes are Indemnified Taxes, then the amount payable by such Loan Party shall be increased as necessary so that net of such withholding (including such withholding applicable to additional amounts payable under this Section), the applicable Recipient receives the amount it would have received had no such withholding been made.

(b) Payment of Other Taxes by the Borrower. The Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Evidence of Payment. As soon as practicable after any payment of Indemnified Taxes by a Loan Party to a Governmental Authority, such Loan Party 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.

(d) Indemnification by the Loan Parties. The Loan Parties shall indemnify each Recipient for any Indemnified Taxes that are paid or payable by such Recipient in connection with this Agreement (including amounts paid or payable under this paragraph) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided, however, that the Loan Parties shall not be obligated to indemnify any Recipient pursuant to this Section 2.16(d) for penalties, interest or other liabilities attributable to any Indemnified Taxes to the extent such penalties, interest or other liabilities (i) have accrued after the Loan Parties made indemnity payments or paid additional amounts with respect to such Indemnified Taxes pursuant to this Section 2.16 or (ii) are attributable to (A) the failure of the Recipient to make written demand for such Indemnified Taxes within 30 days from the date on which such Recipient knew of the imposition of such

Indemnified Taxes by the relevant Governmental Authority or (B) the gross negligence or willful misconduct of such Recipient, as determined by a court of competent jurisdiction in a final non-appealable judgment. For the avoidance of doubt, if a Recipient is a partnership for U.S. federal income tax purposes, the Loan Parties shall not be required to indemnify such Recipient for Taxes that such Recipient is required to withhold with respect to its partners. The indemnity under this paragraph shall be paid within 30 days after the Recipient delivers to any Loan Party a certificate stating the amount of any Indemnified Taxes so paid or payable by such Recipient and describing the basis for the indemnification claim. Such certificate shall be conclusive of the amount so paid or payable absent manifest error. Such Recipient shall deliver a copy of such certificate to the Administrative Agent.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify (i) the Administrative Agent for (x) any Taxes (but, in the case of any Indemnified Taxes, only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so) and (y) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(c) relating to the maintenance of a Participant Register and (ii) the Loan Parties for any Excluded Taxes, in each case attributable to such Lender that are paid or payable by the Administrative Agent or the applicable Loan Party (as applicable) in connection with this Agreement and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this paragraph shall be paid within 10 days after the Administrative Agent or the applicable Loan Party (as applicable) delivers to the applicable Lender a certificate stating the amount of Taxes so paid or payable by the Administrative Agent or the applicable Loan Party (as applicable). Such certificate shall be conclusive of the amount so paid or payable absent manifest error.

(f) Status of Lenders. (i) Any Lender that is entitled to an exemption from, or reduction of, any applicable withholding Tax with respect to any payments under this Agreement shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without, 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 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 any withholding (including backup withholding) or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in clauses (A) through (E) of paragraph (f)(ii) and paragraph (f)(iii) below) shall not be required if in the Lender's judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender. Upon the reasonable request of the Borrower or the Administrative Agent, any Lender shall update any form or certification previously delivered

pursuant to this Section 2.16(f). If any form or certification previously delivered pursuant to this Section 2.16(f) expires or becomes obsolete or inaccurate in any respect with respect to a Lender, such Lender shall promptly (and in any event within 10 days after such expiration, obsolescence or inaccuracy) notify the Borrower and the Administrative Agent in writing of such expiration, obsolescence or inaccuracy and update the form or certification if it is legally eligible to do so.

(ii) Without limiting the generality of the foregoing, each Lender shall, if it is legally eligible to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as is reasonably requested by the Borrower and the Administrative Agent) on or prior to the date on which such Lender becomes a party hereto, duly completed and executed copies of whichever of the following is applicable:

(A) in the case of a Lender that is a U.S. Person, IRS Form W-9 certifying that such Lender is exempt from U.S. Federal backup withholding tax;

(B) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States of America is a party (1) with respect to payments of interest under this Agreement, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "interest" article of such tax treaty and (2) with respect to any other applicable payments under this Agreement, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(C) in the case of a Foreign Lender for whom payments under this Agreement constitute income that is effectively connected with such Lender's conduct of a trade or business in the United States of America, IRS Form W-8ECI;

(D) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, both (1) IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, and (2) a certificate substantially in the form of Exhibit I-1, Exhibit I-2, Exhibit I-3 or Exhibit I-4 (each, a "U.S. Tax Certificate"), as applicable, to the effect that such Lender is not (w) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (x) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, (y) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code and (z) conducting a trade or business in the United States of America with which the relevant interest payments are effectively connected;

(E) in the case of a Foreign Lender that is not the beneficial owner of payments made under this Agreement (including a partnership or a participating Lender), (1) an IRS Form W-8IMY on behalf of itself and (2) the relevant forms prescribed in clauses (A), (B), (C), (D) and (F) of this paragraph (f)(ii) that would

be required of each such beneficial owner or partner of such partnership if such beneficial owner or partner were a Lender; provided that if such Lender is a partnership and one or more of its partners are claiming the exemption for portfolio interest under Section 881(c) of the Code, such Lender may provide a U.S. Tax Certificate on behalf of such partners; or

(F) any other form prescribed by law as a basis for claiming exemption from, or a reduction of, U.S. Federal withholding Tax, together with such supplementary documentation as shall be necessary to enable the Borrower or the Administrative Agent to determine the amount of Tax (if any) required by law to be withheld.

(iii) If a payment made to a Lender under this Agreement would be subject to U.S. Federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent, at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent, such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine that such Lender has or has not complied with such Lender's obligations under FATCA and, as necessary, to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 2.16(f)(iii), the term "FATCA" shall include any amendments made to FATCA after the Original Effective Date.

(g) Treatment of Certain Refunds. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section (including additional amounts paid pursuant to this Section), such Recipient shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) of such Recipient and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such Recipient, shall repay to such Recipient the amount paid by such Recipient pursuant to the prior sentence (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event such Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph, in no event will any Recipient be required to pay any amount to any indemnifying party pursuant to this paragraph if such payment would place such Recipient in a less favorable position (on a net after-Tax basis) than such Recipient would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require any Recipient to make available its

Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) Issuing Bank. For purposes of Sections 2.16(e) and 2.16(f), the term "Lender" shall include each Issuing Bank and the term "applicable law" includes FATCA.

SECTION 2.17. Payments Generally; Pro Rata Treatment; Sharing of Setoffs. (a) The Borrower shall make each payment required to be made by it hereunder or under any other Loan Document prior to the time expressly required hereunder or under such other Loan Document for such payment (or, if no such time is expressly required, prior to 2:00 p.m., New York City time), on the date when due, in immediately available funds, without any defense, setoff, recoupment or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to such account as may be specified by the Administrative Agent, except that payments required to be made directly to any Issuing Bank shall be so made, payments pursuant to Sections 2.14, 2.15, 2.16 and 9.03 shall be made directly to the Persons entitled thereto and payments pursuant to other Loan Documents shall be made to the Persons specified therein. The Administrative Agent shall distribute any such payment received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment under any Loan Document shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments under each Loan Document shall be made in U.S. dollars.

(b) Subject to the provisions of the Collateral Agreement, if at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied towards payment of the amounts then due hereunder ratably among the parties entitled thereto, in accordance with the amounts then due to such parties.

(c) At the election of the Administrative Agent, all payments of principal, interest, LC Disbursements, fees, premiums, reimbursable expenses (including all reimbursement for costs, fees and expenses pursuant to Section 9.03), and other sums payable under the Loan Documents, may be paid from the proceeds of Borrowings made hereunder, whether made following a request by the Borrower pursuant to Section 2.03 or a deemed request as provided in this paragraph, or, with the consent of the Borrower (unless an Event of Default shall have occurred and be continuing or a Cash Dominion Period shall be in effect), may be deducted from any deposit account of the Borrower maintained with the Administrative Agent. The Borrower hereby irrevocably authorizes (i) the Lenders and the Administrative Agent to make a Borrowing for the purpose of paying each payment of principal, LC Disbursement, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents and agrees that all such amounts charged shall constitute Loans (but such a Borrowing may only constitute a Protective Advance if it is to

reimburse costs, fees and expenses pursuant to Section 9.03) and that all such Borrowings shall be deemed to have been requested and made pursuant to Section 2.03 or 2.04, as applicable, and (ii) if an Event of Default shall have occurred and be continuing or if a Cash Dominion Period shall be in effect, the Administrative Agent to charge any deposit account of the Borrower maintained with the Administrative Agent for each payment of principal, LC Disbursement, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents.

(d) 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 its Revolving Loans or participations in LC Disbursements or Protective Advances resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans and participations in LC Disbursements and Protective Advances and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall notify the Administrative Agent of such fact and shall purchase (for cash at face value) participations in the Revolving Loans and participations in LC Disbursements and Protective Advances of other Lenders to the extent necessary so that the amount of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amounts of principal of and accrued interest on their Revolving Loans and participations in LC Disbursements and Protective Advances; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (for the avoidance of doubt, as in effect from time to time) or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements or Protective Advances to any Person that is an Eligible Assignee (as such term is defined from time to time). The Borrower 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 the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(e) 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 Issuing Banks 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 Issuing Banks, 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 Issuing Banks, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank 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 Effective Rate and

a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(f) If any Lender shall fail to make any payment required to be made by it hereunder to or for the account of the Administrative Agent or Issuing Bank, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations in respect of such payment until all such unsatisfied obligations have been discharged or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender pursuant to Sections 2.04(b), 2.05(d), 2.05(e), 2.06(b), 2.16(e), 2.17(e) and 9.03(c), in each case in such order as shall be determined by the Administrative Agent in its discretion.

SECTION 2.18. Mitigation Obligations; Replacement of Lenders. (a) If any Lender requests compensation under Section 2.14, or if the Borrower is required to pay any additional amount to any Lender or to any Governmental Authority for the account of any Lender pursuant to Section 2.16, then such Lender shall use commercially reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign and delegate its rights and obligations hereunder to another of its offices, branches or Affiliates if, in the judgment of such Lender, such designation or assignment and delegation (i) would eliminate or reduce amounts payable pursuant to Section 2.14 or 2.16, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not be inconsistent with its internal policies or otherwise be disadvantageous to such Lender in any material respect. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment and delegation.

(b) If (i) any Lender requests compensation under Section 2.14, (ii) the Borrower is required to pay any additional amount or indemnification payment to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, (iii) any Lender has become a Defaulting Lender or (iv) any Lender has failed to consent to a proposed amendment, waiver, discharge or termination that under Section 9.02 requires the consent of all the Lenders (or all the affected Lenders) and with respect to which the Required Lenders shall have granted their consent, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights (other than its existing rights to payments pursuant to Section 2.14 or 2.16) and obligations under this Agreement and the other Loan Documents to an Eligible Assignee that shall assume such obligations (which may be another Lender, if a Lender accepts such assignment and delegation); provided that (A) the Borrower shall have received the prior written consent of the Administrative Agent and each Issuing Bank, which consent shall not unreasonably be withheld, (B) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements and Protective Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder from the assignee (in the case of such principal and

accrued interest and fees) or the Borrower (in the case of all other amounts), (C) in the case of any such assignment and delegation resulting from a claim for compensation under Section 2.14 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments and (D) in the case of any such assignment and delegation resulting from the failure to provide a consent, the assignee shall have given such consent and, as a result of such assignment and delegation and any contemporaneous assignments and delegations and consents, the applicable amendment, waiver, discharge or termination can be effected. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver or consent by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation have ceased to apply. Each party hereto agrees that an assignment and delegation required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee and that the Lender required to make such assignment and delegation need not be a party thereto.

SECTION 2.19. Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) commitment fees shall cease to accrue on the unused amount of the Commitment of such Defaulting Lender pursuant to Section 2.11(a);

(b) the Commitment and Revolving Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders or any other requisite Lenders have taken or may take any action hereunder or under any other Loan Document (including any consent to any amendment, waiver or other modification pursuant to Section 9.02); provided that any amendment, waiver or other modification requiring the consent of all Lenders or all Lenders affected thereby shall, except as otherwise provided in Section 9.02, require the consent of such Defaulting Lender in accordance with the terms hereof;

(c) if any Protective Advance Exposure or LC Exposure exists at the time such Lender becomes a Defaulting Lender then:

(i) the Protective Advance Exposure (other than any portion thereof with respect to which such Defaulting Lender shall have funded its participation as contemplated by Section 2.04(b)) and LC Exposure (other than any portion thereof attributable to unreimbursed LC Disbursements with respect to which such Defaulting Lender shall have funded its participation as contemplated by Section 2.05(d) and 2.05(f)) of such Defaulting Lender shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent that the sum of all Non-Defaulting Lenders' Revolving Exposures after giving effect to such reallocation would not exceed the sum of all Non-Defaulting Lenders' Commitments;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrower shall within one Business Day following notice by the Administrative Agent (A) first, prepay the portion of such Defaulting Lender's Protective Advance Exposure (other than any portion thereof referred to in the parenthetical in such clause (i)) that has not been reallocated and (B) second, cash collateralize for the benefit of the Issuing Banks the portion of such Defaulting Lender's LC Exposure (other than any portion thereof referred to in the parenthetical in such clause (i)) that has not been reallocated in accordance with the procedures set forth in Section 2.05(i) for so long as such LC Exposure is outstanding;

(iii) if the Borrower cash collateralizes any portion of such Defaulting Lender's LC Exposure pursuant to clause (ii) above, the Borrower shall not be required to pay participation fees to such Defaulting Lender pursuant to Section 2.11(b) with respect to such portion of such Defaulting Lender's LC Exposure for so long as such Defaulting Lender's LC Exposure is cash collateralized;

(iv) if any portion of the LC Exposure of such Defaulting Lender is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Sections 2.11(a) and 2.11(b) shall be adjusted to give effect to such reallocation; and

(v) if all or any portion of such Defaulting Lender's LC Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of any Issuing Bank or any other Lender hereunder, all participation fees payable under Section 2.11(b) with respect to such Defaulting Lender's LC Exposure shall be payable to the Issuing Banks (and allocated among them ratably based on the amount of such Defaulting Lender's LC Exposure attributable to Letters of Credit issued by each Issuing Bank) until and to the extent that such LC Exposure is reallocated and/or cash collateralized; and

(d) so long as such Lender is a Defaulting Lender, (i) no Issuing Bank shall be required to issue, amend, renew or extend any Letter of Credit unless it is satisfied that the related exposure and the Defaulting Lender's then outstanding LC Exposure will be fully covered by the Commitments of the Non-Defaulting Lenders and/or cash collateral provided by the Borrower in accordance with Section 2.19(c), and (ii) participating interests in any newly made Protective Advance and in any such issued, amended, reviewed or extended Letter of Credit will be allocated among the Non-Defaulting Lenders in a manner consistent with Section 2.19(c)(i) (and such Defaulting Lender shall not participate therein).

In the event that (x) a Bankruptcy Event with respect to a Revolving Lender Parent shall have occurred following the Original Effective Date and for so long as such Bankruptcy Event shall continue or (y) any Issuing Bank has a good faith belief that any Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, no Issuing Bank shall be required to issue, amend, renew or extend any Letter of Credit, unless such Issuing Bank

shall have entered into arrangements with the Borrower or such Lender satisfactory to such Issuing Bank to defease any risk to it in respect of such Lender hereunder.

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

SECTION 2.20. Incremental Commitments. (a) The Borrower may on one or more occasions, by written notice to the Administrative Agent (which shall promptly deliver a copy thereof to each Lender), request the establishment of Incremental Commitments, provided that the aggregate amount of all the Incremental Commitments established after the Restatement Effective Date under this Section 2.20 shall not exceed $20,000,000 (it being understood, for the avoidance of doubt, that the additional Commitments established on the Restatement Effective Date are not Incremental Commitments and the Second Restatement Agreement is not an Incremental Facility Agreement). Each such notice shall specify (i) the date on which the Borrower proposes that the Incremental Commitments shall be effective, which shall be a date not less than 15 days after the date on which such notice is delivered to the Administrative Agent, and (ii) the amount of the Incremental Commitments being requested, and shall offer to each Non-Defaulting Lender the opportunity to provide a portion of the amount of the Incremental Commitments being requested equal to its Applicable Percentage (calculated disregarding the Commitments of Defaulting Lenders, if any) thereof. Each Lender shall, by notice to the Borrower and the Administrative Agent given not more than seven days after the date on which the Administrative Agent shall have delivered the Borrower's notice, either agree to provide all or a portion of its Applicable Percentage (as so calculated) of the amount of the Incremental Commitments being requested or decline to do so (and any Lender that does not deliver such notice within such period of seven days shall be deemed to have declined to do so). If, on the seventh day after the Administrative Agent shall have delivered the Borrower's notice, the Lenders shall have agreed pursuant to the preceding sentence to provide Incremental Commitments in an aggregate amount less than the amount of the Incremental Commitments being requested, the Borrower may arrange for one or more banks or other financial institutions, which may include any Lender, to provide Incremental Commitments in an aggregate amount equal to the amount of such deficiency; provided that any Person that the Borrower proposes to become an Incremental Lender, if such Person is not then a Lender, must be an Eligible Assignee and must be reasonably acceptable to the Administrative Agent and each Issuing Bank.

(b) The terms and conditions of any Incremental Commitment and Loans and other extensions of credit to be made thereunder shall be identical to those of the Commitments and Loans and other extensions of credit made hereunder, it being agreed,

however, that in connection with the effectiveness of any Incremental Commitment, subject to the consent of the Borrower, this Agreement may be modified to increase (but not decrease) the Applicable Rate and fees payable for the account of the Lenders pursuant to Section 2.11, so long as such increase is effective for the benefit of all the Lenders hereunder on equal terms.

(c) The Incremental Commitments shall be effected pursuant to one or more Incremental Facility Agreements executed and delivered by the Borrower, each Incremental Lender providing such Incremental Commitments and the Administrative Agent; provided that no Incremental Commitments shall become effective unless (i) no Default or Event of Default shall have occurred and be continuing on the date of effectiveness thereof, both immediately prior to and immediately after giving effect to such Incremental Commitments and the making of Loans and issuance of Letters of Credit thereunder to be made on such date, (ii) the Borrower shall have delivered to the Administrative Agent a certificate of the chief executive officer or the chief financial officer of the Borrower, dated as of the date of effectiveness thereof, certifying that the representations and warranties of each Loan Party set forth in the Loan Documents are true and correct (A) in the case of the representations and warranties qualified as to materiality, in all respects and (B) otherwise, in all material respects, in each case on and as of such date, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty shall have been so true and correct on and as of such prior date, (iii) the Borrower shall make any payments required to be made pursuant to Section 2.15 in connection with such Incremental Commitments and the related transactions under this Section 2.20 and (iv) the Borrower shall have delivered to the Administrative Agent such legal opinions, board resolutions, secretary's certificates, officer's certificates and other documents as shall reasonably be requested by the Administrative Agent in connection with any such transaction. Each Incremental Facility Agreement may, without the consent of any Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of this Section (including any increase referred to in paragraph (b) above).

(d) Upon the effectiveness of an Incremental Commitment of any Incremental Lender, (i) such Incremental Lender, if not already a Lender, shall be deemed to be a "Lender" hereunder, and henceforth shall be entitled to all the rights of, and benefits accruing to, Lenders hereunder and shall be bound by all agreements, acknowledgements and other obligations of Lenders hereunder and under the other Loan Documents, (ii) such Incremental Commitment shall constitute (or, in the event such Incremental Lender already has a Commitment, shall increase) the Commitment of such Incremental Lender and (B) the Aggregate Commitment shall be increased by the amount of such Incremental Commitment, in each case, subject to further increase or reduction from time to time as set forth in the definition of the term "Commitment". For the avoidance of doubt, upon the effectiveness of any Incremental Commitment, the Revolving Exposure of the Incremental Lender holding such Commitment, and the Applicable Percentage of all the Lenders, shall automatically be adjusted to give effect thereto.

(e) On the date of effectiveness of any Incremental Commitments, each Lender shall assign to each Incremental Lender holding such Incremental Commitment, and each such Incremental Lender shall purchase from each Lender, at the principal amount thereof (together with accrued interest), such interests in the Loans and participations in Letters of Credit and Protective Advances outstanding on such date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Loans and participations in Letters of Credit and Protective Advances will be held by all the Lenders (including such Incremental Lenders) ratably in accordance with their Applicable Percentages after giving effect to the effectiveness of such Incremental Commitment. The Administrative Agent shall notify the Lenders promptly of the effectiveness of any Incremental Commitments, advising the Lenders of the details thereof and of the Applicable Percentages of the Lenders after giving effect thereto and of the assignments required to be made pursuant to this paragraph.

ARTICLE II

Representations and Warranties

The Borrower represents and warrants to the Lenders that:

SECTION 3.01. Organization; Powers. Each of the Borrower and each other Loan Party is duly organized, validly existing and (to the extent the concept is applicable in such jurisdiction) in good standing under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as currently conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business, and is in good standing, in every jurisdiction where such qualification is required.

SECTION 3.02. Authorization; Enforceability. The Transactions to be entered into by each Loan Party are within such Loan Party's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational action and, if required, stockholder or other equityholder action of each Loan Party. This Agreement has been duly executed and delivered by the Borrower and constitutes, and each other Loan Document to which any Loan Party is to be a party, when executed and delivered by such Loan Party, will constitute, a legal, valid and binding obligation of the Borrower or such Loan Party, as the case may be, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally, concepts of reasonableness, and general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.03. Governmental Approvals; Absence of Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with or any other action by any Governmental Authority, except (i) such as have been obtained or made and are (or will so be) in full force and effect and (ii) filings necessary to perfect Liens created under the Loan Documents, (b) will not, except with respect to any matters that, individually or in the aggregate, could not reasonably be expected to result in a Material

Adverse Effect, violate any applicable law, including any order of any Governmental Authority, (c) will not violate the charter, by-laws or other organizational documents of the Borrower or any Subsidiary, (d) will not, except with respect to any matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, violate or result (alone or with notice or lapse of time, or both) in a default under any indenture or other agreement or instrument binding upon the Borrower or any Subsidiary or any of their assets, or give rise to a right thereunder to require any payment, repurchase or redemption to be made by the Borrower or any Subsidiary, or give rise to a right of, or result in, any termination, cancellation, acceleration or right of renegotiation of any obligation thereunder, and (e) except for Liens created under the Loan Documents, will not result in the creation or imposition of any Lien on any asset of the Borrower or any Subsidiary.

SECTION 3.04. Financial Condition; No Material Adverse Change. (a) The Borrower has heretofore furnished to the Lenders its balance sheet and statements of operations, stockholders' equity and cash flows as of and for the fiscal year ended January 31, 2011, audited by and accompanied by the opinion of Ernst & Young LLP, independent registered public accounting firm. Such financial statements present fairly, in all material respects, the financial position, results of operations and cash flows of the Borrower and, where applicable, its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP.

(b) Since January 31, 2011, there has been no event or condition that has had, and no event or condition (other than any potential increase in the royalty rates payable by the Borrower or any Subsidiary to ASCAP or SoundExchange, or the commencement or any development in any suit, claim or proceeding relating thereto (it being understood that any increase in such royalty rates actually paid or payable by the Borrower or any Subsidiary shall not be excluded pursuant to this parenthetical clause)) that could reasonably be expected to result, in a material adverse change in the business, assets, operations or financial condition of the Borrower and the Subsidiaries, taken as a whole.

(c) Except as set forth on Schedule 3.04, from the date of the audited balance sheet of the Borrower referred to in Section 3.04(a) through the Original Effective Date, the Borrower and each Subsidiary has conducted its business in the ordinary course of business consistent with past practices.

SECTION 3.05. Properties. (a) Each of the Borrower and the other Loan Parties has good title to, or valid leasehold interests in, all its property material to its business (including its Mortgaged Properties, if any), except for Permitted Encumbrances and other defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes or to the extent that the failure to do so, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

(b) Except as set forth in Schedule 3.05B, each of the Borrower and the other Loan Parties owns, or is licensed to use, all patents, trademarks, copyrights, licenses, technology, software, domain names and other Intellectual Property that is necessary for the

conduct of its business and without conflict with the rights of any other Person, except to the extent any such failure to own or license or any such conflict, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No patents, trademarks, copyrights, licenses, technology, software, domain names or other Intellectual Property used by the Borrower or any other Loan Party in the operation of its business infringes upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No claim or litigation regarding any patents, trademarks, copyrights, licenses, technology, software, domain names or other intellectual property owned or used by the Borrower or any other Loan Party is pending or, to the knowledge of the Borrower or any other Loan Party, threatened against the Borrower or any other Loan Party that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

(c) As of the Restatement Effective Date, no real property owned or held by the Borrower or any Subsidiary constitutes a Mortgaged Property.

SECTION 3.06. Litigation and Environmental Matters. (a) Except as set forth in Schedule 3.06, there are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower or any Subsidiary, threatened against or affecting the Borrower or any Subsidiary (i) as to which there is a reasonable possibility of an adverse determination and that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or (ii) that involve any of the Loan Documents or the Transactions.

(b) Except with respect to any matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any Subsidiary (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

SECTION 3.07. Compliance with Laws and Agreements. The Borrower and each Subsidiary is in compliance with all laws, including all orders of Governmental Authorities, applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to comply, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

SECTION 3.08. Investment Company Status. Neither the Borrower nor any Subsidiary is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

SECTION 3.09. Taxes. Except as set forth on Schedule 3.09, the Borrower and each Subsidiary has timely filed or caused to be filed all Tax returns and

reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it, except where (a)(i) the validity or amount thereof is being contested in good faith by appropriate proceedings and (ii) the Borrower or such Subsidiary, as applicable, has set aside on its books reserves with respect thereto to the extent required by GAAP or (b) the failure to do so could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

SECTION 3.10. ERISA. No ERISA Events have occurred or are reasonably expected to occur that could, in the aggregate, reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Accounting Standards Codification Topic 715) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair value of the assets of such Plan by an amount that could reasonably be expected to result in a Material Adverse Effect, and the present value of all accumulated benefit obligations of all underfunded Plans (based on the assumptions used for purposes of Accounting Standards Codification Topic 715) did not, as of the date or dates of the most recent financial statements reflecting such amounts, exceed by an amount that could reasonably be expected to result in a Material Adverse Effect the fair value of the assets of all such underfunded Plans.

SECTION 3.11. Subsidiaries and Joint Ventures; Ownership by the Permitted Holders; Disqualified Equity Interests. (a) Schedule 3.11A sets forth, as of the Restatement Effective Date, the name and jurisdiction of organization of, and the percentage of each class of Equity Interests owned by the Borrower or any Subsidiary in, (a) each Subsidiary and (b) each joint venture in which the Borrower or any Subsidiary owns any Equity Interests. Except as set forth on Schedule 3.11A, the Equity Interests in each Subsidiary have been duly authorized and validly issued and are fully paid and non-assessable. Except as set forth on Schedule 3.11A, as of the Restatement Effective Date, there is no existing option, warrant, call, right, commitment or other agreement to which the Borrower or any Subsidiary is a party requiring, and there are no Equity Interests in any Subsidiary outstanding that upon exercise, conversion or exchange would require, the issuance by any Subsidiary to any Person other than the Borrower or a Subsidiary of any additional Equity Interests or other securities exercisable for, convertible into, exchangeable for or evidencing the right to subscribe for or purchase any Equity Interests in any Subsidiary.

(b) Schedule 3.11B sets forth, as of the Original Effective Date, (i) the percentage of each class of Equity Interests in the Borrower owned by the Permitted Holders and (ii) all outstanding Disqualified Equity Interests, if any, in the Borrower or any Subsidiary, including the number, date of issuance and the record holders of such Disqualified Equity Interests.

SECTION 3.12. Insurance. Schedule 3.12 sets forth a description of all insurance maintained by or on behalf of the Borrower and the Subsidiaries as of the Original Effective Date.

SECTION 3.13. Solvency. On the Restatement Effective Date, immediately after the making of each Loan, if any, to be made on the Restatement Effective Date, and the application of the proceeds thereof, and, to the extent applicable, giving effect to the rights of subrogation and contribution under the Collateral Agreement, (a) the fair value of the assets of the Loan Parties, on a consolidated basis, will exceed their debts and liabilities, subordinated, contingent or otherwise, (b) the present fair saleable value of the assets of the Loan Parties, on a consolidated basis, will be greater than the amount that will be required to pay the probable liability on their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured, (c) the Loan Parties, on a consolidated basis, will be able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured and (d) the Loan Parties, on a consolidated basis, will not have unreasonably small capital with which to conduct the business in which they are engaged, as such business is conducted at the time of and is proposed to be conducted following the making of such Loan.

SECTION 3.14. Disclosure. The Borrower has disclosed to the Lenders all agreements, instruments and corporate or other restrictions to which the Borrower or any Subsidiary is subject and all other matters that, in each case, are known to the Borrower as of the Restatement Effective Date and that, as of such date, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. None of the reports, financial statements, certificates or other information furnished by or on behalf of the Borrower or any Subsidiary to the Administrative Agent, the Arrangers or any Lender in connection with the negotiation of this Agreement or any other Loan Document, included herein or therein or furnished hereunder or thereunder (as modified or supplemented by other information so furnished), taken as a whole, contain any material misstatement of fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to forecasts or projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed by it to be reasonable at the time so furnished (it being understood that such forecasts and projections may vary from actual results and that such variances may be material).

SECTION 3.15. Collateral Matters. (a) The Collateral Agreement, upon execution and delivery thereof by the parties thereto, will create in favor of the Administrative Agent, for the benefit of the Secured Parties, a valid and enforceable security interest in the Collateral (as defined therein) and (i) when the Collateral (as defined therein) constituting certificated securities (as defined in the Uniform Commercial Code) is delivered to the Administrative Agent, together with instruments of transfer duly endorsed in blank, the security interest created under the Collateral Agreement will constitute a fully perfected security interest in all right, title and interest of the pledgors thereunder in such Collateral, prior and superior in right to any other Person, and (ii) when financing statements in appropriate form are filed in the applicable filing offices, the security interest created under the Collateral Agreement will constitute a fully perfected security interest in all right, title and interest of the Loan Parties in the remaining Collateral (as defined therein) to the extent

perfection can be obtained by filing Uniform Commercial Code financing statements, prior and superior to the rights of any other Person, except for rights secured by Liens permitted under Section 6.02.

(b) Each Mortgage, if any, upon execution and delivery thereof by the parties thereto, will create in favor of the Administrative Agent, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in all the applicable mortgagor's right, title and interest in and to the Mortgaged Properties subject thereto and the proceeds thereof, and when the Mortgages have been filed in the jurisdictions specified therein, the Mortgages will constitute a fully perfected security interest in all right, title and interest of the mortgagors in the Mortgaged Properties and the proceeds thereof, prior and superior in right to any other Person, but subject to Liens permitted under Section 6.02 (including Permitted Encumbrances).

(c) Each Security Document, other than any Security Document referred to in the preceding paragraphs of this Section, upon execution and delivery thereof by the parties thereto and the making of the filings and taking of the other actions provided for therein, will be effective under applicable law to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a valid and enforceable security interest in the Collateral subject thereto, and will constitute a fully perfected security interest in all right, title and interest of the Loan Parties in the Collateral subject thereto, prior and superior to the rights of any other Person, except for rights secured by Liens permitted under Section 6.02.

SECTION 3.16. Federal Reserve Regulations. Neither the Borrower nor any Subsidiary is engaged or will engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors), or extending credit for the purpose of purchasing or carrying margin stock. No part of the proceeds of the Loans will be used, directly or indirectly, for any purpose that entails a violation (including on the part of any Lender) of any of the regulations of the Board of Governors, including Regulations U and X. Not more than 25% of the value of the assets subject to any restrictions on the sale, pledge or other disposition of assets under this Agreement, any other Loan Document or any other agreement to which any Lender or Affiliate of a Lender is party will at any time be represented by margin stock.

SECTION 3.17. Anti-Corruption Laws and Sanctions. The Borrower and the Subsidiaries have implemented and maintain in effect policies and procedures designed to ensure compliance by the Borrower, the Subsidiaries and its and their directors, officers, employees and agents with applicable Anti-Corruption Laws and Sanctions, and the Borrower and the Subsidiaries and, to the knowledge of the Borrower, their respective directors, officers, employees and agents are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of (a) the Borrower or any Subsidiary, (b) to the knowledge of the Borrower, any director, officer or employee of the Borrower or any Subsidiary or (c) to the knowledge of the Borrower, any agent of the Borrower or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person.

ARTICLE III

Conditions

SECTION 4.01. Original Effective Date. The obligations of the Lenders to make Loans and of the Issuing Banks to issue Letters of Credit hereunder became effective on the Original Effective Date, on which date each of the following conditions was satisfied:

(a) The Administrative Agent shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) evidence satisfactory to the Administrative Agent (which may include a facsimile transmission or electronic transmission of a "pdf" copy of a signature by such party of a counterpart hereof) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received customary written opinions (addressed to the Administrative Agent, the Lenders and the Issuing Banks and dated the Original Effective Date) of Davis Polk & Wardwell LLP and Morris, Nichols, Arsht & Tunnell LLP, counsel for the Borrower, in form and substance reasonably satisfactory to the Administrative Agent.

(c) The Administrative Agent shall have received such customary documents and certificates as the Administrative Agent may reasonably request relating to the organization, existence and good standing of each Loan Party, the authorization of the Transactions and any other legal matters relating to the Loan Parties, the Loan Documents or the Transactions, all in form and substance reasonably satisfactory to the Administrative Agent.

(d) The Administrative Agent shall have received a certificate, dated the Original Effective Date and signed by the chief executive officer or the chief financial officer of the Borrower, confirming compliance with the conditions set forth in the first sentence of paragraph (f) of this Section, the second sentence of paragraph (j) of this Section, paragraph (n) of this Section and paragraphs (a) and (b) of Section 4.02.

(e) The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the Original Effective Date, including, to the extent invoiced at least one Business Day prior to the Original Effective Date, payment or reimbursement of all fees and expenses (including fees, charges and disbursements of counsel) required to be paid or reimbursed by any Loan Party under the Engagement Letter or any Loan Document.

(f) The Collateral and Guarantee Requirement shall have been satisfied. The Administrative Agent shall have received a completed Perfection Certificate, dated the Original Effective Date and signed by an executive officer or a Financial

Officer of the Borrower, together with all attachments contemplated thereby, including the results of a search of the Uniform Commercial Code (or equivalent) filings made with respect to the Loan Parties in the jurisdictions contemplated by the Perfection Certificate and copies of the financing statements (or similar documents) disclosed by such search and evidence reasonably satisfactory to the Administrative Agent that the Liens indicated by such financing statements (or similar documents) are permitted under Section 6.02 or have been, or substantially contemporaneously with the initial funding of Loans on the Original Effective Date will be, released.

(g) The Administrative Agent shall have received evidence that the insurance required by Section 5.08 is in effect, together with endorsements naming the Administrative Agent, for the benefit of the Secured Parties, as additional insured and loss payee thereunder to the extent required under Section 5.08.

(h) The Administrative Agent shall have received (i) the quarterly financial projections for the Borrower and its consolidated Subsidiaries for the 12 months following the Original Effective Date and (ii) the annual financial projections for the Borrower and its consolidated Subsidiaries for the years 2012 and 2013.

(i) The Lenders shall have received the financial statements, opinions and certificates referred to in Section 3.04.

(j) Prior to or substantially contemporaneously with the initial funding of Loans on the Original Effective Date, all principal, premium, if any, interest, fees and other amounts due or outstanding under the Existing Credit Agreement shall have been or shall be paid in full, the commitments thereunder shall have been or shall be terminated and all guarantees and Liens existing in connection therewith shall have been or shall be discharged and released, and the Administrative Agent shall have received reasonably satisfactory evidence thereof (collectively, the "Existing Debt Repayment"). Immediately after giving effect to the Transactions, neither the Borrower nor any Subsidiary shall have outstanding any shares of preferred stock or other preferred Equity Interests or any Indebtedness, other than (i) Indebtedness incurred under the Loan Documents and (ii) Indebtedness permitted under Section 6.01.

(k) The Administrative Agent shall have received a certificate, dated the Original Effective Date and signed by the chief financial officer of the Borrower, as to the solvency of the Loan Parties on a consolidated basis after giving effect to the Transactions, in customary form reasonably satisfactory to the Administrative Agent.

(l) The Lenders shall have received all documentation and other information required by bank regulatory authorities under applicable "know your

customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

(m) The Administrative Agent shall have received (i) a completed Borrowing Base Certificate, which shall set forth information required therein as of March 31, 2011 and shall be dated the Original Effective Date and signed by a Financial Officer of the Borrower and (ii) the results of field examinations with respect to the Eligible Accounts of the Loan Parties as of January 31, 2011.

(n) After giving effect to any Borrowing requested to be made on the Original Effective Date and the other transactions contemplated hereby to occur on such date, the Excess Availability as of the Original Effective Date shall not be less than $10,000,000.

The Administrative Agent has notified the Borrower and the Lenders of the Original Effective Date, and such notice was conclusive and binding; provided, solely with respect to the matters expressly identified in the Post-Closing Letter Agreement, the satisfaction by the Loan Parties of the foregoing conditions was not required on the Original Effective Date, and was not a condition to the obligation of the Lenders to make Loans and of the Issuing Banks to issue Letters of Credit hereunder, but were required to be accomplished in accordance with the Post-Closing Letter Agreement.

SECTION 4.02. Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing (other than any conversion or continuation of any Loan), and of each Issuing Bank to issue, amend to increase the amount thereof, renew or extend any Letter of Credit, is subject to receipt of the request therefor in accordance herewith and to the satisfaction of the following conditions:

(a) The representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct (i) in the case of the representations and warranties qualified as to materiality, in all respects and (ii) otherwise, in all material respects, in each case on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty shall be so true and correct on and as of such prior date.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

(c) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, the Aggregate Revolving Exposure shall not exceed the Borrowing Base then in effect.

(d) In the case of any Borrowing, if (i) after giving effect thereto, the aggregate principal amount of Loans outstanding shall exceed $10,000,000 and (ii) the

Borrowing Base Form most recently delivered by the Borrower pursuant to Section 5.01(f) shall have been a Modified Borrowing Base Certificate, the Administrative Agent shall have received, not later than five Business Days prior to such Borrowing, a completed Borrowing Base Certificate, calculating, setting forth and certifying the Borrowing Base, Excess Availability, Agency Exposure Information, Liquidity and the aggregate amount of Designated Secured Other Obligations as of the close of business on the last day of the fiscal month for which a Borrowing Base Form shall have been most recently required to be delivered pursuant to Section 5.01(f).

On the date of any Borrowing (other than a Protective Advance or any conversion or continuation of any Loan) or the issuance, amendment to increase the amount thereof, renewal or extension of any Letter of Credit, the Borrower shall be deemed to have represented and warranted that the conditions specified in paragraphs (a) and (b) of this Section have been satisfied and that, after giving effect to such Borrowing, or such issuance, amendment, renewal or extension of a Letter of Credit, the Aggregate Revolving Exposure (or any component thereof) shall not exceed the maximum amount thereof (or the maximum amount of any such component) specified in Section 2.01, 2.04(a) or 2.05(b).

ARTICLE IV

Affirmative Covenants

Until the Commitments shall have expired or been terminated, the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full, all Letters of Credit shall have expired or been terminated and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

SECTION 5.01. Financial Statements and Other Information. The Borrower will furnish to the Administrative Agent, on behalf of each Lender:

(a) within 90 days after the end of each fiscal year of the Borrower (or, so long as the Borrower shall be subject to periodic reporting obligations under the Exchange Act, by the date that the Annual Report on Form 10-K of the Borrower for such fiscal year would be required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for the filing of such form), its audited consolidated balance sheet and related consolidated statements of operations, stockholders' equity and cash flows as of the end of and for such fiscal year, setting forth in each case in comparative form the figures for the prior fiscal year, all audited by and accompanied by the opinion of Ernst & Young LLP or another independent registered public accounting firm of recognized national standing (without a "going concern" or like qualification or exception and, except, in the case of any Subsidiary or business acquired by the Borrower and the Subsidiaries, in respect of events prior to the acquisition thereof, without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly, in

all material respects, the financial position, results of operations and cash flows of the Borrower and its consolidated Subsidiaries on a consolidated basis as of the end of and for such year in accordance with GAAP;

(b) within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (or, so long as the Borrower shall be subject to periodic reporting obligations under the Exchange Act, by the date that the Quarterly Report on Form 10-Q of the Borrower for such fiscal quarter would be required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for the filing of such form), its consolidated balance sheet and related consolidated statement of operations as of the end of and for such fiscal quarter and the related consolidated statements of operations and cash flows for the then-elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the prior fiscal year, all certified by a Financial Officer of the Borrower as presenting fairly, in all material respects, the financial position, results of operations and cash flows of the Borrower and its consolidated Subsidiaries on a consolidated basis as of the end of and for such fiscal quarter and such portion of the fiscal year in accordance with GAAP, subject to normal year-end audit adjustments and the absence of footnotes;

(c) within 30 days after the end of each of the first two fiscal months of each fiscal quarter of the Borrower, its consolidated balance sheet as of the end of such fiscal month and the related consolidated statement of operations for the then elapsed portion of the fiscal year, all certified by a Financial Officer of the Borrower as presenting fairly, in all material respects, the financial position and results of operations of the Borrower and its consolidated Subsidiaries as of the end of such fiscal month and for such portion of the fiscal year in accordance with GAAP, subject to normal year-end audit adjustments and the absence of a statement of cash flows and of footnotes;

(d) concurrently with each delivery of financial statements under clause (a) or (b) above, a completed Compliance Certificate signed by a Financial Officer of the Borrower, (i) certifying as to whether a Default has occurred and is continuing and, if a Default has occurred and is continuing, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) unless otherwise disclosed in the financial statements delivered pursuant to clause (a) or (b) above, stating whether any change in GAAP or in the application thereof that has, in either case, affected such financial statements has occurred since the date of the consolidated balance sheet of the Borrower most recently theretofore delivered under clause (a) or (b) above (or, prior to the first such delivery, referred to in Section 3.04) and, if any such change has occurred, specifying the effect of such change on the financial statements (including those for the prior periods) accompanying such certificate and, where such change could reasonably be

expected to affect in any material respect the calculation of the Borrowing Base, on the calculation of the Borrowing Base, (iii) stating whether any other change in the historical accounting practices, systems or reserves of the Borrower and the Subsidiaries, where such change could reasonably be expected to affect in any material respect the calculation of the Borrowing Base, has occurred and, if any such change has occurred, specifying the effect of such change on the calculations of the Borrowing Base, (iv) certifying that all notices required to be provided under Sections 5.03 and 5.04 have been provided and (v)(A) setting forth the collateral verification information required pursuant to the Compliance Certificate and indicating any changes in such information from the most recent Compliance Certificate delivered pursuant to this clause (d) (or, prior to the first delivery of any such Compliance Certificate, from the Perfection Certificate delivered on the Original Effective Date) or (B) certifying that there has been no change in such information from the most recent Compliance Certificate delivered pursuant to this clause (d) (or, prior to the first delivery of any such Compliance Certificate, from the Perfection Certificate delivered on the Original Effective Date);

(e) concurrently with any delivery of financial statements under clause (a) above, a certificate of the accounting firm that audited such financial statements stating whether it obtained knowledge during the course of its examination of such financial statements of any Default and, in the case it shall have obtained knowledge of any Default, specifying the details thereof (which certificate may be limited to the extent required by accounting rules or guidelines);

(f) (i) (A) in connection with any Borrowing, if (x) after giving effect thereto the aggregate principal amount of Loans outstanding shall exceed the greater of (1) 16.67% of the Aggregate Commitment and (2) $10,000,000 and (y) the Borrowing Base Form then most recently delivered by the Borrower pursuant to this clause (f) shall have been a Modified Borrowing Base Certificate, a completed Borrowing Base Certificate as contemplated by Section 4.02(d), (B) no later than 20 days following the end of each of the first two months of each fiscal quarter, (x) if the aggregate principal amount of Loans outstanding as of the end of such fiscal month exceeds the greater of (1) 16.67% of the Aggregate Commitment and (2) $10,000,000, a completed Borrowing Base Certificate or (y) otherwise, a completed Modified Borrowing Base Certificate, in each case calculating, setting forth and certifying (if and to the extent required by such Borrowing Base Form) the Borrowing Base, Excess Availability, Agency Exposure Information, Liquidity and the aggregate amount of Designated Secured Other Obligations as of the close of business on the last day of such fiscal month (or such other date as is contemplated by such Borrowing Base Form) and (C) no later than 30 days following the end of the third month of each fiscal quarter, a completed Borrowing Base Certificate, calculating, setting forth and certifying the Borrowing Base, Excess Availability, Agency Exposure Information, Liquidity and the aggregate amount of Designated Secured Other Obligations as of the close of business on the last day of such fiscal month, (ii) if Liquidity shall be less than

the greater of (A) 12.5% of the Aggregate Commitment and (B) $7,500,000 for each of three consecutive days, no later than the Friday (or if such Friday is not a Business Day, the next succeeding Business Day) of the next succeeding week following the last day of such three consecutive day period and on each succeeding Friday (or next succeeding Business Day) thereafter until the last day of a 30 consecutive day period in which Liquidity shall have been equal to or greater than the greater of (A) 12.5% of the Aggregate Commitment and (B) $7,500,000 on each such day, a completed Borrowing Base Certificate, calculating, setting forth and certifying the Borrowing Base, Excess Availability, Agency Exposure Information, Liquidity and the aggregate amount of Designated Secured Other Obligations as of Saturday of the immediately preceding week and (iii) if requested by the Administrative Agent or the Required Lenders, at any other time when Loans are outstanding and the Administrative Agent or the Required Lenders reasonably believe that the then most recent Borrowing Base Form is materially inaccurate or fails to reflect material changes in any of the Borrowing Base components (including as a result of any modification thereto pursuant to Section 5.09(b)), as soon as reasonably practicable but in no event later than five Business Days after such request, a completed Borrowing Base Certificate, calculating, setting forth and certifying the Borrowing Base, Excess Availability, Agency Exposure Information, Liquidity and the aggregate amount of Designated Secured Other Obligations as of the date so requested, in each case signed on behalf of the Borrower by a Financial Officer and with such supporting documentation and additional reports with respect to the Borrowing Base, Excess Availability, Agency Exposure Information, Liquidity and such Designated Secured Other Obligations as the Administrative Agent or, in the case of a request made by them under clause (iii) above, the Required Lenders may reasonably request;

(g) promptly after obtaining knowledge thereof, notice of any event or condition (including any sale, transfer or other disposition of assets) that has resulted, or could reasonably be expected to result, in any significant portion of Eligible Accounts reflected on the Borrowing Base Form then most recently delivered pursuant to clause (f) above (or, prior to the first such delivery, the Borrowing Base Form referred to in Section 4.01(m)) ceasing to qualify as Eligible Accounts (other than as a result of any determination made by the Administrative Agent in its Permitted Discretion in accordance with the terms hereof);

(h) with respect to each fiscal year of the Borrower, reasonably promptly after the latter of such approval and the Borrower's "earnings call" with respect to the prior fiscal year, the consolidated budget and other projected financial information approved by the Board of Directors of the Borrower with respect to such fiscal year;

(i) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by the

Borrower or any Subsidiary with the SEC or with any national securities exchange, or distributed by the Borrower to its shareholders generally, as the case may be;

(j) promptly after any request therefor by the Administrative Agent or any Lender, copies of (i) any documents described in Section 101(k)(1) of ERISA that the Borrower or any of its ERISA Affiliates may request with respect to any Multiemployer Plan and (ii) any notices described in Section 101(l)(1) of ERISA that the Borrower or any of its ERISA Affiliates may request with respect to any Multiemployer Plan; provided that if the Borrower or any of its ERISA Affiliates has not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, the Borrower or the applicable ERISA Affiliate shall promptly make a request for such documents and notices from such administrator or sponsor and shall provide copies of such documents and notices promptly after receipt thereof; and

(k) promptly after any request therefor, such other information regarding the operations, business affairs, assets, liabilities (including contingent liabilities) and financial condition of the Borrower or any Subsidiary, or compliance with the terms of any Loan Document, as the Administrative Agent or any Lender may reasonably request.

Information required to be delivered pursuant to clause (a), (b) or (i) of this Section shall be deemed to have been delivered if such information, or one or more annual or quarterly reports containing such information, shall have been posted by the Administrative Agent on an IntraLinks or similar site to which the Lenders have been granted access or shall be available on the website of the SEC at http://www.sec.gov. Information required to be delivered pursuant to this Section may also be delivered by electronic communications pursuant to procedures approved by the Administrative Agent.

SECTION 5.02. Notices of Material Events. The Borrower will furnish to the Administrative Agent prompt written notice of the following as to which it has knowledge:

(a) the occurrence of, or receipt by the Borrower of any written notice claiming the occurrence of, any Default;

(b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Borrower or any Subsidiary, or any adverse development in any such pending action, suit or proceeding not previously disclosed in writing by the Borrower to the Administrative Agent and the Lenders, that in each case could reasonably be expected to result in a Material Adverse Effect or that in any manner questions the validity of any Loan Document; and

(c) any other development that has resulted, or could reasonably be expected to result, in a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

SECTION 5.03. Additional Subsidiaries. If any Material Subsidiary is formed or acquired after the Original Effective Date, or if any then existing Subsidiary becomes a Material Subsidiary after the Original Effective Date, the Borrower will, as promptly as practicable, and in any event within 30 days (or such longer period as the Administrative Agent may agree to in writing), notify the Administrative Agent thereof and cause the Collateral and Guarantee Requirement to be satisfied with respect to such Subsidiary (if it is a Material Subsidiary that is a Domestic Subsidiary that is wholly owned and is not a CFC Holding Company) and with respect to any Equity Interests in or Indebtedness of such Material Subsidiary owned by any Loan Party.

SECTION 5.04. Information Regarding Collateral. (a) The Borrower will furnish to the Administrative Agent prompt written notice of any change in (i) the legal name of any Loan Party, as set forth in its organizational documents, (ii) the jurisdiction of organization or the form of organization of any Loan Party (including as a result of any merger or consolidation) or (iii) the organizational identification number, if any, or, with respect to any Loan Party organized under the laws of a jurisdiction that requires such information to be set forth on the face of a Uniform Commercial Code financing statement, the Federal Taxpayer Identification Number of such Loan Party. The Borrower agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been made under the Uniform Commercial Code or otherwise that are required in order for the Administrative Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral.

(b) The Borrower will furnish to the Administrative Agent prompt written notice of (i) the acquisition by any Loan Party of, or any real property otherwise becoming, a Mortgaged Property after the Original Effective Date and (ii) the acquisition by any Loan Party of any other material assets after the Original Effective Date, other than (x) any assets constituting Collateral under the Security Documents in which the Administrative Agent shall have a valid, legal and perfected security interest (with the priority contemplated by the applicable Security Document) upon the acquisition thereof and (y) Excluded Assets (as defined in the Collateral Agreement).

(c) The Borrower will, as promptly as practicable, notify the Administrative Agent of the existence of any deposit account or securities account maintained by a Loan Party in respect of which a Control Agreement is required to be in effect pursuant to clause (f) of the definition of the term “Collateral and Guarantee Requirement” but is not yet in effect.

SECTION 5.05. Existence; Conduct of Business. (a) The Borrower and each Subsidiary will do or cause to be done all things necessary to preserve, renew and keep in full force and effect (i) its legal existence and (ii) the rights, licenses, permits,

privileges, franchises, patents, copyrights, trademarks and trade names material to the conduct of its business as currently conducted, except, in each case under this clause (ii) where the failure to take any such action, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect; provided that this Section 5.05(a) shall not prohibit any transaction permitted under Section 6.03, 6.04 or 6.05.

(b) The Borrower and each Subsidiary will take all actions reasonably necessary to protect all patents, trademarks, copyrights, licenses, technology, software, domain names and other intellectual property necessary to the conduct of its business, including (i) protecting the secrecy and confidentiality of the confidential information and trade secrets of the Borrower or such Subsidiary by having and enforcing a policy requiring all employees, consultants, licensees, vendors and contractors to execute confidentiality and invention assignment agreements, (ii) taking all actions reasonably necessary to ensure that none of the trade secrets of the Borrower or such Subsidiary shall fall or has fallen into the public domain and (iii) protecting the secrecy and confidentiality of the source code of all computer software programs and applications owned or licensed by the Borrower or such Subsidiary by having and enforcing a policy requiring any licensees of such source code (including any licensees under any source code escrow agreement) to enter into license agreements with appropriate use and nondisclosure restrictions, except in each case where the failure to take any such action, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.06. Payment of Obligations. The Borrower and each Subsidiary will pay its obligations, including Tax liabilities, before the same shall become delinquent or in default, except where (a)(i) the Borrower or such Subsidiary has set aside on its books reserves with respect thereto to the extent required by GAAP and (ii) if applicable, the validity or amount thereof is being contested in good faith by appropriate proceedings or (b) the failure to make payment could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

SECTION 5.07. Maintenance of Properties. The Borrower and each Subsidiary will keep and maintain all property used in the conduct of its business in good working order and condition, ordinary wear and tear excepted, except to the extent that the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.08. Insurance. The Borrower and each Subsidiary will maintain, with financially sound and reputable insurance companies, insurance in such amounts (with no greater risk retention) and against such risks as are customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations. Each such policy of liability or casualty insurance maintained by or on behalf of Loan Parties shall (a) in the case of each liability insurance policy, name the Administrative Agent, on behalf of the Secured Parties, as an additional insured thereunder, (b) in the case of each casualty insurance policy, contain a loss payable clause or endorsement that names the Administrative Agent, on behalf of the Secured Parties, as

the loss payee thereunder and (c) provide for at least 30 days' (or such shorter number of days as may be agreed to by the Administrative Agent) prior written notice to the Administrative Agent of any cancellation of such policy. With respect to each Mortgaged Property, if any, that is located in an area determined by the Federal Emergency Management Agency (or any successor agency) to have special flood hazards, the applicable Loan Party has obtained, and will maintain, with financially sound and reputable insurance companies, such flood insurance as is required under applicable law, including Regulation H of the Board of Governors.

SECTION 5.09. Books and Records; Inspection and Audit Rights. (a) The Borrower and each Subsidiary will keep proper books of record and account in which full, true and correct entries in conformity with GAAP and applicable law are made of all dealings and transactions in relation to its business and activities. The Borrower and each Subsidiary will permit the Administrative Agent or any Lender, and any agent designated by any of the foregoing, upon reasonable prior notice, (a) to visit and inspect its properties, (b) to examine and make extracts from its books and records and (c) to discuss its operations, business affairs, assets, liabilities (including contingent liabilities) and financial condition with its officers and independent accountants, all at such reasonable times as reasonably requested by the Administrative Agent; provided that (i) not more than one such visit, inspection, examination and discussion may be required in any period of 12 consecutive months (excluding, for purposes of the determination of the number thereof, any of the foregoing referred to in clause (ii) below) and (ii) any additional such visits, inspections, examinations and discussions commenced at any time when an Event of Default shall have occurred and be continuing.

(b) The Borrower will, and will cause each of the Subsidiaries to, permit any representatives designated by the Administrative Agent (including any consultants, accountants, lawyers and appraisers retained by the Administrative Agent) to conduct field examinations of the books and records of the Borrower and the Subsidiaries relating to the Borrower's computation of the Borrowing Base or any component thereof and the related reporting and control systems, at such reasonable times as reasonably requested, provided that, except for (i) field examinations commenced at any time an Event of Default shall have occurred and is continuing and (ii) field examinations referred to in the immediately succeeding sentence, the number of such field examinations in any period of 12 consecutive months may not exceed (A) if at any time during such period Liquidity shall have been less than the greater of (1) 12.5% of the Aggregate Commitment and (2) $7,500,000 for each of at least three consecutive days, two or (B) otherwise, one. In the event that the Borrower shall have consummated a Material Acquisition, the Borrower may request that the Administrative Agent conduct a field examination with respect to the Accounts acquired by the Loan Parties as a result thereof. The Borrower shall pay the reasonable fees and expenses of any such representatives designated by the Administrative Agent to conduct any such field examinations pursuant to this Section 5.09(b). The Administrative Agent may make such modifications to the Borrowing Base (including by establishing additional Reserves, reducing the advance rates or modifying the eligibility criteria for the components of the Borrowing Base) as it shall determine, in its Permitted Discretion (including upon request

of the Required Lenders), to be appropriate as a result of any such field examination, with any such modifications becoming effective three Business Days after delivery of notice thereof to the Borrower and the Lenders. The Borrower acknowledges that the Administrative Agent, after exercising its rights under this Section 5.09, may prepare and distribute to the Lenders certain Reports pertaining to the Loan Parties' assets for internal use by the Administrative Agent and the Lenders.

SECTION 5.10. Compliance with Laws. The Borrower and each Subsidiary will comply with all laws, including all orders of any Governmental Authority, applicable to it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. The Borrower and each Subsidiary will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, the Subsidiaries and its and their directors, officers, employees and agents with applicable Anti-Corruption Laws and Sanctions.

SECTION 5.11. Use of Proceeds and Letters of Credit. The proceeds of the Loans will be used solely for the making of the Existing Debt Repayment and working capital and other general corporate purposes of the Borrower and the Subsidiaries, provided that the proceeds of the Loans may not be used directly (whether by the Borrower or, in the event such proceeds are made available to any Subsidiary, by such Subsidiary) (i) to finance any purchase or other acquisition by the Borrower or any Subsidiary of Equity Interests in, or all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of), any Person permitted by Section 6.04(o) or 6.04(q) (it being understood that this clause (i) shall not restrict the creation of Subsidiaries or Joint Ventures or the provision of working capital support to such Subsidiaries or Joint Ventures), (ii) to make any prepayment of Permitted Convertible Notes or any Subordinated Indebtedness made in reliance on Section 6.08(b)(v) or 6.08(b)(vi) or (iii) to make any Restricted Payment in respect of Equity Interests in the Borrower. Letters of Credit will be issued only for general corporate purposes of the Borrower and the Subsidiaries. No Borrowing will be made or Letter of Credit issued, and no proceeds of any Borrowing will be used, (A) for the purpose of funding payments to any officer or employee of a Governmental Authority, Person controlled by a Governmental Authority, political party, official of a political party, candidate for political office or other Person acting in an official capacity, in each case in violation of applicable Anti-Corruption Laws or (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any country, region or territory that is itself subject or target of any Sanctions, to the extent such activities, businesses or transaction would be prohibited by Sanctions if conducted by a corporation incorporated in the United States.

SECTION 5.12. Further Assurances. The Borrower and each other Loan Party will execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents), that may be required under any applicable law, or that the Administrative Agent may reasonably request, to cause the Collateral and Guarantee Requirement to be and remain satisfied at all

times, all at the expense of the Loan Parties. The Borrower will provide to the Administrative Agent, from time to time upon request, evidence reasonably satisfactory to the Administrative Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents.

ARTICLE V

Negative Covenants

Until the Commitments shall have expired or been terminated, the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full, all Letters of Credit shall have expired or been terminated and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

SECTION 6.01. Indebtedness; Certain Equity Securities. Neither the Borrower nor any Subsidiary will create, incur, assume or permit to exist any Indebtedness, except:

(a) Indebtedness created under the Loan Documents;

(b) Indebtedness existing on the Original Effective Date and set forth on Schedule 6.01, and Refinancing Indebtedness in respect thereof;

(c) Indebtedness of the Borrower or any Subsidiary to the Borrower or any Subsidiary; provided that (i) such Indebtedness shall not have been transferred to any Person other than the Borrower or any Subsidiary, (ii) any such Indebtedness owing by any Loan Party to a Subsidiary that is not a Loan Party shall be unsecured and subordinated in right of payment to the Loan Document Obligations pursuant to the Intercompany Subordination Agreement, (iii) any such Indebtedness owing to any Loan Party that is evidenced by a promissory note shall have been pledged pursuant to the Collateral Agreement and (iv) any such Indebtedness owing by any Subsidiary that is not a Loan Party to any Loan Party (other than Specified Intercompany Indebtedness) shall be incurred in compliance with Section 6.04;

(d) Guarantees incurred in compliance with Section 6.04;

(e) Indebtedness of the Borrower or any Subsidiary (i) incurred to finance the acquisition, construction or improvement of any fixed or capital assets or Intellectual Property, including Capital Lease Obligations, provided that such Indebtedness is incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement and the principal amount of such Indebtedness does not exceed the cost of acquiring, constructing or improving such fixed or capital assets or Intellectual Property, or (ii) assumed in connection with the acquisition of any fixed or capital assets or Intellectual Property, and Refinancing Indebtedness in respect of any of the foregoing;

provided that the aggregate principal amount of Indebtedness permitted by this clause (e) shall not exceed $10,000,000 at any time outstanding;

(f) Indebtedness of any Person that becomes a Subsidiary (or of any Person not previously a Subsidiary that is merged or consolidated with or into a Subsidiary in a transaction permitted hereunder) after the Original Effective Date, or Indebtedness of any Person that is assumed by the Borrower or any Subsidiary in connection with an acquisition of assets by the Borrower or such Subsidiary in a Permitted Acquisition or other Investment permitted by Section 6.04(n); provided that (i) such Indebtedness exists at the time such Person becomes a Subsidiary (or is so merged or consolidated) or such assets are acquired and is not created in contemplation of or in connection with such Person becoming a Subsidiary (or such merger or consolidation) or such assets being acquired and (ii) neither the Borrower nor any Subsidiary (other than such Person or the Person with which such Person is merged or consolidated or that so assumes such Person's Indebtedness) shall Guarantee or otherwise become liable for the payment of such Indebtedness, and Refinancing Indebtedness in respect of any of the foregoing; provided that the aggregate principal amount of Indebtedness permitted by this clause (f) shall not exceed $10,000,000 at any time outstanding;

(g) Indebtedness owed in respect of any overdrafts and related liabilities arising from treasury, depository, credit-card and cash management services or in connection with any automated clearing house transfers of funds; provided that such Indebtedness shall be repaid in full before the same shall become delinquent;

(h) Indebtedness in respect of letters of credit, bank guarantees and similar instruments issued for the account of the Borrower or any Subsidiary in the ordinary course of business supporting obligations under (i) workers' compensation, unemployment insurance and other social security laws and (ii) bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and obligations of a like nature;

(i) Indebtedness of the Borrower or any Subsidiary in the form of purchase price adjustments, earn-outs, non-competition agreements or other arrangements representing acquisition consideration or deferred payments of a similar nature incurred in connection with any Permitted Acquisition or other Investment permitted by Section 6.04;

(j) Indebtedness of Foreign Subsidiaries in an aggregate principal amount not exceeding $10,000,000 at any time outstanding;

(k) (i) Permitted Convertible Notes, provided that (A) at the time of the incurrence thereof and after giving effect thereto, (1) no Default or Event of Default shall have occurred and be continuing and (2) the Liquidity shall not be less than the greater of (x) 16.67% of the Aggregate Commitment and (y) $10,000,000 and (B) the Borrower shall have delivered to the Administrative Agent a certificate of a Financial Officer of the Borrower certifying that (1) all the requirements set forth in this clause (k) have been satisfied with respect to such incurrence of Permitted Convertible Notes and (2) based on the information then available to the Borrower, the Borrower in good faith expects that Liquidity will not

be less than the greater of (x) 16.67% of the Aggregate Commitment and (y) $10,000,000 at any time during the six month period immediately following such incurrence, together with a calculation in support of the satisfaction of the requirement referred to in clause (A)(2) above; and (ii) any Refinancing Indebtedness in respect thereof; provided that the aggregate principal amount of Indebtedness permitted by this clause (k) may not exceed $500,000,000 at any time outstanding;

(l) (i) Permitted Subordinated Notes, provided that at the time of the incurrence thereof and after giving effect thereto, (A) the requirements of Section 1.05 shall be satisfied and (B) no Default or Event of Default shall have occurred and be continuing; and (ii) any Refinancing Indebtedness in respect thereof; provided that the aggregate principal amount of Indebtedness permitted by this clause (l) may not exceed $300,000,000 at any time outstanding; and

(m) other Indebtedness in an aggregate principal amount not exceeding $10,000,000 at any time outstanding.

SECTION 6.02. Liens. Neither the Borrower nor any Subsidiary will create, incur, assume or permit to exist any Lien on any asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable and royalties) or rights in respect of any thereof, except:

(a) Liens created under the Loan Documents;

(b) Permitted Encumbrances;

(c) any Lien on any asset of the Borrower or any Subsidiary existing on the Original Effective Date and set forth on Schedule 6.02; provided that (i) such Lien shall not apply to any other asset of the Borrower or any Subsidiary and (ii) such Lien shall secure only those obligations that it secures on the Original Effective Date and any extensions, renewals and refinancings thereof that do not increase the outstanding principal amount thereof (other than by an amount not to exceed interest, premiums and fees payable in connection with such extension, renewal or refinancing) and, in the case of any such obligations constituting Indebtedness, that are permitted under Section 6.01 as Refinancing Indebtedness in respect thereof;

(d) any Lien existing on any asset prior to the acquisition thereof by the Borrower or any Subsidiary or existing on any asset of any Person that becomes a Subsidiary (or of any Person not previously a Subsidiary that is merged or consolidated with or into the Borrower or a Subsidiary in a transaction permitted hereunder) after the Original Effective Date prior to the time such Person becomes a Subsidiary (or is so merged or consolidated); provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary (or such merger or consolidation), (ii) such Lien shall not apply to any other asset of the Borrower or any Subsidiary (other than, in the case of any such merger or consolidation, the assets of any Person that is a party thereto) and (iii) such Lien shall secure only those obligations that it

secures on the date of such acquisition or the date such Person becomes a Subsidiary (or is so merged or consolidated), and any extensions, renewals and refinancings thereof that do not increase the outstanding principal amount thereof (other than by an amount not to exceed interest, premiums and fees payable in connection with such extension, renewal or refinancing) and, in the case of any such obligations constituting Indebtedness, that are permitted under Section 6.01 as Refinancing Indebtedness in respect thereof;

(e) Liens on fixed or capital assets or Intellectual Property acquired, constructed or improved by the Borrower or any Subsidiary; provided that (i) such Liens secure only Indebtedness permitted by Section 6.01(e) and obligations relating thereto not constituting Indebtedness and (ii) such Liens shall not apply to any other asset of the Borrower or any Subsidiary (other than the proceeds and products thereof); provided further that in the event purchase money obligations are owed to any Person with respect to financing of more than one purchase of any fixed or capital assets, such Liens may secure all such purchase money obligations and may apply to all such fixed or capital assets or Intellectual Property financed by such Person;

(f) in connection with the sale or transfer of any Equity Interests or other assets in a transaction permitted under Section 6.05, customary rights and restrictions contained in agreements relating to such sale or transfer pending the completion thereof;

(g) in the case of (i) any Subsidiary that is not a wholly-owned Subsidiary or (ii) the Equity Interests in any Person that is not a Subsidiary, any encumbrance or restriction, including any put and call arrangements, related to Equity Interests in such Subsidiary or such other Person set forth in the organizational documents of such Subsidiary or such other Person or any related joint venture, shareholders or similar agreement;

(h) Liens solely on any cash earnest money deposits, escrow arrangements or similar arrangements made by the Borrower or any Subsidiary in connection with any letter of intent or purchase agreement for a Permitted Acquisition or other transaction permitted hereunder;

(i) any Lien on assets of any Foreign Subsidiary; provided that (A) such Lien shall not apply to any Collateral (including any Equity Interests in any Subsidiary that constitute Collateral) or any other assets of any Loan Party and (B) such Lien shall secure only Indebtedness or other obligations of such Foreign Subsidiary permitted hereunder; and

(j) other Liens securing Indebtedness or other obligations in an aggregate principal amount not to exceed $10,000,000 at any time outstanding.

Notwithstanding the foregoing, no Lien, other than Liens permitted under clauses (a), (b), (e), (i) and (j) of the definition of the term "Permitted Encumbrances" and clauses (a), (d), (e) and (f) above, may attach to any Account or Intellectual Property of the Borrower or any Loan Party.

SECTION 6.03. Fundamental Changes; Business Activities. (a) Neither the Borrower nor any Subsidiary will merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall have occurred and be continuing, (i) any Person may merge into the Borrower in a transaction in which the Borrower is the surviving corporation, (ii) any Person (other than the Borrower) may merge or consolidate with any Subsidiary in a transaction in which the surviving entity is a Subsidiary (and, if any party to such merger or consolidation is a Subsidiary Loan Party, is a Subsidiary Loan Party), (iii) any Subsidiary may merge into or consolidate with any Person (other than the Borrower) in a transaction permitted under Section 6.05 in which, after giving effect to such transaction, the surviving entity is not a Subsidiary and (iv) any Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders; provided that any such merger or consolidation involving a Person that is not a wholly-owned Subsidiary immediately prior thereto shall not be permitted unless it is also permitted under Section 6.04.

(b) Neither the Borrower nor any Subsidiary will engage to any material extent in any business other than businesses of the type conducted by the Borrower and the Subsidiaries on the Original Effective Date and businesses reasonably related thereto.

SECTION 6.04. Investments, Loans, Advances, Guarantees and Acquisitions. Neither the Borrower nor any Subsidiary will purchase, hold, acquire (including pursuant to any merger or consolidation with any Person that was not a wholly-owned Subsidiary prior thereto), make or otherwise permit to exist any Investment in any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) all or substantially all the assets of any other Person or of a business unit, division, product line or line of business of any other Person, or assets acquired other than in the ordinary course of business that, following the acquisition thereof, would constitute a substantial portion of the assets of the Borrower and the Subsidiaries, taken as a whole, except:

(a) Permitted Investments;

(b) Investments existing on the Original Effective Date and, except in the case of Investments by the Borrower and the Subsidiaries in the Borrower and the Subsidiaries, set forth on Schedule 6.04 (but not any additions thereto (including any capital contributions) made after the Original Effective Date);

(c) investments by the Borrower and the Subsidiaries in Equity Interests in their subsidiaries; provided that (i) such subsidiaries are Subsidiaries prior to such investments, (ii) any such Equity Interests held by a Loan Party shall be pledged in accordance with the requirements of the definition of the term "Collateral and Guarantee Requirement" and (iii) the aggregate amount of such investments by the Loan Parties in, and loans and advances by the Loan Parties to, and Guarantees by the Loan Parties of Indebtedness and other obligations of, Subsidiaries that are not Loan Parties (excluding Specified Intercompany

Indebtedness) permitted by this clause (c), shall not exceed $5,000,000 at any time outstanding;

(d) loans or advances made by the Borrower or any Subsidiary to the Borrower or any Subsidiary; provided that (i) the Indebtedness resulting therefrom is permitted by Section 6.01(c) and (ii) the amount of such loans and advances made by the Loan Parties to Subsidiaries that are not Loan Parties (excluding Specified Intercompany Indebtedness) shall be subject to the limitation set forth in clause (c) above;

(e) Guarantees by the Borrower or any Subsidiary of Indebtedness or other obligations of the Borrower or any Subsidiary (including any such Guarantees arising as a result of any such Person being a joint and several co-applicant with respect to any letter of credit or letter of guaranty); provided that (i) a Subsidiary that has not Guaranteed the Secured Obligations pursuant to the Collateral Agreement shall not Guarantee any Indebtedness or other obligations of any Loan Party and (ii) the aggregate amount of Indebtedness and other obligations of Subsidiaries that are not Loan Parties that is Guaranteed by any Loan Party shall be subject to the limitation set forth in clause (c) above;

(f) any Investment in the form of a contribution of any Specified Intercompany Indebtedness to the Subsidiary that is the obligor thereunder;

(g) any Investment in the form of a contribution by the Borrower or any Subsidiary of Equity Interests in any Foreign Subsidiary to any other Foreign Subsidiary;

(h) Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;

(i) Investments made as a result of the receipt of noncash consideration from a sale, transfer, lease or other disposition, or an exclusive license, of any asset in compliance with Section 6.05;

(j) Investments by the Borrower or any Subsidiary that result solely from the receipt by the Borrower or such Subsidiary from any of its subsidiaries of a dividend or other Restricted Payment in the form of Equity Interests, evidences of Indebtedness or other securities (but not any additions thereto made after the date of the receipt thereof);

(k) Investments in the form of Hedging Agreements permitted under Section 6.07;

(l) payroll, travel and similar advances to directors and employees of the Borrower or any Subsidiary to cover matters that are expected at the time of

such advances to be treated as expenses of the Borrower or such Subsidiary for accounting purposes and that are made in the ordinary course of business;

(m) loans or advances to directors and employees of the Borrower or any Subsidiary made in the ordinary course of business; provided that the aggregate amount of such loans and advances outstanding at any time shall not exceed $500,000;

(n) to the extent constituting Investments, transfers of Intellectual Property to one or more Foreign Subsidiaries and Joint Ventures;

(o) other Investments and other acquisitions; provided that (i) the aggregate amount of all Investments made in reliance on this clause (o) outstanding at any time, together with the aggregate Acquisition Consideration paid in connection with all other acquisitions (other than any Domestic Permitted Acquisition) made in reliance on this clause (o), shall not exceed $10,000,000 in the aggregate, (ii) the aggregate amount of all Investments made in reliance on this clause (o) outstanding at any time, together with the aggregate Acquisition Consideration paid in connection with all other acquisitions made in reliance on this clause (o), shall not exceed $15,000,000 in the aggregate, (iii) at the time each such Investment or other acquisition is purchased, made or otherwise acquired and immediately after giving effect thereto, (A) no Default shall have occurred and be continuing, (B) the Liquidity shall not be less than the greater of (1) 12.5% of the Aggregate Commitment and (2) $7,500,000 and (C) based on the information then available to the Borrower, the Borrower in good faith expects that Liquidity will not be less than the greater of (1) 12.5% of the Aggregate Commitment and (2) $7,500,000 at any time during the six month period immediately following the consummation of such Investment or other acquisition, and (iv) with respect to each such Investment or other acquisition (other than an Investment of less than $1,000,000 in a Subsidiary), the Borrower shall have delivered to the Administrative Agent a certificate of a Financial Officer of the Borrower certifying that all the requirements set forth in this clause (o) have been satisfied with respect to such Investment or other acquisition, together with a calculation in support of the satisfaction of the requirement set forth in clause (iii)(B) above;

(p) other Investments and other acquisitions; provided that (i) at the time each such Investment or acquisition is purchased, made or otherwise acquired and immediately after giving effect thereto, (A) no Default shall have occurred and be continuing and (B) the Borrower shall be in compliance with the covenant set forth in Section 6.12 and (ii) the aggregate amount of all Investments made in reliance on this clause (p) outstanding at any time, together with the aggregate Acquisition Consideration paid in connection with all other acquisitions made in reliance on this clause (p), shall not exceed $2,500,000 in the aggregate;

(q) other Investments and other acquisitions; provided that (i) at the time each such Investment or other acquisition is purchased, made or otherwise acquired and immediately after giving effect thereto, (A) no Default shall have occurred and be continuing, (B) the Liquidity shall not be less than the greater of (1) 25% of the Aggregate Commitment and (2) $15,000,000 and (C) based on the information then available to the Borrower, the Borrower in good faith expects that Liquidity will not be less than the greater of (1) 25% of the Aggregate Commitment and (2) $15,000,000 at any time during the six month period following the consummation of such Investment or other acquisition and (ii) at the time each such Investment or other acquisition is purchased, made or otherwise acquired (other than an Investment of less than $1,000,000 in a Subsidiary), the Borrower shall have delivered to the Administrative Agent a certificate of a Financial Officer of the Borrower certifying that all the requirements set forth in this clause (q) have been satisfied with respect to such Investment or other acquisition, together with a calculation in support of the satisfaction of the requirement set forth in clause (i)(B) above.

Notwithstanding anything to the contrary in this Section 6.04, any Investment in the form of a transfer of Intellectual Property shall be permitted only if such transfer complies with the final paragraph of Section 6.05. In the event a wholly owned Subsidiary shall at any time cease to be a wholly owned Subsidiary (but shall remain a Person in which the Borrower or any Subsidiary owns any Equity Interests), the Borrower and the other Subsidiaries shall be deemed to have made, at such time, an Investment in such former wholly owned Subsidiary in the aggregate amount of their existing Investments therein at such time.

SECTION 6.05. Asset Sales. Neither the Borrower nor any Subsidiary will sell, transfer, lease or otherwise dispose of, or exclusively license, any asset, including any Equity Interest owned by it, nor will any Subsidiary issue any additional Equity Interest in such Subsidiary (other than to the Borrower or any Subsidiary in compliance with Section 6.04, and other than directors' qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under applicable law), except:

(a) sales, transfers or other dispositions of used or surplus equipment in the ordinary course of business or of cash and Permitted Investments;

(b) sales, transfers, leases, licenses and other dispositions to the Borrower, any Subsidiary or any Joint Venture; provided that any such sales, transfers, leases or other dispositions involving a Subsidiary that is not a Loan Party or involving a Joint Venture shall be made in compliance with Sections 6.04 and 6.09;

(c) sales, transfers or other dispositions of accounts receivable in connection with the compromise or collection thereof in the ordinary course of business and not as part of any accounts receivables financing transaction;

(d) dispositions of assets subject to any casualty or condemnation proceeding (including in lieu thereof); and

(e) sales, transfers, leases and other dispositions of assets that are not permitted by any other clause of this Section; provided that (i) the aggregate fair value of all assets sold, transferred, leased or otherwise disposed of in reliance on this clause shall not exceed $5,000,000 during any fiscal year of the Borrower and (ii) all sales, transfers, leases and other dispositions made in reliance on this clause shall be made for fair value and at least 75% cash consideration.

For purposes of clause (e) above, issuance by any Subsidiary of any additional Equity Interest in such Subsidiary to any Person other than the Borrower or any Subsidiary (other than issuance of directors' qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under applicable law) shall be deemed to be a sale and transfer by the Borrower and the Subsidiaries to such other Person of assets in the amount equal to the fair value (as determined reasonably and in good faith by a Financial Officer of the Borrower) of such Equity Interests at the time thereof.

Notwithstanding the foregoing, neither the Borrower nor any Subsidiary shall grant any exclusive license of, or sell, transfer or otherwise dispose of, in one transaction or a series of transactions, Intellectual Property material to the conduct of business of the Borrower and the Subsidiaries, taken as a whole, other than (i) licenses to the Borrower or any Domestic Subsidiary that is a Subsidiary Loan Party, (ii) licenses to any Foreign Subsidiary of any Intellectual Property that are exclusive as to any jurisdiction or jurisdictions, in each case other than the United States of America and Canada, or any sale, transfer or other disposition to any Foreign Subsidiary of any Intellectual Property that is not material to the conduct of business of the Borrower and the Subsidiaries, taken as a whole, in the United States of America or Canada, provided that each such Foreign Subsidiary (A) shall be a wholly owned Subsidiary all the Equity Interests in which are directly owned by one or more of the Loan Parties and shall have been pledged to the Administrative Agent, for the benefit of the Secured Parties, in accordance with (and to the extent required by) the Collateral and Guarantee Requirement and (B) shall not create, incur, assume or permit to exist any Indebtedness (other than any Indebtedness owed to a Loan Party)) (each Foreign Subsidiary described in this clause (ii) being referred to as the "Foreign IP Holdco"), (iii) licenses by any Foreign IP Holdco to any Foreign Subsidiary or Joint Venture of any Intellectual Property that are exclusive as to any jurisdiction or jurisdictions, in each case other than the United States of America and Canada, in which such Foreign Subsidiary or Joint Venture conducts business, (iv) licenses to any Foreign Subsidiary or Joint Venture that conducts business in Canada of any Intellectual Property that are exclusive as to Canada and (v) licenses that are exclusive solely as to any use or uses that are not a significant part of the Business.

SECTION 6.06. Sale/Leaseback Transactions. Neither the Borrower nor any Subsidiary will enter into any Sale/Leaseback Transaction unless (a) the sale or transfer of the property thereunder is permitted under Section 6.05, (b) any Capital Lease Obligations arising in connection therewith are permitted under Section 6.01 and (c) any

Liens arising in connection therewith (including Liens deemed to arise in connection with any such Capital Lease Obligations) are permitted under Section 6.02.

SECTION 6.07. Hedging Agreements. Neither the Borrower nor any Subsidiary will enter into any Hedging Agreement, except (a) Hedging Agreements entered into for non-speculative purposes to hedge or mitigate risks to which the Borrower or any Subsidiary has exposure (other than in respect of Equity Interests or Indebtedness of the Borrower or any Subsidiary), (b) Hedging Agreements entered into in order to effectively cap, collar or exchange interest rates (from floating to fixed rates, from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Borrower or any Subsidiary and (c) the Borrower may enter into, and perform its obligations under, Permitted Call Spread Hedge Agreements.

SECTION 6.08. Restricted Payments; Certain Payments of Indebtedness. (a) Neither the Borrower nor any Subsidiary will declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that (i) the Borrower may declare and pay dividends with respect to its Equity Interests payable solely in additional Equity Interests permitted hereunder, (ii) any Subsidiary may declare and pay dividends or make other distributions with respect to its capital stock, partnership or membership interests or other similar Equity Interests, or make other Restricted Payments in respect of its Equity Interests, in each case ratably to the holders of such Equity Interests, (iii) the Borrower may repurchase Equity Interests upon the exercise of stock options if such Equity Interests represent a portion of the exercise price of such options, (iv) the Borrower may make cash payments in lieu of the issuance of fractional shares representing insignificant interests in the Borrower in connection with the exercise of warrants, options or other securities convertible into or exchangeable for capital stock in the Borrower, (v) the Borrower may make Restricted Payments, not exceeding $2,000,000 in the aggregate for any fiscal year, pursuant to and in accordance with stock option plans or other benefit plans or agreements for directors, officers or employees of the Borrower and the Subsidiaries and (vi) (A) the Borrower may declare and make Restricted Payments so long as, at the time thereof and after giving effect thereto, (1) no Default shall have occurred and be continuing, (2) the Liquidity shall not be less than the greater of (x) 30% of the Aggregate Commitment and (y) $20,000,000, (3) the Fixed Charges Coverage Ratio, determined (on a pro forma basis to give effect to any Indebtedness incurred in connection with such Restricted Payment) as of the end of the most recent fiscal quarter for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, ending with the last fiscal quarter included in the consolidated financial statements referred to in Section 3.04(a)) shall not be less than 1.10 to 1.00, (4) the Fixed Charges Coverage Ratio, determined (on a projected pro forma basis to give effect to any Indebtedness incurred in connection with such Restricted Payment based on assumptions believed by the Borrower to be reasonable) as of the end of each of the two consecutive fiscal quarters ending immediately after the date of such Restricted Payment shall not be less than 1.10 to 1.00 and (5) the Borrower shall have delivered to the Administrative Agent a certificate of a Financial Officer of the Borrower certifying that (x) all the requirements set forth in this clause (vi) have been

satisfied with respect to such Restricted Payment and (y) based on the information then available to the Borrower, the Borrower in good faith expects that Liquidity will not be less than the greater of (I) 30% of the Aggregate Commitment and (II) $20,000,000 at any time during the six month period following the declaration and payment of such Restricted Payment, in each case together with reasonably detailed calculations in support of the satisfaction of the requirements set forth in clauses (A)(2) and (A)(3) above, and (B) the Borrower may pay any dividend on its shares of common stock within 60 days of the declaration thereof so long as the declaration thereof was made in compliance with the preceding clause (A).

(b) Neither the Borrower nor any Subsidiary will make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Indebtedness incurred in reliance on Section 6.01(k) or 6.01(l), or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, defeasance, cancellation or termination of any such Indebtedness, except:

(i) payments of regularly scheduled interest as and when due in respect of any such Indebtedness, other than payments in respect of Subordinated Indebtedness prohibited by the subordination provisions thereof;

(ii) refinancings of any such Indebtedness with the proceeds of other Indebtedness permitted under Section 6.01;

(iii) payments upon conversion of any such Indebtedness into common stock of the Borrower made in common stock of the Borrower, together with cash payments in lieu of issuance of fractional shares and payments of accrued but unpaid interest, in each case in connection with such conversion;

(iv) other payments of or in respect of any such Indebtedness made solely with (or with the proceeds of a substantially concurrent issuance and sale of) Equity Interests (other than Disqualified Equity Interests) in the Borrower;

(v) cash payments upon conversion of Permitted Convertible Notes pursuant to the terms thereof;

(vi) other payments of any such Indebtedness, so long as, at the time thereof and after giving effect thereto, (A) no Default shall have occurred and be continuing, (B) the Liquidity shall not be less than the greater of (1) 30% of the Aggregate Commitment and (2) $20,000,000, (C) the Fixed Charges Coverage Ratio, determined (on a pro forma basis to give effect to such payment and any Indebtedness incurred in connection therewith) as of the end of the most recent fiscal quarter for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, ending with the last fiscal quarter included in the consolidated financial statements referred to in

Section 3.04(a)) shall not be less than 1.10 to 1.00, (D) the Fixed Charges Coverage Ratio, determined (on a projected pro forma basis to give effect to such payment and any Indebtedness incurred in connection therewith based on assumptions believed by the Borrower to be reasonable) as of the end of each of the two consecutive fiscal quarters ending immediately after the date of such Restricted Payment shall not be less than 1.10 to 1.00 and (E) the Borrower shall have delivered to the Administrative Agent a certificate of a Financial Officer of the Borrower certifying that (1) all the requirements set forth in this clause (v) have been satisfied with respect to such payment and (2) based on the information then available to the Borrower, the Borrower in good faith expects that Liquidity will not be less than the greater of (x) 30% of the Aggregate Commitment and (y) $20,000,000 at any time during the six month period following such payment, in each case together with reasonably detailed calculations in support of the satisfaction of the requirements set forth in clauses (B) and (C) above;

(vii) the repayment of any such Indebtedness on the final stated maturity thereof, provided that such final stated maturity satisfies the respective requirements set forth in the definitions of "Permitted Convertible Notes" and "Permitted Subordinated Notes", as the case may be;

(viii) the documents governing any such Indebtedness may contain customary "fundamental change" or "change of control" provisions, provided that no payments or other distributions may be made under any such provisions except to the extent permitted by the other clauses of this Section 6.08(b); and

(ix) other payments of Indebtedness incurred in reliance on Section 6.01(k), so long as, at the time thereof and after giving effect thereto, (A) no Default shall have occurred and be continuing, (B) the Liquidity shall not be less than the greater of (1) 30% of the Aggregate Commitment and (2) $20,000,000, and (C) the Borrower shall have delivered to the Administrative Agent a certificate of a Financial Officer of the Borrower certifying that (1) all the requirements set forth in this clause (ix) have been satisfied with respect to such payment and (2) based on the information then available to the Borrower, the Borrower in good faith expects that Liquidity will not be less than the greater of (x) 30% of the Aggregate Commitment and (y) $20,000,000 at any time during the six month period following such payment, in each case together with reasonably detailed calculations in support of the satisfaction of the requirements set forth in clause (B) above.

SECTION 6.09. Transactions with Affiliates. Neither the Borrower nor any Subsidiary will sell, lease, license or otherwise transfer any assets to, or purchase, lease, license or otherwise acquire any assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) transactions that are at prices and on terms and conditions not less favorable to the Borrower or such Subsidiary than those that would prevail in arm's-length transactions with unrelated third parties, (b) transactions between or among the Borrower and the Subsidiaries not involving any other Affiliate, (c) any Restricted Payment permitted under Section 6.08, (d) issuances by the Borrower of Equity Interests

(other than Disqualified Equity Interests), and receipt by the Borrower of capital contributions, (e) compensation and indemnification of, and other employment arrangements with, directors, officers and employees of the Borrower or any Subsidiary entered in the ordinary course of business, (f) loans and advances permitted under clauses (j) and (k) of Section 6.04 and (g) transfers permitted under clause (l) of Section 6.04.

SECTION 6.10. Restrictive Agreements. Neither the Borrower nor any Subsidiary will, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that restricts or imposes any condition upon (a) the ability of the Borrower or any wholly owned Domestic Subsidiary to create, incur or permit to exist any Lien upon any of its assets to secure any Secured Obligations or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to its Equity Interests or to make or repay loans or advances to the Borrower or any Subsidiary or, in the case of any wholly owned Domestic Subsidiary, to Guarantee Indebtedness of the Borrower or any Subsidiary; provided that (i) the foregoing shall not apply to (A) restrictions and conditions imposed by law or by any Loan Document, (B) restrictions and conditions existing on the Original Effective Date identified on Schedule 6.10 (but shall apply to any amendment or modification expanding the scope of, any such restriction or condition), (C) in the case of any Subsidiary that is not a wholly-owned Subsidiary, restrictions and conditions imposed by its organizational documents or any related joint venture or similar agreement, provided that such restrictions and conditions apply only to such Subsidiary and to any Equity Interests in such Subsidiary, (D) restrictions and conditions imposed on any Foreign Subsidiary by any agreement relating to Indebtedness of any Foreign Subsidiary permitted under Section 6.01(j) or 6.01(m) and (E) restrictions and conditions imposed by any agreement relating to Indebtedness permitted by Section 6.01(k) or 6.01(l), (ii) clause (a) of the foregoing shall not apply to (A) restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by Section 6.01(e) or 6.01(f) if such restrictions or conditions apply only to the assets securing such Indebtedness or (B) customary provisions in leases and other agreements restricting the assignment thereof and (iii) clause (b) of the foregoing shall not apply to (A) customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary, or a business unit, division, product line or line of business, that are applicable solely pending such sale, provided that such restrictions and conditions apply only to the Subsidiary, or the business unit, division, product line or line of business, that is to be sold and such sale is permitted hereunder and (B) restrictions and conditions imposed by agreements relating to Indebtedness of any Subsidiary in existence at the time such Subsidiary became a Subsidiary and otherwise permitted by Section 6.01(f) (but shall apply to any amendment or modification expanding the scope of, any such restriction or condition), provided that such restrictions and conditions apply only to such Subsidiary. Nothing in this paragraph shall be deemed to modify the requirements set forth in the definition of the term "Guarantee and Collateral Requirement" or the obligations of the Loan Parties under Sections 5.03, 5.04 or 5.12 or under the Security Documents.

SECTION 6.11. Amendment of Material Documents. Neither the Borrower nor any Subsidiary will amend, modify or waive any of its rights under (a) any agreement or instrument governing or evidencing any Material Indebtedness or (b) its

certificate of incorporation, bylaws or other organizational documents, in each case to the extent such amendment, modification or waiver could reasonably be expected to be adverse in any material respect to the Lenders.

SECTION 6.12. Minimum Liquidity. The Borrower and the Subsidiaries shall maintain, at all times, Liquidity in an amount of not less than the greater of (a) 8.33% of the Aggregate Commitment and (b) $5,000,000.

SECTION 6.13. Fiscal Year. The Borrower will not, and the Borrower will not permit any Subsidiary to, change its fiscal year to end on a date other than December 31.

ARTICLE VI

Events of Default

If any of the following events ("Events of Default") shall occur:

(a) the Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement or any other Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of three Business Days;

(c) any representation, warranty or statement made or deemed made by or on behalf of the Borrower or any Subsidiary in any Loan Document or in any report, certificate, financial statement or other information provided pursuant to or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder shall prove to have been incorrect in a material respect when made or deemed made;

(d) the Borrower shall (i) fail to observe or perform any covenant, condition or agreement contained in Section 5.02(a), 5.05(a) (with respect to the existence of the Borrower) or 5.11 or in Article VI or (ii) fail to perform or observe any covenant or agreement contained in Section 5.01(f) or 5.09(b) and such failure shall continue unremedied for a period of 15 days;

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in any Loan Document (other than those specified in clause (a), (b) or (d) of this Article), and such failure shall continue unremedied for a period of 30 days after notice thereof from the Administrative

Agent or any Lender to the Borrower (with a copy to the Administrative Agent in the case of any such notice from a Lender);

(f) the Borrower or any Subsidiary shall fail to make any payment (whether of principal, interest, termination payment or other payment obligation and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable;

(g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf, or, in the case of any Hedging Agreement (other than Permitted Call Spread Hedge Agreements), the applicable counterparty, to cause such Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity or, in the case of any Hedging Agreement (other than Permitted Call Spread Hedge Agreements), to cause the termination thereof; provided that this clause (g) shall not apply to (A) any secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the assets securing such Indebtedness, (B) any Indebtedness that becomes due as a result of a refinancing thereof permitted under Section 6.01 or as a result of any voluntary prepayment, repurchase, redemption or defeasance thereof by the Borrower or any Subsidiary in the absence of any default (or a similar event, however denominated) thereunder or (C) any requirement to deliver cash upon conversion of Permitted Convertible Notes;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any Subsidiary or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower or any Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation (other than any liquidation permitted by clause (iv) of Section 6.03(a)), reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the

material allegations of a petition filed against it in any such proceeding or (v) make a general assignment for the benefit of creditors, or the board of directors (or similar governing body) of the Borrower or any Subsidiary (or any committee thereof) shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to in clauses (i) through (iv) above or clause (h) of this Article;

(j) the Borrower or any Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of $2,000,000 (other than any such judgment covered by insurance (other than under a self-insurance program) to the extent a claim therefor has been made in writing and liability therefor has not been denied by the insurer, so long as, in the reasonable opinion of the Administrative Agent, such insurer is financially sound), shall be rendered against the Borrower, any Subsidiary or any combination thereof and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower or any Subsidiary to enforce any such judgment;

(l) one or more judgments for injunctive relief in respect of the use, licensing or transfer of Intellectual Property shall be rendered against the Borrower, any Subsidiary or any combination thereof that would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(m) one or more ERISA Events shall have occurred that could, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(n) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted by any Loan Party not to be, a valid and perfected Lien on any material portion of the Collateral, with the priority required by the applicable Security Document, except as a result of (i) a sale or transfer of the applicable Collateral in a transaction permitted under the Loan Documents or (ii) the Administrative Agent's failure to maintain possession of any stock certificate, promissory note or other instrument delivered to it under the Collateral Agreement;

(o) any Guarantee purported to be created under any Loan Document shall cease to be, or shall be asserted by any Loan Party not to be, in full force and effect, except upon the consummation of any transaction permitted under this Agreement as a result of which the Subsidiary Loan Party providing such Guarantee ceases to be a Subsidiary or upon the termination of such Loan Document in accordance with its terms;

(p) a Change in Control shall occur; or

(q) any Subordinated Indebtedness permitted under Section 6.01(l) or the Guarantees in respect thereof shall cease for any reason to be validly subordinated to the Loan Document Obligations, or any Loan Party or any Affiliate thereof shall assert that such Subordinated Indebtedness has ceased to be validly subordinated to the Loan Document Obligations, in each case as required hereunder;

then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take any or all of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower hereunder, shall become due and payable immediately, and (iii) require the deposit of cash collateral in respect of LC Exposure as provided in Section 2.05(i), in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; and in the case of any event with respect to the Borrower described in clause (h) or (i) of this Article, the Commitments shall automatically terminate, the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrower hereunder, shall immediately and automatically become due and payable and the deposit of such cash collateral in respect of LC Exposure shall immediately and automatically become due, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

ARTICLE VII

The Administrative Agent

Each of the Lenders and the Issuing Banks hereby irrevocably appoints the entity named as Administrative Agent in the heading of this Agreement and its successors to serve as administrative agent and collateral agent under the Loan Documents, and authorizes the Administrative Agent to take such actions and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto. In addition, to the extent required under the laws of any jurisdiction other than the United States of America, each of the Lenders and the Issuing Banks hereby grants to the Administrative Agent any required powers of attorney to execute any Security Document governed by the laws of such jurisdiction on such Lender’s or Issuing Bank’s behalf.

The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender or an Issuing Bank as any other

Lender or Issuing Bank and may exercise the same as though it were not the Administrative Agent, and such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders or the Issuing Banks.

The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing (and it is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law, and that such term is used as a matter of market custom and is intended to create or reflect only an administrative relationship between contracting parties), (b) the Administrative Agent shall not have any duty to take any discretionary action or to exercise any discretionary power, except discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion, could expose the Administrative Agent to liability or be contrary to any Loan Document or applicable law, and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower, any Subsidiary or any other Affiliate of any of the foregoing that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents) or in the absence of its own gross negligence or wilful misconduct (such absence to be presumed unless otherwise determined by a court of competent jurisdiction by a final and non-appealable judgment). The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof (stating that it is a "notice of default") is given to the Administrative Agent by the Borrower, a Lender or an Issuing Bank, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made or deemed made in or in connection with any Loan Document, (ii) the contents of any certificate (including any Borrowing Base Form), report or other document delivered thereunder or in connection therewith, including with respect to the existence and aggregate amount of Designated Secured Other Obligations at any time, (iii) the performance or observance of any of the covenants, agreements or other terms or

conditions set forth in any Loan Document or the occurrence of any Default, (iv) the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to the Administrative Agent. Notwithstanding anything herein to the contrary, the Administrative Agent shall not have any liability arising from any confirmation of the Revolving Exposure or the component amounts thereof.

The Administrative Agent shall be entitled to rely, and shall not incur any liability for relying, upon any notice, request, certificate (including any Borrowing Base Form), 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 (including that any electronic transmission sent from the email address of a Financial Officer of the Borrower set forth on Schedule 9.01(b) was sent by such Financial Officer) by the proper Person (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the signatory, sender or authenticator thereof). The Administrative Agent also shall be entitled to rely, and shall not incur any liability for relying, upon any statement made to it orally or by telephone and believed by it to be made by the proper Person (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof), and may act upon any such statement prior to receipt of written confirmation thereof. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, the Administrative Agent may presume that such condition is satisfactory to such Lender or Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or Issuing Bank prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any of and all its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any of and all their duties and exercise their rights and powers 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 and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Subject to the terms of this paragraph, the Administrative Agent may resign at any time from its capacity as such. In connection with such resignation, the Administrative Agent shall give notice of its intent to resign to the Lenders, the Issuing Banks and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its intent to resign, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Banks, in consultation with the Borrower, appoint a successor Administrative Agent, which shall be a bank with an office in New York, New York, or an Affiliate of any such bank. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed by the Borrower and such successor. Following the effectiveness of the Administrative Agent's resignation from its capacity as such, the provisions of this Article and Section 9.03, as well as any exculpatory, reimbursement and indemnification provisions set forth in any other Loan Document, shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent and in respect of the matters referred to in the proviso under clause (a) above.

Each Lender and Issuing Bank acknowledges that it has, independently and without reliance upon the Administrative Agent, the Arrangers or any other Lender or Issuing Bank, or any of the Related Parties of any of the foregoing, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and Issuing Bank also acknowledges that it will, independently and without reliance upon the Administrative Agent, the Arrangers or any other Lender or Issuing Bank, or any of the Related Parties of any of the foregoing, and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Each Lender, by delivering its signature page to this Agreement and funding its Loans on the Original Effective Date, or delivering its signature page to an Assignment and Assumption or an Incremental Facility Agreement pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Original Effective Date.

Each Lender hereby agrees that (a) it has requested a copy of each Report prepared by or on behalf of the Administrative Agent; (b) the Administrative Agent (i) makes no representation or warranty, express or implied, as to the completeness or accuracy of any Report or any of the information contained therein or any inaccuracy or omission contained in or relating to any Report and (ii) shall not be liable for any information contained in any Report; (c) the Reports are not comprehensive audits or examinations, and that any Person performing any field examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel, and that the Administrative Agent undertakes no obligation to update, correct or supplement the Reports; (d) it will keep all Reports confidential and strictly for its internal use and not share any Report with any other Person except as otherwise permitted pursuant to this Agreement; and (e) without limiting the generality of any other indemnification provision contained in this Agreement, it will pay and protect, and indemnify, defend, and hold the Administrative Agent, each other Person preparing a Report and the Related Parties of any of the foregoing harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including reasonable attorney fees) incurred by any of them as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

Except with respect to a Lender's right to file a proof of claim in an insolvency proceeding, no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce any Guarantee of the Secured Obligations, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Administrative Agent on behalf of the Secured Parties in accordance with the terms thereof. In the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Administrative Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition, and the Administrative Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Loan Document Obligations as a credit on account of the purchase price for any collateral payable by the Administrative Agent on behalf of the Secured Parties at such sale or other disposition. Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Secured Obligations provided under the Loan Documents, to have agreed to the foregoing provisions.

In furtherance of the foregoing and not in limitation thereof, no Hedging Agreement the obligations under which constitute Secured Obligations will create (or be deemed to create) in favor of any Secured Party that is a party thereto any rights in connection with the management or release of any Collateral or of the obligations of any Loan Party under any Loan Document. By accepting the benefits of the Collateral, each

Secured Party that is a party to any such Hedging Agreement shall be deemed to have appointed the Administrative Agent to serve as administrative agent and collateral agent under the Loan Documents and agreed to be bound by the Loan Documents as a Secured Party thereunder, subject to the limitations set forth in this paragraph.

The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

In case of the pendency of any proceeding with respect to any Loan Party under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, the Administrative Agent (irrespective of whether the principal of any Loan or any LC Disbursement 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 (but not obligated) 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, LC Exposure and all other Secured Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim under Sections 2.11, 2.12, 2.14, 2.15, 2.16 and 9.03) 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 proceeding is hereby authorized by each Lender, each Issuing Bank and each other Secured Party to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, the Issuing Banks or the other Secured Parties, to pay to the Administrative Agent any amount due to it, in its capacity as the Administrative Agent, under the Loan Documents (including under Section 9.03).

Notwithstanding anything herein to the contrary, neither the Arrangers nor the Person named on the cover page of this Agreement as the Co-Documentation Agents shall have any duties or obligations under this Agreement or any other Loan Document (except in its capacity, as applicable, as a Lender or an Issuing Bank), but all such Persons shall have the benefit of the indemnities provided for hereunder.

ARTICLE VIII

Miscellaneous

SECTION 9.01. Notices. (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (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 fax, as follows:

(i) if to the Borrower, to it at Pandora Media, Inc., 2101 Webster Street, Suite 1650, Oakland, CA 94612, Attention of Mike Herring, Chief Financial Officer (Fax No. 510-842-7940; email: mherring@pandora.com), with a copy to Pamela Martinson, Sidley Austin LLP, 1001 Page Mill road Building 1, Paolo Alto, CA 94304, Attention of Pamela Martinson (Fax No. 650-565-7100; email: pmartinson@sidley.com);

(ii) if to the Administrative Agent, to JPMorgan Chase Bank, N.A., Loan and Agency Services Group, 1111 Fannin, 10th Floor, Houston, Texas 77002, Attention of Brian Lunger (Fax No. 302-634-3301); email: 12012443629@tls.ldsprod.com, with a copy to JPMorgan Chase Bank, N.A., 383 Madison Avenue, New York, York 10179, Attention of Robert D. Bryant (Fax No. 212-270-5100);

(iii) if to any Issuing Bank, to it at its address (or fax number) most recently specified by it in a notice delivered to the Administrative Agent and the Borrower (or, in the absence of any such notice, to the address (or fax number) set forth in the Administrative Questionnaire of the Lender that is serving as such Issuing Bank or is an Affiliate thereof); and

(iv) if to any other Lender, to it at its address (or fax number) set forth 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 fax or electronic mail 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); and notices delivered through electronic communications to the extent provided in paragraph (b) below shall be effective as provided in such paragraph.

(b) Notwithstanding anything herein to the contrary, notices and other communications to the Lenders and Issuing Banks hereunder may be delivered or furnished by electronic communications (including email and Internet and intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices under Article II to any Lender or Issuing Bank if such Lender or Issuing

Bank, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. Notwithstanding the foregoing sentence, any confirmation of a Borrowing Request or Interest Election Request pursuant to Section 2.03 or 2.07, as the case may be, and any notice or other communication pursuant to Section 2.10 that, in each case, is permitted to be made by the Borrower by electronic transmission thereof to the Administrative Agent may be so made if such electronic transmission is made to the electronic mail address of the Administrative Agent specified in paragraph (a) of this Section and such electronic transmission is made from an electronic mail address of a Financial Officer of the Borrower specified on Schedule 9.01(b). Any other notices or other communications to the Administrative Agent or the Borrower may be delivered or furnished by electronic communications pursuant to procedures approved by the recipient thereof prior thereto (it being understood that the Administrative Agent has approved the procedures described in the foregoing sentence); provided that such approval of such procedures may be limited or rescinded by any such Person by notice to each other Person. The Borrower may amend Schedule 9.01(b) from time to time upon five Business Days prior notice to the Administrative Agent (which notice may be made by electronic transmission in accordance with this Section 9.01(b)).

(c) Any party hereto may change its address, fax number or electronic mail address for notices and other communications hereunder by notice to the other parties hereto.

(d) The Borrower agrees that the Administrative Agent may, but shall not be obligated to, make any Communication by posting such Communication on Debt Domain, Intralinks, Syndtrak or a similar electronic transmission system (the "Platform"). The Platform is provided "as is" and "as available". Neither the Administrative Agent nor any of its Related Parties warrants, or shall be deemed to warrant, the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. 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, or shall be deemed to be made, by the Administrative Agent or any of its Related Parties in connection with the Communications or the Platform.

SECTION 9.02. Waivers; Amendments. (a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall

be effective only in the specific instance and for the specific purpose for which given. Without limiting the generality of the foregoing, the execution and delivery of this Agreement, the making of a Loan or the issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Except as provided in Section 2.20 and in the Collateral Agreement and except for any modifications to the Borrowing Base, or any component thereof, made by the Administrative Agent in accordance with the terms hereof, none of this Agreement, any other Loan Document or any provision hereof or thereof may be waived, amended or modified except, in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders and, in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, in each case with the consent of the Required Lenders, provided that (i) any provision of this Agreement or any other Loan Document may be amended by an agreement in writing entered into by the Borrower and the Administrative Agent to cure any ambiguity, omission, defect or inconsistency so long as, in each case, the Lenders shall have received at least five Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment and (ii) no such agreement shall (A) increase the Commitment of any Lender without the written consent of such Lender, (B) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon (other than as a result of any waiver of any increase in the interest rate applicable to any Loan pursuant to Section 2.12(c)), or reduce any fees payable hereunder, without the written consent of each Lender affected thereby, (C) postpone the scheduled maturity date of any Loan, or the required date of reimbursement of any LC Disbursement, or any date for the payment of any interest or fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, (D) change Section 2.17(b) or 2.17(d) in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender, provided that any Lender may waive the benefits of Section 2.17(d) with respect to any particular payment or type of payment received or collected by any other Lender without the consent of any other Lender, (E) change any of the provisions of this Section or the percentage set forth in the definition of the term "Required Lenders" or "Supermajority Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender; provided that, with the consent of the Required Lenders, the provisions of this Section and the definition of the term "Required Lenders" or "Supermajority Lenders" may be amended to include references to any new class of loans created under this Agreement (or to lenders extending such loans) on substantially the same basis as the corresponding references relating to the existing Loans or Lenders, (F) release any material Subsidiary Loan Party from its Guarantee under the Collateral Agreement (except as expressly provided in Section 9.14 or the

Collateral Agreement (including any such release by the Administrative Agent in connection with any sale or other disposition of any Subsidiary upon the exercise of remedies under the Security Documents)), or limit its liability in respect of such Guarantee, without the written consent of each Lender, it being understood that an amendment or other modification of the type of obligations guaranteed under the Collateral Agreement shall not be deemed to be a release or limitation of any Guarantee, (G) release all or substantially all the Collateral from the Liens of the Security Documents, without the written consent of each Lender (except as expressly provided in Section 9.14 or the applicable Security Document (including any such release by the Administrative Agent in connection with any sale or other disposition of the Collateral upon the exercise of remedies under the Security Documents), it being understood that an amendment or other modification of the type of obligations secured by the Security Documents shall not be deemed to be a release of the Collateral from the Liens of the Security Documents), (H) increase the advance rate set forth in the definition of the term "Borrowing Base" without the written consent of each Lender and (I) add categories of eligible assets other than Eligible Accounts without the written consent of the Supermajority Lenders; provided further that no such agreement shall amend, modify, extend or otherwise affect the rights or obligations of the Administrative Agent or any Issuing Bank without the prior written consent of the Administrative Agent or such Issuing Bank, as the case may be. Notwithstanding the foregoing, no consent with respect to any amendment, waiver or other modification of this Agreement or any other Loan Document shall be required of (x) any Defaulting Lender, except with respect to any amendment, waiver or other modification referred to in clause (A), (B) or (C) of clause (ii) of the first proviso of this paragraph and then only in the event such Defaulting Lender shall be affected by such amendment, waiver or other modification or (y) in the case of any amendment, waiver or other modification referred to in clause (ii) of the first proviso of this paragraph, any Lender that receives payment in full of the principal of and interest accrued on each Loan made by, and all other amounts owing to, such Lender or accrued for the account of such Lender under this Agreement and the other Loan Documents at the time such amendment, waiver or other modification becomes effective and whose Commitment terminates by the terms and upon the effectiveness of such amendment, waiver or other modification.

(c) The Administrative Agent may, but shall have no obligation to, with the concurrence of any Lender, execute amendments, waivers or other modifications on behalf of such Lender. Any amendment, waiver or other modification effected in accordance with this Section 9.02 shall be binding upon each Person that is at the time thereof a Lender and each Person that subsequently becomes a Lender.

SECTION 9.03. Expenses; Indemnity; Damage Waiver. (a) The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent, the Co-Documentation Agents and their Affiliates, including the reasonable fees, charges and disbursements of counsel for any of the foregoing, in connection with the structuring, arrangement and syndication of the credit facilities provided for herein and any credit or similar facility refinancing or replacing, in whole or in part, any of the credit facilities provided for herein, including the preparation, execution and delivery of the Engagement Letter, as well as the preparation, execution, delivery and administration of

this Agreement, the other Loan 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), including fees and expenses relating to field examinations, appraisals and collateral monitoring, (ii) all reasonable and documented out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket and documented expenses incurred by the Administrative Agent, any Issuing Bank or any Lender, including the reasonable fees, charges and disbursements of any counsel for any of the foregoing, in connection with the enforcement or protection of its rights in connection with the Loan Documents, including its rights under this Section, or 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 or incurred in connection with the liquidation of the Collateral.

(b) The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), the Arrangers, the Co-Documentation Agents, each Lender and Issuing Bank, 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, penalties, liabilities and related expenses, including the fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the structuring, arrangement and the syndication of the credit facilities provided for herein, the preparation, execution, delivery and administration of the Engagement Letter, this Agreement, the other Loan Documents or any other agreement or instrument contemplated hereby or thereby, the performance by the parties to the Engagement Letter, this Agreement or the other Loan Documents of their obligations thereunder or the consummation of the Transactions or any other transactions contemplated thereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by any Issuing Bank 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 actual or alleged presence or Release of Hazardous Materials on or from any Mortgaged Property or any other property currently or formerly owned or operated by the Borrower or any Subsidiary, or any Environmental Liability to the extent related in any way to the Borrower or any Subsidiary, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and whether initiated against or by any party to the Engagement Letter, this Agreement or any other Loan Document, any Affiliate of any of the foregoing or any third party (and regardless of whether any Indemnitee is a party thereto); provided that such indemnity shall not, as to any Indemnitee, be available (i) to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from (x) the gross negligence or wilful misconduct of such Indemnitee or any of its Related Parties or (y) a material breach of the obligations of such Indemnitee or any of its Related Parties under this Agreement or any other Loan Document or (ii) in any proceeding that does not involve an act or omission by the Borrower or any of its Affiliates and is brought by an Indemnitee against any other Indemnitee other

than the Administrative Agent or any Issuing Bank in its capacity as such. This paragraph shall not apply with respect to Taxes, other than any Taxes that represent losses or damages arising from any non-Tax claim.

(c) To the extent that the Borrower fails to pay indefeasibly any amount required to be paid by them under paragraph (a) or (b) of this Section to the Administrative Agent (or any sub-agent thereof), any Issuing Bank or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such Issuing Bank or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or such sub-agent), such Issuing Bank in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or any Issuing Bank in connection with such capacity. For purposes of this Section, a Lender's "pro rata share" shall be determined based upon its share of the sum of the total Revolving Exposures and unused Commitments at the time (or most recently outstanding and in effect).

(d) To the extent permitted by applicable law, the Borrower shall not assert, or permit any of its Affiliates or Related Parties to assert, and each hereby waives, any claim against any Indemnitee (i) for any damages arising from the use by others of information or other materials obtained through telecommunications, electronic or other information transmission systems (including the Internet), or (ii) 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 Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof.

(e) All amounts due under this Section shall be payable promptly after written demand therefor.

SECTION 9.04. Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section), the Arrangers, the Co-Documentation Agents and, to the extent expressly contemplated hereby, the sub-agents of

the Administrative Agent and the Related Parties of any of the Administrative Agent, the Arrangers, the Co-Documentation Agents, any Issuing Bank and any Lender) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Borrower; provided that no consent of the Borrower shall be required (1) for an assignment to a Lender and (2) if an Event of Default has occurred and is continuing, for any other assignment; provided further that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within 10 Business Days after having received written notice thereof;

(B) the Administrative Agent; and

(C) each Issuing Bank.

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

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $5,000,000 unless each of the Borrower and the Administrative Agent otherwise consents; provided that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing; provided further that the Borrower shall be deemed to have consented thereto unless it shall object thereto by written notice to the Administrative Agent within 10 Business Days after having received written notice thereof;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500, provided that only one such processing and recordation fee shall be payable in the event of simultaneous

assignments from any Lender or its Approved Funds to one or more other Approved Funds of such Lender; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain MNPI) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable law, including Federal, State and foreign securities laws.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(v) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 9.04(c).

(iv) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and records of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive in the absence of manifest error, and the Borrower, the Administrative Agent, the Issuing Banks and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and, as to entries pertaining to it, any Issuing Bank or Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon receipt by the Administrative Agent of an Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder) and the processing and recordation fee referred to in this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that the Administrative Agent shall not be required to accept such Assignment and Assumption or so record the information

contained therein if the Administrative Agent reasonably believes that such Assignment and Assumption lacks any written consent required by this Section or is otherwise not in proper form, it being acknowledged that the Administrative Agent shall have no duty or obligation (and shall incur no liability) with respect to obtaining (or confirming the receipt) of any such written consent or with respect to the form of (or any defect in) such Assignment and Assumption, any such duty and obligation being solely with the assigning Lender and the assignee. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph, and following such recording, unless otherwise determined by the Administrative Agent (such determination to be made in the sole discretion of the Administrative Agent, which determination may be conditioned on the consent of the assigning Lender and the assignee), shall be effective notwithstanding any defect in the Assignment and Assumption relating thereto. Each assigning Lender and the assignee, by its execution and delivery of an Assignment and Assumption, shall be deemed to have represented to the Administrative Agent that all written consents required by this Section with respect thereto (other than the consent of the Administrative Agent) have been obtained and that such Assignment and Assumption is otherwise duly completed and in proper form, and each assignee, by its execution and delivery of an Assignment and Assumption, shall be deemed to have represented and warranted to the assigning Lender and the Administrative Agent that such assignee is an Eligible Assignee. It is understood and agreed that the Administrative Agent and each assignor Lender shall be entitled to rely, and shall incur no liability for relying, upon the representations and warranties of an assignee set forth in this Section 9.04(b)(v) and in the applicable Assignment and Assumption (and that no assignment or transfer by any Lender made hereunder shall be set aside or deemed to be invalid on account of any such representation or warranty being inaccurate), provided that the foregoing shall not be construed as a waiver by the Borrower of any rights it might have against the assignee on account of the inaccuracy of any representation or warranty set forth in clause (A) above.

(c) Any Lender may, without the consent of the Borrower, the Administrative Agent or any Issuing Bank, sell participations to one or more Eligible Assignees ("Participants") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and Loans of any Class); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clauses (ii)(A), (B), (C), (F), (G), (H) and (I) of the first proviso to Section 9.02(b) that affects such Participant or that requires the approval

of all the Lenders. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.14, 2.15 and 2.16 (subject to the requirements and limitations therein, including the requirements under Section 2.16(f) (it being understood that the documentation required under Section 2.16(f) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 2.16, 2.17(d) and 2.18 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Section 2.14 or 2.16, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.17(d) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant to which it has sold a participation and the principal amounts (and stated interest) of each such Participant's interest in the Loans or other rights and obligations of such Lender under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Loans or other rights and obligations under this Agreement) except to the extent that such disclosure is necessary to establish that such Loan or other right or obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive 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 Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

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

SECTION 9.05. Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any

such other party or on its behalf and notwithstanding that the Administrative Agent, the Arrangers, the Co-Documentation Agents, any Issuing Bank, any Lender or any Affiliate of any of the foregoing may have had notice or knowledge of any Default or incorrect representation or warranty at the time any Loan Document is executed and delivered or any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any LC Exposure is outstanding and so long as the Commitments have not expired or terminated. Notwithstanding the foregoing or anything else to the contrary set forth in this Agreement or any other Loan Document, in the event that, in connection with the refinancing or repayment in full of the credit facilities provided for herein, an Issuing Bank shall have provided to the Administrative Agent a written consent to the release of the Lenders from their obligations hereunder with respect to any Letter of Credit issued by such Issuing Bank (whether as a result of the obligations of the Borrower (and any other account party) in respect of such Letter of Credit having been collateralized in full by a deposit of cash with such Issuing Bank, or being supported by a letter of credit that names such Issuing Bank as the beneficiary thereunder, or otherwise), then from and after such time such Letter of Credit shall cease to be a "Letter of Credit" outstanding hereunder for all purposes of this Agreement and the other Loan Documents, and the Lenders shall be deemed to have no participations in such Letter of Credit, and no obligations with respect thereto, under Section 2.05(d) or 2.05(f). The provisions of Sections 2.14, 2.15, 2.16, 2.17(f) and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

SECTION 9.06. Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan 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. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 9.07. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and Issuing Bank, and each Affiliate of any of the foregoing, 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) or other amounts at any time held and other obligations (in whatever currency) at any time owing by such Lender or Issuing Bank, or by such an Affiliate, to or for the credit or the account of the Borrower against any of and all the obligations then due of the Borrower now or hereafter existing under this Agreement held by such Lender or Issuing Bank, irrespective of whether or not such Lender or Issuing Bank shall have made any demand under this Agreement. The applicable Lender, Issuing Bank or Affiliate of any of the foregoing shall notify the Borrower and the Administrative Agent of such set-off or application promptly following such action, provided that any failure to so notify shall not affect the validity of any such setoff. The rights of each Lender and Issuing Bank, and each Affiliate of any of the foregoing, under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, Issuing Bank or Affiliate may have.

SECTION 9.09. Governing Law; Jurisdiction; Consent to Service of Process. (a) This Agreement shall be construed in accordance with and governed by the law of the State of New York.

(b) The Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding shall be heard and determined in such New York State or, to the extent permitted by 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 Agreement or any other Loan Document shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or any of its properties in the courts of any jurisdiction.

(c) The Borrower hereby irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan 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 law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality. Each of the Administrative Agent, the Lenders and the Issuing Banks agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Related Parties, including accountants, legal counsel and other agents and advisors, 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 law or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies under this Agreement or any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing confidentiality undertakings substantially similar to 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 Agreement or (ii) any actual or prospective counterparty (or its Related Parties) to any swap or derivative transaction relating to the Borrower or any Subsidiary and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, any Lender, any Issuing Bank or any Affiliate of any of the foregoing

on a nonconfidential basis from a source other than the Borrower. In addition, each of the Administrative Agent, the Lenders and the Issuing Banks may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent, the Lenders or the Issuing Banks in connection with the administration of this Agreement, the other Loan Documents and the Commitments. For purposes of this Section, "Information" means all information received from the Borrower relating to the Borrower or any Subsidiary or their businesses, other than any such information that is available to the Administrative Agent, any Lender or any Issuing Bank on a nonconfidential basis prior to disclosure by the Borrower unless, in the case of information received from the Borrower after the Original Effective Date, such information is clearly identified at the time of delivery as not including any confidential information. 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.

SECTION 9.13. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts that are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") that may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.14. Release of Liens and Guarantees. A Subsidiary Loan Party shall automatically be released from its obligations under the Loan Documents, and all security interests created by the Security Documents in Collateral owned by such Subsidiary Loan Party shall be automatically released, upon the consummation of any transaction permitted by this Agreement as a result of which such Subsidiary Loan Party ceases to be a Subsidiary; provided that, if so required by this Agreement, the Required Lenders shall have consented to such transaction and the terms of such consent shall not have provided otherwise. Upon any sale or other transfer by any Loan Party (other than to the Borrower or any Subsidiary Loan Party) of any Collateral in a transaction permitted under this Agreement, or upon the effectiveness of any written consent to the release of the security interest created under any Security Document in any Collateral pursuant to Section 9.02, the security interests in such Collateral created by the Security Documents shall be automatically released. In connection with any termination or release pursuant to this Section, the Administrative Agent shall execute and deliver to any Loan Party, at such

Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section shall be without recourse to or warranty by the Administrative Agent.

SECTION 9.15. USA PATRIOT Act Notice. Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with such Act.

SECTION 9.16. No Fiduciary Relationship. The Borrower, on behalf of itself and the Subsidiaries, agrees that in connection with all aspects of the transactions contemplated hereby and any communications in connection therewith, the Borrower, the Subsidiaries and their Affiliates, on the one hand, and the Administrative Agent, the Lenders, the Issuing Banks and their Affiliates, on the other hand, will have a business relationship that does not create, by implication or otherwise, any fiduciary duty on the part of the Administrative Agent, the Lenders, the Issuing Banks or their Affiliates, and no such duty will be deemed to have arisen in connection with any such transactions or communications. The Administrative Agent, the Arrangers, the Lenders, the Issuing Banks and their Affiliates may be engaged, for their own accounts or the accounts of customers, in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and none of the Administrative Agent, the Arrangers, the Lenders, the Issuing Banks or their Affiliates has any obligation to disclose any of such interests to the Borrower or any of its Affiliates. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it or any of its Affiliates may have against the Administrative Agent, the Arrangers, the Lenders, the Issuing Banks and their Affiliates with respect to any breach or alleged breach of fiduciary duty in connection with any aspect of any transaction contemplated hereby.

SECTION 9.17. Non-Public Information. (a) Each Lender acknowledges that all information, including requests for waivers and amendments, furnished by the Borrower or the Administrative Agent pursuant to or in connection with, or in the course of administering, this Agreement will be syndicate-level information, which may contain MNPI. Each Lender represents to the Borrower and the Administrative Agent that (i) it has developed compliance procedures regarding the use of MNPI and that it will handle MNPI in accordance with such procedures and applicable law, including Federal, state and foreign securities laws, and (ii) it has identified in its Administrative Questionnaire a credit contact who may receive information that may contain MNPI in accordance with its compliance procedures and applicable law, including Federal, state and foreign securities laws.

(b) The Borrower and each Lender acknowledge that, if information furnished by the Borrower pursuant to or in connection with this Agreement is being

distributed by the Administrative Agent through the Platform, (i) the Administrative Agent may post any information that the Borrower has indicated as not containing MNPI on that portion of the Platform as is designated for Public Side Lender Representatives and (ii) if the Borrower has not indicated whether any information furnished by it pursuant to or in connection with this Agreement contains MNPI, the Administrative Agent shall post such information solely on that portion of the Platform as is designated for Private Side Lender Representatives. The Borrower agrees to clearly designate all information provided to the Administrative Agent by or on behalf of the Borrower that is suitable to be made available to Public Side Lender Representatives, and the Administrative Agent shall be entitled to rely on any such designation by the Borrower without liability or responsibility for the independent verification thereof.

SECTION 9.18. Administrative Agent Controlled Account. Funds deposited by the Borrower in the Administrative Agent Controlled Account shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over the Administrative Agent Controlled Account; provided that the Administrative Agent may, in its Permitted Discretion, permit the Borrower to withdraw funds from the Administrative Agent Controlled Account so long as no Default or Event of Default has occurred or is continuing or would result therefrom, which permission shall not to be unreasonably withheld or delayed. Other than any interest earned on the investment of the deposits in the Administrative Agent Controlled Account, which investments shall be made in any Permitted Investments at the option and within the Permitted Discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Without limiting the Administrative Agent's discretion with respect to the Administrative Agent Controlled Account set forth above, upon the occurrence and during the continuance of an Event of Default, funds held in the Administrative Agent Controlled Account may be applied by the Administrative Agent as provided in the Collateral Agreement. The Administrative Agent agrees that (a) so long as no Event of Default shall have occurred and be continuing or would result therefrom (and, if requested by the Administrative Agent, the Borrower shall have delivered to the Administrative Agent a certificate of a Financial Officer of the Borrower to that effect) and (b) if any Loans or LC Exposure are outstanding under this Agreement (other than LC Exposure that has been cash collateralized), so long as no Cash Dominion Period shall be in effect or would result therefrom (assuming, for such purposes, that no additional funds are deposited in the Administrative Agent Controlled Account during the period of three consecutive days after giving effect thereto and all notices required to be given to commence the Cash Dominion Period shall have been given), upon request of the Borrower, the Administrative Agent shall permit the Borrower to withdraw funds from the Administrative Agent Controlled Account.

[Remainder of page intentionally left blank]

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

Exhibit 23.01

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements:

(1) Registration Statement (Form S-8 No. 333-175378) pertaining to the 2000 Stock Incentive Plan, 2004 Stock Plan, and 2011 Equity Incentive Plan of Pandora Media, Inc.,
(2) Registration Statement (Form S-8 No. 333-182212) pertaining to the 2011 Equity Incentive Plan of Pandora Media, Inc.,
(3) Registration Statement (Form S-8 No. 333-187340) pertaining to the 2011 Equity Incentive Plan of Pandora Media, Inc.,
(4) Registration Statement (Form S-8 No. 333-193612) pertaining to the 2011 Equity Incentive Plan and 2014 Employee Stock Purchase Plan of Pandora Media, Inc.,
(5) Registration Statement (Form S-8 No. 333-202029) pertaining to the 2011 Equity Incentive Plan of Pandora Media, Inc.,
(6) Registration Statement (Form S-8 No. 333-208005) pertaining to the Options to purchase stock granted under the Ticketfly, Inc. 2008 Stock Plan and restricted stock units granted under the Ticketfly, Inc. 2008 Stock Plan, and assumed by Pandora Media, Inc., and
(7) Registration Statement (Form S-8 No. 333-208006) pertaining to the 2011 Equity Incentive Plan of Pandora Media, Inc.

of our reports dated February 18, 2016, with respect to the consolidated financial statements of Pandora Media, Inc. and the effectiveness of internal control over financial reporting of Pandora Media, Inc. included in this Annual Report (Form 10-K) for the twelve months ended December 31, 2015.

/s/ Ernst & Young LLP

San Francisco, California
February 18, 2016

Exhibit 31.01

Certification of Principal Executive Officer
Pursuant to Section 302 of Sarbanes-Oxley Act of 2002

I, Brian McAndrews, certify that:

1. I have reviewed this Annual Report on Form 10-K of Pandora Media, Inc.;

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

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

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

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report, based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

February 18, 2016

/s/ Brian McAndrews

Name: Brian McAndrews

Title: *Chief Executive Officer, President and Chairman of the Board (Principal Executive Officer)*

Exhibit 31.02

Certification of Principal Financial Officer
Pursuant to Section 302 of Sarbanes-Oxley Act of 2002

I, Michael S. Herring, certify that:

1. I have reviewed this Annual Report on Form 10-K of Pandora Media, Inc.;

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

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

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

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report, based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

February 18, 2016

/s/ Michael S. Herring

Name: Michael S. Herring

Title: *Executive Vice President and Chief Financial Officer (Principal Financial Officer)*

Exhibit 32.01

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER AND PRINCIPAL FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF SARBANES-OXLEY ACT OF 2002

The certification set forth below is being submitted in connection with this Annual Report on Form 10-K for the twelve months ended December 31, 2015 (the "Report") for the purpose of complying with Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Section 1350 of Chapter 63 of Title 18 of the United States Code.

Each of the undersigned certifies that, to his knowledge:

1. the Report fully complies with the requirements of Section 13(a) or 15(d) of the Exchange Act; and

2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Pandora Media, Inc.

February 18, 2016

/s/ Brian McAndrews

Name: Brian McAndrews

Title: *Chief Executive Officer, President and Chairman of the Board (Principal Executive Officer)*

/s/ Michael S. Herring

Name: Michael S. Herring

Title: *Executive Vice President and Chief Financial Officer (Principal Financial Officer)*

This certification accompanying the Report is not deemed filed with the Securities and Exchange Commission for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities such Section, and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before, on or after the date of the Report), irrespective of any general incorporation language contained in such filing.