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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

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

For the quarterly period ended September 30, 2008

Commission file number 0-24710

SIRIUS XM RADIO INC.
(Exact name of registrant as specified in its charter)

Delaware	**52-1700207**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

1221 Avenue of the Americas, 36th Floor
New York, New York 10020
(Address of principal executive offices)
(Zip code)

212-584-5100
(Registrant's telephone number, including area code)

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

Large Accelerated Filer ☒ Accelerated Filer ☐ Non-Accelerated Filer ☐ Smaller reporting company ☐

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

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

(Class)	**(Outstanding as of November 10, 2008)**
Common Stock, $0.001 par value	3,513,400,974

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SIRIUS XM RADIO INC. AND SUBSIDIARIES

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ITEM 1. FINANCIAL STATEMENTS

SIRIUS XM RADIO INC. AND SUBSIDIARIES

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(in thousands, except per share data)	Three months ended September 30, 2008	Three months ended September 30, 2007	Nine months ended September 30, 2008	Nine months ended September 30, 2007
Revenue:				
Subscriber revenue, including effects of rebates	$ 456,357	$ 226,844	$ 978,516	$ 627,275
Advertising revenue, net of agency fees	14,674	8,524	31,413	24,422
Equipment revenue	11,271	6,290	25,290	17,216
Other revenue	6,141	128	6,590	3,337
Total revenue	488,443	241,786	1,041,809	672,250
Operating expenses (depreciation and amortization shown separately below)(1)				
Cost of services:				
Satellite and transmission	19,526	7,409	34,800	22,732
Programming and content	106,037	59,015	222,975	173,324
Revenue share and royalties	85,592	32,978	177,635	89,953
Customer service and billing	47,432	21,058	97,218	64,529
Cost of equipment	13,773	6,086	28,007	19,930
Sales and marketing	63,637	38,488	151,237	126,348
Subscriber acquisition costs	86,616	101,798	257,832	307,580
General and administrative	57,310	44,837	148,555	118,651
Engineering, design and development	10,434	9,736	28,091	33,397
Impairment of goodwill	4,750,859	—	4,750,859	—
Depreciation and amortization	66,774	26,072	120,793	79,142
Restructuring and related costs	7,430	—	7,457	—
Total operating expenses	5,315,420	347,477	6,025,459	1,035,586
Loss from operations	(4,826,977)	(105,691)	(4,983,650)	(363,336)

SIRIUS XM RADIO INC. AND SUBSIDIARIES

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS—(Continued)

(in thousands, except per share data)	Three months ended September 30, 2008	Three months ended September 30, 2007	Nine months ended September 30, 2008	Nine months ended September 30, 2007
Other income (expense)				
Interest and investment income	4,940	5,604	9,167	16,399
Interest expense, net of amounts capitalized	(49,216)	(19,499)	(83,636)	(50,441)
Equity in net loss of equity method investment	(3,089)	—	(3,089)	—
Other (expense) income	(3,870)	4	(3,935)	14
Total other expense	(51,235)	(13,891)	(81,493)	(34,028)
Loss before income taxes	(4,878,212)	(119,582)	(5,065,143)	(397,364)
Income tax expense	(1,215)	(555)	(2,301)	(1,665)
Net loss	$ (4,879,427)	$ (120,137)	$ (5,067,444)	$ (399,029)
Net loss per common share (basic and diluted)	$ (1.93)	$ (0.08)	$ (2.76)	$ (0.27)
Weighted average common shares outstanding (basic and diluted)	2,527,692	1,464,147	1,836,834	1,461,200

(1) Amounts related to share-based payment expense included in operating expenses were as follows:

Satellite and transmission	$ 1,331	$ 557	$ 2,887	$ 1,834
Programming and content	3,529	2,707	7,477	6,857
Customer service and billing	596	166	1,137	543
Sales and marketing	3,672	6,575	11,376	15,068
Subscriber acquisition costs	—	800	14	2,687
General and administrative	12,904	10,953	36,359	34,056
Engineering, design and development	1,973	969	4,167	2,959
Total share-based payment expense	$ 24,005	$ 22,727	$ 63,417	$ 64,004

See accompanying Notes to the unaudited condensed consolidated financial statements.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS

(in thousands, except share and per share data)	September 30, 2008 (Unaudited)	December 31, 2007
ASSETS		
Current assets:		
Cash and cash equivalents	$ 359,657	$ 438,820
Accounts receivable, net of allowance for doubtful accounts of $10,431 and $4,608, respectively	76,284	44,068
Receivables from distributors	51,610	60,004
Inventory, net	31,935	29,537
Prepaid expenses	84,448	31,392
Related party current assets	109,734	—
Restricted investments	—	35,000
Other current assets	25,096	40,036
Total current assets	738,764	678,857
Property and equipment, net	1,700,279	806,263
FCC licenses	2,083,654	83,654
Restricted investments, net of current portion	141,250	18,000
Deferred financing fees, net	45,969	13,864
Intangible assets, net	694,212	—
Goodwill	1,875,645	—
Related party long-term assets, net of current portion	129,351	—
Other long-term assets	93,950	93,511
Total assets	$ 7,503,074	$ 1,694,149
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current liabilities:		
Accounts payable and accrued expenses	$ 823,022	$ 464,943
Accrued interest	51,084	24,772
Deferred revenue	881,710	548,330
Current maturities of long-term debt	572,646	35,801
Related party current liabilities	75,618	—
Total current liabilities	2,404,080	1,073,846
Long-term debt, net of current portion	2,800,107	1,278,617
Deferred revenue, net of current portion	287,067	110,525
Deferred credit on executory contracts	1,091,599	—
Other long-term liabilities	904,472	23,898
Total liabilities	7,487,325	2,486,886

SIRIUS XM RADIO INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS—(Continued)

(in thousands, except share and per share data)	September 30, 2008 (Unaudited)	December 31, 2007
Commitments and contingencies (Note 14)	—	—
Stockholders' equity (deficit):		
Series A convertible preferred stock, par value $0.001 (liquidation preference of $51,370 and $0 at September 30, 2008 and December 31, 2007, respectively); 50,000,000 authorized at September 30, 2008 and December 31, 2007, 24,808,959 and zero shares issued and outstanding at September 30, 2008 and December 31, 2007, respectively	25	—
Common stock, par value $0.001; 4,500,000,000 and 2,500,000,000 shares authorized at September 30, 2008 and December 31, 2007, respectively; 3,250,404,357 and 1,471,143,570 shares issued and outstanding at September 30, 2008 and December 31, 2007, respectively	3,250	1,471
Accumulated other comprehensive loss, net of tax	(764)	—
Additional paid-in capital	9,479,654	3,604,764
Accumulated deficit	(9,466,416)	(4,398,972)
Total stockholders' equity (deficit)	15,749	(792,737)
Total liabilities and stockholders' equity (deficit)	$ 7,503,074	$ 1,694,149

See accompanying Notes to the unaudited condensed consolidated financial statements.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)

(in thousands, except share data)	Series A Convertible Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Stockholders' Equity (Deficit)
	Shares	Amount	Shares	Amount				
Balance at December 31, 2007	—	$ —	1,471,143,570	$ 1,471	$ 3,604,764	$ (4,398,972)	$ —	$ (792,737)
Net loss	—	—	—	—	—	(5,067,444)	—	(5,067,444)
Other comprehensive income:								
Unrealized gain (loss) on available-for-sale securities, net of zero tax benefit	—	—	—	—	—	—	(307)	(307)
Foreign currency translation adjustment	—	—	—	—	—	—	(457)	(457)
Total comprehensive loss								(5,068,208)
Common stock issued to XM Satellite Radio Holdings stockholders	—	—	1,440,858,219	1,441	5,459,412	—	—	5,460,853
Restricted common stock issued to XM Satellite Radio Holdings stockholders	—	—	29,739,201	30	66,598	—	—	66,628
Issuance of common stock to employees and employee benefit plans, net of forfeitures	—	—	4,029,282	4	10,484	—	—	10,488
Issuance of common stock issued under share borrow agreements	—	—	262,399,983	262	—	—	—	262
Series A convertible preferred stock issued to XM Satellite Radio Holdings stockholders	24,808,959	25	—	—	47,070	—	—	47,095
Compensation in connection with the issuance of stock-based awards	—	—	—	—	48,657	—	—	48,657

SIRIUS XM RADIO INC. AND SUBSIDIARIES

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)—(Continued)

(in thousands, except share data)	Series A Convertible Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Stockholders' Equity (Deficit)
	Shares	Amount	Shares	Amount				
Conversion of XM Satellite Radio Holdings vested stock-based awards	—	—	—	—	94,616	—	—	94,616
Conversion of XM Satellite Radio Holdings outstanding warrants	—	—	—	—	115,784	—	—	115,784
Exercise of options, $1.45 to $3.36 per share	—	—	117,442	—	208	—	—	208
Exercise of warrants, $2.392 per share	—	—	899,836	1	(1)	—	—	—
Exercise of XM Satellite Radio Holdings outstanding warrants			17,085,669	17	(17)			—
Exchange of 3 1/2% Convertible Notes due 2008, including accrued interest	—	—	24,131,155	24	33,478	—	—	33,502
Restricted shares withheld for tax upon vesting	—	—	—	—	(1,399)	—	—	(1,399)
Balance at September 30, 2008	24,808,959	$ 25	3,250,404,357	$ 3,250	$ 9,479,654	$ (9,466,416)	$ (764)	$ 15,749

See accompanying Notes to the unaudited condensed consolidated financial statements.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands)	Nine months ended September 30, 2008	2007
Cash flows from operating activities:		
Net loss	$(5,067,444)	$ (399,029)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	114,923	79,142
Goodwill Impairment	4,750,859	—
Non-cash interest expense, net of amortization of premium	(1,933)	2,452
Provision for doubtful accounts	11,125	6,663
Amortization of deferred income related to equity method investment	(471)	—
Loss on disposal of assets	4,879	92
Equity in net loss of equity method investment	3,089	—
Share-based payment expense	63,417	64,004
Deferred income taxes	2,301	1,665
Other	1,643	—
Changes in operating assets and liabilities net of effects of acquisition:		
Accounts receivable	1,575	(6,627)
Inventory	2,952	(2,533)
Receivables from distributors	9,595	(9,032)
Related party assets	(1,357)	—
Prepaid expenses and other current assets	3,528	14,571
Other long-term assets	37,110	(14,825)
Accounts payable and accrued expenses	(137,442)	(58,713)
Accrued interest	(2,810)	(7,826)
Deferred revenue	10,590	76,803
Related party liabilities	3,315	—
Other long-term liabilities and deferred credits on executory contracts	(26,436)	759
Net cash used in operating activities	(216,992)	(252,434)
Cash flows from investing activities:		
Additions to property and equipment	(102,705)	(66,801)
Sales of property and equipment	105	116
Purchases of restricted and other investments	(3,000)	(310)
Acquisition of acquired entity cash	819,521	—
Merger related costs	(13,047)	—
Sale of restricted and other investments	65,642	35,842
Net cash provided by (used in) investing activities	766,516	(31,153)

SIRIUS XM RADIO INC. AND SUBSIDIARIES

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS—(Continued)

(in thousands)	Nine months ended September 30, 2008	2007
Cash flows from financing activities:		
Proceeds from exercise of warrants and stock options	471	2,677
Long term borrowings, net of related costs	533,941	245,199
Payment of premiums on redemption of debt	(18,693)	—
Payments to minority interest holder	(1,479)	—
Repayment of long term borrowings	(1,142,829)	—
Other	(98)	—
Net cash (used in) provided by financing activities	(628,687)	247,876
Net decrease in cash and cash equivalents	(79,163)	(35,711)
Cash and cash equivalents at beginning of period	438,820	393,421
Cash and cash equivalents at end of period	$ 359,657	$ 357,710
Supplemental Disclosure of Cash and Non-Cash Flow Information:		
Cash paid during the period for:		
Interest, net of amounts capitalized	$ 91,309	$ 56,053
Income taxes	281	162
Non-cash operating activities:		
Common stock issued in satisfaction of accrued compensation	8,729	7,949
Non-cash investing and financing activities:		
Common stock issued in exchange of 3½% Convertible Notes due 2008, including accrued interest	33,502	2,923
Common stock issued in exchange of 2½% Convertible Notes due 2009, including accrued interest	—	2
Common stock issued to third parties	—	82,941
Equity issued in the acquisition of XM	5,784,976	—

See accompanying Notes to the unaudited condensed consolidated financial statements.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(Dollar amounts in thousands, unless otherwise stated)

(1) Business

We provide satellite radio in the United States. We broadcast music, sports, news, talk, entertainment, traffic and weather for a subscription fee through proprietary satellite radio systems—the SIRIUS system and the XM system. On July 28, 2008, our wholly owned subsidiary, Vernon Merger Corporation, merged (the "Merger") with and into XM Satellite Radio Holdings Inc. and, as a result, XM Satellite Radio Holdings Inc. is now our wholly owned subsidiary. The SIRIUS satellite radio system consists of three in-orbit satellites, approximately 120 terrestrial repeaters that receive and retransmit signals, satellite uplink facilities and studios. The XM satellite radio system consists of four in-orbit satellites, over 700 terrestrial repeaters that receive and retransmit signals, satellite uplink facilities and studios. Subscribers can also receive music channels and certain other channels over the internet.

SIRIUS and XM radios are primarily distributed through retailers; automakers, or OEMs; and through our websites. On September 30, 2008, SIRIUS and XM radios were available at more than 20,000 retail locations. We also have agreements with every major automaker, Acura/Honda, Aston Martin, Audi, Automobili Lamborghini, Bentley, BMW, Chrysler, Dodge, Ford, General Motors, Honda, Hyundai, Infiniti/Nissan, Jaguar, Jeep, Kia, Land Rover, Lincoln, Lexus/Toyota/Scion, Maybach, Mazda, Mercedes-Benz, Mercury, MINI, Mitsubishi, Rolls-Royce, Volvo and Volkswagen, to offer either SIRIUS or XM satellite radios as factory or dealer-installed equipment in their vehicles. SIRIUS and XM radios are also offered to customers of rental car companies, including Hertz and Avis.

As of September 30, 2008, we had 18,920,911 subscribers compared with 8,321,785 subscribers as of December 31, 2007 and 7,667,476 subscribers as of September 30, 2007. Our current subscriber total includes 9,716,070 XM subscribers that we acquired as a result of the Merger. Our subscriber totals include subscribers under our regular pricing plans; subscribers that have prepaid, including payments received from automakers for prepaid subscriptions included in the sale or lease price of a new vehicle; active SIRIUS radios under our agreement with Hertz; active XM radios under our agreement with Avis; and subscribers to SIRIUS Internet Radio and XM Internet Radio, our Internet services.

Our primary source of revenue is subscription fees, with most of our customers subscribing on an annual, semi-annual, quarterly or monthly basis. We offer discounts for pre-paid and long-term subscriptions as well as discounts for multiple subscriptions. We also derive revenue from activation fees, the sale of advertising on select non-music channels, the direct sale of satellite radios and accessories, and other ancillary services, such as our Backseat TV, data and weather services.

In certain cases, automakers include a subscription to our radio services in the sale or lease price of vehicles. The length of these prepaid subscriptions varies, but is typically three months to one year. In many cases, we receive subscription payments from automakers in advance of the activation of our service. We also reimburse various automakers for certain costs associated with satellite radios installed in their vehicles.

We also have an interest in the satellite radio services offered in Canada. SIRIUS Canada Inc. ("SIRIUS Canada"), a Canadian corporation that we jointly own with Canadian Broadcasting Corporation and Standard Radio Inc., offers a satellite radio service in Canada. SIRIUS Canada offers 120 channels of commercial-free music and news, sports, talk and entertainment programming, including 11 channels offering Canadian content. Canadian Satellite Radio Holdings Inc. ("XM Canada"), a Canadian corporation in which we have an ownership interest, also offers satellite radio service in Canada. XM Canada offers 130 channels of music and news, sports, talk and entertainment programming. Subscribers to the SIRIUS Canada service and the XM Canada service are not included in our subscriber count.

Sirius Satellite Radio Inc. was incorporated in the State of Delaware as Satellite CD Radio, Inc. on May 17, 1990. On December 7, 1992, Satellite CD Radio, Inc. changed its name to CD Radio Inc., and Satellite CD Radio, Inc. was formed as a wholly owned subsidiary. On November 18, 1999, CD Radio Inc. changed its name to Sirius Satellite Radio Inc.

On August 5, 2008, we changed our name from Sirius Satellite Radio Inc. to Sirius XM Radio Inc. XM Satellite Radio Holdings Inc., together with its subsidiaries, is operated as an unrestricted subsidiary under our existing indebtedness. As an unrestricted subsidiary, transactions between the companies are required to comply with various contractual provisions in our respective debt instruments.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
(Dollar amounts in thousands, unless otherwise stated)

Unless otherwise indicated,

- "we," "us," "our," the "company" and similar terms refer to Sirius XM Radio Inc. and its consolidated subsidiaries;
- "SIRIUS" refers to Sirius XM Radio Inc. and its consolidated subsidiaries, excluding XM Satellite Radio Holdings Inc. and XM Satellite Radio Inc.;
- "XM Holdings" refers to XM Satellite Radio Holdings Inc. and its consolidated subsidiaries, including XM Satellite Radio Inc.; and
- "XM" refers to XM Satellite Radio Inc. and its consolidated subsidiaries.

(2) Principles of Consolidation and Basis of Presentation

Principles of Consolidation

The accompanying unaudited condensed consolidated financial statements of Sirius XM Radio Inc. and subsidiaries have been prepared in accordance with U.S. generally accepted accounting principles, the instructions to Form 10-Q and Article 10 of Regulation S-X of the United States Securities and Exchange Commission ("SEC") for interim financial reporting. Accordingly, they do not include all of the information and footnotes required by U.S. generally accepted accounting principles for complete financial statements. We consolidate variable interest entities, as defined by Financial Accounting Standards Board ("FASB") Interpretation ("FIN") No. 46(R), *Consolidation of Variable Interest Entities, An Interpretation of ARB No. 51,* in which we are the primary beneficiary. All intercompany transactions have been eliminated in consolidation.

Basis of Presentation

In presenting unaudited condensed consolidated financial statements, management makes estimates and assumptions that affect the amounts reported and related disclosures. Additionally, estimates were used when recording the fair values of assets acquired and liabilities assumed in the Merger. Estimates, by their nature, are based on judgment and available information. Actual results could differ from those estimates. In the opinion of management, all normal recurring adjustments necessary for a fair presentation of the condensed consolidated financial statements as of September 30, 2008 and for the three and nine months ended September 30, 2008 and 2007 have been recorded.

The results of XM's operations have been included in the accompanying unaudited condensed consolidated financial statements of Sirius XM Radio Inc. from the date of the Merger. Although the effective date of the Merger was July 28, 2008, due to the immateriality of the results of operations for the period between July 28 and July 31, 2008, we have accounted for the Merger as if it had occurred on July 31, 2008 with the results and balances of XM Holdings included as of July 31, 2008.

Interim results are not necessarily indicative of the results that may be expected for a full year. This Quarterly Report on Form 10-Q should be read together with our Annual Report on Form 10-K for the year ended December 31, 2007, filed with the SEC on February 29, 2008, as amended by Amendment No. 1 on Form 10-K/A, filed with the SEC on April 29, 2008.

(3) Summary of Significant Accounting Policies

Revenue Recognition

We derive revenue primarily from subscribers, advertising and direct sales of merchandise. Revenue from subscribers consists of subscription fees; revenue derived from our agreement with Hertz; non-refundable activation fees; and the effects of rebates. Revenue is recognized as it is realized or realizable and earned.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

We recognize subscription fees as service is provided to the subscriber. Prepaid subscription fees are recorded as deferred revenue and amortized to revenue ratably over the term of the applicable subscription plan.

At the time of sale, vehicle owners purchasing or leasing a vehicle with a subscription to our service typically receive between a three-month and one-year prepaid subscription. Prepaid subscription fees received from automakers are recorded as deferred revenue and amortized to revenue ratably over the service period, upon activation and sale to a customer. We reimburse automakers for certain costs associated with the satellite radio installed in the applicable vehicle at the time the vehicle is manufactured. The associated payments to the automakers are included in Subscriber acquisition costs. Although we receive payments from the automakers, they do not resell our service; rather, automakers facilitate the sale of the service to their customers, acting similarly to an agent. In the opinion of management, this is the appropriate characterization of our relationship since we are responsible for providing the service to the customers, including being obligated to the customers in the case of an interruption of service.

Activation fees are recognized ratably over the estimated term of a subscriber relationship, currently estimated to be approximately 3.5 years. The estimated term of a subscriber relationship is based on market research and management's judgment and, if necessary, will be revised in the future.

As required by Emerging Issues Task Force ("EITF") No. 01-09,*Accounting for Consideration Given by a Vendor to a Customer (Including a Reseller of the Vendor's Products),* an estimate of rebates that are paid by us to subscribers is recorded as a reduction to revenue in the period the subscriber activates service. For certain rebate promotions, a subscriber must remain active for a specified period of time to be considered eligible. In those instances, the estimate is recorded as a reduction to revenue over the required activation period. We estimate the effects of mail-in rebates based on actual take-rates for rebate incentives offered in prior periods, adjusted as deemed necessary based on take-rate data available at the time. In subsequent periods, estimates are adjusted when necessary. For instant rebate promotions, we record the consideration paid to the consumer as a reduction to revenue in the period the customer participates in the promotion.

We recognize revenue from the sale of advertising as the advertising is broadcast. Agency fees are calculated based on a stated percentage applied to gross billing revenue for our advertising inventory and are reported as a reduction of Advertising revenue. We pay certain third parties a percentage of Advertising revenue. Advertising revenue is recorded gross of such revenue share payments in accordance with EITF No. 99-19, *Reporting Revenue Gross as a Principal versus Net as an Agent,* as we are the primary obligor in the transaction. Advertising revenue share payments are recorded to Revenue share and royalties during the period in which the advertising is broadcast.

Equipment revenue from the direct sale of satellite radios and accessories is recognized upon shipment, net of discounts and rebates. Shipping and handling costs billed to customers are recorded as revenue. Shipping and handling costs associated with shipping goods to customers are recorded to Cost of equipment.

EITF No. 00-21, *Accounting for Revenue Arrangements with Multiple Deliverables*, provides guidance on how and when to recognize revenues for arrangements that may involve the delivery or performance of multiple products, services and/or rights to use assets. Revenue arrangements with multiple deliverables are required to be divided into separate units of accounting if the deliverables in the arrangement meet certain criteria. Arrangement consideration must be allocated among the separate units of accounting based on their relative fair values.

Stock-Based Compensation

We account for equity instruments granted to employees in accordance with SFAS No. 123 (revised 2004),*Share-Based Payment* ("SFAS No. 123R"). SFAS No. 123R requires all share-based compensation payments to be recognized in the financial statements based on their fair value using an option pricing model. SFAS No. 123R requires forfeitures to be estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from initial estimates. We use the Black-Scholes option-pricing model to value stock option awards and have elected to treat awards with graded vesting as a single award.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

Fair value determined using Black-Scholes varies based on assumptions used for the expected life, expected stock price volatility and risk-free interest rates. We estimate the fair value of awards granted using the implied volatility of actively traded options on our common stock. The expected life assumption represents the weighted-average period stock-based awards are expected to remain outstanding. These expected life assumptions are established through a review of historical exercise behavior of stock-based award grants with similar vesting periods. Where historical patterns do not exist, contractual terms are used. The risk-free interest rate represents the daily treasury yield curve rate at the reporting date based on the closing market bid yields on actively traded U.S. treasury securities in the over-the-counter market for the expected term. Our assumptions may change in future periods.

The fair value of equity instruments granted to non-employees is measured in accordance with EITF No. 96-18,*Accounting for Equity Instruments That are Issued to Other Than Employees for Acquiring, or in Conjunction with Selling, Goods or Services*. The final measurement date of equity instruments with performance criteria is the date that each performance commitment for such equity instrument is satisfied or there is a significant disincentive for non-performance.

Stock-based awards granted to employees, non-employees and members of our board of directors generally include warrants, stock options, restricted stock and restricted stock units. The stock-based compensation cost recognized includes compensation cost for all stock-based awards granted to employees and members of our board of directors (i) prior to, but not vested as of, January 1, 2006, based on the grant date fair value originally estimated in accordance with the provisions of SFAS No. 123, *Accounting for Stock-Based Compensation*, and (ii) subsequent to December 31, 2005, based on the grant date fair value estimated in accordance with the provisions of SFAS No. 123R.

Subscriber Acquisition Costs

Subscriber acquisition costs include hardware subsidies paid to radio manufacturers, distributors and automakers, including subsidies paid to automakers who include a satellite radio and a prepaid subscription to our service in the sale or lease price of a new vehicle; subsidies paid for chip sets and certain other components used in manufacturing radios; device royalties for certain radios; commissions paid to retailers and automakers as incentives to purchase, install and activate radios; product warranty obligations; provisions for inventory allowance; and compensation costs associated with stock-based awards granted in connection with certain distribution agreements. Subscriber acquisition costs do not include advertising, loyalty payments to distributors and dealers of radios and revenue share payments to automakers and retailers of radios.

Subsidies paid to radio manufacturers and automakers are expensed upon shipment or installation. Commissions paid to retailers and automakers are expensed either upon activation or sale of radios. Chip sets that are shipped to radio manufacturers and held on consignment are recorded as inventory and expensed as Subscriber acquisition costs when placed into production by radio manufacturers. Costs for chip sets not held on consignment are expensed as Subscriber acquisition costs when the chip sets are shipped to radio manufacturers.

We record product warranty obligations in accordance with FIN No. 45,*Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others, an interpretation of FASB Statements No. 5, 57, and 107 and rescission of FASB Interpretation No. 34*. FIN No. 45 requires a guarantor to recognize, at the inception of a guarantee, a liability for the fair value of the obligation undertaken by issuing the guarantee. We warrant that certain products sold through our retail and direct to consumer distribution channels will perform in all material respects in accordance with specifications in effect at the time of the purchase of the products by the customer. As of April 2008, SIRIUS changed its warranty period to 90 days on products from the purchase date for repair or replacement of components and/or products that contain defects of material or workmanship. Products purchased prior to April 2008 contained a warranty period of 12 months from the purchase date. Customers may exchange products directly to the retailer within 30 days of purchase. We recorded a liability for costs that we expect to incur under our warranty when the product is shipped from the manufacturer. Factors affecting the warranty liability include the number of units sold and historical and anticipated rates of claims and costs per claim. We periodically assess the adequacy of our warranty liability based on changes in these factors.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

Research & Development Costs

Research and development costs are expensed as incurred and primarily include the cost of new product development, chip set design, software development and engineering. During the three and nine months ended September 30, 2008, we recorded research and development costs of $13,932 and $30,006, respectively. For the comparable periods in 2007, we recorded research and development costs of $9,487 and $30,019, respectively. These costs are reflected in Engineering, design and development expense in our unaudited condensed consolidated statements of operations.

Income Taxes

We account for income taxes in accordance with SFAS No. 109, *Accounting for Income Taxes,* and FIN No. 48, *Accounting for Uncertainty in Income Taxes*. Deferred income taxes are recognized for the tax consequences related to temporary differences between the carrying amount of assets and liabilities for financial reporting purposes and the amounts used for tax purposes at each year-end, based on enacted tax laws and statutory tax rates applicable to the periods in which the differences are expected to affect taxable income. A valuation allowance is established when necessary based on the weight of available evidence, if it is considered more likely than not that all or some portion of the deferred tax assets will not be realized. Income tax expense is the sum of current income tax plus the change in deferred tax assets and liabilities.

Net (Loss) Income per Common Share

We compute net (loss) income per common share in accordance with SFAS No. 128, *Earnings Per Share*. Basic net (loss) income per common share is calculated using the weighted average common shares outstanding during each reporting period. Diluted net (loss) income per common share adjusts the weighted average common shares outstanding for the potential dilution that could occur if common stock equivalents (convertible debt and preferred stock, warrants, stock options and restricted stock shares and units) were exercised or converted into common stock. Common stock equivalents of approximately 795,000,000 and 802,000,000 for the three and nine months ended September 30, 2008, respectively, and 168,000,000 and 167,000,000 for the three and nine months ended September 30, 2007, respectively, were not included in the calculation of diluted net loss per common share as the effect would have been anti-dilutive.

Inventory

Inventory consists of finished goods, refurbished goods, chip sets and other raw material components used in manufacturing radios. Inventory is stated at the lower of cost, determined on a first-in, first-out basis, or market. We record an estimated allowance for inventory that is considered slow moving and obsolete or whose carrying value is in excess of net realizable value. The provision related to products purchased for our direct to consumer distribution channel is recorded to Cost of equipment in our unaudited condensed consolidated statements of operations. The remaining provision is recorded to Subscriber acquisition costs in our unaudited condensed consolidated statements of operations.

Inventory, net, consists of the following:

	September 30, 2008	December 31, 2007
Raw materials	$ 13,941	$ 9,987
Finished goods	17,994	19,550
Total inventory	$ 31,935	$ 29,537

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

Investments

Marketable Securities—We account for investments in marketable securities in accordance with the provisions of SFAS No. 115,*Accounting for Certain Investments in Debt and Equity Securities*. Marketable securities consist of certificates of deposit, auction rate certificates and investments in debt and equity securities of other entities. The basic objectives of our investment policy are the preservation of capital, maintaining sufficient liquidity to meet operating requirements and maximizing yield. Marketable securities are classified as available-for-sale securities. Available-for-sale securities are carried at fair market value. Unrealized gains and losses are included in Accumulated other comprehensive (loss) income, net of tax, as a separate component of Stockholders' equity (deficit). Realized gains and losses, dividends and interest income, including amortization of the premium and discount arising at purchase, are included in Interest and investment income. The specific-identification method is used to determine the cost of all securities and the basis by which amounts are reclassified from Accumulated other comprehensive (loss) income into earnings.

We received proceeds from the sale or maturity of marketable securities of $0 and $10,842 for the nine months ended September 30, 2008 and 2007, respectively. There were no unrealized gains or losses on marketable securities as of September 30, 2008 and December 31, 2007.

Restricted Investments—We have escrow deposits, certificates of deposit, money market funds and interest-bearing accounts which are restricted as to their withdrawal.

Equity Method Investments—Investments in which we have the ability to exercise significant influence but not control are accounted for using the equity method. We recognize our share of net earnings or losses of the affiliate as they occur in Other income (expense) in our unaudited condensed consolidated statements of operations. We evaluate our equity method investments for impairment whenever events or changes in circumstances indicate that the carrying amounts of such investments may not be recoverable. The difference between the carrying value of the equity method investments and their estimated fair values is recognized as an impairment when the loss in value is deemed other than temporary.

Cost Method Investments—Investments in equity securities that do not have readily determinable fair values and in which we do not have a controlling interest or are unable to exert significant influence are recorded at cost.

We adopted the provisions of SFAS No. 157,*Fair Value Measurements,* on January 1, 2008 as it applies to financial assets and liabilities. SFAS No. 157 establishes a fair value hierarchy for input into valuation techniques as follows: i) Level 1 input—unadjusted quoted prices in active markets for identical instrument; ii) Level 2 input—observable market data for same or similar instrument but not Level 1; and iii) Level 3 input—unobservable inputs developed using management's assumptions about the inputs used for pricing the asset or liability. We use Level 3 inputs to fair value our investments in auction rate certificates issued by student loan trusts and 8% convertible unsecured subordinated debentures issued by XM Canada. These investments are not material to our unaudited condensed consolidated results of operations or financial position.

Investments are periodically reviewed for impairment and a write down is recorded whenever declines in fair value below carrying value are determined to be other than temporary. In making this determination, we consider, among other factors, the severity and duration of the decrease as well as the likelihood of a recovery within a reasonable timeframe.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

Property and Equipment

Property and equipment is stated at cost less accumulated depreciation and amortization. Equipment under capital leases is stated at the present value of minimum lease payments. Depreciation and amortization are calculated using the straight-line method over the following estimated useful lives:

Satellite system	2 – 15 years
Terrestrial repeater network	5 – 15 years
Broadcast studio equipment	3 – 15 years
Capitalized software and hardware	3 – 7 years
Satellite telemetry, tracking and control facilities	3 – 17.5 years
Furniture, fixtures, equipment and other	2 – 7 years
Building	20 or 30 years
Leasehold improvements	Lesser of useful life or remaining lease term

We operate three in-orbit satellites in our SIRIUS system and have one ground spare satellite. The three in-orbit SIRIUS satellites were launched in 2000 and the spare satellite was delivered to ground storage in 2002. The three-satellite constellation and terrestrial repeater network were placed into service in 2002. SIRIUS has an agreement with Space Systems/Loral for the design and construction of an additional two satellites which are expected to be launched in mid 2009 and not before the end of 2010. In January 2008, SIRIUS entered into an agreement with International Launch Services to secure two satellite launches on Proton rockets. This agreement with International Launch Services allows SIRIUS the flexibility to defer launch dates and to cancel the second of these launches upon payment of a cancellation fee.

We operate four in-orbit satellites in our XM system, two of which function as in-orbit spares. The two in-orbit spare satellites were launched in 2001 while the other two satellites were launched in 2005 and 2006, respectively. XM has an agreement with Space Systems/Loral to construct one additional satellite which we currently expect to launch in December 2009.

In accordance with Statement of Financial Accounting Standards ("SFAS") No. 144,*Accounting for the Impairment or Disposal of Long-Lived Assets,* long-lived assets, such as property and equipment, and purchased intangibles subject to amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future cash flows, an impairment charge is recognized for the amount by which the carrying amount of the asset exceeds the fair value of the asset.

Goodwill and Other Intangible Assets

Goodwill represents the purchase price in excess of the net amount assigned to assets acquired and liabilities assumed in the Merger. We will perform an impairment test at least annually or more frequently if indicators of impairment exist. We are required to perform a two-step impairment test of goodwill under the provisions of SFAS No. 142, *Goodwill and Other Intangible Assets*. The fair value of the entity is compared to its carrying value and if the fair value exceeds its carrying value then goodwill is not impaired. If the carrying value exceeds the fair value then we will compare the implied fair value of goodwill to the carrying value of goodwill. If the implied fair value exceeds the carrying value then goodwill is not impaired; otherwise, an impairment loss will be recorded by the amount the carrying value exceeds the implied fair value.

Other intangible assets with indefinite lives are tested for impairment at least annually or more frequently if indicators of impairment exist under the provisions of SFAS No. 142.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

Other intangible assets with estimable useful lives are amortized over their respective estimated useful lives to their estimated residual values, and reviewed for impairment under the provisions of SFAS No. 144, *Accounting for Impairment or Disposal of Long-Lived Assets*.

Reclassifications

Certain amounts in the prior period unaudited condensed consolidated financial statements have been reclassified to conform to the current period presentation. Specifically, during the first nine months of 2008, we reclassified equipment related retention costs from Cost of equipment to Sales and marketing expense. Equipment related retention costs are associated with efforts to retain existing subscribers that we believe will result in higher revenue and lower churn.

Recent Accounting Pronouncements

In September 2006, the FASB issued SFAS No. 157, *Fair Value Measurements*. This Statement defines fair value, establishes a framework for measuring fair value and enhances disclosures about fair value measurements. In February 2008, the FASB issued FASB Staff Position ("FSP") 157-1, *Application of FASB Statement No. 157 to FASB Statement No. 13 and Other Accounting Pronouncements That Address Fair Value Measurements for Purposes of Lease Classification or Measurement under Statement 13* and FSP 157-2, *Effective Date of FASB Statement No. 157*. FSP 157-1 amends SFAS No. 157 to remove certain leasing transactions from its scope. FSP 157-2 delays the effective date of SFAS No. 157 for all nonfinancial assets and liabilities, except those that are recognized or disclosed at fair value in the financial statements on at least an annual basis, until January 1, 2009 for calendar year end entities. We adopted the provisions of SFAS No. 157 on January 1, 2008, except as it applies to nonfinancial assets and liabilities as noted in FSP 157-2. The partial adoption had no significant impact on our consolidated results of operations or financial position. We have not determined the impact, if any, that the adoption of SFAS No. 157, as it relates to nonfinancial assets and liabilities, will have on our consolidated results of operations or financial position.

In November 2007, the FASB issued SFAS No. 141R, *Business Combinations*, which continues to require that all business combinations be accounted for by applying the acquisition method. Under the acquisition method, the acquirer recognizes and measures the identifiable assets acquired, the liabilities assumed, and any contingent consideration and contractual contingencies, as a whole, at their face value as of the acquisition date. Under SFAS No. 141R, all transaction costs are expensed as incurred. SFAS No. 141R rescinds EITF No. 93-07, *Uncertainties Related to Income Taxes in a Purchase Business Combination*. Under EITF No. 93-07 the effect of any subsequent adjustments to uncertain tax positions were generally applied to goodwill, except for post-acquisition interest on uncertain tax provisions, which was recognized as an adjustment to income tax expense. Under SFAS No. 141R, all subsequent adjustments to these uncertain tax positions that otherwise would have impacted goodwill will be recognized in the income statement. The guidance in SFAS No. 141R will be applied prospectively to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning after December 15, 2008. SFAS No. 141R does not impact the accounting for the Merger.

In March 2008, the FASB issued SFAS No. 161, *Disclosures about Derivative Instruments and Hedging Activities—An amendment of FASB Statement No. 133*, which requires enhanced qualitative disclosures about objectives and strategies for using derivatives, quantitative disclosures about fair value amounts of gains and losses on derivative instruments, and disclosures about credit-risk-related contingent features in derivative agreements. This Statement is effective for financial statements issued for fiscal years beginning after November 15, 2008, with early adoption permitted. We will adopt this Statement effective January 1, 2009. The adoption of SFAS No. 161 will not impact on our consolidated results of operations or financial position.

In December 2007, the FASB ratified EITF No. 07-1, *Accounting for Collaborative Agreements*, which provides guidance on how the parties to a collaborative agreement should account for costs incurred and revenue generated on sales to third parties, how sharing payments pursuant to a collaboration agreement should be presented in the income statement and certain related disclosure requirements.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

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(Dollar amounts in thousands, unless otherwise stated)

This EITF is effective for the first annual or interim reporting period beginning after December 15, 2008, and should be applied retrospectively to all prior periods presented for all collaborative arrangements existing as of the effective date. We will adopt EITF No. 07-1 effective January 1, 2009. We are currently evaluating the impact, if any, that the adoption of EITF No. 07-1 will have on our consolidated results of operations and financial position.

In April 2008, the FASB issued FASB Staff Position ("FSP") No. FAS 142-3,*Determination of the Useful Life of Intangible Assets* FSP No. FAS 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS 142, *Goodwill and Other Intangible Assets.* We will adopt FSP No. FAS 142-3 effective January 1, 2009. We are currently evaluating the impact, if any, that the adoption of FSP No. FAS 142-3 will have on our consolidated results of operations and financial position.

(4) Acquisition

On July 28, 2008, Vernon Merger Corporation, a wholly owned subsidiary of SIRIUS, merged (the "Merger") with and into XM Satellite Radio Holdings Inc. As a result, XM Holdings became our wholly-owned subsidiary. The Merger was effected pursuant to an Agreement and Plan of Merger (the "Merger Agreement"), dated as of February 19, 2007, entered into by SIRIUS, XM Holdings and Vernon Merger Corporation.

The results of operations for XM have been included in our consolidated results of operations for the period August 1, 2008 through September 30, 2008. The effective date of the Merger was July 28, 2008; however, due to the immateriality of the results of operations for the period July 28, 2008 through July 31, 2008, we have accounted for the Merger as if it had occurred on July 31, 2008, with the results and balances of XM included as of July 31, 2008.

The Merger has been accounted for under the purchase method of accounting pursuant to the provisions of SFAS No. 141,*Business Combinations.* The application of purchase accounting under SFAS No. 141 resulted in the transaction being value at $5,836,363, based upon the average closing price of $3.79 of our common stock on The NASDAQ Global Select Market for the two days prior to, including, and two days subsequent to the public announcement of the Merger on February 19, 2007.

On that basis, the table below shows the value of the consideration paid in connection with the Merger:

	Total
Fair value of common stock issued to XM Holdings stockholders	$ 5,460,853
Fair value of preferred stock issued to XM Holdings stockholders	47,095
Fair value of converted stock options	94,616
Fair value of restricted stock issued to XM Holdings stockholders	66,628
Fair value of converted warrants	115,784
Acquisition costs	51,387
Total	$ 5,836,363

SFAS No. 141 requires that the total purchase price be allocated to the fair value of assets acquired and liabilities assumed based on their fair values at the acquisition date, with any excess recorded as goodwill. We have preliminarily allocated the purchase price based on current estimates of the fair values of assets acquired and liabilities assumed in connection with the Merger.

The table below summarizes the preliminary estimates of fair value of the XM assets acquired, liabilities assumed and related deferred income taxes as of the acquisition date. These preliminary estimates will be revised in future periods and the revisions may

(Dollar amounts in thousands, unless otherwise stated)

materially affect the presentation of our consolidated financial results. Any changes to the initial estimates of the fair value of the assets and liabilities will be recorded as adjustments to those assets and liabilities and residual amounts will be allocated to goodwill. You should not place undue reliance on the preliminary analysis of XM's tangible and intangible assets and liabilities set forth below.

	Preliminary July 31, 2008 (unaudited)
Acquired assets:	
Current assets	$ 1,078,148
Property and equipment	905,319
Non-amortizable intangible assets	2,250,000
Amortizable intangible assets	453,444
Goodwill	6,626,504
Other assets	329,948
Total assets	$ 11,643,363
Assumed liabilities:	
Current liabilities	776,448
Total Debt	2,576,512
Deferred income taxes	849,148
Other non-current liabilities and deferred credit on executory contracts	1,604,892
Total liabilities	$ 5,807,000
Total consideration	$ 5,836,363

In connection with the Merger, we recorded a preliminary estimate of goodwill in the amount of $6,626,504. During the three and nine months ended September 30, 2008, we recorded $4,750,859 of impairment loss (see Note 5, Goodwill Impairment).

In connection with the Merger, $2,250,000 of the purchase price was allocated to certain indefinite lived intangible assets of XM, including $2,000,000 associated with XM's FCC license and $250,000 associated with trade names. During the three and nine months ended September 30, 2008, no impairment loss was recorded for intangible assets with indefinite lives.

In connection with the Merger, $378,444 of the purchase price was allocated to certain intangible assets of XM which are subject to amortization on a straight line basis. Acquired definite lived intangible assets include $360,000 associated with subscriber relationships (9-year useful life), $16,444 associated with proprietary software (6-year weighted average useful life), and $2,000 associated with developed technology (10-year useful life). During the three and nine months ended September 30, 2008, we recorded amortization expense of $7,596.

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As of September 30, 2008, we recorded $61,513 of costs recognized under EITF No. 95-3,*Recognition of Liabilities in Connection with a Purchase Business Combination*, as liabilities assumed in the Merger. These costs are primarily associated with XM employee severance benefits for involuntary separations.

The following schedule presents unaudited consolidated pro forma results of operations as if the Merger had occurred on January 1, 2007. This information does not purport to be indicative of the actual results that would have occurred if the Merger had actually been completed on the date indicated, nor is it necessarily indicative of the future operating results or the financial position of the combined company:

	Three months ended September 30,		Nine months ended September 30,	
	2008	2007	2008	2007
Total revenue	$ 589,560	$ 511,149	$ 1,746,982	$ 1,435,804
Net loss	(4,951,528)	(307,882)	(5,446,604)	(988,651)
Net loss per common share (basic and diluted)	(1.65)	(0.11)	(1.84)	(0.34)

(5) Goodwill Impairment

We recorded a preliminary estimate of goodwill in the amount of $6,626,504 in connection with the Merger. Pursuant to the provisions of SFAS No. 141, we have made allocations of fair value to acquired assets and assumed liabilities. These allocations are preliminary and we may update them prior to July 28, 2009, the first anniversary of the Merger.

SFAS No. 142 requires that we assess goodwill for impairment at least annually or more frequently if indicators of impairment exist. The price of our common stock declined significantly from February 19, 2007, the measurement date for valuation of the Merger, indicating a potential impairment. Under SFAS No. 142, the fair value of the entity (based upon market capitalization) is compared to its carrying value and if the fair value exceeds its carrying value then goodwill is not impaired. If the carrying value exceeds the fair value then we will compare the implied fair value of goodwill to the carrying value of goodwill. If the implied fair value exceeds the carrying value then goodwill is not impaired; otherwise, an impairment loss will be recorded by the amount the carrying value exceeds the implied fair value. Our impairment analysis indicated that the carrying value of goodwill exceeded the implied fair value of goodwill, resulting in an estimated impairment charge of $4,750,859. To the extent there are significant changes in the recorded amount of goodwill as a result of the final allocations of fair value to the acquired assets and assumed liabilities, there may be significant adjustments to this estimate of impairment loss.

(6) Subscriber Revenue

Subscriber revenue consists of subscription fees, revenue derived from our agreement with Hertz, non-refundable activation fees and the effects of rebates. Revenues received from automakers for prepaid subscriptions included in the sale or lease price of a new vehicle are also included in subscriber revenue over the service period upon activation and sale to the customer.

Subscriber revenue consists of the following:

	Three months ended September 30,		Nine months ended September 30,	
	2008	2007	2008	2007
Subscription fees	$ 451,660	$ 222,136	$ 961,574	$ 617,591
Activation fees	4,920	5,288	17,271	15,456
Effect of rebates	(223)	(580)	(329)	(5,772)
Total subscriber revenue	$ 456,357	$ 226,844	$ 978,516	$ 627,275

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

(7) Interest Costs

We capitalize a portion of the interest on funds borrowed to finance the construction and launch of our satellites. The following is a summary of our interest costs:

	Three months ended September 30,		Nine months ended September 30,	
	2008	2007	2008	2007
Interest costs charged to expense	$ 49,216	$ 19,499	$ 83,636	$ 50,441
Interest costs capitalized	7,791	2,365	14,340	5,973
Total interest costs incurred	$ 57,007	$ 21,864	$ 97,976	$ 56,414

(8) Related Party Transactions

In 2005, SIRIUS entered into a license and services agreement with SIRIUS Canada. Pursuant to such agreement, SIRIUS is reimbursed for certain costs incurred to provide SIRIUS Canada service, including certain costs incurred for the production and distribution of radios, as well as information technology support costs. In consideration for the rights granted pursuant to this license and services agreement, SIRIUS Canada pays SIRIUS a royalty based on a percentage of its annual gross revenues, as long as SIRIUS Canada maintains a positive cash flow position for twelve consecutive months. Additionally, the initial financing SIRIUS provided to SIRIUS Canada is by way of subscription to non-voting shares which carry an 8% cumulative dividend.

Total costs that have been or will be reimbursed by SIRIUS Canada for the three and nine months ended September 30, 2008 were $3,345 and $11,175, respectively. For the comparable periods in 2007, the costs were $2,220 and $4,862, respectively. Royalty income was recorded to Other income in our unaudited condensed consolidated statements of operations. Dividend income was included in Interest and investment income in our unaudited condensed consolidated statements of operations.

The amount due from SIRIUS Canada at September 30, 2008 was $4,196, of which $959 and $3,237 are included in Other current assets and Other long-term assets, respectively, in our condensed consolidated balance sheets. The amount due from SIRIUS Canada at December 31, 2007 was $5,398, of which $2,161 and $3,237 are included in Other current assets and Other long-term assets, respectively, in our condensed consolidated balance sheets. The amounts payable to SIRIUS Canada at September 30, 2008 and December 31, 2007 to fund its remaining capital requirements, were $1,365 and $1,148, respectively, and is included in Other long-term liabilities in our condensed consolidated balance sheets.

In November 2005, XM entered into agreements to provide XM Canada with the right to offer XM satellite radio service in Canada. The agreements have an initial term of ten years and XM Canada has the unilateral option to extend the term of the agreements for an additional five years at no additional cost beyond the current financial arrangements. XM Canada has expressed its intent to exercise this option at the end of the initial term of the agreements. XM has the right to receive a 15% royalty for all subscriber fees earned by XM Canada each month for its basic service and a nominal activation fee for each gross activation of an XM Canada subscriber on XM's system. XM Canada is obligated to pay XM a total of $71,800 for the rights to broadcast and market National Hockey League ("NHL") games for the 10-year term of XM's contract with the NHL. In accordance with EITF No. 99-19, *Reporting Revenue Gross as a Principal versus Net as an Agent*, we recognize these payments on a gross basis as a principal. The deferred income was fair valued at $35,000, and will be amortized on a straight-line basis over the remaining expected term of the agreements. The remaining carrying value of Deferred income related to XM Canada was $34,524 as of September 30, 2008.

XM has extended a C$45,000 standby credit facility to XM Canada which can be utilized to purchase terrestrial repeaters or finance the payment of subscription fees. The facility matures on December 31, 2012 and bears interest at a rate of 17.75% per annum. XM has the right to convert unpaid principal amounts into Class A subordinate voting shares of XM Canada at the price of C$16.00 per share. As of September 30, 2008, XM Canada had drawn $7,831 on this facility in lieu of payment of subscription fees.

(Dollar amounts in thousands, unless otherwise stated)

The royalty fees which XM earns related to subscriber and activation fees are recorded as Other revenue in our unaudited condensed consolidated statements of operations. We recorded royalty fees of $146 for the three and nine months ended September 30, 2008. XM Canada pays XM a licensing fee and reimburses XM for advertising, both of which are recorded to Other revenue in our unaudited condensed consolidated statements of operations. We recorded licensing fees of $1,000 for the three and nine months ended September 30, 2008. We recorded no reimbursements for advertising for the three and nine months ended September 30, 2008. The amount due from XM Canada at September 30, 2008 was $12,815, and is included in Related party current assets in our condensed consolidated balance sheets.

XM has agreements with General Motors ("GM") and American Honda Motor Co., Inc. ("American Honda"), both of which hold shares of our common stock and have one representative each on SIRIUS' board of directors. GM and American Honda install XM radios and promote the XM radio service, and XM will make available use of bandwidth. Subscriber revenues received from GM and American Honda for these programs are recorded as Related party revenue.

We recorded total revenue from GM, primarily consisting of subscriber revenue, of $6,733 for the three and nine months ended September 30, 2008. We recorded total revenue from American Honda, primarily consisting of subscriber revenue, of $3,321 for the three and nine months ended September 30, 2008, respectively.

We rely on GM and American Honda for marketing and we are responsible for certain revenue share payments to these related parties. We recorded Sales and marketing expense with GM of $38,069 for the three and nine months ended September 30, 2008. We recorded Sales and marketing expense with American Honda of $1,848 for the three and nine months ended September 30, 2008. We recorded Revenue share and royalty expense with GM of $26,021 for the three and nine months ended September 30, 2008. We recorded Revenue share and royalty expense with American Honda of $747 for the three and nine months ended September 30, 2008.

As of September 30, 2008, we recorded, within Related party assets, $10,955 and $213,703 of amounts due from GM and prepaid expenses with GM, respectively. As of September 30, 2008, we recorded $1,612 within Related party current assets for amounts due from American Honda.

As of September 30, 2008, we recorded $70,640 within Related party current liabilities for amounts due to GM. As of September 30, 2008, we recorded $4,978 within Related party current liabilities for amounts due to American Honda.

(9) Investments

Investments consist of the following:

	September 30, 2008	December 31, 2007
Marketable securities	$ 11,521	$ 469
Restricted investments	141,250	53,000
Embedded derivative accounted for separately from the host contract	420	—
Equity method investments	37,337	—
Total investments	$ 190,528	$ 53,469

SIRIUS Canada

We have a 49.9% economic interest in SIRIUS Canada. Our investment in SIRIUS Canada is recorded using the equity method since we have a significant influence, but less than a controlling voting interest in SIRIUS Canada. Under this method, our investment in SIRIUS Canada, originally recorded at cost, is adjusted quarterly to recognize our share of net earnings or losses as they occur, rather than at the time dividends or other distributions are received, limited to the extent of our investment in, advances to and commitments to fund SIRIUS Canada. Our share of net earnings or losses of SIRIUS Canada is recorded to Equity in net loss of equity method investment in our unaudited condensed consolidated statements of operations. We recorded no share of SIRIUS Canada's net loss for the three and nine months ended September 30, 2008 and 2007. As of September 30, 2008, the carrying value of our equity method investment was $0.

XM Canada

We have a 23.33% economic interest in XM Canada. The amount of the Merger purchase price allocated to the fair value of our investment in XM Canada is $21,776. Our investment in XM Canada is recorded using the equity method since we have significant influence, but less than a controlling voting interest in XM Canada. Under this method, our investment in XM Canada is adjusted to recognize our share of net earnings or losses as they occur, rather than at the time dividends or other distributions are received, limited to the extent of our investment in, advances to and commitments to fund XM Canada. Our share of net earnings or losses of XM Canada is recorded to Equity in net loss of equity method investment in our unaudited condensed consolidated statements of operations. We recorded $3,088 for each of the three and nine months periods ended September 30, 2008 for our share of XM Canada's net loss. In addition, XM Holdings holds an investment in C$4,000 face value of 8% convertible unsecured subordinated debentures issued by XM Canada for which the embedded conversion feature is required under SFAS No. 133 to be bifurcated from the host contract. The host contract is accounted for as an available-for-sale security at fair value with changes in fair value recorded as Accumulated other comprehensive loss, net of tax. The embedded conversion feature is accounted for as a derivative at fair value with changes in fair value recorded in earnings as Interest income. As of September 30, 2008, the carrying value of our equity method investment was $37,337, while the carrying value of the host contract and embedded derivative related to our investment in the debentures was $2,804 and $420, respectively.

Auction Rate Certificates

In connection with the Merger, we acquired an investment in auction rate certificates issued by student loan trusts. Auction rate certificates are long-term securities structured to reset their coupon by means of an auction. We account for our investment in auction rate certificates as available-for-sale securities. As of September 30, 2008, the carrying value of these securities was $8,717.

Restricted Investments

Restricted investments relate to deposits placed into escrow for the benefit of third parties pursuant to programming agreements and reimbursement obligations under letters of credit issued for the benefit of lessors of office space. In connection with the Merger, we acquired restricted investments in the form of a $120,000 escrow deposit for the benefit of Major League Baseball®. As of September 30, 2008 and December 31, 2007, the carrying value of our short-term restricted investments was $0 and $35,000, respectively, and primarily included certificates of deposit placed in escrow for the benefit of a third party pursuant to a programming agreement. As of September 30, 2008 and December 31, 2007, the carrying value of our long-term restricted investments was $141,250 and $18,000, respectively, and primarily included certificates of deposit and money market funds deposited in escrow for the benefit of third parties pursuant to programming agreements and certificates of deposit placed in escrow to secure reimbursement obligations under letters of credit issued for the benefit of lessors of office space.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

(10) Debt

Debt consists of the following:

	Conversion Price (per share)	September 30, 2008	December 31, 2007
SIRIUS Debt			
Senior Secured Term Loan due 2012	N/A	$ 247,500	$ 249,375
9 5/8% Senior Notes due 2013	N/A	500,000	500,000
3 1/4% Convertible Notes due 2011	$ 5.30	230,000	230,000
2 1/2% Convertible Notes due 2009	4.41	299,998	299,998
3 1/2% Convertible Notes due 2008	1.38	—	33,301
8 3/4% Convertible Subordinated Notes due 2009	28.46	1,744	1,744
XM and XM Holdings Debt			
Senior Secured Term Loan due 2009	N/A	100,000	N/A
13% Senior Notes due 2014	N/A	778,500	N/A
Less: discount	N/A	(76,328)	N/A
9.75% Senior Notes due 2014	N/A	5,260	N/A
10% Convertible Senior Notes due 2009	10.87	400,000	N/A
Less: discount		(20,988)	
10% Senior Secured Discount Convertible Notes due 2009	0.69	33,249	N/A
Add: premium		47,758	N/A
Senior Secured Revolving Credit Facility due 2009	N/A	250,000	N/A
Add: premium		239	
7% Exchangeable Senior Subordinated Notes due 2014	1.88	550,000	N/A
Other debt:			
Capital leases	N/A	25,821	N/A
Total debt		3,372,753	1,314,418
Less: current maturities		572,646	35,801
Total long-term		$ 2,800,107	$ 1,278,617

SIRIUS Debt

Senior Secured Term Loan

In June 2007, SIRIUS entered into a term credit agreement with a syndicate of financial institutions. The term credit agreement provides for a Senior Secured Term Loan (the "SIRIUS Term Loan") of $250,000, which has been fully drawn. Interest under the SIRIUS Term Loan is based, at our option, on (i) adjusted LIBOR plus 2.25% or (ii) the higher of (a) the prime rate and (b) the Federal Funds Effective Rate plus 1/2 of 1.00%, plus 1.25%. As of September 30, 2008, the interest rate was 5.44%. LIBOR borrowings may be made for interest periods, at our option, of one, two, three or six months (or, if agreed by all of the lenders, nine or twelve months). The SIRIUS Term Loan amortizes in equal quarterly installments of 0.25% of the initial aggregate principal amount for the first four and a half years, with the balance of the loan thereafter being repaid in four equal quarterly installments. The SIRIUS Term Loan matures on December 20, 2012.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

The SIRIUS Term Loan is guaranteed by our wholly owned subsidiaries, including Satellite CD Radio, Inc. (the "Guarantor"), and is secured by a lien on substantially all of SIRIUS' and the Guarantors' assets, including SIRIUS' three in-orbit satellites and one ground spare satellite and the shares of the Guarantors.

The SIRIUS Term Loan contains customary affirmative covenants and event of default provisions. The negative covenants contained in the SIRIUS Term Loan are substantially similar to those contained in the indenture governing the 9 5/8% Senior Notes due 2013.

9 5/8% Senior Notes due 2013

In August 2005, SIRIUS issued $500,000 in aggregate principal amount of 9 5/8% Senior Notes due 2013 (the "9 5/8% Notes") resulting in net proceeds of $493,005. The 9 5/8% Notes mature on August 1, 2013 and interest is payable semi-annually on February 1 and August 1 of each year. The obligations under the 9 5/8% Notes are not secured by any of our assets.

3 1/4% Convertible Notes due 2011

In October 2004, SIRIUS issued $230,000 in aggregate principal amount of 3 1/4% Convertible Notes due 2011 (the "3 1/4% Notes") resulting in net proceeds of $224,813. The 3 1/4% Notes are convertible, at the option of the holder, into shares of our common stock at any time at a conversion rate of 188.6792 shares of common stock for each $1,000 principal amount, or $5.30 per share of common stock, subject to certain adjustments. The 3 1/4% Notes mature on October 15, 2011 and interest is payable semi-annually on April 15 and October 15 of each year. The obligations under the 3 1/4% Notes are not secured by any of our assets.

2 1/2% Convertible Notes due 2009

In February 2004, SIRIUS issued $250,000 in aggregate principal amount of 2 1/2% Convertible Notes due 2009 (the "2 1/2% Notes") resulting in net proceeds of $244,625. In March 2004, SIRIUS issued an additional $50,000 in aggregate principal amount of the 2 1/2% Notes pursuant to an option granted in connection with the initial offering of the notes, resulting in net proceeds of $48,975. The 2 1/2% Notes are convertible, at the option of the holder, into shares of our common stock at any time at a conversion rate of 226.7574 shares of common stock for each $1,000 principal amount, or $4.41 per share of common stock, subject to certain adjustments. The 2 1/2% Notes mature on February 15, 2009 and interest is payable semi-annually on February 15 and August 15 of each year. The obligations under the 2 1/2% Notes are not secured by any of our assets.

3 1/2% Convertible Notes due 2008

In May 2003, SIRIUS issued $201,250 in aggregate principal amount of 3 1/2% Convertible Notes due 2008 resulting in net proceeds of $194,224. These notes matured on June 1, 2008 and were repaid on such date.

8 3/4% Convertible Subordinated Notes due 2009

In 1999, SIRIUS issued 8 3/4% Convertible Subordinated Notes due 2009 (the "8 3/4% Notes"). The 8 3/4% Notes are convertible, at the option of the holder, into shares of our common stock at any time at a conversion rate of 35.134 shares of common stock for each $1,000 principal amount, or $28.4625 per share of common stock, subject to certain adjustments. The remaining balance of the 8 3/4% Notes mature on September 29, 2009 and interest is payable semi-annually on March 29 and September 29 of each year. The obligations under the 8 3/4% Notes are not secured by any of our assets.

Space Systems/Loral Credit Agreement

In July 2007, SIRIUS amended and restated its existing Credit Agreement with Space Systems/Loral (the "Loral Credit Agreement"). Under Loral Credit Agreement, Space Systems/Loral agreed to make loans to SIRIUS in an aggregate principal amount of up to $100,000 to finance the purchase of its fifth and sixth satellites. Loans made under the Loral Credit Agreement are secured by

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

SIRIUS' rights under the Satellite Purchase Agreement with Space Systems/Loral, including its rights to these satellites. The loans are also entitled to the benefits of a subsidiary guarantee from Satellite CD Radio, Inc., the subsidiary that holds SIRIUS' FCC license, and any future material subsidiary that may be formed by SIRIUS. The maturity date of the loans is the earliest to occur of (i) June 10, 2010, (ii) 90 days after the sixth satellite becomes available for shipment and (iii) 30 days prior to the scheduled launch of the sixth satellite. The Loral Credit Agreement contains certain drawing conditions, including a requirement that SIRIUS have a market capitalization of at least $1 billion. Any loans made under the Loral Credit Agreement generally will bear interest at a variable rate equal to three-month LIBOR plus 4.75%. The daily unused balance bears interest at a rate per annum equal to 0.50%, payable quarterly on the last day of each March, June, September and December. The Loral Credit Agreement permits SIRIUS to prepay all or a portion of the loans outstanding without penalty. SIRIUS has not borrowed under the Loral Credit Agreement.

XM and XM Holdings Debt

On the date of the Merger, XM and XM Holdings had debt in the aggregate amount of $2,600,000. Following the Merger, XM repurchased notes with aggregate principal amounts outstanding of $795,000 in accordance with "change of control put" terms of such indebtedness. In addition, XM repurchased for approximately $316,598 the transponders of one of its satellites in accordance with the terms of a sale-leaseback transaction. In order to effect these repurchases, XM issued approximately $1,328,500 in aggregate principal amount of new debt securities.

Senior Secured Term Loan

XM is party to a credit agreement dated May 2008 relating to a $100,000 Senior Secured Term Loan (the "XM Term Loan") with UBS AG. The XM Term Loan matures on May 5, 2009. Interest is payable quarterly. At September 30, 2008 the interest rate was 5.5625%. The interest rate is reset quarterly to 225 basis points over the 9-month LIBOR. The XM Term Loan is secured on a *pari passu* basis with the XM Revolving Credit Facility (as defined below) by substantially all of XM's assets.

7% Exchangeable Senior Subordinated Notes due 2014

In August 2008, XM issued $550,000 aggregate principal amount of 7% Exchangeable Senior Subordinated Notes due 2014 (the "Exchangeable Notes"). The Exchangeable Notes are senior subordinated obligations of XM and rank junior in right of payment to its existing and future senior debt and equally in right of payment with its existing and future senior subordinated debt. XM Holdings, XM Equipment LLC and XM Radio Inc. have guaranteed the Exchangeable Notes on a senior subordinated basis. The Exchangeable Notes are not guaranteed by SIRIUS or Satellite CD Radio, Inc. Interest is payable semi-annually in arrears on June 1 and December 1 of each year at a rate of 7% per annum. The Exchangeable Notes mature on December 1, 2014. The Exchangeable Notes are exchangeable at any time at the option of the holder into shares of our common stock, par value $0.001 per share, at an initial exchange rate of 533.3333 shares of common stock per $1,000 principal amount of Exchangeable Notes, which is equivalent to an approximate exchange price of $1.875 per share of common stock.

9.75% Senior Notes due 2014

XM has outstanding $5,260 aggregate principal amount of 9.75% Senior Notes due 2014 (the "9.75% Notes"). Interest on the 9.75% Notes is payable semi-annually on May 1 and November 1 at a rate of 9.75% per annum. The 9.75% Notes are unsecured and will mature on May 1, 2014. XM, at its option, may redeem the 9.75% Notes at declining redemption prices at any time on or after May 1, 2010, subject to certain restrictions. Prior to May 1, 2010, XM may redeem the 9.75% Notes, in whole or in part, at a price equal to 100% of the principal amount thereof, plus a make-whole premium and accrued and unpaid interest to the date of redemption.

Senior Floating Rate Notes due 2013

The aggregate principal amount of XM's unsecured Senior Floating Rate Notes due 2013 (the "Floating Rate Notes") outstanding as of December 31, 2007 was $200,000. Interest was payable quarterly on May 1, August 1, November 1 and February 1. XM repurchased all of the Floating Rate Notes in connection with the Merger.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

Debt of Consolidated Variable Interest Entity

On February 13, 2007, XM entered into a sale-leaseback transaction with respect to the transponders on its XM-4 satellite. XM sold the XM-4 transponders to Satellite Leasing (702-4) LLT ("Trust"), a third-party trust formed solely for the purpose of facilitating the sale-leaseback transaction. The Trust pooled the funds used to purchase the transponders from a $57,700 investment by an equity investor and the $230,800 in proceeds from the issuance of its 10% senior secured notes due 2013 ("Debt of consolidated variable interest entity"). XM accounted for the sale and leaseback of the transponders under sale-leaseback accounting with a capital lease, pursuant to SFAS No. 13, *Accounting for Leases*, as amended. XM also determined that the Trust was a variable interest entity, as that term is defined under FIN No. 46(R), and that XM was the primary beneficiary of the Trust. Pursuant to FIN No. 46(R), XM consolidated the Trust into its consolidated financial statements.

XM sold the XM-4 transponders to the Trust owned by Satellite Leasing (702-4) LLC ("Owner Participant") for $288,500. XM leased the transponders for a term of nine years. These lease payment obligations, which were unconditional and guaranteed by XM Holdings, were senior unsecured obligations and ranked equally in right of payment with existing and future senior unsecured obligations. Under the terms of the lease, XM was obligated to make payments that total $437,400, of which $126,600 was interest, over the nine-year base lease term.

XM was obligated to provide credit support to the Owner Participant. To provide this credit support, XM retired the existing mortgages on its headquarters and data center properties in Washington, D.C. and put into place new mortgages on those properties in favor of the Owner Participant.

XM repurchased the transponders on its XM-4 satellite in connection with the Merger and terminated this sale leaseback arrangement.

13% Senior Notes due 2014

In July 2008, XM Escrow LLC ("Escrow LLC"), a Delaware limited liability company and wholly-owned subsidiary of XM Holdings, issued $778,500 aggregate principal amount of 13% Senior Notes due 2014 (the "13% Notes"). Interest is payable semi-annually in arrears on February 1 and August 1 of each year at a rate of 13% per annum. The 13% Notes are unsecured and mature in 2014, with such maturity to occur earlier in 2013, in certain circumstances. Escrow LLC deposited the proceeds of the offering of the 13% Notes into escrow. Upon consummation of certain refinancing transactions in connection with the Merger, the funds were released to Escrow LLC and Escrow LLC merged with and into XM, with XM as the surviving corporation. Upon this merger, the 13% Notes became obligations of XM and became guaranteed by XM Holdings, XM Equipment Leasing LLC and XM Radio Inc. The 13% Notes are not guaranteed by SIRIUS.

10% Convertible Senior Notes due 2009

XM Holdings has issued $400,000 aggregate principal amount of 10% Convertible Senior Notes due 2009 (the "10% Convertible Notes"). Interest is payable semi-annually at a rate of 10% per annum. The 10% Convertible Notes mature on December 1, 2009. The 10% Convertible Notes may be converted by the holder, at its option, into shares of our common stock at a conversion rate of 92.0 shares of our common stock per $1,000 principal amount, which is equivalent to a conversion price of $10.87 per share of common stock (subject to adjustment in certain events), at any time until December 1, 2009.

10% Senior Secured Discount Convertible Notes due 2009

XM Holdings and XM, as co-obligors, have outstanding $33,200 aggregate principal amount of 10% Senior Secured Discount Convertible Notes due 2009 (the "10% Discount Convertible Notes"). Interest accreted through December 31, 2005 and was thereafter payable semi-annually at a rate of 10% per annum. The 10% Discount Convertible Notes mature on December 31, 2009. At any time, a

holder of the notes may convert all or part of the accreted value of its notes at a conversion price of $0.69 per share. The 10% Discount Convertible Notes rank equally in right of payment with all of XM Holdings' and XM's other existing and future senior indebtedness, and are senior in right of payment to all of XM Holdings' and XM's existing and future subordinated indebtedness.

Senior Secured Revolving Credit Facility

XM is party to a $250,000 Senior Secured Revolving Credit Facility (the "XM Revolving Credit Facility"), which has been fully drawn. The XM Revolving Credit Facility matures on May 5, 2009. Borrowings under the XM Revolving Credit Facility bear interest at a rate of LIBOR plus 150 to 225 basis points or an alternate base rate, to be the higher of the JPMorgan Chase prime rate and the Federal Funds rate plus 50 basis points, in each case plus 50 to 125 basis points. For $187,500 of the drawn amount, the interest rate as of September 30, 2008 was 4.75%; and for $62,500 of the drawn amount, the interest rate as of September 30, 2008 was 5.25%. The XM Revolving Credit Facility is secured by substantially all the assets of XM, other than certain specified property.

Refinancing transactions

In connection with the Merger, we refinanced a substantial portion of XM's existing indebtedness:

- On July 31, 2008, XM Escrow LLC issued $778,500 aggregate principal amount, net of original issue discount of $78,395, of the 13% Notes; and
- On August 1, 2008, XM issued $550,000 aggregate principal amount of the Exchangeable Notes.

XM used the proceeds from the transactions described above to:

- repurchase 99% of its 9.75% Senior Notes due 2014 at 101%, plus $18,685 in accrued interest. The tender offer for the 9.75% Senior Notes due 2014 included a consent solicitation to amend the indenture governing the 9.75% Senior Notes due 2014;
- repurchase 100% of its Senior Floating Rate Notes due 2013 at par, plus $1,501 in accrued interest; and
- satisfy its $309,400 transponder repurchase obligation, for both debt and equity holders of a consolidated variable interest entity. XM's debt repurchase obligation included a 1% of principal prepayment penalty and $6,668 in accrued interest.

In July 2008, XM Holdings amended the terms of its $400,000 aggregate principal amount of 1.75% Convertible Senior Notes due 2009 to increase the interest rate from 1.75% to 10% per annum effective July 2, 2008 as part of an agreement whereby holders of the notes waived any right to seek a change of control put in connection with the Merger. This change is expected to result in approximately $16,500 and $30,300 in incremental interest expense in 2008 and 2009, respectively.

In connection with these refinancing transactions, XM and XM Holdings paid in the aggregate approximately $69,200 in fees and expenses.

Covenants and Restrictions

The 9 5/8% Notes, Loral Credit Agreement, SIRIUS Term Loan, XM Term Loan, 13% Notes and XM Revolving Credit Facility require compliance with certain covenants that restrict our ability to, among other things, (i) incur additional indebtedness, (ii) incur liens, (iii) pay dividends or make certain other restricted payments, investments or acquisitions, (iv) enter into certain transactions with affiliates, (v) merge or consolidate with another person, (vi) sell, assign, lease or otherwise dispose of all or substantially all of our assets, and (vii) make voluntary prepayments of certain debt, in each case subject to exceptions as provided in the applicable indenture or credit agreement. SIRIUS operates XM Holdings as an unrestricted subsidiary for purposes of compliance with the covenants contained in its debt instruments. The XM Term Loan and the XM Revolving Credit Facility also require XM to maintain a level of cash and cash equivalents of at least $75,000. If we fail to comply with these covenants, the 9 5/8% Notes, SIRIUS Term Loan, XM Term Loan, 13% Notes, the Revolving Credit Facility and any loans outstanding under the Loral Credit Agreement, the SIRIUS Term Loan and the XM Term Loan could become immediately payable and the Loral Credit Agreement could be terminated.

At September 30, 2008, we were in compliance with all such covenants.

(11) Stockholders' Equity

Common Stock, par value $0.001 per share

We are authorized to issue up to 4,500,000,000 and 2,500,000,000 shares of common stock as of September 30, 2008 and December 31, 2007, respectively. At our annual meeting of stockholders scheduled to be held in December 2008, we will ask our stockholders to approve an increase to the amount of shares of common stock authorized under our certificate of incorporation to 8,000,000,000. There were 3,250,404,357 and 1,471,143,570 shares of common stock issued and outstanding as of September 30, 2008 and December 31, 2007, respectively.

As of September 30, 2008, approximately 888,696,000 shares of common stock were reserved for issuance in connection with outstanding convertible debt, preferred stock, warrants, incentive stock plans and common stock to be granted to third parties upon satisfaction of performance targets. During the nine months ended September 30, 2008, employees exercised 117,442 stock options at exercise prices ranging from $1.45 to $3.36 per share, resulting in proceeds to us of $208.

In January 2004, SIRIUS signed a seven-year agreement with the National Football League® ("NFL"). Upon execution of this agreement, SIRIUS delivered to the NFL 15,173,070 shares of common stock valued at $40,967. These shares of common stock are subject to transfer restrictions which lapse over time. We recognized expense associated with these shares of $1,641 during each three months periods ended September 30, 2008 and 2007, and $3,501 during each nine months periods ended September 30, 2008 and 2007. Of the remaining $15,624 in common stock value, $5,852 and $9,772 are included in Other current assets and Other long-term assets, respectively, in the condensed consolidated balance sheets as of September 30, 2008.

Convertible Preferred Stock, par value $0.001 per share

We are authorized to issue up to 50,000,000 shares of undesignated preferred stock as of September 30, 2008. There were 24,808,959 and zero shares of Series A convertible preferred stock issued and outstanding as of September 30, 2008 and December 31, 2007, respectively. The liquidation preference on the preferred stock issued and outstanding as of September 30, 2008 was $51,370.

The shares of Series A convertible preferred stock are convertible into common stock at the option of the holder and receive dividends, if declared, ratably with our common stock.

Warrants

We have issued warrants to purchase shares of common stock in connection with distribution and programming agreements, satellite purchase agreements and certain debt issuances. As of September 30, 2008, warrants to acquire 92,092,000 shares of common stock with an average exercise price of $4.12 per share were outstanding. These warrants vest over time or upon the achievement of milestones and expire at various times through June 2014. For the three and nine months ended September 30, 2008, we recognized a (benefit) expense of ($620) and $2,236, respectively. For the comparable periods in 2007, we recognized expense of $5,382 and $11,331, respectively, in connection with these warrants.

Share Lending Agreements

To facilitate the offering of the Exchangeable Notes, we entered into share lending agreements with Morgan Stanley Capital Services Inc. ("MS") and UBS AG London Branch ("UBS") under which we loaned MS and UBS an aggregate of approximately 263,000,000 shares of our common stock in exchange for a fee of $.001 per share. The obligations of MS to us under its share lending agreement are guaranteed by its parent company, Morgan Stanley.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

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Under each share lending agreement, the share loan will terminate in whole or in part, as the case may be, and the relevant borrowed shares must be returned to us upon the earliest of the following: (i) the share borrower terminates all or a portion of the loan between it and us, (ii) we notify the share borrower that some of the Exchangeable Notes as to which borrowed shares relate have been exchanged, repaid or repurchased or are otherwise no longer outstanding, (iii) the maturity date of the Exchangeable Notes, December 1, 2014, (iv) the date as of which the entire principal amount of the Exchangeable Notes ceases to be outstanding as a result of exchange, repayment, repurchase or otherwise or (v) the termination of the share lending agreement by the share borrower or by us upon default by the other party, including but not limited to the bankruptcy of us or the share borrower or, in the case of the MS share lending agreement, the guarantor. A share borrower may delay the return of borrowed shares for up to 30 business days (or under certain circumstances, up to 60 business days) if such share borrower is legally prevented from returning the borrowed shares to us, in which case the share borrower may, under certain circumstances, choose to pay us the value of the borrowed shares in cash instead of returning the borrowed shares. Once borrowed shares are returned to us, they may not be re-borrowed under the share lending agreements.

The shares that we loaned to the share borrowers are issued and outstanding for corporate law purposes, and holders of borrowed shares (other than the share borrowers) have the same rights under those shares as holders of any of our other outstanding common shares. Under GAAP as currently in effect, however, we believe the borrowed shares are not considered outstanding for the purpose of computing and reporting our net loss per common share. This accounting method is subject to change if the Financial Accounting Standards Board or the Emerging Issues Task Force adopts rules or issues guidance on the treatment of this type of share loan that requires an accounting method that is different from the method we are currently utilizing. The accounting method may also change if, due to a change in the credit conditions of either MS or UBS, or of Morgan Stanley, as guarantor, or otherwise, there is an increased likelihood that the borrowed shares, or the equivalent value of those shares, will not be returned to us as required under the share lending agreements. If we are required in the future to treat the borrowed shares as outstanding for purposes of computing earnings/loss per share, our earnings per share or loss per share, as the case may be, would be reduced.

(12) Benefit Plans

We maintain four share-based benefits plans. We satisfy awards and options granted under these plans through the issuance of new shares. During the three and nine months ended September 30, 2008, we recognized share-based payment expense of $24,005 and $63,417, respectively. For the comparable periods in 2007, we recognized share-based payment expense of $22,727 and $64,004, respectively. Compensation expense was recorded in our unaudited condensed consolidated statements of operations related to these plans. We did not capitalize any share-based payment cost during the three and nine months ended September 30, 2008 and 2007. We did not realize any income tax benefits from share-based benefits plans during the three and nine months ended September 30, 2008 and 2007, as a result of a full valuation allowance that is maintained for substantially all net deferred tax assets.

2003 Long-Term Stock Incentive Plan

SIRIUS maintains the Amended and Restated Sirius Satellite Radio 2003 Long-Term Stock Incentive Plan (the "2003 Plan"). Employees, consultants and members of our board of directors are eligible to receive awards under the 2003 Plan. The 2003 Plan provides for the grant of stock options, restricted stock, restricted stock units and other stock-based awards that the compensation committee of our board of directors may deem appropriate. Vesting and other terms of stock-based awards are set forth in the agreements with the individuals receiving the awards. Stock-based awards granted under the 2003 Plan are generally subject to a vesting requirement. Stock-based awards generally expire ten years from the date of grant. Each restricted stock unit entitles the holder to receive one share of common stock upon vesting. As of September 30, 2008, approximately 93,832,000 shares of common stock were available for future grant under the 2003 Plan.

2007 Stock Incentive Plan

XM Holdings maintains a 2007 Stock Incentive Plan (the "2007 Plan") under which officers, other employees and other key individuals of XM may be granted various types of equity awards, including restricted stock, stock units, stock options, stock appreciation rights, dividend equivalent rights and other stock awards. Stock option awards under the 2007 Plan generally vest ratably

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over three years based on continuous service, while restricted stock generally vests ratably over one or three years based on continuous service. Stock option awards are granted with an exercise price equal to the market price of our common stock at the date of grant and expire no later than ten years from the date of grant. Grants of equity awards other than stock options or stock appreciation rights reduce the number of shares available for future grant by 1.5 times the number of shares granted under such equity awards. In connection with the Merger, the shares available for future grant under the 2007 Plan were adjusted using a conversion factor of 4.6 SIRIUS shares for each XM Holdings share. Since the Merger, there have been no grants of awards from the 2007 Plan. As of September 30, 2008, there were 60,084,705 shares available under the 2007 Plan for future grant.

1998 Shares Award Plan

XM Holdings maintains a 1998 Shares Award Plan (the "1998 Plan") under which employees, consultants and non-employee directors of XM were granted stock options and restricted stock awards. Stock option awards and restricted stock awards under the 1998 Plan generally vest ratably over three years based on continuous service. Stock option awards are generally granted with an exercise price equal to the market price of our common stock at the date of grant and expire no later than ten years from the date of grant. The 1998 Plan terminated in June 2008 and shares are no longer available for future grant.

XM Talent Option Plan

XM Holdings maintains a Talent Option Plan (the "Talent Plan") under which non-employee programming consultants to XM may be granted stock options awards. Stock option awards under the Talent Plan generally vest ratably over three years based on continuous service. Stock option awards are generally granted with an exercise price equal to the market price of our common stock at the date of grant and expire no later than ten years from the date of grant. In connection with the Merger, the shares available for future grant under the Talent Plan were adjusted using a conversion factor of 4.6 SIRIUS shares for each XM share. Since the Merger, there have been no grants of awards from the Talent Plan. As of September 30, 2008, there were 1,564,000 options available under the Talent Plan for future grant.

Merger

In connection with the Merger, all outstanding XM options and restricted stock were converted into the right to receive 4.6 shares of our common stock for each share issuable upon exercise or vesting of such XM option or share of restricted stock. The conversion rate was also applied to the original grant date exercise price. There was no acceleration of vesting solely as a result of the exchange and the original expiration dates of the options and restricted stock remain in effect. The fair value of these options was estimated using the Black-Scholes option pricing model.

The following table summarizes the weighted-average assumptions used to compute reported share-based payment expense to employees and members of our board of directors for the periods set forth below:

	Three months ended September 30,		Nine months ended September 30,	
	2008	2007	2008	2007
Risk-free interest rate	3.1%	4.5%	2.7%	4.8%
Expected life of options—years	4.06	4.45	4.06	4.45
Expected stock price volatility	80%	60%	80%	60%
Expected dividend yield	N/A	N/A	N/A	N/A

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

The following table summarizes the range of assumptions used to compute reported share-based payment expense to third parties, other than non-employee members of our board of directors, for the periods set forth below:

	Three months ended September 30,		Nine months ended September 30,	
	2008	2007	2008	2007
Risk-free interest rate	2.0 - 3.0%	4.0 - 4.8%	1.6 - 3.3%	4.0 - 5.0%
Expected life of options—years	1.50 - 4.06	2.50 - 8.91	1.50 - 4.08	2.50 - 8.91
Expected stock price volatility	80%	60%	80%	60%
Expected dividend yield	N/A	N/A	N/A	N/A

The following table summarizes stock option activity under our share-based payment plans for the nine months ended September 30, 2008 (shares in thousands):

	Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (Years)
Outstanding, January 1, 2008	79,600	$ 5.38	
Options exchanged for outstanding XM options	67,711	$ 4.09	
Granted	17,492	$ 2.89	
Exercised	(117)	$ 1.74	
Forfeited, cancelled or expired	(2,862)	$ 4.60	
Outstanding, September 30, 2008	161,824	$ 4.59	6.03
Exercisable, September 30, 2008	115,862	$ 4.91	5.24

The weighted average grant date fair value of options granted during the nine months ended September 30, 2008 and 2007 was $1.73 and $1.88, respectively. The total intrinsic value of stock options exercised during the nine months ended September 30, 2008 and 2007 was $127 and $1,792, respectively.

We recognized share-based payment expense associated with stock options of $13,940 and $36,465 for the three and nine months ended September 30, 2008, respectively. For the comparable periods in 2007, we recognized expense of $10,323 and $31,614, respectively.

The following table summarizes the non-vested restricted stock and restricted stock unit activity under our share-based payment plans for the nine months ended September 30, 2008 (shares in thousands):

	Shares	Weighted-Average Grant Date Fair Value
Nonvested, January 1, 2008	3,623	$ 3.70
Shares exchanged for non-vested XM shares	33,339	$ 2.93
Granted	3,208	$ 2.87
Vested	(12,438)	$ 3.11
Forfeited	(1,456)	$ 2.86
Nonvested, September 30, 2008	26,276	$ 2.87

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

The weighted average grant date fair value of restricted stock units granted during the nine months ended September 30, 2008 and 2007 was $2.87 and $3.58, respectively. The total intrinsic value of restricted stock units that vested during the nine months ended September 30, 2008 and 2007 was $19,529 and $8,667, respectively.

We recognized share-based payment expense associated with restricted stock units and shares of restricted stock of $5,342 and $9,956 for the three and nine months ended September 30, 2008, respectively. For the comparable periods in 2007, we recognized expense of $2,219 and $8,436, respectively.

For the three and nine months ended September 30, 2008, we recognized share-based payment expense of $1,507 and $4,477 for restricted stock units granted for services performed in 2008. For the comparable periods in 2007, we recognized share-based payment expense of $1,282 and $3,687, respectively, for restricted stock units granted for services performed in 2007.

Total unrecognized compensation costs related to unvested share-based payment awards granted to employees and members of our board of directors at September 30, 2008 and December 31, 2007, net of estimated forfeitures, was $114,092 and $80,635, respectively. The weighted-average period over which the compensation expense for these awards is expected to be recognized is three years as of September 30, 2008.

No income tax benefits have been realized from stock option exercises during the three and nine months ended September 30, 2008 and 2007 because a valuation allowance was maintained for all net deferred tax assets.

401(k) Savings Plans

We sponsor the Sirius Satellite Radio 401(k) Savings Plan (the "Sirius Plan") and the XM Satellite Radio 401(k) Savings Plan (the "XM Plan") for eligible employees. The Sirius Plan allows eligible employees to voluntarily contribute from 1% to 50% of their pre-tax salary subject to certain defined limits, while the XM Plan allows eligible employees to defer the maximum percentage of their compensation allowable under law on a pre-tax basis through contributions to the savings plan. Under the Sirius Plan, SIRIUS matches 50% of an employee's voluntary contributions, up to 6% of an employee's pre-tax salary, in the form of shares of common stock. Matching contributions under the Sirius Plan vest at a rate of 33 1/3 % for each year of employment and are fully vested after three years of employment. Under the XM Plan, XM matches 50% of an employee's voluntary contributions, up to 6% of an employee's pre-tax salary, in cash. Matching contributions under the XM Plan vest immediately. Expense resulting from the matching contribution to the plans was $857 and $2,086 for the three and nine months ended September 30, 2008, respectively. For the comparable periods in 2007, the expense was $430 and $1,223, respectively.

SIRIUS may also elect to contribute to the profit sharing portion of the Sirius Plan based upon the total compensation of eligible participants. These additional contributions, referred to as profit-sharing contributions, are determined by the compensation committee of our board of directors. SIRIUS employees are only eligible to receive profit-sharing contributions during any year in which they are employed on the last day of the year. Profit-sharing contribution expense was $1,665 and $5,025 for the three and nine months ended September 30, 2008, respectively. For the comparable periods in 2007, the expense was $1,450 and $4,213, respectively.

(13) Income Taxes

We recorded income tax expense of $1,215 and $2,301 for the three and nine months ended September 30, 2008, respectively. For the comparable periods in 2007, the expense was $555 and $1,665, respectively. Such expense represents the recognition of a deferred tax liability related to the difference in accounting for the FCC licenses, which are amortized over 15 years for tax purposes but are not amortized for book purposes.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

(14) Commitments and Contingencies

The following table summarizes our expected contractual cash commitments as of September 30, 2008:

(in thousands)	Remaining 2008	2009	2010	2011	2012	Thereafter	Total
Long-term debt obligations	$ 3,328	$ 1,097,910	$ 12,512	$ 235,143	$ 239,402	$ 1,833,760	$ 3,422,055
Cash interest payments	44,432	269,411	210,281	209,190	196,314	316,583	1,246,211
Lease obligations	10,573	41,460	37,078	23,146	18,271	29,990	160,518
Satellite and transmission	52,599	159,859	106,308	46,500	7,671	41,038	413,975
Programming and content	61,021	244,349	219,509	75,870	68,600	53,833	723,182
Marketing and distribution	53,758	32,494	32,760	21,121	11,783	—	151,916
Chip set development and production	3,354	—	—	—	—	—	3,354
Satellite performance incentive payments	1,393	4,096	4,384	4,695	5,030	48,223	67,821
Other	3,944	10,603	3,289	14	—	—	17,850
Total	$ 234,402	$ 1,860,182	$ 626,121	$ 615,679	$ 547,071	$ 2,323,427	$ 6,206,882

Debt Obligations. Long-term debt obligations include principal payments on outstanding debt.

Cash Interest Payments. Cash interest payments include interest due on outstanding debt through maturity.

Lease Obligations. We have entered into operating leases related to certain studios, office space, terrestrial repeaters and equipment.

Satellite and Transmission. We have entered into agreements with third parties to operate and maintain the off-site satellite telemetry, tracking and control facilities and certain components of our terrestrial repeater networks. We have also entered into various agreements to design and construct satellites for use in our systems and to launch those satellites.

SIRIUS has entered into an agreement with Space Systems/Loral to design and construct a fifth and sixth satellite. SIRIUS plans to launch one satellite on a Proton rocket under an existing contract with International Launch Services. In January 2008, SIRIUS entered into an agreement with International Launch Services to secure two additional satellite launches on Proton rockets. SIRIUS plans to use one of these rockets to launch its sixth satellite. This agreement provides SIRIUS with the flexibility to defer launch dates if it chooses, and the ability to cancel the second of these launches upon payment of a cancellation fee.

XM has also entered into an agreement with Space Systems/Loral to construct its fifth satellite, XM-5. On July 15, 2003, Space Systems/Loral, Loral Space & Communications Ltd. and certain other affiliated entities commenced voluntary Chapter 11 bankruptcy cases under the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York. The Bankruptcy Court approved XM's agreement with Space Systems/Loral, pursuant to which XM may make construction payments on XM-5 into an escrow account until the occurrence of an "Emergence Date," as defined in the agreement. In August 2007, XM's agreement with Space Systems/Loral was amended to defer payments on the remaining construction costs until the earlier of post-launch or January 2010.

Boeing Satellite Systems International, Inc., the manufacturer of XM's four in-orbit satellites, may be entitled to future in-orbit performance payments with respect to two of XM's four satellites. As of September 30, 2008, we have accrued $35,780 related to contingent in-orbit performance payments for XM-3 and XM-4 based on expected operating performance over their fifteen year design

life. Boeing may also be entitled to an additional $10,000 if XM-4 continues to operate above baseline specifications during the five years beyond the satellite's fifteen year design life.

Programming and Content. We have entered into various programming agreements. Under the terms of these agreements, we are obligated to provide payments to other entities that may include fixed payments, advertising commitments and revenue sharing arrangements.

Marketing and Distribution. We have entered into various marketing, sponsorship and distribution agreements to promote our brand and are obligated to make payments to sponsors, retailers, automakers and radio manufacturers under these agreements. Certain programming and content agreements also require us to purchase advertising on properties owned or controlled by the licensors. We also reimburse automakers for certain engineering and development costs associated with the incorporation of satellite radios into vehicles they manufacture. In addition, in the event that certain new products are not shipped by a distributor to its customers within 90 days of the distributor's receipt of goods, we have agreed to purchase and take title to the product.

Chip Set Development and Production. We have entered into agreements with third parties to develop, produce and supply chip sets, to develop products and, in certain instances, to license intellectual property related to chip sets.

Other. We have entered into various agreements with third parties for general operating purposes. In addition to the contractual cash commitments described above, we have entered into agreements with automakers, radio manufacturers, distributors and others that include per-radio, per-subscriber, per-show and other variable cost arrangements. These future costs are dependent upon many factors, including subscriber growth, and are difficult to anticipate; however, these costs may be substantial. We may enter into additional programming, distribution, marketing and other agreements that contain similar provisions.

We are required under the terms of certain agreements to provide letters of credit and deposit monies in escrow, which place restrictions on cash and cash equivalents. As of September 30, 2008 and December 31, 2007, $141,250 and $53,000, respectively, was classified as Restricted investments as a result of reimbursement obligations under these letters of credit and escrow deposits.

Other than those disclosed herein, we have not entered into any other material off-balance sheet arrangements or transactions.

Legal Proceedings

FCC Matters. In August 2008, we entered into two Consent Decrees to settle with the Enforcement Bureau of the Federal Communications Commission outstanding enforcement matters pending against SIRIUS and XM. In 2006, the FCC commenced investigations regarding the compliance of certain radios that include FM transmitters with the Commission's rules, and the compliance of certain terrestrial repeaters with the special temporary authority granted by the Commission. The Consent Decrees terminated these inquiries.

As part of the Consent Decrees, we agreed, among other things, to:

- adopt comprehensive compliance plans, and take steps to address any potentially non-compliant radios in the hands of consumers;
- in the case of XM, within 60 days of the order adopting the Consent Decrees, shut down 50 variant terrestrial repeaters, and shut down or bring into compliance an additional 50 variant terrestrial repeaters;
- in the case of SIRIUS, receive special temporary authority to operate two of its eleven variant terrestrial repeaters. These eleven terrestrial repeaters were shut off by SIRIUS in October 2006; and
- make voluntary contributions to the United States Treasury of approximately $17,000 in the case of XM, and approximately $2,000 in the case of SIRIUS.

SIRIUS XM RADIO INC. AND SUBSIDIARIES

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(Dollar amounts in thousands, unless otherwise stated)

We have taken all of these actions, and are in compliance with the terms of the Consent Decrees.

FCC Merger Order. On July 25, 2008, the FCC adopted an order approving the Merger. The order became effective immediately upon adoption. This order was published in the Federal Register on September 8, 2008. On September 4, 2008, Mt. Wilson FM Broadcasters, Inc. filed a Petition for Reconsideration of the FCC's merger order. This Petition for Reconsideration remains pending.

Appellate Review of FCC Merger and Consent Decree Orders. Two different parties, U.S. Electronics and Michael Hartleib, have sought appellate review of the FCC's decision regarding the Merger. Each party also challenged the FCC's decision to enter into the consent decrees mentioned above. These matters were both filed in the United States Court of Appeals for the D.C. Circuit, and have been consolidated by the court. We have moved to intervene, and that motion has been granted. Subsequent to filing its initial request for appellate review, U.S. Electronics moved to both amend its original filing and submit an additional notice of appeal in order to comply with the statutory requirements for review of agency decisions. The FCC has moved to dismiss both the Hartleib and the U.S. Electronics requests for review on the grounds that neither party has standing to challenge the merger order or the consent decrees, and has further argued that the agency's decision to enter into a consent decree is not reviewable by the court in these circumstances. Separately, the court issued a show cause order on its own motion that requires U.S. Electronics to demonstrate why its additional notice of appeal should not be dismissed as untimely.

Copyright Royalty Board Proceeding. In January 2008, the Copyright Royalty Board, or CRB, of the Library of Congress issued its decision regarding the royalty rate payable by us under the statutory license covering the performance of sound recordings over our satellite digital audio radio services for the six-year period starting January 1, 2007 and ending December 31, 2012. Under the terms of the CRB's decision, we will pay a royalty of 6.0% of gross revenues, subject to certain exclusions, for 2007 and 2008, 6.5% for 2009, 7.0% for 2010, 7.5% for 2011 and 8.0% for 2012. SoundExchange has appealed the decision of the CRB to the United States Court of Appeals for the District of Columbia Circuit. Final briefs in this matter are scheduled to be submitted to the United States Court of Appeals for the District of Columbia Circuit by the end of February 2009.

U.S. Electronics Arbitration. In May 2006, U.S. Electronics Inc., a former licensed distributor and manufacturer of SIRIUS radios, commenced an arbitration proceeding against SIRIUS. U.S. Electronics alleged that SIRIUS breached its contract; failed to pay monies owed under the contract; tortiously interfered with U.S. Electronics' relationships with retailers and manufacturers; and otherwise acted in bad faith. U.S. Electronics sought up to $133,000 in damages. In August 2008, following a 20-day arbitration hearing, a panel of three arbitrators unanimously issued a 149-page Final Award dismissing with prejudice all of U.S. Electronics' claims, including its claims for lost profits.

Atlantic Recording Corporation, BMG Music, Capital Records, Inc., Elektra Entertainment Group Inc., Interscope Records, Motown Record Company, L.P., Sony BMG Music Entertainment, UMG Recordings, Inc., Virgin Records, Inc and Warner Bros. Records Inc. v. XM Satellite Radio Inc. In May 2006, the plaintiffs filed this action in the United States District Court for the Southern District of New York. The complaint seeks monetary damages and equitable relief, and alleges that XM radios that include advanced recording functionality infringe upon plaintiffs' copyrighted sound recordings. XM filed a motion to dismiss this matter, and that motion was denied in January 2007. XM has resolved the lawsuit with respect to Universal Music Group, Warner Music Group, Sony BMG Music Entertainment and EMI Group, and each of these parties have withdrawn as a party to the lawsuit and this lawsuit has been dismissed.

Music publishing companies and certain other record companies also have filed lawsuits, purportedly on a class basis, with similar allegations. XM believes these allegations are without merit and that these products comply with applicable copyright law, including the Audio Home Recording Act, and intends to vigorously defend this matter. There can be no assurance regarding the ultimate outcome of these matters, or the significance, if any, to our business, consolidated results of operations or financial position.

Matthew Enderlin v. XM Satellite Radio Holdings Inc. and XM Satellite Radio Inc. In January 2006, the plaintiff filed this action in the United States District Court for the Eastern District of Arkansas on behalf of a purported nationwide class of all XM subscribers. The complaint alleges that XM engaged in a deceptive trade practices under Arkansas and other state laws by representing that its music

channels are commercial-free. The court stayed the litigation and directed the parties to arbitration. XM instituted arbitration with the American Arbitration Association pursuant to the compulsory arbitration clause in its customer service agreement. The plaintiff has filed a counterclaim in the arbitration on behalf of the class that he seeks to represent. XM believes the matter is without merit and intends to vigorously defend the ongoing arbitration. There can be no assurance regarding the ultimate outcome of this matter, or the significance, if any, to our business, consolidated results of operations or financial position.

Other Matters. In the ordinary course of business, we are a defendant in various lawsuits and arbitration proceedings, including actions filed by former employees, parties to contracts or leases and owners of patents, trademarks, copyrights or other intellectual property. None of these actions are, in our opinion, likely to have a material adverse effect on our business, consolidated results of operations or financial results.

(15) Subsequent Events

Since September 30, 2008, we have issued or entered into agreements to issue an aggregate of 262,911,513 shares of our common stock, par value $0.001 per share, in exchange for $90,772 principal amount of the 2 1/2% Notes beneficially owned by institutional holders.

We did not receive any cash proceeds as a result of the exchange of our common stock for the 2 1/2% Notes, which notes were retired and cancelled. We executed these transactions to reduce our debt and interest cost, increase our equity, and improve our balance sheet. We may engage in additional exchanges in respect of our outstanding indebtedness if and as favorable opportunities arise.

The issuance of the shares of our common stock was made pursuant to the exemption from the registration requirements of the Securities Act of 1933, as amended, contained in Section 3(a)(9) of such Act.

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

(All dollar amounts referenced in this Item 2 are in thousands, unless otherwise stated)

Special Note Regarding Forward-Looking Statements

The following cautionary statements identify important factors that could cause our actual results to differ materially from those projected in forward-looking statements made in this Quarterly Report on Form 10-Q and in other reports and documents published by us from time to time. Any statements about our beliefs, plans, objectives, expectations, assumptions, future events or performance are not historical facts and may be forward-looking. These statements are often, but not always, made through the use of words or phrases such as "will likely result," "are expected to," "will continue," "is anticipated," "estimated," "intend," "plan," "projection" and "outlook." Any forward-looking statements are qualified in their entirety by reference to the factors discussed throughout our Annual Report on Form 10-K for the year ended December 31, 2007 (the "Form 10-K") and in other reports and documents published by us from time to time, particularly the risk factors described under "Business—Risk Factors" in Item 1A of the Form 10-K.

Among the significant factors that could cause our actual results to differ materially from those expressed in the forward-looking statements are:

- our substantial indebtedness, which could adversely affect our financial health, and our need to refinance substantial portions of our debt in the near term, which refinancing may not be available on favorable terms, if at all;
- our merger with XM, including the possibility that the anticipated benefits of the merger may not be fully realized or may take longer to realize; and the risks associated with the undertakings made to the FCC and its affects on our business in the future;
- the useful life of SIRIUS' and XM's satellites, which have experienced failures on their solar arrays and other component failures and, in certain cases, are not insured;
- our dependence upon third parties, including manufacturers and distributors of satellite radios, retailers, automakers and programming providers; and
- our competitive position versus other forms of audio and video entertainment including terrestrial radio, HD radio, internet radio, mobile phones, iPods and other MP3 devices, and emerging next generation networks and technologies.

Because the risk factors referred to above could cause actual results or outcomes to differ materially from those expressed in any forward-looking statements made by us or on our behalf, you should not place undue reliance on any of these forward-looking statements. In addition, any forward-looking statement speaks only as of the date on which it is made, and we undertake no obligation to update any forward-looking statement or statements to reflect events or circumstances after the date on which the statement is made, to reflect the occurrence of unanticipated events or otherwise. New factors emerge from time to time, and it is not possible for us to predict which will arise or to assess with any precision the impact of each factor on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements.

Executive Summary

We provide satellite radio in the United States. We broadcast music, sports, news, talk, entertainment, traffic and weather for a subscription fee through proprietary satellite radio systems – the SIRIUS system and the XM system. On July 28, 2008, our wholly owned subsidiary, Vernon Merger Corporation, merged (the "Merger") with and into XM Satellite Radio Holdings Inc. and, as a result, XM Satellite Radio Holdings Inc. is now our wholly owned subsidiary. The SIRIUS satellite radio system consists of three in-orbit satellites, approximately 120 terrestrial repeaters that receive and retransmit signals, satellite uplink facilities and studios. The XM satellite radio system consists of four in-orbit satellites, over 700 terrestrial repeaters that receive and retransmit signals, satellite uplink facilities and studios. Subscribers can also receive music channels and certain other channels over the internet.

Our radios are primarily distributed through retailers; automakers, or OEMs; and through our websites. On September 30, 2008, SIRIUS and XM radios were available at more than 20,000 retail locations. We also have agreements with every major automaker, Acura/Honda, Aston Martin, Audi, Automobili Lamborghini, Bentley, BMW, Chrysler, Dodge, Ford, General Motors, Honda, Hyundai, Infiniti/Nissan, Jaguar, Jeep, Kia, Land Rover, Lincoln, Lexus/Toyota/Scion, Maybach, Mazda, Mercedes-Benz, Mercury, MINI, Mitsubishi, Rolls-Royce, Volvo and

Volkswagen, to offer either SIRIUS or XM satellite radios as factory or dealer-installed equipment in their vehicles. SIRIUS and XM radios are also offered to customers of rental car companies, including Hertz and Avis.

As of September 30, 2008, we had 18,920,911 subscribers compared with 17,348,622 pro-forma subscribers (8,321,785 actual subscribers) as of December 31, 2007 and 16,234,070 pro-forma subscribers (7,667,476 actual subscribers) as of September 30, 2007. Our current subscriber total includes 9,716,070 XM subscribers that we acquired as a result of the Merger. Our subscriber totals include subscribers under our regular pricing plans; subscribers that have prepaid, including payments received from automakers for prepaid subscriptions included in the sale or lease price of a new vehicle; active SIRIUS radios under our agreement with Hertz; active XM radios under its agreement with Avis; and subscribers to SIRIUS Internet Radio and XM Internet Radio, our Internet services.

Our primary source of revenue is subscription fees, with most of our customers subscribing on an annual, semi-annual, quarterly or monthly basis. We offer discounts for pre-paid and long-term subscriptions as well as discounts for multiple subscriptions. Currently, we receive an average of approximately eight months of prepaid revenue per subscriber upon activation. We also derive revenue from activation fees, the sale of advertising on select non-music channels, the direct sale of satellite radios and accessories, and other ancillary services, such as our Backseat TV, data and weather services. We believe our ability to attract and retain subscribers depends in large part on creating and sustaining distribution channels for satellite radios, the strength of our brands, and the quality and entertainment value of our programming.

In certain cases, automakers include a subscription to our radio services in the sale or lease price of vehicles. The length of these prepaid subscriptions varies, but is typically three months to one year. In many cases, we receive subscription payments from automakers in advance of the activation of our service. We also reimburse various automakers for certain costs associated with satellite radios installed in their vehicles.

We also have an interest in the satellite radio services offered in Canada. SIRIUS Canada Inc. (“SIRIUS Canada”), a Canadian corporation that we jointly own with Canadian Broadcasting Corporation and Standard Radio Inc., offers a satellite radio service in Canada. SIRIUS Canada offers 120 channels of commercial-free music and news, sports, talk and entertainment programming, including 11 channels offering Canadian content. Canadian Satellite Radio Holdings Inc. (“XM Canada”), a Canadian corporation in which we have an ownership interest, also offers satellite radio service in Canada. XM Canada offers 130 channels of music and news, sports, talk and entertainment programming. Subscribers to the SIRIUS Canada service and the XM Canada service are not included in our subscriber count.

On August 5, 2008, Sirius Satellite Radio Inc. changed its name to Sirius XM Radio Inc. XM Satellite Radio Holdings Inc., together with its subsidiaries, is operated as an unrestricted subsidiary under our existing indebtedness. As an unrestricted subsidiary, transactions between the companies are required to comply with various contractual provisions in our respective debt instruments.

Economic Outlook

Current economic conditions, particularly the dramatic and recent slowdown in auto sales, have negatively impacted our subscriber growth for 2008 and 2009.

FCC Conditions

In order to demonstrate to the FCC that the Merger was in the public interest, we agreed to implement a number of voluntary commitments. These programming, minority and public interest, equipment, subscription rates, and other service commitments are summarized as follows:

Programming

A La Carte Programming: We have committed to offer the following a la carte programming options to eligible radios:

- 50 channels will be available for $6.99 a month. Additional channels can be added for 25 cents each, with premium programming priced at additional cost. However, in no event will a customer subscribing to this a la carte option pay more than $12.95 per month for this programming.
- 100 channels, including channels from both services, will be available on an a la carte basis for $14.99 a month.

We have, including channels from both services, introduced these packages and a radio capable of receiving them.

"Best of Both" Programming: We offer customers the ability to receive the best of both SIRIUS and XM programming at a monthly cost of $16.99.

Mostly Music or News, Sports and Talk Programming: We offer customers an option of "mostly music" programming or "mostly news, sports and talk" programming at a cost of $9.99 per month.

Discounted Family-Friendly Programming: We offer consumers a "family-friendly" version of existing SIRIUS or XM programming at a cost of $11.95 a month, representing a discount of $1.00 per month. We also offer SIRIUS and XM customers a family-friendly version of the Best of Both Programming. This programming costs $14.99 per month, representing a discount of $2.00 per month from the cost of the "best of" programming.

Public Interest and Qualified Entity Channels

We have agreed to set aside four percent of the full-time audio channels on the SIRIUS platform and on the XM platform, which currently represents six channels on the SIRIUS platform and six channels on the XM platform, for noncommercial, educational and informational programming within the meaning of the FCC rules that govern a similar obligation of direct broadcast satellite providers. We will not select a programmer to fill more than one non-commercial, educational or informational channel on each of the SIRIUS and XM platforms as long as demand for such channels exceeds available supply.

In addition, we have agreed to enter into long-term leases or other agreements to provide to a Qualified Entity or Entities, defined as an entity or entities that are majority-owned by persons who are African American, not of Hispanic origin; Asian or Pacific Islanders; American Indians or Alaskan Natives; or Hispanics, rights to four percent of the full-time audio channels on the SIRIUS platform and on the XM platform, which currently represents six channels on the SIRIUS platform and six channels on the XM platform. As digital compression technology enables us to broadcast additional full-time audio channels, we will ensure that four percent of full-time audio channels on the SIRIUS platform and the XM platform are reserved for a Qualified Entity or Entities.

The Qualified Entity or Entities will not be required to make any lease payments for such channels. We will have no editorial control over these channels. We expect the FCC to inform us how it plans to select these Qualified Entities in the future.

Equipment

We are required to provide, on commercially reasonable terms, our intellectual property necessary to permit any device manufacturer to develop equipment that can deliver our satellite radio services. Chip sets for satellite radios, which include the encryption, conditional access and security technology necessary to access our satellite radio services, may be purchased by licensees from manufacturers in negotiated transactions with such manufacturers. We will not enter into any agreement that grants, or that would have the effect of granting, a device manufacturer an exclusive right to manufacture, market and sell equipment that can deliver our satellite radio services.

We will also not execute any agreement or take any other action that would bar, or have the effect of barring, a car manufacturer or other third party from including non-interfering HD radio chips, iPod compatibility, or other audio technology in an automobile or audio device.

Service to Puerto Rico

We have filed applications with the FCC to provide the SIRIUS satellite radio service to the Commonwealth of Puerto Rico using terrestrial repeaters and will, upon grant of the necessary permanent authorizations, promptly introduce SIRIUS satellite radio service to the Commonwealth.

Interoperable Receivers

Within nine months of the consummation of the Merger, April 28, 2009, we will offer for sale an interoperable receiver in the retail after-market.

Subscription Rates

We have agreed not to raise the retail price for, or reduce the number of channels in, our basic $12.95 per month subscription package, the a la carte programming packages or the new programming packages described above until July 28, 2011, thirty six months after consummation of the Merger. After July 29, 2009, the first anniversary of the consummation of the Merger, we may pass through cost increases incurred since the filing of our FCC merger application as a result of statutorily or contractually required payments to the music, recording and publishing industries for the performance of musical works and sound recordings or for device recording fees. We will provide customers, either on individual bills or on our website, specific costs passed through to consumers pursuant to the preceding sentence.

Local Programming and Advertising

We have committed not to originate local programming or advertising through our repeater networks.

Pro Forma Information

The following discussion of our pro forma information includes non-GAAP financial results and measures that assume the Merger occurred on January 1, 2007. These financial results exclude the impact of purchase price accounting adjustments and refinancing transactions. We believe this non-GAAP financial information provides meaningful supplemental information regarding our operating performance and is used for internal management purposes, when publicly providing the business outlook, and as a means to evaluate period-to-period comparisons. Please refer to the footnotes following our discussion of results of operations for the definitions and further discussion of usefulness of such non-GAAP financial measures.

Subscriber and Key Operating Metrics. The following tables contain our pro forma subscribers and key operating metrics for the three and nine months ended September 30, 2008 and 2007:

Pro Forma Subscribers and Metrics:

	Pro Forma Three months ended September 30,		Pro Forma Nine months ended September 30,	
	2008	2007	2008	2007
Beginning subscribers	18,576,830	15,394,319	17,348,622	13,653,107
Gross subscriber additions	1,846,996	1,950,842	5,999,714	5,751,123
Deactivated subscribers	(1,502,915)	(1,111,092)	(4,427,425)	(3,170,161)
Net additions	344,081	839,750	1,572,289	2,580,962
Ending subscribers	18,920,911	16,234,069	18,920,911	16,234,069
Retail	9,036,420	8,927,442	9,036,420	8,927,442
OEM	9,777,704	7,238,239	9,777,704	7,238,239
Rental	106,787	68,388	106,787	68,388
Ending subscribers	18,920,911	16,234,069	18,920,911	16,234,069
Retail	(149,416)	46,730	(202,291)	472,996
OEM	492,215	783,400	1,744,432	2,068,732
Rental	1,282	9,620	30,148	39,234
Net additions	344,081	839,750	1,572,289	2,580,962

	Pro Forma Three months ended September 30,		Pro Forma Nine months ended September 30,	
	2008	2007	2008	2007
Average self-pay monthly churn (1)(7)	1.7%	1.6%	1.7%	1.7%
Conversion rate (2)(7)	47.0%	50.7%	49.2%	50.6%
ARPU (3)(7)	$ 10.47	$ 10.75	$ 10.48	$ 10.69
SAC, as adjusted, per gross subscriber addition (4)(7)	$ 74	$ 86	$ 76	$ 87
Customer service and billing expenses, as adjusted, per average subscriber (5)(7)	$ 1.05	$ 1.09	$ 1.18	$ 1.14
Total revenue	$ 612,776	$ 529,242	$1,792,632	$1,501,093
Free cash flow (6)(7)	$ (97,590)	$(102,852)	$ (577,673)	$ (510,274)
Adjusted loss from operations (8)	$ (36,851)	$(103,572)	$ (168,096)	$ (341,309)
Net loss	$(217,010)	$(265,515)	$ (653,867)	$ (842,592)

Subscribers. We ended the third quarter of 2008 with 18,920,911 subscribers, an increase of 17% from the 16,234,069 subscribers as of September 30, 2007. Gross subscriber additions decreased about 5% in the third quarter 2008 from the prior year period, but increased approximately 4% over the prior year period for the nine months ending September 30, 2008. Gross additions in our OEM channel continued to grow for both the three and nine month periods over the prior year as automakers continued to increase the portion of their production which incorporates satellite radio. The growth in OEM gross additions was offset by declines in retail gross additions. Deactivations for self-pay subscriptions remained consistent with historical levels; non-conversions of subscribers in paid promotional trial periods declined as production penetration rates increased.

ARPU. Total ARPU for the three months ended September 30, 2008 was $10.47, compared to $10.75 for the three months ended September 30, 2007. The decrease was driven by an increase in the mix of discounted OEM promotional trials, subscriber winback programs, second subscribers and a decline in net advertising revenue per average subscriber as subscriber growth exceeded the growth in ad revenues.

We expect ARPU to fluctuate based on the growth of our subscriber base, promotions, rebates offered to subscribers and corresponding take-rates, plan mix, subscription prices, advertising sales and the identification of additional revenue from subscribers.

SAC, As Adjusted, Per Gross Subscriber Addition. SAC, as adjusted, per gross subscriber addition was $74 and $86 for the three months ended September 30, 2008 and 2007, respectively. The decrease was primarily driven by lower retail and OEM subsidies due to better product economics.

We expect SAC, as adjusted, per gross subscriber addition to decline as the costs of subsidized components of SIRIUS and XM radios decrease in the future. If competitive forces or changes in retailer promotional strategies require us to increase hardware subsidies or promotions, SAC, as adjusted, per gross subscriber addition may increase. Our SAC, as adjusted, per gross subscriber addition will continue to be impacted by our increasing mix of OEM gross subscriber additions.

Customer Service and Billing Expenses, As Adjusted, Per Average Subscriber. Customer service and billing expenses, as adjusted, per average subscriber declined 4% to $1.05 for the third quarter of 2008 compared with $1.09 for the third quarter of 2007. The decline was primarily due to efficiencies across a larger subscriber base.

We expect customer service and billing expenses, as adjusted, per average subscriber to decrease on an annual basis as our subscriber base grows due to scale efficiencies in our call centers and other customer care and billing operations. Our customer service and billing expenses, as adjusted, per average subscriber are generally lower in the first three quarters of our fiscal year and increase in the fourth quarter due to the holiday selling season.

Pro Forma Results of Operations. For ease of comparison, set forth below are certain pro forma items that give effect to the Merger as if it had occurred on January 1, 2007. The pro forma information below does not give effect to any adjustments as a result the purchase price accounting for the Merger. See footnote 8 for a reconciliation.

	Pro Forma Three months ended September 30,		Pro Forma Nine months ended September 30,	
(in thousands, except per share data)	2008	2007	2008	2007
Total revenue	$ 612,776	$ 529,242	$1,792,632	$1,501,093
Operating expenses:				
Satellite and transmission	25,136	25,409	76,336	78,024
Programming and content	131,630	100,675	341,422	292,385
Revenue share and royalties	120,800	85,394	355,251	239,518
Customer service and billing	58,857	51,562	177,159	152,396
Cost of equipment	16,179	15,671	48,020	60,485
Sales and marketing	78,178	96,490	260,583	289,374
Subscriber acquisition costs	132,477	162,656	444,396	474,008
General and administrative	75,981	80,051	215,440	207,608
Engineering, design and development	10,389	14,906	42,121	48,604
Impairment of goodwill	—	—	—	—
Depreciation and amortization	64,111	72,474	196,051	218,931
Share-based payment expense	29,809	42,714	99,673	112,202
Restructuring and related costs	7,430	—	7,457	—
Total operating expenses	750,977	748,002	2,263,909	2,173,535
Loss from operations	(138,201)	(218,760)	(471,277)	(672,442)
Other expense	(77,086)	(46,095)	(178,777)	(169,555)
Loss before income taxes	(215,287)	(264,855)	(650,054)	(841,997)
Income tax expense	(1,723)	(660)	(3,813)	(595)
Net loss	$(217,010)	$(265,515)	$ (653,867)	$ (842,592)

Highlights for the Three Months Ended September 30, 2008. Our revenue grew 16% or by $83,534 in the three months ended September 30, 2008. This revenue growth was driven by our 17% growth in subscribers. This increase was reflected in improved Adjusted loss from operations (excluding restructuring, goodwill impairment, and merger related costs) of $66,721, as increases in our variable costs were offset by decreases in sales and marketing and subscriber acquisition costs. Total operating expenses, excluding goodwill impairment, restructuring, depreciation and stock based compensation costs and a $27,500 one-time merger related payment to a programming partner, decreased by $10,687 in the quarter.

Programming and content costs for the three months ended September 30, 2008 increased $30,955 including a one-time payment to a programming partner of $27,500 due upon completion of the Merger.

Revenue Share and Royalties increased $35,406 over the prior year, increasing from 16.1% of revenue to 19.7% of revenue. This increase was primarily driven by an increase in the statutory royalties due for the performance of sound recordings. The decision imposing the new royalties was rendered in January 2008, retroactive to January 2007 and was not reflected in the prior year's results until the fourth quarter. Customer service and billing costs increased 14%, or $7,295, from the prior year's in line with the increase in our subscriber base. Sales and marketing cost declined 19%, or $18,312 due to reduced advertising and cooperative marketing spend, offset in part by higher customer retention spending.

Subscriber acquisition costs declined nearly 19%, or $30,179, and as a percent of revenue improved from 30.7% to 21.6%. This improvement was primarily driven by a 15% improvement in SAC per gross addition due to improved product economics and lower retail and OEM subsidies. Subscriber acquisition costs also declined as a result of the 5% decline in gross additions in the quarter.

General and administrative costs decreased 5%, or $4,070, and declined as a percent of revenue, reflecting one time costs in connection with the Merger. Engineering, design and development costs decreased 30%, or $4,517, due to fewer new OEM platform launches and lower product development costs.

Actual Results of Operations

Our discussion of our results of operations, along with the selected financial information in the tables that follow, includes the following non-GAAP financial measures: average monthly self-pay churn; conversion rate; average monthly revenue per subscriber, or ARPU; SAC, as adjusted, per gross subscriber addition; customer service and billing expenses, as adjusted, per average subscriber; free cash flow; and adjusted loss from operations. We believe these non-GAAP financial measures provide meaningful supplemental information regarding our operating performance and are used for internal management purposes, when publicly providing the business outlook, and as a means to evaluate period-to-period comparisons. Please refer to the footnotes following our discussion of results of operations for the definitions and further discussion of usefulness of such non-GAAP financial measures.

The discussion of our results of operations for the three and nine months ended September 30, 2008 includes the financial results of XM for the last 61 days of each period. The inclusion of these results may render direct comparisons with results for prior periods less meaningful. Accordingly, the discussion below addresses, where appropriate, trends we believe are significant, separate and apart from the impact of the Merger.

	Three months ended September 30,		Nine months ended September 30,	
	2008	2007	2008	2007
Beginning subscribers	8,924,139	7,142,538	8,321,785	6,024,555
Gross subscriber additions	11,212,511	999,284	13,245,220	2,989,887
Deactivated subscribers	(1,215,739)	(474,346)	(2,646,094)	(1,346,966)
Net additions	9,996,772	524,938	10,599,126	1,642,921
Ending subscribers	18,920,911	7,667,476	18,920,911	7,667,476
Retail	9,036,420	4,428,747	9,036,420	4,428,747
OEM	9,777,704	3,221,388	9,777,704	3,221,388
Rental	106,787	17,341	106,787	17,341
Ending subscribers	18,920,911	7,667,476	18,920,911	7,667,476
Retail	4,359,721	64,101	4,395,710	386,922
OEM	5,546,161	462,749	6,112,073	1,262,378
Rental	90,890	(1,912)	91,343	(6,379)
Net additions	9,996,772	524,938	10,599,126	1,642,921

	Three months ended September 30,		Nine months ended September 30,	
	2008	2007	2008	2007
Average self-pay monthly churn (1)(7)	1.7%	1.6%	1.7%	1.6%
Conversion rate (2)(7)	47.0%	47.6%	49.1%	47.3%
ARPU (7)(9)	$ 10.15	$ 10.71	$ 10.31	$ 10.63
SAC, as adjusted, per gross subscriber addition (7)(10)	$ 59	$ 101	$ 74	$ 103
Customer service and billing expenses, as adjusted, per average subscriber (7)(11)	$ 1.01	$ 0.95	$ 0.98	$ 1.04
Total revenue	$ 488,443	$ 241,786	$ 1,041,809	$ 672,250
Free cash flow (7)(12)	$ (52,722)	$ (67,799)	$ (270,344)	$ (294,545)
Adjusted income (loss) from operations (13)	$ 22,091	$ (56,892)	$ (41,124)	$ (220,190)
Net loss	$(4,879,427)	$ (120,137)	$ (5,067,444)	$ (399,029)

Subscribers. We ended the third quarter of 2008 with 18,920,911 subscribers, an increase of 147% from the 7,667,476 subscribers as of September 30, 2007. The increase was a result of the additional subscribers as a result of the Merger.

Gross additions for the three and nine months ended September 30, 2008 included 9,716,070 subscribers acquired in the Merger.

ARPU. Total ARPU for the three months ended September 30, 2008 was $10.15, compared to $10.71 for the three months ended September 30, 2007. The decrease was largely driven by the impact of the purchase price adjustment which resulted in a lower fair value of deferred revenue lowering revenue for the period by approximately $0.98; and a decline in net advertising revenue per average subscriber as subscriber growth exceeded the growth in ad revenues, offset by the effects of rebates.

We expect ARPU to fluctuate based on the growth of our subscriber base, promotions, rebates offered to subscribers and corresponding take-rates, plan mix, subscription prices, advertising sales and the identification of additional revenue from subscribers.

SAC, As Adjusted, Per Gross Subscriber Addition. SAC, as adjusted, per gross subscriber addition was $59 and $101 for the three months ended September 30, 2008 and 2007, respectively. The decrease was primarily a result of lower subsidy costs to OEMs and the impact of purchase price adjustments for contractual arrangements which resulted in lower subsidy expense.

We expect SAC, as adjusted, per gross subscriber addition to decline as the costs of subsidized components of SIRIUS and XM radios decrease in the future. If competitive forces or changes in retailer promotional strategies require us to increase hardware subsidies or promotions, SAC, as adjusted, per gross subscriber addition may increase. Our SAC, as adjusted, per gross subscriber addition will continue to be impacted by our increasing mix of OEM gross subscriber additions.

Customer Service and Billing Expenses, As Adjusted, Per Average Subscriber. Customer service and billing expenses, as adjusted, per average subscriber increased 6% to $1.01 for the third quarter of 2008 compared with $0.95 for the third quarter of 2007. The increase was primarily the result of higher blended costs as a result of the Merger.

We expect customer service and billing expenses, as adjusted, per average subscriber to decrease on an annual basis as our subscriber base grows due to scale efficiencies in our call centers and other customer care and billing operations. Our customer service and billing expenses, as adjusted, per average subscriber are generally lower in the first three quarters of our fiscal year and increase in the fourth quarter due to the holiday selling season.

Adjusted Income (Loss) from Operations. Our adjusted income (loss) from operations improved to $22,091 from an adjusted loss from operations of $56,892 for the three months ended September 30, 2008 and 2007, respectively. The net impact of the purchase price adjustments favorably impacted the adjusted income from operations for the three months ended September 30, 2008 by approximately $14,824.

Three and Nine Months Ended September 30, 2008 Compared with Three and Nine Months Ended September 30, 2007

Total Revenue

Subscriber Revenue. Subscriber revenue includes subscription fees, activation fees and the effects of rebates.

- *Three Months:* For the three months ended September 30, 2008 and 2007, subscriber revenue was $456,357 and $226,844, respectively, an increase of 101% or $229,513. $181,153 of the increase was attributable to the Merger, and the remaining increase was primarily attributable to growth of subscribers to our service.
- *Nine Months:* For the nine months ended September 30, 2008 and 2007, subscriber revenue was $978,516 and $627,275, respectively, an increase of 56% or $351,241. $181,153 of the increase was attributable to the Merger, and the remaining increase was primarily attributable to the growth of subscribers to our service.

The following table contains a breakdown of our subscriber revenue for the periods presented (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2008	2007	2008	2007
Subscription fees	$ 451,660	$ 222,136	$ 961,574	$ 617,591
Activation fees	4,920	5,288	17,271	15,456
Effect of rebates	(223)	(580)	(329)	(5,772)
Total subscriber revenue	$ 456,357	$ 226,844	$ 978,516	$ 627,275

Future subscriber revenue will be dependent upon, among other things, the growth of our subscriber base, promotions, rebates offered to subscribers and corresponding take-rates, plan mix, subscription prices and the identification of additional revenue streams from subscribers.

Advertising Revenue. Advertising revenue includes the sale of advertising on our non-music channels, net of agency fees. Agency fees are based on a stated percentage per the advertising agreements applied to gross billing revenue.

- *Three Months:* For the three months ended September 30, 2008 and 2007, net advertising revenue was $14,674 and $8,524, respectively, which represents an increase of $6,150. $5,165 of the increase was attributable to the Merger, and the remaining increase was primarily attributable to an increase in advertisers compared to the three months ended September 30, 2007.
- *Nine Months:* For the nine months ended September 30, 2008 and 2007, net advertising revenue was $31,413 and $24,422, respectively, which represents an increase of $6,991. $5,165 of the increase was attributable to the Merger, and the remaining increase was primarily attributable to an increase in advertisers compared to the nine months ended September 30, 2007.

We expect advertising revenue to grow as our subscribers increase, as we continue to improve brand awareness and content, and as we increase the size and effectiveness of our advertising sales force. Advertising revenue is subject to fluctuation based on the overall advertising environment. Our advertising revenue may also fluctuate in the short term as a result of an advertising backlog we acquired from XM and the integration of XM's advertiser relationships.

Equipment Revenue. Equipment revenue includes revenue from the direct sale of SIRIUS and XM radios and accessories through our direct to consumer distribution channel.

- *Three Months:* For the three months ended September 30, 2008 and 2007, equipment revenue was $11,271 and $6,290, respectively, which represents an increase of $4,981. $3,351 of the increase was attributable to the Merger, and the remaining increase was primarily attributable to a result of higher sales through our direct to consumer distribution channel, offset by the effects of promotional discounts.
- *Nine Months:* For the nine months ended September 30, 2008 and 2007, equipment revenue was $25,290 and $17,216, respectively, which represents an increase of $8,074. $3,351 of the increase was attributable to the Merger, and the remaining increase was primarily attributable to a result of higher sales through our direct-to-consumer distribution channel, offset by the effects of promotional discounts.

We expect equipment revenue to increase as we introduce new products, integrate XM products and as sales grow through our direct to consumer distribution channel.

Operating Expenses

Satellite and Transmission. Satellite and transmission expenses consist of costs associated with the operation and maintenance of our satellites; satellite telemetry, tracking and control system; terrestrial repeater network; satellite uplink facility; and broadcast studios.

- *Three Months:* For the three months ended September 30, 2008 and 2007, satellite and transmission expenses were $19,526 and $7,409, respectively, which represents an increase of $12,117. Excluding stock-based compensation of $1,331 and $557 for the three months ended September 30, 2008 and 2007, respectively, satellite and transmission expenses increased $11,343 from $6,852 to $18,195. The increase was primarily due to the impact of the Merger. XM satellite and transmission expense accounted for $12,458 during the three months ended September 30, 2008. Excluding the impact of XM satellite and transmission expense, satellite and transmission expense decreased compared to September 30, 2007 as a result of decreased costs related to our terrestrial repeater network. As of September 30, 2008 and 2007, we had 820 and 120, terrestrial repeaters, respectively in operation, which included 700 XM repeaters acquired in the Merger.
- *Nine Months:* For the nine months ended September 30, 2008 and 2007, satellite and transmission expenses were $34,800 and $22,732, respectively, which represents an increase of $12,068. Excluding stock-based compensation of $2,887 and $1,834 for the nine months ended September 30, 2008 and 2007, respectively, satellite and transmission expenses increased $11,015 from $20,898 to $31,913. The increase was primarily due to the impact of the Merger. XM satellite and transmission expense accounted for $12,458 during the nine months ended September 30, 2008. Excluding the impact of XM satellite and transmission expense, satellite and transmission expense decreased compared to September 30, 2007 as a result of decreased costs related to our terrestrial repeater network.

We expect satellite and transmission expenses to decrease as we consolidate terrestrial repeater sites and realize other synergies as a result of the Merger. Such expenses may increase in future periods if we decide to increase our in-orbit satellite insurance.

Programming and Content. Programming and content expenses include costs to acquire, create and produce content and on-air talent costs. We have entered into various agreements with third parties for music and non-music programming. These agreements require us to pay license fees, share advertising revenue, purchase advertising on media properties owned or controlled by the licensor and pay other guaranteed amounts. Purchased advertising is recorded as a sales and marketing expense in the period the advertising is broadcast.

- *Three Months:* For the three months ended September 30, 2008 and 2007, programming and content expenses were $106,037 and $59,015, respectively, which represents an increase of $47,022. Excluding stock-based compensation of $3,529 and $2,707 for the three months ended September 30, 2008 and 2007, respectively, programming and content expenses increased $46,200 from $56,308 to $102,508. The increase was primarily due to the impact of the Merger. XM's programming and content expense accounted for $18,046 during the three months ended September 30, 2008. The remaining increase was primarily attributable to a $27,500 one-time payment to a programming partner due upon completion of the Merger and license fees associated with new programming.
- *Nine Months:* For the nine months ended September 30, 2008 and 2007, programming and content expenses were $222,975 and $173,324, respectively, which represents an increase of $49,651. Excluding stock-based compensation of $7,477 and $6,857 for the nine months ended September 30, 2008 and 2007, respectively, programming and content expenses increased $49,031 from $166,467, to $215,498. The increase was primarily due to the impact of the Merger. XM's programming and content expense accounted for $18,046 during the nine months ended September 30, 2008. The remaining increase was primarily attributable to a $27,500 one-time payment to a programming partner due upon completion of the Merger and license fees associated with new programming.

Our programming and content expenses, excluding stock-based compensation expense, will decrease as we reduce duplicate programming and content costs. We regularly evaluate programming opportunities and may choose to acquire and develop new content or renew current programming agreements in the future at different costs.

Revenue Share and Royalties. Revenue share and royalties include distribution and content provider revenue share, residuals and broadcast and web streaming royalties. Residuals are monthly fees paid based upon the number of subscribers using SIRIUS and XM radios purchased from retailers. Advertising revenue share is recorded to revenue share and royalties in the period the advertising is broadcast.

- *Three Months:* For the three months ended September 30, 2008 and 2007, revenue share and royalties were $85,592 and $32,978, respectively, which represents an increase of $52,614. The increase was primarily due to the impact of the Merger. XM's revenue share and royalties' expense accounted for $38,539 during the three months ended September 30, 2008. The remaining increase was attributable to the growth in our revenues and an increase in the statutory royalties due for the performance of sound recordings. The decision imposing the new royalties was imposed in January 2008, retroactive to January 2007 and was not reflected in the prior year until the fourth quarter.
- *Nine Months:* For the nine months ended September 30, 2008 and 2007, revenue share and royalties were $177,635 and $89,953, respectively, which represents an increase of $87,682. The increase was primarily attributable to an increase in our revenues, the $38,539 effect of including XM's revenue share and royalty expense from the date of the Merger and an increase in the statutory royalties due for the performance of sound recordings. The decision imposing the new royalties was imposed in January 2008, retroactive to January 2007 and was not reflected in the prior year until the fourth quarter.

We expect these costs to increase as we continue to experience revenue growth and expand our distribution of SIRIUS and XM radios through automakers and as a result of statutory increases in the royalty for sound recording performances.

Customer Service and Billing. Customer service and billing expenses include costs associated with the operation of our customer service centers and subscriber management systems as well as bad debt expense.

- *Three Months:* For the three months ended September 30, 2008 and 2007, customer service and billing expenses were $47,432 and $21,058, respectively, which represents an increase of $26,374. Excluding stock-based compensation of $596 and $166 for the three months ended September 30, 2008 and 2007, respectively, customer service and billing expenses increased $25,944 from $20,892 to $46,836. The increase was primarily due to the Merger. XM's customer service and billing expense accounted for $23,819 during the three months ended September 30, 2008. The remaining increase was primarily attributable to higher call center operating costs necessary to accommodate the increase in the our subscriber base and higher total transaction fees on the larger base.
- *Nine Months:* For the nine months ended September 30, 2008 and 2007, customer service and billing expenses were $97,218 and $64,529, respectively, which represents an increase of $32,689. Excluding stock-based compensation of $1,137 and $543 for the nine months ended September 30, 2008 and 2007, respectively, customer service and billing expenses increased $32,095 from $63,986 to $96,081. The increase was primarily due to the Merger. XM's customer services and billing expense accounted for $23,819 during the nine months September 30, 2008. The remaining increase was primarily attributed to higher call center operating costs necessary to accommodate the increase in our subscriber base and higher total transaction fees on the larger base.

We expect our customer care and billing expenses, excluding stock-based compensation expense, to decrease on a per subscriber basis, but increase overall as our subscriber base grows due to increased call center operating costs, transaction fees necessary to serve a larger subscriber base and bad debt expense.

Cost of Equipment. Cost of equipment includes costs for SIRIUS and XM radios and accessories sold through our direct to consumer distribution channel.

- *Three Months:* For the three months ended September 30, 2008 and 2007, cost of equipment was $13,773 and $6,086, respectively, which represents an increase of $7,687. $5,020 of the increase was attributable to the Merger.
- *Nine Months:* For the nine months ended September 30, 2008 and 2007, cost of equipment was $28,007 and $19,930, respectively, which represents an increase of $8,077. $5,020 of the increase was attributable to the Merger.

We expect cost of equipment to vary in the future with changes in sales through our direct to consumer distribution channel.

Sales and Marketing. Sales and marketing expenses include costs for advertising, media and production, including promotional events and sponsorships; cooperative marketing; customer retention and compensation. Cooperative marketing costs include fixed and variable payments to reimburse retailers and automakers for the cost of advertising and other product awareness activities.

- *Three Months:* For the three months ended September 30, 2008 and 2007, sales and marketing expenses were $63,637 and $38,488, respectively, which represents an increase of $25,149. Excluding stock-based compensation of $3,672 and $6,575 for the three months ended September 30, 2008 and 2007, respectively, sales and marketing expenses increased $28,052, from $31,913 to $59,965. The increase was due to the impact of the Merger. XM's sales and marketing expense accounted for $28,951 during the three months ended September 30, 2008.
- *Nine Months:* For the nine months ended September 30, 2008 and 2007, sales and marketing expenses were $151,237 and $126,348, respectively, which represents an increase of $24,889. Excluding stock-based compensation of $11,376 and $15,068 for the nine months ended September 30, 2008 and 2007, respectively, sales and marketing expenses increased $28,581 from $111,280 to $139,861. The increase was primarily due to the impact of the Merger. XM's sales and marketing expense accounted for $28,951 during the nine months ended September 30, 2008.

We expect sales and marketing expenses, excluding stock-based compensation expense, to decrease as we consolidate our advertising and promotional activities, gain efficiencies in marketing management and eliminate overlapping distribution support costs.

Subscriber Acquisition Costs. Subscriber acquisition costs include hardware subsidies paid to radio manufacturers, distributors and automakers, including subsidies paid to automakers who include a SIRIUS or XM radio and a prepaid subscription to our service in the sale or lease price of a new vehicle; subsidies paid for chip sets and certain other components used in manufacturing radios; commissions paid to retailers and automakers as incentives to purchase, install and activate SIRIUS and XM radios; product warranty obligations; provisions for inventory allowance; and compensation costs associated with stock-based awards granted in connection with certain distribution agreements. The majority of subscriber acquisition costs are incurred and expensed in advance of acquiring a subscriber. Subscriber acquisition costs do not include advertising, loyalty payments to distributors and dealers of SIRIUS and XM radios and revenue share payments to automakers and retailers of SIRIUS and XM radios.

- *Three Months:* For the three months ended September 30, 2008 and 2007, subscriber acquisition costs were $86,616 and $101,798, respectively, which represents a decrease of 15% or $15,182. Excluding stock-based compensation of $0 and $800 for the three months ended September 30, 2008 and 2007, respectively, subscriber acquisition costs decreased 14%, or $14,382, from $100,998 to $86,616. This decrease was primarily attributable to lower retail and OEM subsidies due to better product economics.
- *Nine Months:* For the nine months ended September 30, 2008 and 2007, subscriber acquisition costs were $257,832 and $307,580, respectively, which represents a decrease of 16% or $49,748. Excluding stock-based compensation of $14 and $2,687 for the nine months ended September 30, 2008 and 2007, respectively, subscriber acquisition costs decreased 15%, or $47,075, from $304,893 to $257,818. This decrease was primarily driven by lower retail and OEM subsidies due to better product economics.

We expect total subscriber acquisition costs, excluding stock-based compensation expense, to decrease as increases in our gross subscriber additions are offset by continuing declines in the costs of subsidized components of SIRIUS and XM radios. We intend to continue to offer subsidies, commissions and other incentives to acquire subscribers.

General and Administrative. General and administrative expenses include rent and occupancy, finance, legal, human resources, information technology and investor relations costs.

- *Three Months:* For the three months ended September 30, 2008 and 2007, general and administrative expenses were $57,310 and $44,837, respectively, which represents an increase of $12,473. Excluding stock-based compensation of $12,904 and $10,953 for the three months ended September 30, 2008 and 2007, respectively, general and administrative expenses increased $10,522 from $33,884 to $44,406. The increase was due to the impact of the Merger. XM's general and administrative expense accounted for $19,215 during the three months ended September 30, 2008. The increase was offset by a decrease in legal fees primarily attributable to the Copyright Royalty Board ruling.

- *Nine Months:* For the nine months ended September 30, 2008 and 2007, general and administrative expenses were $148,555 and $118,651, respectively, which represents an increase of $29,904. Excluding stock-based compensation of $36,359 and $34,056 for the nine months ended September 30, 2008 and 2007, respectively, general and administrative expenses increased $27,601 from $84,595 to $112,196. The increase was primarily due to the impact of the Merger. XM's general and administrative expense accounted for $19,215 during the nine months ended September 30, 2008. The remaining increase was primarily attributable to higher compensation-related costs to support the growth of our business.

We expect our general and administrative expenses, excluding stock-based compensation expense, to decrease in future periods as we complete the integration of the Merger and gain efficiencies in staff, facilities, insurance, professional fees and information technology costs. General and administrative expenses could fluctuate in certain periods as a result of litigation costs.

Engineering, Design and Development. Engineering, design and development expenses include costs to develop our future generation of chip sets and new products, research and development for broadcast information, and costs associated with the incorporation of our radios into vehicles manufactured by automakers.

- *Three Months:* For the three months ended September 30, 2008 and 2007, engineering, design and development expenses were $10,434 and $9,736, respectively, which represents an increase of $698. Excluding stock-based compensation of $1,973 and $969, for the three months ended September 30, 2008 and 2007, respectively, engineering, design and development expenses decreased $306 from $8,767 to $8,461. This decrease was attributable to reduced OEM and product development costs, offset by an increase of $5,191 attributable to the Merger.
- *Nine Months:* For the nine months ended September 30, 2008 and 2007, engineering, design and development expenses were $28,091 and $33,397, respectively, which represents a decrease of $5,306. Excluding stock-based compensation of $4,167 and $2,959 for the nine months ended September 30, 2008 and 2007, respectively, engineering, design and development expenses decreased $6,514 from $30,438 to $23,924. This decrease was attributable to reduced OEM and product development costs, offset by an increase of $5,191 attributable to the Merger.

We expect engineering, design and development expenses, excluding stock-based compensation expense, to decrease in future periods as we complete the integration of SIRIUS and XM and gain efficiencies in engineering, design and development activities.

Other Income (Expense)

Interest and Investment Income. Interest and investment income includes realized gains and losses, dividends and interest income, including amortization of the premium and discount arising at purchase.

- *Three Months:* For the three months ended September 30, 2008 and 2007, interest and investment income was $4,940 and $5,604, respectively, which represents a decrease of $664. The decrease was primarily attributable to lower interest rates in 2008 and a lower cash balance.
- *Nine Months:* For the nine months ended September 30, 2008 and 2007, interest and investment income was $9,167 and $16,399, respectively, which represents a decrease of $7,232. The decrease was primarily attributable to lower interest rates in 2008 and a lower cash balance.

Interest Expense. Interest expense includes interest on outstanding debt, reduced by interest capitalized in connection with the construction of our satellites and launch vehicles.

- *Three Months:* For the three months ended September 30, 2008 and 2007, interest expense was $49,216 and $19,499, respectively, which represents an increase of $29,717. An increase of $47,798 was attributed to the Merger, including the acquisition of $2,592,549 in additional debt. This increase was offset by a lower interest rate on the Term Loan which is LIBOR plus 2.25% compared to the third quarter 2007, as well as an offset due to the capitalized interest associated with satellite construction and the related launch vehicle.
- *Nine Months:* For the nine months ended September 30, 2008 and 2007, interest expense was $83,636 and $50,441, respectively, which represents an increase of $33,195. Interest expense increased significantly as a result of the impact of the Merger, including the acquisition of $2,592,549 in additional debt. Increases in interest expense were offset by the capitalized interest associated with satellite construction and the related launch vehicle.

Income Taxes

Income Tax Expense. Income tax expense represents the recognition of a deferred tax liability related to the difference in accounting for our FCC license, which is amortized over 15 years for tax purposes but not amortized for book purposes in accordance with U.S. generally accepted accounting principles.

- *Three Months:* We recorded income tax expense of $1,215 and $555 for the three months ended September 30, 2008 and 2007, respectively.
- *Nine Months:* We recorded income tax expense of $2,301 and $1,665 for the nine months ended September 30, 2008 and 2007, respectively.

Liquidity and Capital Resources

Cash Flows for the Nine Months Ended September 30, 2008 Compared with the Nine Months Ended September 30, 2007

As of September 30, 2008, we had $359,657 in cash and cash equivalents compared with $357,710 as of September 30, 2007 and $438,820 as of December 31, 2007. We acquired $820 million cash, in connection with the Merger.

The following table presents a summary of our cash flow activity for the periods set forth below (in thousands, except percentages):

	Nine months ended September 30,		Change	
	2008	2007	$	%
Cash flows used in operating activities	$ (216,992)	$ (252,434)	$ 35,442	-14%
Cash flows provided by (used in) investing activities	766,516	(31,153)	797,669	-2560%
Cash flows provided (used in) by financing activities	(628,687)	247,876	(876,563)	-354%
Net decrease in cash and cash equivalents	(79,163)	(35,711)	(43,452)	122%
Cash and cash equivalents at beginning of period	438,820	393,421	45,399	12%
Cash and cash equivalents at end of period	$ 359,657	$ 357,710	$ 1,947	1%

Net Cash Used in Operating Activities

Net cash used in operating activities decreased $35,442 to $216,992 for the nine months ended September 30, 2008 from $252,434 for the nine months ended September 30, 2007. Such decrease in the net outflows of cash was primarily attributable to an improvement in our operating results.

Net Cash Used in Investing Activities

Net cash provided in investing activities was $766,516 for the nine months ended September 30, 2008 compared with net cash used in investing activities of $31,153 for the nine months ended September 30, 2007. The $797,669 increase was primarily due to the inclusion of $819,521 million in net cash acquired from XM in the Merger. Additionally, capital expenditures increased by $35,904 as a result of costs associated with our satellite construction and launch vehicle and the increase in Merger related costs of $13,047 during the nine months ended September 30, 2008.

We will incur significant capital expenditures to construct and launch our new satellites and to improve our terrestrial repeater network and broadcast and administrative infrastructure. These capital expenditures will support our growth and the resiliency of our operations, and will also support the delivery of future new revenue streams.

Net Cash Used In Financing Activities

Net cash used in financing activities decreased $876,563 to $628,687 used for the nine months ended September 30, 2008 from net cash provided by financing activities of $247,876 for the nine months ended September 30, 2007 primarily due to the proceeds received from the $250,000 Senior Secured Term Loan entered into in June of 2007. Our financing activities for the nine months ended September 30, 2008 included $550,000 in cash proceeds from the issuance of the Exchangeable Notes; $613,400 in cash used to extinguish 99% of the principal and accrued interest on XM's 9.75% Notes; $203,500 in cash used to extinguish 100% of the principal, accrued interest and prepayment premiums on the XM's Floating Rate Notes; and $309,400 for transponder repurchase obligation, for both debt and equity holders of a consolidated variable interest entity, including a prepayment premiums and interest accrued through the date of extinguishment.

Financings and Capital Requirements

We have historically financed our operations through the sale of debt and equity securities. It will be more difficult to obtain additional financing if prevailing instability in the credit and financial markets continues.

Future Liquidity and Capital Resource Requirements

Debt Maturing in 2009. SIRIUS, XM Holdings and XM have a substantial amount of debt maturing in 2009, including;

- At SIRIUS, $209,228 of 2 1/2% Convertible Notes that mature on February 15, 2009;
- At SIRIUS, $1,744 of 8 3/4% Convertible Subordinated Notes that mature on September 29, 2009;
- At XM, a $250,000 revolving credit facility, which is fully drawn and matures on May 5, 2009;
- At XM, a $100,000 term loan which matures on May 5, 2009;
- At XM Holdings, $400,000 of 10% Convertible Senior Notes that mature on December 1, 2009; and
- At XM Holdings and XM (as co-obligors), $33,200 of 10% Senior Secured Discount Convertible Notes that mature on December 31, 2009.

Since September 30, 2008, we have issued an aggregate of 262,911,513 shares of our common stock, par value $0.001 per share, in exchange for $90,772 principal amount of our 2 1/2% Convertible Notes due 2009 beneficially owned by institutional holders. We did not receive any cash proceeds as a result of the exchange of our common stock for the 2 1/2 % Notes, which notes have been retired and cancelled. We executed these transactions to reduce our debt and interest cost, increase our equity, and improve our balance sheet. We intend to engage in additional exchanges in respect of our outstanding indebtedness if and as favorable opportunities arise.

Except for these maturities, we expect that our cash flow from operating activities will be sufficient to fund our projected cash needs. We may renegotiate the terms of our maturing debt obligations; exchange common stock or new debt securities for these obligations; and/or issue equity or debt securities for cash to new holders. It may be difficult to obtain additional financing if the prevailing instability in the credit and financial markets continues. The incurrence of additional indebtedness would result in increased fiscal obligations and could contain restrictive covenants. The sale of additional equity or convertible debt securities may result in dilution to our stockholders. These additional sources of funds may not be available or, if available, may not be available on terms favorable to us. If we are unable to refinance our maturing debt in 2009, our failure to repay the debt will result in an event of default under the indentures and agreements governing our debt which, if not cured or waived, could cause us to discontinue operations or seek a purchaser for our business or assets.

Credit Agreement with Space Systems/Loral. In July 2007, SIRIUS amended and restated its Credit Agreement with Space Systems/Loral (the "Loral Credit Agreement"). Under the Loral Credit Agreement, Space Systems/Loral agreed to make loans to SIRIUS in an aggregate principal amount of up to $100,000 to finance the purchase of SIRIUS' fifth and sixth satellites. Loans made under the Loral Credit Agreement will be secured by SIRIUS' rights under the Satellite Purchase Agreement with Space Systems/Loral, including SIRIUS rights to its new satellites. The loans are also entitled to the benefits of a subsidiary guarantee from Satellite CD Radio, Inc., the subsidiary that holds SIRIUS' FCC license, and any future material subsidiary that may be formed by SIRIUS. The maturity date of the loans is the earliest to occur of (i) June 10, 2010, (ii) 90 days after our sixth satellite becomes available for shipment, and (iii) 30 days prior to the scheduled launch of the sixth satellite. The Loral Credit Agreement contains certain drawing conditions, including a

requirement that we have a market capitalization of at least $1 billion. Any loans made under the Loral Credit Agreement generally will bear interest at a variable rate equal to three-month LIBOR plus 4.75%. The Loral Credit Agreement permits SIRIUS to prepay all or a portion of the loans outstanding without penalty.

SIRIUS has not requested any loans under the Loral Credit Agreement with Space Systems/Loral. If SIRIUS requested loans under the Loral Credit Agreement to reimburse itself for payments in connection with the purchase of its fifth and sixth satellites, it is unclear whether those funds would be available. We are in discussions with Space Systems/Loral regarding ways in which SIRIUS can realize the financial benefits it expected to receive under the Loral Credit Agreement, including through deferred payments on SIRIUS' satellite purchase agreements and other concessions, perhaps without drawing under the Loral Credit Agreement.

Operating Liquidity. Based upon our current plans, and other than our need to refinance our debt maturing in 2009, we believe that both SIRIUS and XM have sufficient cash, cash equivalents and marketable securities to cover their estimated funding needs through cash flow breakeven, the point at which revenues are sufficient to fund expected operating expenses, capital expenditures, merger related costs, working capital requirements, interest payments and taxes. Our financial projections are based on assumptions, which we believe are reasonable but contain significant uncertainties.

We are the sole stockholder of XM Holdings and its subsidiaries and its business is operated as an unrestricted subsidiary under our existing indebtedness. Under certain circumstances, SIRIUS may be unwilling or unable to contribute or loan XM capital to support its operations. Similarly, under certain circumstances, XM may be unwilling or unable to contribute or loan SIRIUS capital to support its operations. To the extent XM's funds are insufficient to support its business, XM may be required to seek additional financing, which may not be available on favorable terms, or at all. Such additional financing would likely be obtained from the sale of additional debt securities, as part of concessions from vendors and other business relationships, or from other sources. If XM is unable to secure additional financing, its business and results of operations may be adversely affected.

Tightening credit policies could also adversely impact our operational liquidity by making it more difficult or costly for our subscribers to access credit, and could have an adverse impact on our operational liquidity as a result of possible changes to our payment arrangements that credit card companies and other credit providers could unilaterally make.

We regularly evaluate our plans and strategy. These evaluations often result in changes to our plans and strategy, some of which may be material and significantly change our cash requirements or cause us to achieve cash flow breakeven at a later date. These changes in our plans or strategy may include: the acquisition of unique or compelling programming; the introduction of new features or services; significant new or enhanced distribution arrangements; investments in infrastructure, such as satellites, equipment or radio spectrum; and acquisitions of third parties that own programming, distribution, infrastructure, assets, or any combination of the foregoing. In addition, our operations will also be affected by the FCC order approving the Merger which imposed certain conditions upon, among other things, our program offerings and our ability to increase prices. Our future liquidity also may be adversely affected by, among other things, the nature and extent of the benefits achieved by operating XM as a wholly-owned unrestricted subsidiary under our existing indebtedness.

In June 2007, SIRIUS entered into a Term Credit Agreement with a syndicate of financial institutions. The Term Credit Agreement provides for a term loan of $250,000, which has been drawn. Interest under the Term Credit Agreement is based, at our option, on (i) adjusted LIBOR plus 2.25% or (ii) the higher of (a) the prime rate and (b) the Federal Funds Effective Rate plus $^{1}/_{2}$ of 1.00%, plus 1.25%. LIBOR borrowings may be made for interest periods, at our option, of one, two, three or six months (or, if agreed by all of the lenders, nine or twelve months). The loan amortizes in equal quarterly installments of 0.25% of the initial aggregate principal amount for the first four and a half years, with the balance of the loan thereafter being repaid in four equal quarterly installments. The loan matures on December 20, 2012. The loan is guaranteed by SIRIUS' material wholly owned subsidiaries, including Satellite CD Radio, Inc. (the "Guarantors"). The Term Credit Agreement is secured by a lien on substantially all of SIRIUS' and the Guarantors' assets, including SIRIUS' four satellites and the shares of the Guarantors. The Term Credit Agreement contains customary affirmative covenants and event of default provisions. The negative covenants contained in the Term Credit Agreement are substantially similar to those contained in the indenture governing SIRIUS' $9^{5}/_{8}$% Senior Notes due 2013.

In February 2008, XM borrowed $187,500 under its $250,000 revolving credit facility (the "Revolving Credit Facility"). The proceeds were used for general corporate purposes, to fund XM's annual payment to Major League Baseball ("MLB"), to pay its 2007 payment under the Copyright Royalty Board decision, and to fund the settlement with various record labels. The interest rate for this

borrowing under the Revolving Credit Facility as of September 30, 2008 was 4.75% and is based on 9-month LIBOR. All amounts drawn under the Revolving Credit Facility are due on May 5, 2009. The loans under the Revolving Credit Facility are secured by a lien on substantially all of XM's assets.

In May 2008, XM borrowed $62,500, or the balance of the amount available, under the Revolving Credit Facility. The proceeds were used for general corporate purposes, including funding the escrow required under XM's agreement with MLB. The interest rate for this borrowing under the Revolving Credit Facility as of September 30, 2008 was 5.25% and is based on the prime rate plus a spread.

In June 2008, XM borrowed $28,957 under its $150,000 senior secured credit facility with GM (the "GM Facility") to satisfy payment obligations under the distribution agreement with GM.

In June 2008, XM entered into, and borrowed the full amount available under, a $100,000 credit agreement with UBS AG for a senior secured term loan. A portion of the proceeds of this loan were used to repay the amounts outstanding under the GM Facility. The GM Facility terminated as a result of the Merger.

In connection with the Merger, in July 2008, XM refinanced a substantial portion of its existing indebtedness through the issuance of $778,500 in senior notes and $550,000 in senior subordinated exchangeable notes. XM used the proceeds received from these transactions to: tender for its $200,000 Senior Floating Rate Notes due 2013; tender for $600,000 of its 9.75% Senior Notes due 2014; and satisfy its $309,400 transponder repurchase obligation, both for debt and equity holders of a consolidated variable interest entity.

2003 Long-Term Stock Incentive Plan

SIRIUS maintains the Sirius Satellite Radio 2003 Long-Term Stock Incentive Plan (the "2003 Plan"). Employees, consultants and members of our board of directors are eligible to receive awards under the 2003 Plan. The 2003 Plan provides for the grant of stock options, restricted stock, restricted stock units and other stock-based awards that the compensation committee of our board of directors may deem appropriate. Vesting and other terms of stock-based awards are set forth in the agreements with the individuals receiving the awards. Stock-based awards granted under the 2003 Plan are generally subject to a vesting requirement. Stock-based awards generally expire ten years from date of grant. Each restricted stock unit entitles the holder to receive one share of our common stock upon vesting.

As of September 30, 2008, approximately 188,093,000 stock options, shares of restricted stock and restricted stock units were outstanding. As of September 30, 2008, approximately 93,832,000 shares of our common stock were available for grant under the 2003 Plan. During the nine months ended September 30, 2008, employees exercised 117,442 stock options at exercise prices ranging from $1.45 to $3.36 per share, resulting in proceeds to us of $208. The exercise of the remaining outstanding, vested options could result in an inflow of cash in future periods.

2007 Stock Incentive Plan

XM Holdings maintains a 2007 Stock Incentive Plan (the "2007 Plan") under which officers, other employees and other key individuals of XM may be granted various types of equity awards, including restricted stock, stock units, stock options, stock appreciation rights, dividend equivalent rights and other stock awards. Stock option awards under the 2007 Plan generally vest ratably over three years based on continuous service; while restricted stock generally vests ratably over one or three years based on continuous service. Stock option awards are granted with an exercise price equal to the market price of our common stock at the date of grant and expire no later than ten years from the date of grant. Grants of equity awards other than stock options or stock appreciation rights reduce the number of shares available for future grant by 1.5 times the number of shares granted under such equity awards. In connection with the Merger, the shares available for future grant under the 2007 Plan were adjusted using a conversion factor of 4.6 SIRIUS shares for 1 XM Holdings share. Since the Merger, there have been no grants of awards from the 2007 Plan. As of September 30, 2008, there were 60,084,705 shares available for future grant under the 2007 Plan.

1998 Shares Award Plan

XM Holdings maintains a 1998 Shares Award Plan (the "1998 Plan") under which employees, consultants and non-employee directors of XM were granted stock options and restricted stock awards. Stock option awards and restricted stock awards under the 1998

Plan generally vest ratably over three years based on continuous service. Stock option awards are generally granted with an exercise price equal to the market price of our common stock at the date of grant and expire no later than ten years from the date of grant. The 1998 Plan terminated in June 2008 and shares are no longer available for future grant.

XM Talent Option Plan

XM Holdings maintains a Talent Option Plan (the "Talent Plan") under which non-employee programming consultants to XM may be granted stock options awards. Stock option awards under the Talent Plan generally vest ratably over three years based on continuous service. Stock option awards are generally granted with an exercise price equal to the market price of our common stock at the date of grant and expire no later than ten years from the date of grant. In connection with the Merger, the shares available for future grant under the Talent Plan were adjusted using a conversion factor of 4.6 SIRIUS shares for 1 XM share. Since the Merger, there have been no grants of awards from the Talent Plan. As of September 30, 2008, there were 1,564,000 options available under the Talent Plan for future grant.

Contractual Cash Commitments

For a discussion of our "Contractual Cash Commitments" refer to Note 14 of to the unaudited condensed consolidated financial statements in Item 1. of this Form 10-Q.

Related Party Transactions

For a discussion of related party transactions, see Note 8 to the unaudited condensed consolidated financial statements in Item 1. of this Form 10-Q.

Critical Accounting Policies

For a description of our Critical Accounting Policies refer to "Management's Discussion and Analysis of Financial Condition and Results of Operations" within our Annual Report on Form 10-K for the year ended December 31, 2007 and Note 3 to the unaudited condensed consolidated financial statements in Item 1. of this Form 10-Q.

Footnotes

(1) Average self-pay monthly churn represents the average of self pay deactivations by the quarter divided by the average self pay subscriber balance for the quarter.

(2) We measure the percentage of subscribers that receive the service and convert to self-paying after the initial promotion period. We refer to this as the "conversion rate." At the time of sale, vehicle owners generally receive between three and twelve month prepaid trial subscriptions and we receive a subscription fee from the OEM. Promotional periods generally include the period of trial service plus 30 days to handle the receipt and processing of payments. We measure conversion rate three months after the period in which the trial service ends. Based on our experience it may take up to 90 days after the trial service ends for subscribers to respond to our marketing communications and become self-paying subscribers.

(3) ARPU is derived from total earned subscriber revenue and net advertising revenue divided by the daily weighted average number of subscribers for the period. ARPU is calculated as follows (in thousands, except for per subscriber amounts):

	Pro Forma Three months ended September 30,		Pro Forma Nine months ended September 30,	
	2008	2007	2008	2007
Subscriber revenue	$ 569,591	$ 488,543	$ 1,661,800	$ 1,380,657
Net advertising revenue	17,867	19,240	54,156	52,769
Total subscriber and net advertising revenue	$ 587,458	$ 507,783	$ 1,715,956	$ 1,433,426
Daily weighted average number of subscribers	18,710,940	15,743,059	18,187,927	14,905,060
ARPU	$ 10.47	$ 10.75	$ 10.48	$ 10.69

(4) SAC, as adjusted, per gross subscriber addition is derived from subscriber acquisition costs and margins from the direct sale of radios and accessories, excluding stock-based compensation divided by the number of gross subscriber additions for the period. SAC, as adjusted, per gross subscriber addition is calculated as follows (in thousands, except for per subscriber amounts):

	Pro Forma Three months ended September 30,		Pro Forma Nine months ended September 30,	
	2008	2007	2008	2007
Subscriber acquisition cost	$ 132,477	$ 163,456	$ 444,410	$ 476,695
Less: stock-based compensation granted to third parties and employees	—	(800)	(14)	(2,687)
Add: margin from direct sales of radios and accessories	3,323	5,071	9,333	28,004
SAC, as adjusted	$ 135,800	$ 167,727	$ 453,729	502,012
Gross subscriber additions	1,846,996	1,950,842	5,999,714	5,751,123
SAC, as adjusted, per gross subscriber addition	$ 74	$ 86	$ 76	$ 87

(5) Customer service and billing expenses, as adjusted, per average subscriber is derived from total customer service and billing expenses, excluding stock-based compensation, divided by the daily weighted average number of subscribers for the period. Customer service and billing expenses, as adjusted, per average subscriber is calculated as follows (in thousands, except for per subscriber amounts):

	Pro Forma Three months ended September 30,		Pro Forma Nine months ended September 30,	
	2008	2007	2008	2007
Customer service and billing expenses	$ 59,786	$ 52,454	$ 180,270	$ 154,602
Less: stock-based compensation	(929)	(892)	(3,111)	(2,206)
Customer service and billing expenses, as adjusted	$ 58,857	$ 51,562	$ 177,159	$ 152,396
Daily weighted average number of subscribers	18,710,940	15,743,059	18,187,927	14,905,060
Customer service and billing expenses, as adjusted, per average subscriber	$ 1.05	$ 1.09	$ 1.18	$ 1.14

(6) Free cash flow is calculated as follows (in thousands):

	Pro Forma Three months ended September 30,		Pro Forma Nine months ended September 30,	
	2008	2007	2008	2007
Net change in cash and cash equivalents	$ (44,329)	$ (111,244)	$ (235,849)	$ (22,740)
Cash flow from financing activities	(52,918)	8,407	(350,902)	(476,576)
Other investing	(343)	(15)	9,078	(10,958)
Free cash flow	$ (97,590)	$ (102,852)	$ (577,673)	$ (510,274)

(7) Average monthly self-pay churn; conversion rate; ARPU; SAC, as adjusted, per gross subscriber addition; customer service and billing expenses, as adjusted, per average subscriber; and free cash flow are not measures of financial performance under U.S. generally accepted accounting principles ("GAAP"). We believe these non-GAAP financial measures provide meaningful supplemental information regarding our operating performance and are used by us for budgetary and planning purposes; when publicly providing our business outlook; as a means to evaluate period-to-period comparisons; and to compare our performance to that of our competitors. We also believe that investors also use our current and projected metrics to monitor the performance of our business and to make investment decisions.

We believe the exclusion of stock-based compensation expense in our calculations of SAC, as adjusted, per gross subscriber addition and customer service and billing expenses, as adjusted, per average subscriber is useful given the significant variation in expense that can result from changes in the fair market value of our common stock, the effect of which is unrelated to the operational conditions that give rise to variations in the components of our subscriber acquisition costs and customer service and billing expenses. Specifically, the exclusion of stock-based compensation expense in our calculation of SAC, as adjusted, per gross subscriber addition is critical in being able to understand the economic impact of the direct costs incurred to acquire a subscriber and the effect over time as economies of scale are reached.

These non-GAAP financial measures are used in addition to and in conjunction with results presented in accordance with GAAP. These non-GAAP financial measures may be susceptible to varying calculations; may not be comparable to other similarly titled measures of other companies; and should not be considered in isolation, as a substitute for, or superior to measures of financial performance prepared in accordance with GAAP.

(8) We refer to net loss before taxes; other income (expense)-including interest and investment income, interest expense, depreciation and amortization, restructuring and related costs and impairment of goodwill; and stock-based compensation expense as adjusted loss from operations. Adjusted loss from operations is not a measure of financial performance under U.S. GAAP. We believe adjusted loss from operations is a useful measure of our operating performance. We use adjusted loss from operations for budgetary and planning purposes; to assess the relative profitability and on-going performance of our consolidated operations; to compare our performance from period–to-period; and to compare our performance to that of our competitors. We also believe adjusted loss from operations is useful to investors to compare our operating performance to the performance of other communications, entertainment and media companies. We believe that investors use current and projected adjusted loss from operations to estimate our current or prospective enterprise value and to make investment decisions.

Because we fund and build-out our satellite radio system through the periodic raising and expenditure of large amounts of capital, our results of operations reflect significant charges for interest and depreciation expense. We believe adjusted loss from operations provides useful information about the operating performance of our business apart from the costs associated with our capital structure and physical plant. The exclusion of interest and depreciation and amortization expense is useful given fluctuations in interest rates and significant variation in depreciation and amortization expense that can result from the amount and timing of capital expenditures and potential variations in estimated useful lives, all of which can vary widely across different industries or among companies within the same industry. We believe the exclusion of taxes is appropriate for comparability purposes as the tax positions of companies can vary because of their differing abilities to take advantage of tax benefits and because of the tax policies of the various jurisdictions in which they operate. We believe the exclusion of restructuring and related costs and impairment of goodwill is useful given the one-time nature of these transactions. We also believe the exclusion of stock-based compensation expense is useful given the significant variation in expense that can result from changes in the fair market value of our common stock. To compensate for the exclusion of taxes, other income (expense), depreciation and stock-based compensation expense, we separately measure and budget for these items.

There are material limitations associated with the use of adjusted loss from operations in evaluating our company compared with net loss, which reflects overall financial performance, including the effects of taxes, other income (expense), depreciation and amortization, restructuring and related costs, impairment of goodwill and stock-based compensation expense. We use adjusted loss from operations to supplement GAAP results to provide a more complete understanding of the factors and trends affecting the business than GAAP results alone. Investors that wish to compare and evaluate our operating results after giving effect for these costs, should refer to net loss as disclosed in our unaudited consolidated statements of operations. Since adjusted loss from operations is a non-GAAP financial measure, our calculation of adjusted loss from operations may be susceptible to varying calculations; may not be comparable to other similarly titled measures of other companies; and should not be considered in isolation, as a substitute for, or superior to measures of financial performance prepared in accordance with GAAP.

The reconciliation of the pro forma unadjusted Net loss to the pro forma Adjusted loss from operations is calculated as follows (See footnotes for reconciliation of the pro forma amounts to their respective GAAP amounts):

	Three months ended September 30,		Nine months ended September 30,	
(in thousands, except percentages)	**2008**	**2007**	**2008**	**2007**
Reconciliation of Net loss to Adjusted loss from operations:				
Net loss as reported	$ (217,010)	$ (265,515)	$ (653,867)	$ (842,592)
Add back Net loss items excluded from Adjusted loss from operations:				
Interest and investment income	(5,534)	(9,099)	(12,180)	(27,676)
Interest expense, net of amounts capitalized	70,153	47,256	164,380	138,230
Income tax expense	1,723	660	3,813	595
Equity in net loss of equity method investment	4,924	4,546	13,474	12,723
Loss from redemption of debt	—	—	—	2,965
Loss from impairment of investments	2,625	481	—	36,305
Other expense (income)	4,918	2,911	13,103	7,008
Loss from operations	(138,201)	(218,760)	(471,277)	(672,442)
Restructuring and related costs	7,430	—	7,457	—
Impairment of goodwill	—	—	—	—
Depreciation and amortization	64,111	72,474	196,051	218,931
Stock-based compensation	29,809	42,714	99,673	112,202
Adjusted loss from operations	$ (36,851)	$ (103,572)	$ (168,096)	$ (341,309)

There are material limitations associated with the use of a pro forma unadjusted results of operations in evaluating our company compared with our GAAP Results of operations, which reflects overall financial performance. We use pro forma unadjusted results of operations to supplement GAAP results to provide a more complete understanding of the factors and trends affecting the business than GAAP results alone. Investors that wish to compare and evaluate our operating results after giving effect for these costs, should refer to Results of operations as disclosed in our unaudited consolidated statements of operations. Since pro forma unadjusted results of operations is a non-GAAP financial measure, our calculations may not be comparable to other similarly titled measures of other companies; and should not be considered in isolation, as a substitute for, or superior to measures of financial performance prepared in accordance with GAAP.

The following tables reconcile our GAAP Results of operations to our non-GAAP pro forma unadjusted results of operations:

	Three months ended September 30, 2008				
	As Reported	Predecessor Financial Information	Purchase Price Accounting Adjustments(a)	Allocation of Share-based Payment Expense	Proforma
Revenue:					
Subscriber revenue, including effects of rebates	$ 456,357	$ 94,800	$ 18,434	$ —	$ 569,591
Advertising revenue, net of agency fees	14,674	3,193	—	—	17,867
Equipment revenue	11,271	1,585	—	—	12,856
Other revenue	6,141	5,126	1,195	—	12,462
Total revenue	488,443	104,704	19,629	—	612,776
Operating expenses (depreciation and amortization shown separately below)(1)					
Cost of services:					
Satellite and transmission	19,526	6,644	638	(1,672)	25,136
Programming and content	106,037	15,991	13,912	(4,310)	131,630
Revenue share and royalties	85,592	24,198	11,010	—	120,800
Customer service and billing	47,432	12,249	105	(929)	58,857
Cost of equipment	13,773	2,406	—	—	16,179
Sales and marketing	63,637	17,268	2,081	(4,808)	78,178
Subscriber acquisition costs	86,616	33,366	12,495	—	132,477
General and administrative	57,310	33,209	777	(15,315)	75,981
Engineering, design and development	10,434	2,611	119	(2,775)	10,389
Impairment of goodwill	4,750,859	—	(4,750,859)	—	—
Depreciation and amortization	66,774	10,828	(13,491)	—	64,111
Share-based payment expense	—	—	—	29,809	29,809
Restructuring and related costs	7,430	—	—	—	7,430
Total operating expenses	5,315,420	158,770	(4,723,213)	—	750,977
Loss from operations	(4,826,977)	(54,066)	4,742,842	—	(138,201)
Other income (expense)					
Interest and investment income	4,940	594	—	—	5,534
Interest expense, net of amounts capitalized	(49,216)	(14,130)	(6,807)	—	(70,153)
Loss from impairment of investments	—	(2,625)	—	—	(2,625)
Equity in net loss of equity method investment	(3,089)	(1,835)	—	—	(4,924)
Other (expense) income	(3,870)	(1,048)	—	—	(4,918)
Total other expense	(51,235)	(19,044)	(6,807)	—	(77,086)
Loss before income taxes	(4,878,212)	(73,110)	4,736,035	—	(215,287)
Income tax expense	(1,215)	(508)	—	—	(1,723)
Net loss	$ (4,879,427)	$ (73,618)	$ 4,736,035	$ —	$(217,010)

(1) Amounts related to share-based payment expense included in operating expenses were as follows:

Satellite and transmission	$ 1,331	$ 305	$ 36		$ 1,672
Programming and content	3,529	586	195		4,310
Customer service and billing	596	228	105		929
Sales and marketing	3,672	770	366		4,808
Subscriber acquisition costs	—	—	—		—
General and administrative	12,904	1,634	777		15,315
Engineering, design and development	1,973	510	292		2,775
Total share-based payment expense	$ 24,005	$ 4,033	$ 1,771		$ 29,809

(a) Also includes impairment of goodwill.

	Three months ended September 30, 2007			
	As Reported	Predecessor Financial Information	Allocation of Share-based Payment Expense	Proforma
Revenue:				
Subscriber revenue, including effects of rebates	$ 226,844	$ 261,699	$ —	$ 488,543
Advertising revenue, net of agency fees	8,524	10,716	—	19,240
Equipment revenue	6,290	4,310	—	10,600
Other revenue	128	10,731	—	10,859
Total revenue	241,786	287,456	—	529,242
Operating expenses (depreciation and amortization shown separately below)(1)				
Cost of services:				
Satellite and transmission	7,409	19,947	(1,947)	25,409
Programming and content	59,015	46,825	(5,165)	100,675
Revenue share and royalties	32,978	52,416	—	85,394
Customer service and billing	21,058	31,396	(892)	51,562
Cost of equipment	6,086	9,585	—	15,671
Sales and marketing	38,488	67,937	(9,935)	96,490
Subscriber acquisition costs	101,798	61,658	(800)	162,656
General and administrative	44,837	56,016	(20,802)	80,051
Engineering, design and development	9,736	8,343	(3,173)	14,906
Depreciation and amortization	26,072	46,402	—	72,474
Share-based payment expense	—	—	42,714	42,714
Total operating expenses	347,477	400,525	—	748,002
Loss from operations	(105,691)	(113,069)	—	(218,760)
Other income (expense)				
Interest and investment income	5,604	3,495	—	9,099
Interest expense, net of amounts capitalized	(19,499)	(27,757)	—	(47,256)
Loss from redemption of debt	—	—	—	—
Loss from impairment of investments	—	(481)	—	(481)
Equity in net loss of equity method investment	—	(4,546)	—	(4,546)
Other (expense) income	4	(2,915)	—	(2,911)
Total other expense	(13,891)	(32,204)	—	(46,095)
Loss before income taxes	(119,582)	(145,273)	—	(264,855)
Income tax expense	(555)	(105)	—	(660)
Net loss	$ (120,137)	$ (145,378)	$ —	$ (265,515)

(1) Amounts related to share-based payment expense included in operating expenses were as follows:

Satellite and transmission	$ 557	$ 1,390	$ 1,947
Programming and content	2,707	2,458	5,165
Customer service and billing	166	726	892
Sales and marketing	6,575	3,360	9,935
Subscriber acquisition costs	800	—	800
General and administrative	10,953	9,849	20,802
Engineering, design and development	969	2,204	3,173
Total share-based payment expense	$ 22,727	$ 19,987	$ 42,714

	Nine months ended September 30, 2008				
	As Reported	Predecessor Financial Information	Purchase Price Accounting Adjustments(a)	Allocation of Share-based Payment Expense	Proforma
Revenue:					
Subscriber revenue, including effects of rebates	$ 978,516	$ 664,850	$ 18,434	$ —	$ 1,661,800
Advertising revenue, net of agency fees	31,413	22,743	—	—	54,156
Equipment revenue	25,290	13,397	—	—	38,687
Other revenue	6,590	30,204	1,195	—	37,989
Total revenue	1,041,809	731,194	19,629	—	1,792,632
Operating expenses (depreciation and amortization shown separately below)(1)					
Cost of services:					
Satellite and transmission	34,800	46,566	638	(5,668)	76,336
Programming and content	222,975	117,156	13,912	(12,621)	341,422
Revenue share and royalties	177,635	166,606	11,010		355,251
Customer service and billing	97,218	82,947	105	(3,111)	177,159
Cost of equipment	28,007	20,013	—		48,020
Sales and marketing	151,237	126,054	2,081	(18,789)	260,583
Subscriber acquisition costs	257,832	174,083	12,495	(14)	444,396
General and administrative	148,555	116,444	777	(50,336)	215,440
Engineering, design and development	28,091	23,045	119	(9,134)	42,121
Impairment of goodwill	4,750,859	—	(4,750,859)	—	—
Depreciation and amortization	120,793	88,749	(13,491)	—	196,051
Share-based payment expense	—	—	—	99,673	99,673
Restructuring and related costs	7,457	—	—	—	7,457
Total operating expenses	6,025,459	961,663	(4,723,213)	—	2,263,909
Loss from operations	(4,983,650)	(230,469)	4,742,842	—	(471,277)
Other income (expense)					
Interest and investment income	9,167	3,013	—	—	12,180
Interest expense, net of amounts capitalized	(83,636)	(73,937)	(6,807)	—	(164,380)
Equity in net loss of equity method investment	(3,089)	(10,385)	—	—	(13,474)
Other (expense) income	(3,935)	(9,168)	—	—	(13,103)
Total other expense	(81,493)	(90,477)	(6,807)	—	(178,777)
Loss before income taxes	(5,065,143)	(320,946)	4,736,035	—	(650,054)
Income tax expense	(2,301)	(1,512)	—	—	(3,813)
Net loss	$ (5,067,444)	$ (322,458)	$ 4,736,035	$ —	$ (653,867)

(1) Amounts related to share-based payment expense included in operating expenses were as follows:

Satellite and transmission	$ 2,887	$ 2,745	$ 36		$ 5,668
Programming and content	7,477	4,949	195		12,621
Customer service and billing	1,137	1,869	105		3,111
Sales and marketing	11,376	7,047	366		18,789
Subscriber acquisition costs	14	—	—		14
General and administrative	36,359	13,200	777		50,336
Engineering, design and development	4,167	4,675	292		9,134
Total share-based payment expense	$ 63,417	$ 34,485	$ 1,771		$ 99,673

(a) Also includes impairment of goodwill.

	Nine months ended September 30, 2007			
	As Reported	Predecessor Financial Information	Allocation of Share-based Payment Expense	Proforma
Revenue:				
Subscriber revenue, including effects of rebates	$ 627,275	$ 753,382	$ —	$ 1,380,657
Advertising revenue, net of agency fees	24,422	28,347	—	52,769
Equipment revenue	17,216	15,265	—	32,481
Other revenue	3,337	31,849	—	35,186
Total revenue	672,250	828,843	—	1,501,093
Operating expenses (depreciation and amortization shown separately below) (1)				
Cost of services:				
Satellite and transmission	22,732	60,732	(5,440)	78,024
Programming and content	173,324	132,603	(13,542)	292,385
Revenue share and royalties	89,953	149,565	—	239,518
Customer service and billing	64,529	90,073	(2,206)	152,396
Cost of equipment	19,930	40,555	—	60,485
Sales and marketing	126,348	186,237	(23,211)	289,374
Subscriber acquisition costs	307,580	169,115	(2,687)	474,008
General and administrative	118,651	145,468	(56,511)	207,608
Engineering, design and development	33,397	23,812	(8,605)	48,604
Depreciation and amortization	79,142	139,789	—	218,931
Share-based payment expense	—	—	112,202	112,202
Total operating expenses	1,035,586	1,137,949	—	2,173,535
Loss from operations	(363,336)	(309,106)	—	(672,442)
Other income (expense)				—
Interest and investment income	16,399	11,277	—	27,676
Interest expense, net of amounts capitalized	(50,441)	(87,789)	—	(138,230)
Loss from redemption of debt	—	(2,965)	—	(2,965)
Loss from impairment of investments	—	(36,305)	—	(36,305)
Equity in net loss of equity method investment	—	(12,723)	—	(12,723)
Other (expense) income	14	(7,022)	—	(7,008)
Total other expense	(34,028)	(135,527)	—	(169,555)
Loss before income taxes	(397,364)	(444,633)	—	(841,997)
Income tax expense	(1,665)	1,070	—	(595)
Net loss	$ (399,029)	$ (443,563)	$ —	$ (842,592)
(1) Amounts related to share-based payment expense included in operating expenses were as follows:				
Satellite and transmission	$ 1,834	$ 3,606		$ 5,440
Programming and content	6,857	6,685		13,542
Customer service and billing	543	1,663		2,206
Sales and marketing	15,068	8,143		23,211
Subscriber acquisition costs	2,687	—		2,687
General and administrative	34,056	22,455		56,511
Engineering, design and development	2,959	5,646		8,605
Total share-based payment expense	$ 64,004	$ 48,198		$ 112,202

(9) ARPU is derived from total earned subscriber revenue and net advertising revenue divided by the daily weighted average number of subscribers for the period. ARPU is calculated as follows (in thousands, except for per subscriber amounts):

	Actual Three months ended September 30,		Actual Nine months ended September 30,	
	2008	2007	2008	2007
Subscriber revenue	$ 456,357	$ 226,844	$ 978,516	$ 627,275
Net advertising revenue	14,674	8,524	31,413	24,422
Total subscriber and net advertising revenue	$ 471,031	$ 235,368	$ 1,009,929	$ 651,697
Daily weighted average number of subscribers	15,472,506	7,326,029	10,887,028	6,814,796
ARPU	$ 10.15	$ 10.71	$ 10.31	$ 10.63

(10) SAC, as adjusted, per gross subscriber addition is derived from subscriber acquisition costs and margins from the direct sale of radios and accessories, excluding stock-based compensation divided by the number of gross subscriber additions for the period. SAC, as adjusted, per gross subscriber addition is calculated as follows (in thousands, except for per subscriber amounts):

	Actual Three months ended September 30,		Actual Nine months ended September 30,	
	2008	2007	2008	2007
Subscriber acquisition cost	$ 86,616	$ 101,798	$ 257,832	$ 307,580
Less: stock-based compensation granted to third parties and employees	—	(800)	(14)	(2,687)
Add: margin from direct sales of radios and accessories	2,502	(204)	2,717	2,714
SAC, as adjusted	$ 89,118	$ 100,794	$ 260,535	$ 307,607
Gross subscriber additions	1,500,108	999,284	3,532,817	2,989,887
SAC, as adjusted, per gross subscriber addition	$ 59	$ 101	$ 74	$ 103

(11) Customer service and billing expenses, as adjusted, per average subscriber is derived from total customer service and billing expenses, excluding stock-based compensation, divided by the daily weighted average number of subscribers for the period. Customer service and billing expenses, as adjusted, per average subscriber is calculated as follows (in thousands, except for per subscriber amounts):

	Actual Three months ended September 30,		Actual Nine months ended September 30,	
	2008	2007	2008	2007
Customer service and billing expenses	$ 47,432	$ 21,058	$ 97,218	$ 64,529
Less: stock-based compensation	(596)	(166)	(1,137)	(543)
Customer service and billing expenses, as adjusted	$ 46,836	$ 20,892	$ 96,081	$ 63,986
Daily weighted average number of subscribers	15,472,506	7,326,029	10,887,028	6,814,796
Customer service and billing expenses, as adjusted, per average subscriber	$ 1.01	$ 0.95	$ 0.98	$ 1.04

(12) Free cash flow is calculated as follows (in thousands):

	Actual Three months ended September 30,		Actual Nine months ended September 30,	
	2008	2007	2008	2007
Net change in cash and cash equivalents	$ 139,524	$ (67,039)	$ (79,163)	$ (35,711)
Cash flow from financing activities	627,618	(745)	628,687	(247,876)
Acquired entity cash	(819,521)	—	(819,521)	—
Other investing	(343)	(15)	(347)	(10,958)
Free cash flow	$ (52,722)	$ (67,799)	$ (270,344)	$ (294,545)

(13) We refer to net loss before taxes; other income (expense)-including interest and investment income, interest expense, depreciation and amortization, impairment of goodwill, restructuring and related costs and stock-based compensation expense as adjusted loss from operations. Adjusted loss from operations is not a measure of financial performance under U.S. GAAP. We believe adjusted loss from operations is a useful measure of our operating performance. We use adjusted loss from operations for budgetary and planning purposes; to assess the relative profitability and on-going performance of our consolidated operations; to compare our performance from period–to-period; and to compare our performance to that of our competitors. We also believe adjusted loss from operations is useful to investors to compare our operating performance to the performance of other communications, entertainment and media companies. We believe that investors use current and projected adjusted loss from operations to estimate our current or prospective enterprise value and to make investment decisions.

Because we fund and build-out our satellite radio system through the periodic raising and expenditure of large amounts of capital, our results of operations reflect significant charges for interest and depreciation expense. We believe adjusted loss from operations provides useful information about the operating performance of our business apart from the costs associated with our capital structure and physical plant. The exclusion of interest and depreciation expense is useful given fluctuations in interest rates and significant variation in depreciation and amortization expense that can result from the amount and timing of capital expenditures and potential variations in estimated useful lives, all of which can vary widely across different industries or among companies within the same industry. We believe the exclusion of taxes is appropriate for comparability purposes as the tax positions of companies can vary because of their differing abilities to take advantage of tax benefits and because of the tax policies of the various jurisdictions in which they operate. We also believe the exclusion of stock-based compensation expense is useful given the significant variation in expense that can result from changes in the fair market value of our common stock. To compensate for the exclusion of taxes, other income (expense), depreciation and amortization and stock-based compensation expense, we separately measure and budget for these items.

There are material limitations associated with the use of adjusted loss from operations in evaluating our company compared with net loss, which reflects overall financial performance, including the effects of taxes, other income (expense), depreciation and stock-based compensation expense. We use adjusted loss from operations to supplement GAAP results to provide a more complete understanding of the factors and trends affecting the business than GAAP results alone. Investors that wish to compare and evaluate our operating results after giving effect for these costs, should refer to net loss as disclosed in our unaudited consolidated statements of operations. Since adjusted loss from operations is a non-GAAP financial measure, our calculation of adjusted loss from operations may be susceptible to varying calculations; may not be comparable to other similarly titled measures of other companies; and should not be considered in isolation, as a substitute for, or superior to measures of financial performance prepared in accordance with GAAP.

Adjusted loss from operations is calculated as follows:

(in thousands, except percentages)	Actual Three months ended September 30, 2008	Actual Three months ended September 30, 2007	Actual Nine months ended September 30, 2008	Actual Nine months ended September 30, 2007
Reconciliation of Net loss to Adjusted loss from operations:				
Net loss as reported	$ (4,879,427)	$ (120,137)	$ (5,067,444)	$ (399,029)
Add back Net loss items excluded from Adjusted loss from operations:				
Interest and investment income	(4,940)	(5,604)	(9,167)	(16,399)
Interest expense, net of amounts capitalized	49,216	19,499	83,636	50,441
Income tax expense	1,215	555	2,301	1,665
Equity in net loss of equity method investment	3,089	—	3,089	—
Other expense (income)	3,870	(4)	3,935	(14)
Loss from operations	(4,826,977)	(105,691)	(4,983,650)	(363,336)
Restructuring and related costs	7,430	—	7,457	—
Impairment of goodwill	4,750,859	—	4,750,859	—
Depreciation and amortization	66,774	26,072	120,793	79,142
Stock-based compensation	24,005	22,727	63,417	64,004
Adjusted loss from operations	$ 22,091	$ (56,892)	$ (41,124)	$ (220,190)

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

As of September 30, 2008, we did not have any material derivative financial instruments. We do not hold or issue any free-standing derivatives. We hold investments in marketable securities, which consist of certificates of deposit. We classify our marketable securities as available-for-sale. We hold an investment in auction rate certificates which are classified as available-for-sale. These securities are consistent with the investment objectives contained within our investment policy. The basic objectives of our investment policy are the preservation of capital, maintaining sufficient liquidity to meet operating requirements and maximizing yield.

Our long-term debt includes fixed interest rate and variable interest rate debt. Under our current policies, we do not use interest rate derivative instruments to manage our exposure to interest rate fluctuations. The fair market value of our debt is sensitive to changes in interest rates.

ITEM 4. CONTROLS AND PROCEDURES

As of September 30, 2008, an evaluation was performed under the supervision and with the participation of our management, including Mel Karmazin, our Chief Executive Officer, and David J. Frear, our Executive Vice President and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. Based on that evaluation, our management, including our Chief Executive Officer and our Chief Financial Officer, concluded that our disclosure controls and procedures were effective as of September 30, 2008. There have been no significant changes in our internal control over financial reporting or in other factors that could materially affect, or is reasonably likely to materially affect, our internal control over financial reporting for the three months ended September 30, 2008.

PART II: OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

FCC Matters. In August 2008, we entered into two Consent Decrees to settle with the Enforcement Bureau of the Federal Communications Commission outstanding enforcement matters pending against SIRIUS and XM. In 2006, the FCC commenced investigations regarding the compliance of certain radios that include FM transmitters with the Commission's rules, and the compliance of certain terrestrial repeaters with the special temporary authority granted by the Commission. The Consent Decrees terminated these inquiries.

As part of the Consent Decrees, we agreed, among other things, to:

- adopt comprehensive compliance plans, and take steps to address any potentially non-compliant radios in the hands of consumers;
- in the case of XM, within 60 days of the order adopting the Consent Decrees, shut down 50 variant terrestrial repeaters, and shut down or bring into compliance an additional 50 variant terrestrial repeaters;
- in the case of SIRIUS, receive special temporary authority to operate two of its eleven variant terrestrial repeaters. These eleven terrestrial repeaters were shut off by SIRIUS in October 2006; and
- make voluntary contributions to the United States Treasury of approximately $17 million in the case of XM, and approximately $2 million in the case of SIRIUS.

We have taken all of these actions, and are in compliance with the terms of the Consent Decrees.

FCC Merger Order. On July 25, 2008, the FCC adopted an order approving the Merger. The order became effective immediately upon adoption. This order was published in the Federal Register on September 8, 2008. On September 4, 2008, Mt. Wilson FM Broadcasters, Inc. filed a Petition for Reconsideration of the FCC's merger order. This Petition for Reconsideration remains pending.

Appellate Review of FCC Merger and Consent Decree Orders. Two different parties, U.S. Electronics and Michael Hartleib, have sought appellate review of the FCC's decision regarding the Merger. Each party also challenged the FCC's decision to enter into the consent decrees mentioned above. These matters were both filed in the United States Court of Appeals for the D.C. Circuit, and have been consolidated by the court. We have moved to intervene, and that motion has been granted. Subsequent to filing its initial request for appellate review, U.S. Electronics moved to both amend its original filing and submit an additional notice of appeal in order to comply with the statutory requirements for review of agency decisions. The FCC has moved to dismiss both the Hartleib and the U.S. Electronics requests for review on the grounds that neither party has standing to challenge the merger order or the consent decrees, and has further argued that the agency's decision to enter into a consent decree is not reviewable by the court in these circumstances. Separately, the court issued a show cause order on its own motion that requires U.S. Electronics to demonstrate why its additional notice of appeal should not be dismissed as untimely.

Copyright Royalty Board Proceeding. In January 2008, the Copyright Royalty Board, or CRB, of the Library of Congress issued its decision regarding the royalty rate payable by us under the statutory license covering the performance of sound recordings over our satellite digital audio radio services for the six-year period starting January 1, 2007 and ending December 31, 2012. Under the terms of the CRB's decision, we will pay a royalty of 6.0% of gross revenues, subject to certain exclusions, for 2007 and 2008, 6.5% for 2009, 7.0% for 2010, 7.5% for 2011 and 8.0% for 2012. SoundExchange has appealed the decision of the CRB to the United States Court of Appeals for the District of Columbia Circuit. Final briefs in this matter are scheduled to be submitted to the United States Court of Appeals for the District of Columbia Circuit by the end of February 2009.

U.S. Electronics Arbitration. In May 2006, U.S. Electronics Inc., a former licensed distributor and manufacturer of SIRIUS radios, commenced an arbitration proceeding against SIRIUS. U.S. Electronics alleged that SIRIUS breached its contract; failed to pay monies owed under the contract; tortiously interfered with U.S. Electronics' relationships with retailers and manufacturers; and otherwise acted in bad faith. U.S. Electronics sought up to $133 million in damages. In August 2008, following a 20-day arbitration hearing, a panel of three arbitrators unanimously issued a 149-page Final Award dismissing with prejudice all of U.S. Electronics' claims, including its claims for lost profits.

Atlantic Recording Corporation, BMG Music, Capital Records, Inc., Elektra Entertainment Group Inc., Interscope Records, Motown Record Company, L.P., Sony BMG Music Entertainment, UMG Recordings, Inc., Virgin Records, Inc and Warner Bros. Records Inc. v. XM Satellite Radio Inc. In May 2006, the plaintiffs filed this action in the United States District Court for the Southern District of New York. The complaint seeks monetary damages and equitable relief, and alleges that XM radios that include advanced recording functionality infringe upon plaintiffs' copyrighted sound recordings. XM filed a motion to dismiss this matter, and that motion was denied in January 2007. XM has resolved the lawsuit with respect to Universal Music Group, Warner Music Group, Sony BMG Music Entertainment and EMI Group, and each of these parties have withdrawn as a party to the lawsuit and this lawsuit has been dismissed.

Music publishing companies and certain other record companies also have filed lawsuits, purportedly on a class basis, with similar allegations. XM believes these allegations are without merit and that these products comply with applicable copyright law, including the Audio Home Recording Act, and intends to vigorously defend this matter. There can be no assurance regarding the ultimate outcome of these matters, or the significance, if any, to our business, consolidated results of operations or financial position.

Matthew Enderlin v. XM Satellite Radio Holdings Inc. and XM Satellite Radio Inc. In January 2006, the plaintiff filed this action in the United States District Court for the Eastern District of Arkansas on behalf of a purported nationwide class of all XM subscribers. The complaint alleges that XM engaged in a deceptive trade practices under Arkansas and other state laws by representing that its music channels are commercial-free. The court stayed the litigation and directed the parties to arbitration. XM instituted arbitration with the American Arbitration Association pursuant to the compulsory arbitration clause in its customer service agreement. The plaintiff has filed a counterclaim in the arbitration on behalf of the class that he seeks to represent. XM believes the matter is without merit and intends to vigorously defend the ongoing arbitration. There can be no assurance regarding the ultimate outcome of this matter, or the significance, if any, to our business, consolidated results of operations or financial position.

Other Matters. In the ordinary course of business, we are a defendant in various lawsuits and arbitration proceedings, including actions filed by former employees, parties to contracts or leases and owners of patents, trademarks, copyrights or other intellectual property. None of these actions are, in our opinion, likely to have a material adverse effect on our business or financial results.

ITEM 1A. RISK FACTORS

Other than as set forth below, there have been no material changes to the risk factors previously disclosed in response to Part 1, Item 1A, of our Form 10-K. Because we have not incorporated any prior Exchange Act reports of XM Holdings and XM into this Quarterly Report on Form 10-Q, we include below specific risks related to the XM business.

General

Our indebtedness is substantial. We need to refinance portions of our debt in the near term, which refinancing may not be available.

We have approximately $1 billion of debt maturing in 2009, including;

- At SIRIUS, $209,228,000 of 2 1/2% Convertible Notes that mature on February 15, 2009;
- At SIRIUS, $1,744,000 of 8 3/4% Convertible Subordinated Notes that mature on September 29, 2009;
- At XM, a $250,000,000 revolving credit facility, which is fully drawn and matures on May 5, 2009;
- At XM, a $100,000,000 term loan which matures on May 5, 2009;
- At XM Holdings, $400,000,000 of 10% Convertible Senior Notes that mature on December 1, 2009; and
- At XM Holdings and XM (as co-obligors), $33,200,000 of 10% Senior Secured Discount Convertible Notes that mature on December 31, 2009.

As a result of these maturities, our cash flows from operating activities will not be sufficient to fund our projected cash needs in 2009. We may not be able to access additional sources of refinancing on similar terms or pricing as those that are currently in place, or at all, or otherwise obtain other sources of funding. An inability to access additional sources of liquidity to fund our cash needs in 2009 or thereafter or to refinance or otherwise fund the repayment of our maturing debt could adversely affect our growth, our financial condition, our results of operations, and our ability to make payments on our debt, and could force us to seek the protection of the bankruptcy laws. It will be more difficult to obtain additional financing if prevailing instability in the credit and financial markets

continues. Tightening credit policies could also adversely impact our operational liquidity by making it more difficult or costly for our customers to access credit, and could have an adverse impact on our operational liquidity as a result of possible changes to our payment arrangements that credit card companies and other credit providers could unilaterally make.

SIRIUS is the sole stockholder of XM Holdings and its subsidiaries and its business is operated as an unrestricted subsidiary under SIRIUS' indebtedness. Under certain circumstances, SIRIUS may be unwilling or unable to contribute or loan XM capital to support its operations. Similarly, under certain circumstances, XM may be unwilling or unable to contribute or loan SIRIUS capital to support its operations. To the extent XM's funds are insufficient to support its business, XM may be required to seek additional financing, which may not be available on favorable terms, or at all. If XM is unable to secure additional financing it could be forced to seek the protection of the bankruptcy laws.

Our operations will also be affected by the FCC order approving the Merger. In addition, our future liquidity may be adversely affected by, among other things, changes in our operations or business plans, or by the nature and extent of the benefits, if any, achieved by operating XM as a wholly-owned subsidiary.

Our substantial indebtedness could adversely affect our financial health.

As of September 30, 2008, we had an aggregate principal amount of approximately $3.4 billion of indebtedness.

Our substantial indebtedness has important consequences. For example, it:

- limits both SIRIUS and XM's ability to borrow additional funds;
- limits both SIRIUS and XM's flexibility in planning for, or reacting to, changes in their business and industry;
- increases SIRIUS and XM's vulnerability to general adverse economic and industry conditions;
- requires SIRIUS and XM to dedicate a substantial portion of their cash flow from operations to payments on their indebtedness, reducing the availability of cash flow to fund working capital, capital expenditures and other general corporate activities; and
- places SIRIUS and XM at a competitive disadvantage compared to competitors that have less debt.

Interest costs related to our debt is substantial and, as a result, the demands on our cash resources are significant. Our high level of indebtedness reduces funds available for investment in research and development and capital expenditures and may create competitive disadvantages compared to other companies with lower debt levels.

Our indebtedness also contains covenants that, among other things, restricts our ability to incur more debt, pay dividends and make distributions, make certain investments, repurchase stock, create liens, enter into transactions with affiliates, enter into sale lease-back transactions, merge or consolidate, and transfer or sell assets. Failure to comply with the covenants contained in the indentures and agreements governing this debt could result in an event of default, which, if not cured or waived, could cause SIRIUS, XM or both to seek the protection of the bankruptcy laws, discontinue operations or seek a purchaser for its business or assets.

XM is required to maintain a minimum cash balance of $75 million under its revolving credit facility. If XM's cash balance falls below $75 million, it would need to obtain a waiver from its bank lenders to avoid a default. No assurance can be given that XM would be able to obtain such a waiver or otherwise avoid a default under its revolving credit facility.

Failure of third parties to perform could adversely affect our business.

Our business depends in part on the efforts of third parties, especially the efforts of:

- automakers that manufacture, market and sell vehicles capable of receiving our services;
- radio manufacturers that manufacture and distribute satellite radios;
- companies that manufacture and sell integrated circuits for satellite radios;
- programming providers and on-air talent, including Howard Stern;

- retailers that market and sell satellite radios and promote subscriptions to our service; and
- third party vendors that have designed, built, support or operate important elements of our system, such as our satellites and customer service facilities.

If one or more of these third parties does not perform in a sufficient or timely manner, our business will be adversely affected and we could be placed at a long-term disadvantage.

The sale and lease of vehicles with satellite radios and sales of satellite radios in the retail market are important sources of subscribers for us. Current economic conditions, particularly the dramatic and recent slowdown in auto sales, have negatively impacted our subscriber growth for 2008 and 2009. Subscription growth in the OEM channel is dependent on automotive sales and vehicle production by OEMs. Automotive sales and production are dependent on many factors, including general economic conditions, consumer confidence and fuel costs. To the extent vehicle sales by OEMs continue to decline (including vehicle sales by GM, XM's highest volume OEM), or the penetration of factory-installed satellite radios in those vehicles is reduced, and there is no offsetting growth in vehicle sales or increased penetration by other OEMs, our subscriber growth will be adversely impacted.

We do not manufacture satellite radios or accessories, and we depend on manufacturers and others for the production of radios and their component parts. If one or more manufacturers does not produce radios in a sufficient quantity to meet demand, or if such radios do not perform as advertised or were defective, sales of our services and our reputation could be adversely affected.

We do not manufacture, import, or distribute satellite radios, but, in many cases, we do design, establish specifications for, source parts and components for, and manage various aspects of the logistics and production of radios. As a result of these activities, we may be exposed to liabilities associated with the design, manufacture and distribution of radios that the providers of an entertainment service would not customarily be subject to, such as liabilities for design defects, patent infringement and compliance with applicable laws, as well as the costs of returned product.

The anticipated benefits of the Merger may not be realized fully (or at all) or may take longer to realize than expected.

The Merger involved the integration of two companies that have previously operated independently with principal offices in two distinct locations and technologically different satellite radio platforms. We are devoting significant management attention and resources to integrating the companies. Delays in this process could adversely affect our business, financial results and financial condition. Even if we are able to integrate our business operations successfully, there can be no assurance that this integration will result in the realization of the full benefits of synergies, cost savings, innovation and operational efficiencies that may be possible from this integration or that these benefits will be achieved within a reasonable period of time. In addition, the indentures governing SIRIUS, indebtedness and indebtedness of XM contain covenants that restrict the integration of these two operating companies.

Undertakings made to the FCC will affect our business in the future.

We have agreed with the FCC to implement a number of voluntary commitments. We are bound by these voluntary commitments. A failure to abide by these conditions could result in fines, additional license conditions, license revocation or other detrimental FCC actions.

Our common stock may be delisted by Nasdaq.

Our common stock is currently listed on the Nasdaq Global Select Market. Nasdaq rules require, among other things, that the minimum bid price of our common stock be at least $1.00, On October 16, 2008, Nasdaq suspended the $1.00 per share minimum bid requirement until January 16, 2009. September 19, 2008 is the last day our common stock traded above $1.00 per share. If Nasdaq reinstates the minimum bid price rule and our common stock closes below $1.00 for more than 30 consecutive trading days and we are unable to cure such defect within a 180-day cure period, Nasdaq could delist our common stock from the Nasdaq Global Select Market. Such delisting would likely have an adverse impact on the liquidity of our common stock and, as a result, the market price for our common stock may become more volatile and significantly decline. Such delisting may also result in an event of default under certain of our debt and adversely affect the ability to refinance our existing debt. At our annual meeting of stockholders scheduled to be held in December 2008, we have asked our stockholders to authorize our board of directors to effect a reverse stock split.

Risks Related to XM's Business

XM's cumulative expenditures and losses have been significant and are expected to increase.

From XM's inception through the date of the Merger plus the successor XM company for the two months ended September 30, 2008, XM and its successor company have realized cumulative net losses approximating $9.4 billion. XM expects its cumulative net losses and cumulative negative cash flows to grow as it makes payments under its various distribution and programming contracts, incurs marketing and subscriber acquisition costs and makes interest payments on its outstanding indebtedness. If XM is unable ultimately to generate sufficient revenues to become profitable and generate positive cash flow, there is a risk that it will be unable to make required payments under its indebtedness.

Demand for XM's service may be insufficient for it to become profitable.

XM cannot estimate with any certainty whether consumer demand for its service will be sufficient for it to continue to increase the number of its subscribers at projected rates. XM has seen a significant decrease in new subscription demand from retail subscribers and most of its new subscription growth has come from OEMs, which have also recently seen sales drop dramatically.

Among other things, continuing and increased consumer acceptance of XM radio will depend on:

- the willingness of consumers, on a mass-market basis, to pay subscription fees to obtain radio service rather than obtain their desired programming from other sources;
- the cost, features and availability of XM radios; and
- the marketing and pricing strategies that XM employs and that are employed by its competitors.

If demand for XM's products and service does not continue to increase, XM may not be able to generate enough revenues to generate positive cash flow or to become profitable.

The unfavorable outcome of pending or future litigation could have a material adverse effect on XM.

XM is party to several legal proceedings arising out of various aspects of its business. XM is defending all claims against it. However, there can be no assurance regarding a favorable outcome of any of these proceedings, or that an unfavorable outcome would not have a material adverse effect on XM's business or financial results.

Large payment obligations under XM's agreements with automakers, suppliers of programming and others may prevent XM from becoming profitable.

XM has significant payment obligations under its agreements with automobile manufacturers, third-party suppliers of programming and licensors of program royalties. XM also has or in the future will have payment obligations under agreements with other OEMs, and it will need to negotiate new or replacement agreements with these or other manufacturers over the next several years. Under XM's multi-year agreement with MLB for the rights to broadcast MLB games live nationwide and be the Official Satellite Radio provider of MLB, XM is obligated to pay $60 million per year through 2012. In May 2008, XM provided $120 million for an escrow arrangement for the benefit of MLB to replace an expiring surety bond. In connection with funding the MLB escrow arrangement, XM borrowed $62.5 million available under its $250 million revolving credit facility. This MLB escrow arrangement reduces its unrestricted cash liquidity, and could have an adverse effect on its financial position if XM is not able to replace the escrow arrangement with a letter of credit or otherwise.

XM has many other agreements and must frequently negotiate renewal or replacement agreements with third-party suppliers of programming. XM's payment obligations could increase when agreements are renewed or replaced, and will increase under the terms of certain existing agreements as the number of XM's subscribers increases. Changes in the cost of certain programming or other factors could cause changes to XM's channel line-up in the future. These payment obligations could limit XM's ability to become profitable or generate positive cash flow and increase the amount that it may need to borrow. XM may seek to renegotiate certain of these arrangements to generate positive cash flow and reduce its need for external funds. There can be no assurance that XM will be able to complete such renegotiations on favorable terms or at all.

XM must maintain and pay license fees for music rights.

XM must maintain music programming royalty arrangements with and pay license fees to Broadcast Music, Inc. ("BMI"), the American Society of Composers, Authors and Publishers ("ASCAP") and SESAC, Inc. ("SESAC"). These organizations negotiate with copyright users, collect royalties and distribute them to songwriters and music publishers. Although XM has agreements with ASCAP and SESAC through December 2011, it continues to operate under an interim agreement with BMI. There can be no assurance that the BMI royalty fee will remain at the current level when the agreement is finalized.

Under the Digital Performance Right in Sound Recordings Act of 1995 and the Digital Millennium Copyright Act of 1998, XM also has to negotiate royalty arrangements with the copyright owners of the sound recordings, or if negotiation is unsuccessful, have the royalty rate established by the CRB. XM participated in a CRB proceeding in order to set the royalty rate payable by XM under the statutory license covering its performance of sound recordings over the XM system for the six-year period starting in January 2007.

XM's inability to retain customers, including those who purchase or lease vehicles that include a subscription to its service, could adversely affect its financial performance.

XM cannot predict how successful it will be at retaining customers who purchase or lease vehicles that include a subscription to XM's service as part of the promotion of its product. Over the past several quarters, XM has retained approximately 50% of the customers who received a promotional subscription as part of the purchase or lease of a new vehicle. However, that percentage fluctuates over time and the amount of data on the percentage is limited. XM does not know if the percentage will change as the number of customers with promotional subscriptions increases.

XM experiences subscriber churn for both its self-pay and its non-promotional customers. Both XM's inability to retain customers who purchase or lease new vehicles with its service beyond the promotional period and subscriber churn could adversely affect XM's financial performance and results of operations.

Loss or premature degradation of XM's existing satellites could damage its business.

XM placed its XM-3 and XM-4 satellites into service during the second quarter of 2005 and fourth quarter of 2006, respectively. XM's XM-1 and XM-2 satellites experienced progressive degradation problems common to early Boeing 702 class satellites and now serve as in-orbit spares. An operational failure or loss of XM-3 or XM-4 would, at least temporarily, affect the quality of XM's service, and could interrupt the continuation of its service and harm its business. XM likely would not be able to complete and launch its XM-5 satellite before September 2009. In the event of any satellite failure prior to that time, XM would need to rely on its back-up satellites, XM-1 and XM-2. There can be no assurance that restoring service through XM-1 and XM-2 would allow XM to maintain adequate broadcast signal strength through the in-service date of XM-5, particularly if XM-1 or XM-2 were to suffer unanticipated additional performance degradation or experience an operational failure.

A number of other factors could decrease the useful lives of XM's satellites, including:

- defects in design or construction;
- loss of on board station-keeping system;
- failure of satellite components that are not protected by back-up units;
- electrostatic storms; and
- collisions with other objects in space.

In addition, XM's network of terrestrial repeaters communicates principally with one satellite. If the satellite communicating with the repeater network fails unexpectedly, XM would have to activate its backup satellites (XM-1 and XM-2) to restore repeater service. This would result in a degradation of service that could last several hours or longer and could harm XM's business.

Potential losses may not be covered by XM's insurance.

Insurance proceeds may not fully cover XM's losses. For example, XM's insurance does not cover the full cost of constructing, launching and insuring new satellites or XM's in-orbit spare satellites, nor will it cover and XM does not have protection against business interruption, loss of business or similar losses. Also, XM's insurance contains customary exclusions, salvage value provisions, material change and other conditions that could limit its recovery. Further, any insurance proceeds may not be received on a timely basis in order to launch a spare satellite or construct and launch a replacement satellite or take other remedial measures. In addition, some of XM's policies are subject to limitations involving large deductibles or co-payments and policy limits that may not be sufficient to cover losses. If XM experiences a loss that is uninsured or that exceeds policy limits, this may impair its ability to make timely payments on its outstanding notes and other financial obligations.

Competition could adversely affect XM's revenues.

XM encounters competition for both listeners and advertising revenues from many sources, including traditional and digital AM/FM radio; Internet based audio providers; MP3 players; wireless carriers; direct broadcast satellite television audio service; digital media services; and cable systems that carry audio service; and historically XM has faced limited competition from SIRIUS.

Unlike XM Radio, traditional AM/FM radio already has a well-established and dominant market presence for its services and generally offers free broadcast reception supported by commercial advertising, rather than by a subscription fee. Also, many radio stations offer information programming of a local nature, which XM Radio is not expected to offer as effectively as local radio, or at all. Some radio stations have reduced the number of commercials per hour, expanded the range of music played on the air and are experimenting with new formats in order to compete with satellite radio.

Digital (or HD or high definition) radio broadcast services have been expanding, and as many as 1,500 radio stations in the United States have begun digital broadcasting and approximately 3,000 have committed to broadcasting in digital format. To the extent that traditional AM/FM radio stations adopt digital transmission technology, any competitive advantage that XM enjoys over traditional radio because of its digital signal would be lessened. A group of major broadcast radio networks created a coalition to jointly market digital radio services.

Internet radio broadcasts have no geographic limitations and can provide listeners with radio programming from around the country and the world. XM expects that improvements from higher bandwidths, faster modems, wider programming selection and mobile internet service, will make Internet radio increasingly competitive.

The Apple iPod® is a portable digital music player that allows users to download and purchase music through Apple's iTunes® Music Store, as well as convert music on compact disc to digital files. Apple sold over 51 million iPods® during its fiscal 2007 year. The iPod® is also compatible with certain car stereos and various home speaker systems. XM's portable digital audio players, including those with advanced recording functionality, compete with the iPod® and other downloading technology and devices; and some consumers may use their digital music players in their vehicles rather than subscribe to XM Radio.

The audio entertainment marketplace continues to evolve rapidly, with a steady emergence of new media platforms and portable devices that compete with XM now or that could compete with it in the future. For example, Slacker and other companies have begun to introduce portable music players offering customizable Internet-based channels. Ford and Microsoft offer an in-car communications system called "Sync," which allows drivers to use voice commands or steering wheel controls to play songs from their digital-music players. In addition, ICO Global Communications (Holdings) Limited demonstrated a satellite-based mobile entertainment platform to deliver live broadcast media nationwide through a hybrid satellite and terrestrial repeater network.

Rapid technological and industry changes could make XM's service obsolete.

The audio entertainment industry is characterized by rapid technological change, frequent new product innovations, changes in customer requirements and expectations, and evolving industry standards. If XM is unable to keep pace with these changes, its business may be unsuccessful. Because XM has depended on third parties to develop technologies used in key elements of the XM system, more advanced technologies that it may wish to use may not be available to it on reasonable terms or in a timely manner. Further, XM's competitors may have access to technologies not available to XM, which may enable them to produce entertainment products of greater interest to consumers, or at a more competitive cost.

Higher than expected subscriber acquisition costs could adversely affect XM's financial performance.

XM is spending substantial funds on advertising and marketing and in transactions with car and radio manufacturers and other parties to obtain or as part of the expense of attracting new subscribers, including its subscriber acquisition costs and costs per gross (or net) subscriber addition. XM's ability to achieve cash flow breakeven and profitability within its expected timeframe or at all depends on its ability to continue to maintain or lower these costs, which vary over time based on a number of factors. If the costs of attracting new subscribers are greater than expected, XM's financial performance and results of operations could be adversely affected.

The FCC has not issued final rules authorizing terrestrial repeaters.

The FCC has not yet issued final rules permitting XM to deploy terrestrial repeaters to fill gaps in satellite coverage. In November 2001, the FCC issued a further request for comments on various proposals for permanent rules for the operation of terrestrial repeaters. XM has opposed some of these proposals. In December 2007, the FCC released a "Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking" seeking additional comment on the final rules for satellite radio repeaters. Some of the proposals under discussion in the rulemaking, if adopted by the FCC, could impact XM's ability to operate terrestrial repeaters, including requiring XM to reduce the power of some of its current repeaters, construct and operate additional repeaters to offer the same coverage, or otherwise impact reception of satellite radio service. XM is participating actively in this proceeding, but it cannot predict its outcome or any resulting impact on its business, consolidated results of operations or financial position.

FCC regulation or XM's failure to comply with FCC requirements could damage XM's business.

XM holds FCC licenses and authorizations to operate a commercial satellite radio service in the United States, including authorizations for satellites and a terrestrial repeater system, and related authorizations. The FCC generally grants licenses and authorizations for a fixed term. Although XM expects its satellite licenses and authorizations to be renewed in the ordinary course upon their expiration, there can be no assurance that this will be the case. Any assignment or transfer of control of XM's FCC licenses or authorizations must be approved in advance by the FCC.

The operation of XM's system is subject to significant regulation by the FCC under authority granted through the Communications Act and related federal law. XM is required, among other things, to operate only within specified frequencies; to meet certain conditions regarding the interoperability of its radios with those of the other licensed satellite radio system; to coordinate its satellite radio service with radio systems operating in the same range of frequencies in neighboring countries; and to coordinate its communications links to its satellites with other systems that operate in the same frequency band. Non-compliance by XM with these requirements or other conditions or with other applicable FCC rules and regulations could result in fines, additional license conditions, license revocation or other detrimental FCC actions. There is no guarantee that the FCC will not modify its rules and regulations in a manner that would have a material impact on XM's operations.

XM is operating its terrestrial repeaters on a non-interference basis pursuant to grants of STA from the FCC, which have expired. XM has applied on a timely basis for extensions of these STAs. Pursuant to FCC rules, if an extension request is filed on a timely basis, operations in accordance with the terms of the STA may continue pending action on the extension request.

One of XM's major business partners is experiencing financial difficulties.

In October 2005, Delphi Corporation and 38 of its domestic U.S. subsidiaries, which we refer to collectively as "Delphi," filed voluntary petitions for relief under Chapter 11 of the U.S. Bankruptcy Code. Delphi manufactures, in factories outside the United States, XM radios for installation in various brands of GM vehicles. Delphi also distributes to consumer electronics retailers various models of XM radios manufactured abroad. In January 2008, the Bankruptcy Court entered an order confirming Delphi's First Amended Joint Plan of Reorganization, as Modified, which we refer to as the Delphi Plan, which provides for a reorganization of Delphi and the emergence of Delphi from bankruptcy as an ongoing entity. The Delphi Plan provides that Delphi shall assume all executory contracts including those with XM as of the effective date of the Delphi Plan. The Delphi Plan has not yet become effective, is subject to various conditions and may not become effective. It is unclear at this time whether the Delphi Plan will ever become effective. Further, even if the Delphi Plan becomes effective, Delphi has taken the position that any contracts that expire prior to the effective date of the Delphi Plan will not be assumed under the Delphi Plan and Delphi shall have no obligation to cure any pre-bankruptcy defaults there under. XM has reserved its rights to dispute that position.

Weaker than expected market and advertiser acceptance of XM's radio service could adversely affect XM's advertising revenue and results of operations.

XM's ability to generate advertising revenues will depend on several factors, including the level and type of penetration of its service, competition for advertising dollars from other media, and changes in the advertising industry and economy generally. XM directly competes for audiences and advertising revenues with traditional AM/FM radio stations, some of which maintain longstanding relationships with advertisers and possess greater resources than it does, and "new media," including Internet, Internet radio, podcasts and others. Because XM offers its radio service to subscribers on a pay-for-service basis, certain advertisers may be less likely to advertise on its radio service.

XM's business may be impaired by third-party intellectual property rights.

Development of the XM system has depended largely upon the intellectual property that XM has developed, as well as intellectual property XM has licensed from third parties. If the intellectual property that XM has developed or uses is not adequately protected, others will be permitted to and may duplicate the XM system or service without liability. In addition, others may challenge, invalidate, render unenforceable or circumvent XM's intellectual property rights, patents or existing sublicenses or XM may face significant legal costs in connection with defending and enforcing those intellectual property rights. Some of the know-how and technology XM has developed and plans to develop is not now, nor will be, covered by U.S. patents or trade secret protections. Trade secret protection and contractual agreements may not provide adequate protection if there is any unauthorized use or disclosure. The loss of necessary technologies could require XM to obtain substitute technology of lower quality performance standards, at greater cost or on a delayed basis, which could harm its business.

Other parties may have patents or pending patent applications, which will later mature into patents or inventions that may block XM's ability to operate its system or license its technology. XM may have to resort to litigation to enforce its rights under license agreements or to determine the scope and validity of other parties' proprietary rights in the subject matter of those licenses. This may be expensive. Also, XM may not succeed in any such litigation.

Third parties may assert claims or bring suit against XM for patent, trademark, or copyright infringement, or for other infringement of intellectual property rights. Any such litigation could result in substantial cost to, and diversion of effort by, XM, and adverse findings in any proceeding could subject XM to significant liabilities to third parties; require XM to seek licenses from third parties; block XM's ability to operate the XM system or license its technology; or otherwise adversely affect XM's ability to successfully develop and market the XM Radio system.

Interference from other users could damage XM's business.

XM's service may be subject to interference caused by other users of radio frequencies, such as RF lighting and ultra-wideband ("UWB") technology and Wireless Communications Service ("WCS") users. The FCC is seeking comment on proposals by certain WCS licensees for modification of rules regarding their operations in spectrum adjacent to satellite radio, including rule changes to facilitate mobile broadband services in the WCS. We cannot predict the outcome of the FCC proceeding, or the impact on satellite radio reception.

XM's service network or other ground facilities could be damaged by natural catastrophes.

Since XM's ground-based network is attached to towers, buildings and other structures around the country, an earthquake, tornado, flood or other catastrophic event anywhere in the United States could damage its network, interrupt its service and harm its business in the affected area. XM has backup central production and broadcast facilities; however, it does not have replacement or redundant facilities that can be used to assume the functions of XM's repeater network in the event of a catastrophic event. Any damage to XM's repeater network would likely result in degradation of XM's service for some subscribers and could result in the complete loss of service in affected areas. Damage to XM's central production and broadcast facility would restrict its production of programming to its backup facilities.

Consumers could steal XM's service.

Like all radio transmissions, the XM radio signal is subject to interception. Pirates may be able to obtain or rebroadcast XM radio without paying the subscription fee. Although XM uses encryption technology to mitigate the risk of signal theft, such technology may not be adequate to prevent theft of the XM radio signal. If widespread, signal theft could harm XM's business.

XM depends on certain on-air talent with special skills. if XM cannot retain these people, its business could suffer.

XM employs or independently contracts with on-air talent who maintain significant loyal audiences in or across various demographic groups. There can be no assurance that XM's on-air talent will remain with XM or that XM will be able to retain their respective audiences. If XM loses the services of one or more of these individuals, and fails to attract comparable on-air talent with similar audience loyalty, the attractiveness of its service to subscribers and advertisers could decline, and its business could be adversely affected. If XM loses the services of one or more of them, or fails to attract qualified replacement personnel, it could harm XM's business and its future prospects.

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

We have agreed to issue an aggregate of 130,680,443 shares of our common stock, par value $0.001 per share, in exchange for $40,772,000 principal amount of our 2 1/2% Convertible Notes due 2009 (the "2 1/2% Notes") beneficially owned by institutional holders.

We will not receive any cash proceeds as a result of the exchange of our common stock for the 2/2% Notes, which notes will be retired and cancelled. Upon completion of these transactions we will have issued an aggregate of 262,911,513 shares of common stock in exchange for $90,772,000 aggregate principal amount of 2 1/2% Notes. We executed these transactions to reduce our debt and interest cost, increase our equity, and improve our balance sheet. We may engage in additional exchanges in respect of our outstanding indebtedness if and as favorable opportunities arise.

The issuance of the shares of our common stock was made pursuant to the exemption from the registration requirements of the Securities Act of 1933, as amended, contained in Section 3(a)(9) of such Act.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

Not applicable.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

Not applicable.

ITEM 5. OTHER INFORMATION

Not applicable.

ITEM 6. EXHIBITS

See Exhibit Index attached hereto.

SIGNATURES

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

SIRIUS XM RADIO INC.

By: /s/ DAVID J. FREAR
David J. Frear
Executive Vice President and
Chief Financial Officer
(Principal Financial Officer)

November 11, 2008

ITEM 6. EXHIBITS

EXHIBIT INDEX

Exhibit		Description
2.1	_	Agreement and Plan of Merger, dated as of February 19, 2007, by and among the Company, Vernon Merger Corporation and XM Satellite Radio Holdings Inc. (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K dated February 21, 2007).
3.1	_	Amended and Restated Certificate of Incorporation of the Company, dated March 4, 2003 (incorporated by reference to Exhibit 3.1 to the Company's Annual Report on Form 10-K for the year ended December 31, 2002).
3.2	_	Certificate of Amendment of the Amended and Restated Certificate of Incorporation of the Company, dated July 28, 2008 (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K dated August 1, 2008).
3.3	_	Amended and Restated By-Laws of the Company (incorporated by reference to Exhibit 3.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2001).
3.4	_	Certificate of Amendment of the Amended and Restated By-Laws of the Company, dated July 28, 2008 (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K dated August 1, 2008).
3.5	_	Certificate of Designations of Series A Convertible Preferred Stock of the Company, dated July 28, 2008 (incorporated by reference to Exhibit 3.3 to the Company's Current Report on Form 8-K dated August 1, 2008).
3.6	_	Certificate of Ownership and Merger, dated August 5, 2008 (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K dated August 5, 2008).
3.7	_	Restated Certificate of Incorporation of XM Satellite Radio Holdings Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-1, File No. 333-83619).
3.8	_	Amended and Restated Bylaws of XM Satellite Radio Holdings Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed December 19, 2006).
3.9	_	Restated Certificate of Incorporation of XM Satellite Radio Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-4, File No. 333-39178).
3.10	_	Amended and Restated Bylaws of XM Satellite Radio Inc. (filed herewith).
3.11	_	Certificate of Amendment of Restated Certificate of Incorporation of XM Satellite Radio Holdings Inc. (incorporated by reference to Amendment No. 1 to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-3, File No. 333-89132).
3.12	_	Certificate of Amendment of Restated Certificate of Incorporation of XM Satellite Radio Holdings Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Annual Report on Form 10-K for the year ended December 31, 2002).
3.13	_	Amendments to the Amended and Restated By-Laws of XM Satellite Radio Holdings Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed December 7, 2007).
3.14	_	Bylaws of Vernon Merger Corporation (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed July 30, 2008).
4.1	_	Form of certificate for shares of the Company's Common Stock (incorporated by reference to Exhibit 4.3 to the Company's Registration Statement on Form S-1 (File No. 33-74782)).
4.2	_	Form of certificate for shares of XM Satellite Radio Holdings Inc.'s Class A common stock (incorporated by reference to Exhibit 3 to XM Satellite Radio Holdings Inc.'s Registration Statement on Form 8-A filed on September 23, 1999).
4.3	_	Warrant Agreement, dated as of May 15, 1999, between the Company and United States Trust Company of New York, as warrant agent (incorporated by reference to Exhibit 4.4.4 to the Company's Registration Statement on Form S-4 (File No. 333-82303)).

Exhibit		Description
4.4	_	Indenture, dated as of September 29, 1999, between the Company and United States Trust Company of Texas, N.A., as trustee, relating to the Company's 8 3/4% Convertible Subordinated Notes due 2009 (incorporated by reference to Exhibit 4.2 to the Company's Current Report on Form 8-K filed on October 13, 1999).
4.5	_	First Supplemental Indenture, dated as of September 29, 1999, between the Company and United States Trust Company of Texas, N.A., as trustee, relating to the Company's 8 3/4% Convertible Subordinated Notes due 2009 (incorporated by reference to Exhibit 4.01 to the Company's Current Report on Form 8-K filed on October 1, 1999).
4.6	_	Second Supplemental Indenture, dated as of March 4, 2003, among the Company, The Bank of New York (as successor to United States Trust Company of Texas, N.A.), as resigning trustee, and HSBC Bank USA, as successor trustee, relating to the Company's 8 3/4% Convertible Subordinated Notes due 2009 (incorporated by reference to Exhibit 4.16 to the Company's Annual Report on Form 10-K for the year ended December 31, 2002).
4.7	_	Third Supplemental Indenture, dated as of March 7, 2003, between the Company and HSBC Bank USA, as trustee, relating to the Company's 8 3/4% Convertible Subordinated Notes due 2009 (incorporated by reference to Exhibit 4.17 to the Company's Annual Report on Form 10-K for the year ended December 31, 2002).
4.8	_	Form of 8 3/4% Convertible Subordinated Note due 2009 (incorporated by reference to Article VII of Exhibit 4.01 to the Company's Current Report on Form 8-K filed on October 1, 1999).
4.9	_	Indenture, dated as of May 23, 2003, between the Company and The Bank of New York, as trustee (incorporated by reference to Exhibit 99.2 to the Company's Current Report on Form 8-K dated May 30, 2003).
4.10	_	Second Supplemental Indenture, dated as of February 20, 2004, between the Company and The Bank of New York, as trustee, relating to the Company's 2 1/2% Convertible Notes due 2009 (incorporated by reference to Exhibit 4.20 to the Company's Annual Report on Form 10-K for the year ended December 31, 2003).
4.11	_	Third Supplemental Indenture, dated as of October 13, 2004, between the Company and The Bank of New York, as trustee, relating to the Company's 3 1/4% Convertible Notes due 2011 (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K dated October 13, 2004).
4.12	_	Indenture, dated as of August 9, 2005, between the Company and The Bank of New York, as trustee, relating to the Company's 9 5/8% Senior Notes due 2013 (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed on August 12, 2005).
4.13	_	Common Stock Purchase Warrant granted by the Company to DaimlerChrysler AG, dated October 1, 2007 (incorporated by reference to Exhibit 4.13 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2007).
4.14	_	Common Stock Purchase Warrant granted by the Company to Ford Motor Company, dated October 7, 2002 (incorporated by reference to Exhibit 4.16 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2002).
4.15	_	Form of Media-Based Incentive Warrant dated February 3, 2004 issued by the Company to NFL Enterprises LLC (incorporated by reference to Exhibit 4.25 to the Company's Annual Report on Form 10-K for the year ended December 31, 2003).
4.16	_	Amended and Restated Warrant Agreement, dated as of December 27, 2000, between the Company and United States Trust Company of New York, as warrant agent and escrow agent (incorporated by reference to Exhibit 4.27 to the Company's Registration Statement on Form S-3 (File No. 333-65602)).
4.17	_	Amended and Restated Customer Credit Agreement, dated as of July 30, 2007, between the Company and Space Systems/Loral, Inc. (incorporated by reference to Exhibit 4.19 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2007).
4.18	_	First Amendment and Waiver to Amended and Restated Credit Agreement, dated as of May 22, 2008, between the Company and Space Systems/Loral, Inc. (filed herewith).

Exhibit		Description
4.19	_	Intentionally Omitted.
4.20	_	Warrant Agreement, dated March 15, 2000, between XM Satellite Radio Holdings Inc. as Issuer and United States Trust Company of New York as Warrant Agent (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-1, File No. 333-39176).
4.21	_	Warrant Registration Rights Agreement, dated March 15, 2000, between XM Satellite Radio Holdings Inc. and Bear, Stearns & Co., Inc., Donaldson, Lufkin and Jenrette Securities Corporation, Salomon Smith Barney Inc. and Lehman Brothers Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-1, File No. 333-39176).
4.22	_	Form of Warrant (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-1, File No. 333-39176).
4.23	_	Rights Agreement, dated as of August 2, 2002, between XM Satellite Radio Holdings Inc. and Equiserve Trust Company as Rights Agent (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on August 2, 2002).
4.24	_	Amended and Restated Amendment No. 1 to Rights Agreement, dated as of January 22, 2003, by and among XM Satellite Radio Holdings Inc. and Equiserve Trust Company, N.A. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on January 29, 2003).
4.25	_	Security Agreement, dated as of January 28, 2003, among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., XM Equipment Leasing LLC, and The Bank of New York, as trustee (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on January 29, 2003).
4.26	_	Amended and Restated Security Agreement, dated as of January 28, 2003, between XM Satellite Radio Inc. and The Bank of New York (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on January 29, 2003).
4.27	_	Intercreditor and Collateral Agency Agreement (General Security Agreement), dated as of January 28, 2003, by and among the noteholders named therein, The Bank of New York, as trustee, General Motors Corporation, OnStar Corporation and The Bank of New York, as collateral agent, acknowledged and agreed to by XM Satellite Radio Inc., XM Satellite Radio Holdings Inc. and certain other parties (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on January 29, 2003).
4.28	_	Intercreditor and Collateral Agency Agreement (FCC License Subsidiary Pledge Agreement), dated as of January 28, 2003, by and among the noteholders named therein, The Bank of New York, as trustee, General Motors Corporation, OnStar Corporation and The Bank of New York, as collateral agent, acknowledged and agreed to by XM Satellite Radio Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on January 29, 2003).
4.29	_	Warrant Agreement, dated as of January 28, 2003, between XM Satellite Radio Holdings Inc. and The Bank of New York (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on January 29, 2003).
4.30	_	Second Amended and Restated Registration Rights Agreement, dated as of January 28, 2003, by and among XM Satellite Radio Holdings Inc. and certain shareholders and noteholders named therein (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed with the SEC on January 29, 2003).
4.31	_	Form of 10% Senior Secured Discount Convertible Note due 2009 (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on January 29, 2003).
4.32	_	Global Common Stock Purchase Warrant (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on January 29, 2003).
4.33	_	First Amendment to Security Agreement, dated as of June 12, 2003, by and among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., XM Equipment Leasing LLC and The Bank of New York (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-4, File No. 333-106823).

Exhibit		Description
4.34	_	Third Amended and Restated Shareholders and Noteholders Agreement, dated as of June 16, 2003, by and among XM Satellite Radio Holdings Inc. and certain shareholders and noteholders named therein (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report on Form 10-Q for the quarter ended June 30, 2003).
4.35	_	Amended and Restated Note Purchase Agreement, dated as of June 16, 2003, by and among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc. and certain investors named therein (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report on Form 10-Q for the quarter ended June 30, 2003).
4.36	_	Form of Amendment to Third Amended and Restated Shareholders and Noteholders Agreement, dated as of January 13, 2004, by and among XM Satellite Radio Holdings Inc. and the parties thereto (incorporated by reference to XM Satellite Radio Holdings Inc.'s Annual Report on Form 10-K for the year ended December 31, 2003).
4.37	_	Indenture, dated as of November 23, 2004, between XM Satellite Radio Holdings Inc. and the Bank of New York, as trustee (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on November 23, 2004).
4.38	_	Registration Rights Agreement, dated as of November 23, 2004, between XM Satellite Radio Holdings Inc. and Bear, Stearns & Co. Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on November 23, 2004).
4.39	_	Form of 1.75% Senior Convertible Note Due 2009 (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on November 23, 2004).
4.40	_	Indenture, dated as of May 1, 2006, by and among XM Satellite Radio Holdings Inc., XM Satellite Radio Inc. and The Bank of New York, as trustee, relating to the 9.75% Senior Notes due 2014 (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed May 5, 2006).
4.41	_	Indenture, dated as of May 1, 2006, by and among XM Satellite Radio Holdings Inc., XM Satellite Radio Inc. and The Bank of New York, as trustee, relating to the Senior Floating Rate Notes due 2013 (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed May 5, 2006).
4.42	_	Form of 9.75% Senior Note due 2014 (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed May 5, 2006).
4.43	_	Form of Senior Floating Rate Note due 2013 (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed May 5, 2006).
4.44	_	Credit Agreement, dated May 5, 2006, among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., the lenders party thereto, JPMorgan Chase Bank, National Association, as Administrative Agent, Credit Suisse Securities (USA) LLC, as Syndication Agent, and Citigroup Global Markets Inc., as Documentation Agent (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report on Form 10-Q for the quarter ended March 31, 2006).
4.45	_	Lease Agreement, dated as of February 13, 2007, by and between Wells Fargo Bank Northwest, as Owner Trustee, and XM Satellite Radio Inc., relating to the XM Satellite Radio Inc. Sale-Leaseback transaction (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed February 14, 2007).
4.46	_	Participation Agreement, dated as of February 13, 2007, among XM Satellite Radio Holdings Inc., XM Satellite Radio Inc., Satellite Leasing (702-4), LLC, as Owner Participant, Wells Fargo Bank Northwest, as Owner Trustee and Lessor, and The Bank of New York, as Indenture Trustee, and the note purchasers named therein, relating to the XM Satellite Radio Inc. Sale-Leaseback transaction (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed February 14, 2007).
4.47	_	Transponder Purchase Agreement, dated as of February 13, 2007, by and between XM Satellite Radio Holdings Inc. and Wells Fargo Bank Northwest in its capacity as Owner Trustee, relating to the XM Satellite Radio Inc. Sale-Leaseback transaction (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed February 14, 2007).
4.48	_	Guaranty, dated as of February 13, 2007, made by XM Satellite Radio Holdings Inc., XM Equipment Leasing LLC and XM Radio Inc., relating to the XM Satellite Radio Inc. Sale-Leaseback transaction (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed February 14, 2007).

Exhibit		Description
4.49	_	Indenture, dated as of February 13, 2007, between Wells Fargo Bank Northwest, as Owner Trustee, and The Bank of New York, as Indenture Trustee, relating to the XM Satellite Radio Inc. Sale-Leaseback transaction (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed February 14, 2007).
4.50	_	Form of 10% senior secured note (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed February 14, 2007).
4.51	_	Amendment No. 3, dated as of February 19, 2007, to the Rights Agreement, dated as of August 2, 2002, between XM Satellite Radio Holdings Inc. and Computershare Investor Services, LLC, as successor rights agent to Equiserve Trust Company, N.A. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on February 21, 2007).
4.52	_	Term Credit Agreement, dated as of June 20, 2007, among the Company, the lenders party thereto, and Morgan Stanley Senior Funding, Inc., as Administrative Agent and Collateral Agent (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K dated June 20, 2007).
***4.53	_	Second Amendment and Waiver, dated as of February 1, 2008, among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., the lenders named therein and JPMorgan Chase Bank, N.A., as administrative agent (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed February 7, 2008).
***4.54	_	Third Amended and Restated Distribution and Credit Agreement, dated as of February 6, 2008, by and among General Motors Corporation, XM Satellite Radio Holdings Inc. and XM Satellite Radio Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Annual Report on Form 10-K for the period year December 31, 2007).
4.55	_	Third Amendment, dated as of May 21, 2008, to the Credit Agreement dated as of May 5, 2006 among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., the lenders named therein and JPMorgan Chase Bank, N.A., as administrative agent (incorporated by reference to XM Satellite Radio Holding's Quarterly Report on Form 10-Q for the quarter ended June 30, 2008).
4.56	_	Credit Agreement, dated as of June 26, 2008, among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., the lenders named therein and UBS AG, Stamford Branch, as administrative agent (incorporated by reference to XM Satellite Radio Holding's Quarterly Report on Form 10-Q for the quarter ended June 30, 2008).
4.57	_	Fourth Amendment, dated as of June 26, 2008, to the Credit Agreement dated as of May 5, 2006 among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., the lenders named therein and JPMorgan Chase Bank, N.A., as administrative agent (incorporated by reference to XM Satellite Radio Holding's Quarterly Report on Form 10-Q for the quarter ended June 30, 2008).
4.58	_	Agreement, dated as of June 26, 2008, by and among XM Satellite Radio Holdings Inc., the undersigned holders of XM's 1.75% Convertible Senior Notes due 2009, Brown Rudnick LLP and Sirius Satellite Radio Inc. (incorporated by reference to XM Satellite Radio Holding's Quarterly Report on Form 10-Q for the quarter ended June 30, 2008).
4.59	_	First Amendment, dated as of June 26, 2008, to the Intercreditor Agreement, dated as of May 5, 2006, by and among The Bank of New York, in its capacity as collateral agent under certain intercreditor agreements dated as of January 28, 2003, JP Morgan Chase Bank, National Association, in its capacity as administrative agent under the Original Facility, JP Morgan Chase Bank, National Association, as new collateral agent for the secured parties under that certain Collateral Agency Agreement dated as of June 26, 2008 and General Motors Corporation, acknowledged and agreed to by XM Satellite Radio Inc., XM Satellite Radio Holdings Inc. and certain other parties (incorporated by reference to XM Satellite Radio Holding's Quarterly Report on Form 10-Q for the quarter ended June 30, 2008).
4.60	_	Consent and Amendment Agreement, dated as of July 10, 2008, by and among XM Satellite Radio Holdings Inc. and the undersigned holders of XM Satellite Radio Holdings Inc.'s 1.75% Convertible Senior Notes due 2009 (incorporated by reference to XM Satellite Radio Holding's Quarterly Report on Form 10-Q for the quarter ended June 30, 2008).
4.61	_	Waiver and Letter Agreement, dated as of July 14, 2008, by and among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc. and certain beneficial owners of the Company's 9.75% Senior Notes due 2014 (incorporated by reference to XM Satellite Radio Inc.'s Current Report on Form 8-K filed on July 17, 2008).

Exhibit		Description
4.62	_	First Amendment to Credit Agreement, dated as of July 22, 2008, among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., the lenders named therein and UBS AG, Stamford Branch, as administrative agent (filed herewith).
4.63	_	Fifth Amendment to Credit Agreement, dated July 22, 2008, among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., JPMorgan Chase Bank, Credit Suisse Securities LLC, Citicorp North America Inc., J.P. Morgan Securities Inc., and UBS Securities LLC (filed herewith).
4.64	_	First Supplemental Indenture, dated July 24, 2008, by and between XM Satellite Radio Holdings, Inc. and The Bank of New York Mellon, relating to the 1.75% Convertible Senior Notes due 2009 (filed herewith).
4.65	_	Purchase Agreement, dated as of July 24, 2008, among XM Escrow LLC, XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., XM Equipment Leasing LLC, XM Radio Inc., J.P. Morgan Securities Inc., Morgan Stanley & Co. Incorporated and UBS Securities LLC, relating to the 13% Senior Notes due 2014 (filed herewith).
4.66	_	Purchase Agreement, dated as of July 28, 2008, among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., XM Equipment Leasing LLC, XM Radio Inc., the Company, J.P. Morgan Securities Inc., Morgan Stanley & Co. Incorporated and UBS Securities LLC, relating to the 7% Exchangeable Senior Subordinated Notes due 2014 (filed herewith).
4.67	_	First Supplemental Warrant Agreement, dated July 28, 2008, among the Company, XM Satellite Radio Holdings Inc. and The Bank of New York Mellon, relating to the Warrants, dated March 15, 2000, with the United States Trust Company of New York (filed herewith).
4.68	_	First Supplemental Warrant Agreement, dated July 28, 2008, among the Company, XM Satellite Radio Holdings Inc. and The Bank of New York Mellon, relating to the Warrants, dated January 28, 2003, with The Bank of New York Mellon as warrant agent (filed herewith).
4.69	_	Written instrument, dated July 28, 2008, among the Company, XM Satellite Radio Holdings Inc. and Vernon Merger Corporation, relating to the Warrant Agreement with Space Systems / Loral, dated June 3, 2005 (filed herewith).
4.70	_	Written instrument, dated July 28, 2008, among the Company, XM Satellite Radio Holdings Inc. and Vernon Merger Corporation, relating to the Warrant Agreement with Boeing Satellite Systems International Inc., dated July 31, 2003 and assigned to Bank of America, N.A. on May 24, 2006 (filed herewith).
4.71	_	Second Supplemental Indenture, dated July 28, 2008, among XM Satellite Radio Holdings Inc. and the Company, relating to the 1.75% Convertible Senior Notes due 2009 (filed herewith).
4.72	_	First Supplemental Indenture, dated July 28, 2008, among XM Satellite Radio Inc., as issuer, XM Satellite Radio Holdings Inc., XM Equipment Leasing LLC, XM Radio Inc. and The Bank of New York Mellon, relating to the 9.75% Senior Notes due 2014 (filed herewith).
4.73	_	Second Supplemental Indenture, dated July 28, 2008, among XM Satellite Radio Inc., as issuer, XM Satellite Radio Holdings Inc., XM Equipment Leasing LLC, XM Radio Inc. and The Bank of New York Mellon, relating to the 9.75% Senior Notes due 2014 (filed herewith).
4.74	_	First Supplemental Indenture, dated July 28, 2008, among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., XM Equipment Leasing LLC, XM Radio Inc. and The Bank of New York Mellon, relating to the Senior Floating Rate Notes due 2013 (filed herewith).
4.75	_	Notice from XM Satellite Radio Holdings Inc., dated July 28, 2008, relating to the 10% Senior Discount Convertible Notes due 2009 (filed herewith).
4.76	_	Confirmation of Assumption, dated July 28, 2008, by XM Satellite Radio Holdings Inc of the obligations under the Satellite Transponder Sale-Leaseback Agreement (filed herewith).
4.77	_	Indenture, dated as of July 31, 2008, among XM Escrow LLC and The Bank of New York Mellon, relating to the 13% Senior Notes due 2014 (filed herewith).

Exhibit		Description
4.78	_	Supplemental Indenture, dated as of July 31, 2008, among XM Satellite Radio Holdings Inc., XM Satellite Radio Inc., XM Equipment Leasing LLC, XM Radio Inc., and The Bank of New York Mellon, relating to the 13% Senior Notes due 2014 (filed herewith).
4.79	_	Supplemental Indenture, dated as of July 31, 2008, among XM Satellite Radio Holdings Inc., XM Escrow LLC and The Bank of New York Mellon, relating to the 13% Senior Notes due 2014 (filed herewith).
4.80	_	Indenture, dated as of August 1, 2008 among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., XM Equipment LLC, XM Radio Inc., the Company and The Bank of New York Mellon, as trustee, relating to the 7% Exchangeable Senior Subordinated Notes due 2014 (filed herewith).
4.81	_	Registration Rights Agreement, dated August 1, 2008, among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., XM Equipment Leasing LLC, XM Radio Inc., the Company, J.P. Morgan Securities Inc., Morgan Stanley & Co. Incorporated and UBS Securities LLC, relating to the 7% Exchangeable Senior Subordinated Notes due 2014 (filed herewith).
4.82	_	Bill of Sale and Termination Agreement, dated September 15, 2008, among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., Satellite Leasing (702-4), LLC, Wells Fargo Bank Northwest, National Association, Satellite Leasing Trust (702-4), LLT and The Bank of New York Mellon, relating to the Satellite Transponder Sale-Leaseback Agreement (filed herewith).
4.83	_	Warrant to purchase XM Satellite Radio Holdings Inc. Class A Common Stock, dated July 31, 2003, issued to Boeing Satellite Systems International, Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report on Form 10-Q for the quarter ended June 30, 2003).
4.84	_	Amendment No. 2 to Rights Agreement between XM Satellite Radio Holdings Inc. and Equiserve Trust Company, N.A. (incorporated by reference to XM Satellite Radio Holdings's Current Report on Form 8-K filed on April 21, 2004).
10.1.1	_	Lease Agreement, dated as of March 31, 1998, between Rock-McGraw, Inc. and the Company (incorporated by reference to Exhibit 10.1.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 1998).
10.1.2	_	Supplemental Indenture, dated as of March 22, 2000, between Rock-McGraw, Inc. and the Company (incorporated by reference to Exhibit 10.1.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2000).
10.2	_	Share Lending Agreement, dated July 28, 2008, among the Company and Morgan Stanley Capital Services, Inc. (filed herewith).
10.3	_	Share Lending Agreement, dated July 28, 2008, among the Company. and UBS AG, London Branch (filed herewith).
10.4	_	Underwriting Agreement, dated July 28, 2008, among the Company, Morgan Stanley & Co. Incorporated and UBS Securities LLC, relating to the Share Lending Agreements (filed herewith).
**10.5	_	Technology Licensing Agreement by and among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc., WorldSpace Management Corporation and American Mobile Satellite Corporation, dated as of January 1, 1998, amended by Amendment No. 1 to Technology Licensing Agreement, dated June 7, 1999 (incorporated by reference to XM Satellite Radio Holdings Inc.'s Annual Report on Form 10-K for the period year December 31, 2007).
**10.6	_	Joint Development Agreement, dated February 16, 2000, between XM Satellite Radio Inc. and the Company (incorporated by reference to XM Satellite Radio Holdings Inc.'s quarterly report on Form 10-Q for the quarter ended March 31, 2000).
10.7	_	Assignment and Novation Agreement, dated as of December 5, 2001, between XM Satellite Radio Holdings Inc., XM Satellite Radio Inc. and Boeing Satellite Systems International Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on December 6, 2001).

Exhibit		Description
**10.8	_	Third Amended and Restated Satellite Purchase Contract for In-Orbit Delivery, dated as of May 15, 2001, between XM Satellite Radio Inc. and Boeing Satellite Systems International Inc. (incorporated by reference to Amendment No. 1 to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-3, File No. 333-89132).
**10.9	_	Amendment to the Satellite Purchase Contract for In-Orbit Delivery, dated as of December 5, 2001, between XM Satellite Radio Inc. and Boeing Satellite Systems International Inc. (incorporated by reference to Holdings' Current Report on Form 8-K filed on December 6, 2001).
10.10	_	Amended and Restated Director Designation Agreement, dated as of February 1, 2003, by and among XM Satellite Radio Holdings Inc. and the shareholders and noteholders named therein (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report on Form 10-Q for the quarter ended March 31, 2003).
10.11	_	GM/DIRECTV Director Designation Agreement, dated as of January 28, 2003, among XM Satellite Radio Holdings Inc., General Motors Corporation and DIRECTV Enterprises LLC (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on January 29, 2003).
10.12	_	Amended and Restated Assignment and Use Agreement, dated as of January 28, 2003, between XM Satellite Radio Inc. and XM Radio Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed on January 29, 2003).
**10.13	_	Amended and Restated Amendment to the Satellite Purchase Contract for In-Orbit Delivery, dated May 2003, by and among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc. and Boeing Satellite Systems International, Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report on Form 10-Q for the quarter ended June 30, 2003).
**10.14	_	July 2003 Amendment to the Satellite Purchase Contract for In-Orbit Delivery, dated July 31, 2003, by and among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc. and Boeing Satellite Systems International, Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report on Form 10-Q for the quarter ended June 30, 2003).
**10.15	_	Contract for Launch Services, dated August 5, 2003, between Sea Launch Limited Partnership and XM Satellite Radio Holdings Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report on Form 10-Q for the quarter ended June 30, 2003).
10.16	_	Amendment No. 1 to Amended and Restated Director Designation Agreement, dated as of September 9, 2003, by and among XM Satellite Radio Holdings Inc. and the shareholders and noteholders named therein (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report in Form 10-Q for the quarter ended September 30, 2003).
10.17	_	December 2003 Amendment to the Satellite Purchase Contract for In-Orbit Delivery, dated December 19, 2003, by and among XM Satellite Radio Inc., XM Satellite Radio Holdings Inc. and Boeing Satellite Systems International, Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Annual Report on Form 10-K for the year ended December 31, 2003).
**10.18	_	Operational Assistance Agreement, dated as of June 7, 1999, between XM Satellite Radio Inc. and Clear Channel Communications, Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-1, File No. 333-83619).
*10.19	_	Employment Agreement, dated November 18, 2004, between the Company and Mel Karmazin (incorporated by reference to Exhibit 10.2 to the Company's Annual Report on Form 10-K for the year ended December 31, 2004).
*10.20	_	Employment Agreement, dated as of June 3, 2003, between the Company and David J. Frear (incorporated by reference to Exhibit 10.7 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2003).
*10.21	_	First Amendment, dated as of August 10, 2005, to the Employment Agreement, dated as of June 3, 2003, between the Company and David Frear (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K dated August 12, 2005).

Exhibit		Description
*10.22	_	Second Amendment, dated as of February 12, 2008, to the Employment Agreement, dated as of June 3, 2003, between the Company and David J. Frear (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K dated February 13, 2008).
*10.23	_	Employment Agreement, dated as of May 5, 2004, between the Company and Scott A. Greenstein (incorporated by reference to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2004).
*10.24	_	First Amendment, dated as of August 8, 2005, to the Employment Agreement, dated as of May 5, 2004, between the Company and Scott Greenstein (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K dated August 12, 2005).
*10.25	_	Amended and Restated Employment Agreement, dated as of June 6, 2007, between James E. Meyer and the Company (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K dated June 7, 2007).
*10.26	_	Restricted Stock Unit Agreement, dated as of August 9, 2005, between the Company and James E. Meyer (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K dated August 12, 2005).
*10.27	_	Employment Agreement, dated as of November 8, 2004, between Patrick L. Donnelly and the Company (incorporated by reference to Exhibit 10.6 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2004).
*10.28	_	First Amendment, dated as of May 21, 2007, to the Employment Agreement, dated as of November 8, 2004, between Patrick L. Donnelly and the Company (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K dated May 22, 2007).
*10.29	_	Employment Agreement, dated as of September 26, 2008, between the Company and Dara F. Altman (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K dated October 1, 2008).
*10.30	_	Employment Agreement, dated as of September 26, 2008, between the Company and James J. Rhyu (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K dated October 1, 2008).
*10.31	_	CD Radio Inc. 401(k) Savings Plan (incorporated by reference to Exhibit 4.4 to the Company's Registration Statement on Form S-8 (File No. 333-65473)).
*10.32	_	Amended and Restated Sirius Satellite Radio 2003 Long-Term Stock Incentive Plan (incorporated by reference to Exhibit 10.10 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2004).
*10.33	_	Form of Option Agreement, dated as of December 29, 1997, between the Company and each Optionee (incorporated by reference to Exhibit 10.16.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 1998).
*10.34	_	Form of Indemnification Agreement between XM Satellite Radio Holdings Inc. and each of its directors and executive officers (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-1, File No. 333-83619).
*10.35	_	XM Satellite Radio Holdings Inc. Talent Option Plan (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-8, File No. 333-65022).
*10.36	_	1998 Shares Award Plan (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-8, File No. 333-106827).
*10.37	_	Form of Employee Non-Qualified Stock Option Agreement (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-1, File No. 333-83619).
*10.38	_	Employee Stock Purchase Plan (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-8, File No. 333-106827).
*10.39	_	Non-Qualified Stock Option Agreement between Gary Parsons and XM Satellite Radio Holdings Inc., dated July 16, 1999 (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-1, File No. 333-83619).

Exhibit		Description
*10.40	_	Form of Director Non-Qualified Stock Option Agreement (incorporated by reference to XM Satellite Radio Holdings Inc.'s Registration Statement on Form S-1, File No. 333-83619).
*10.41	_	Form of 2003 Executive Stock Option Agreement (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report on Form 10-Q for the quarter ended March 31, 2003).
*10.42	_	Form of Employment Agreement, dated as of August 6, 2004, among XM Satellite Radio Holdings Inc., XM Satellite Radio Inc. and Gary Parsons (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report on Form 10-Q for the quarter ended June 30, 2004).
*10.43	_	Form of 2004 Non-Qualified Stock Option Agreement (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report on Form 10-Q for the quarter ended June 30, 2004).
*10.44	_	Form of Restricted Stock Agreement for executive officers (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report on Form 10-Q for the quarter ended March 31, 2005).
*10.45	_	Employment Agreement, dated as of July 20, 2006, among XM Satellite Radio Holdings Inc., XM Satellite Radio Inc. and Nathaniel A. Davis (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed July 24, 2006).
*10.46	_	Amendment No. 1 to Employment Agreement, dated as of April 4, 2007, among Gary Parsons, XM Satellite Radio Holdings Inc. and XM Satellite Radio Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed April 10, 2007).
*10.47	_	Amendment No. 1 to Employment Agreement, dated as of April 4, 2007, among Nathaniel Davis, XM Satellite Radio Holdings Inc. and XM Satellite Radio Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed April 10, 2007).
*10.48	_	Form of Severance Agreement for executive officers other than Chairman, CEO, President and COO (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed April 10, 2007).
*10.49	_	XM Satellite Radio Holdings Inc. 2007 Stock Incentive Plan (incorporated by reference to XM Satellite Radio Holdings Inc.'s Quarterly Report on Form 10-Q for the quarter ended June 30, 2007).
*10.50	_	Form of Non-Qualified Stock Option Agreement (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed June 1, 2007).
*10.51	_	Form of Restricted Stock Agreement (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed June 1, 2007).
*10.52	_	Amendment No. 2 to Employment Agreement, dated as of August 10, 2007, among Nathaniel Davis, XM Satellite Radio Holdings Inc. and XM Satellite Radio Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Current Report on Form 8-K filed August 14, 2007).
*10.53	_	Amendment No. 2 to Employment Agreement, dated as of February 27, 2008, among Gary Parsons, XM Satellite Radio Holdings Inc. and XM Satellite Radio Inc. (incorporated by reference to XM Satellite Radio Holdings Inc.'s Annual Report on Form 10-K for the period year December 31, 2007)
*10.54	_	Amendment No. 3 to Employment Agreement, dated as of June 26, 2008, among Gary Parsons, XM Satellite Radio Holdings Inc. and XM Satellite Radio Inc. (incorporated by reference to XM Satellite Radio Holding's Quarterly Report on Form 10-Q for the quarter ended June 30, 2008).
31.1	_	Certificate of Mel Karmazin, Chief Executive Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
31.2	_	Certificate of David J. Frear, Executive Vice President and Chief Financial Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).

Exhibit		Description
32.1	_	Certificate of Mel Karmazin, Chief Executive Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith).
32.2	_	Certificate of David J. Frear, Executive Vice President and Chief Financial Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith).

* This document has been identified as a management contract or compensatory plan or arrangement.
** Pursuant to the Commission's Orders Granting Confidential Treatment under Rule 406 of the Securities Act of 1933 or Rule 24(b)-2 under the Securities Exchange Act of 1934, certain confidential portions of this Exhibit were omitted by means of redacting a portion of the text.
*** Confidential treatment has been requested with respect to portions of this Exhibit that have been omitted by redacting a portion of the text.

Exhibit 3.10

AMENDED AND RESTATED
BY-LAWS
OF
XM SATELLITE RADIO INC.

ARTICLE I

Meetings of Stockholders

Section 1.1. Annual Meetings. If required by applicable law, an annual meeting of stockholders shall be held for the election of directors at such date, time and place, if any, either within or without the State of Delaware, as may be designated by resolution of the Board of Directors from time to time. Any other proper business may be transacted at the annual meeting.

Section 1.2. Special Meetings. Special meetings of stockholders for any purpose or purposes may be called at any time by the Board of Directors, but such special meetings may not be called by any other person or persons. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice.

Section 1.3. Notice of Meetings. Whenever stockholders are required or permitted to take any action at a meeting, a notice of the meeting shall be given that shall state the place, if any, date and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise provided by law, the certificate of incorporation or these by-laws, the notice of any meeting shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation.

Section 1.4. Adjournments. Any meeting of stockholders, annual or special, may adjourn from time to time to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 1.5. Quorum. Except as otherwise provided by law, the certificate of incorporation or these by-laws, at each meeting of stockholders the presence in person or by proxy of the holders of a majority in voting power of the outstanding shares of stock entitled to vote at the meeting shall be necessary and sufficient to constitute a quorum. In the absence of a quorum, the stockholders so present may, by a majority in voting power thereof, adjourn the meeting from time to time in the manner provided in Section 1.4 of these by-laws until a quorum shall attend. Shares of its own stock belonging to the corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the corporation, shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the corporation or any subsidiary of the corporation to vote stock, including but not limited to its own stock, held by it in a fiduciary capacity.

Section 1.6. Organization. Meetings of stockholders shall be presided over by the Chairperson of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in his or her absence by the President, or in his or her absence by a Vice President, or in the absence of the foregoing persons by a chairperson designated by the Board of Directors, or in the absence of such designation by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

Section 1.7. Voting; Proxies. Except as otherwise provided by or pursuant to the provisions of the certificate of incorporation, each stockholder entitled to vote at any meeting of stockholders shall be entitled to one vote for each share of stock held by such stockholder which has voting power upon the matter in question. Each stockholder entitled to vote at a meeting of stockholders or to express consent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy, but no

such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by delivering to the Secretary of the corporation a revocation of the proxy or a new proxy bearing a later date. Voting at meetings of stockholders need not be by written ballot. At all meetings of stockholders for the election of directors at which a quorum is present a plurality of the votes cast shall be sufficient to elect. All other elections and questions presented to the stockholders at a meeting at which a quorum is present shall, unless otherwise provided by the certificate of incorporation, these by-laws, the rules or regulations of any stock exchange applicable to the corporation, or applicable law or pursuant to any regulation applicable to the corporation or its securities, be decided by the affirmative vote of the holders of a majority in voting power of the shares of stock of the corporation which are present in person or by proxy and entitled to vote thereon.

Section 1.8. Fixing Date for Determination of Stockholders of Record. In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date: (1) in the case of determination of stockholders entitled to vote at any meeting of stockholders or adjournment thereof, shall, unless otherwise required by law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting; (2) in the case of determination of stockholders entitled to express consent to corporate action in writing without a meeting, shall not be more than ten (10) days from the date upon which the resolution fixing the record date is adopted by the Board of Directors; and (3) in the case of any other action, shall not be more than sixty (60) days prior to such other action. If no record date is fixed: (1) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held; (2) the record date for determining stockholders entitled to express consent to corporate action in writing without a meeting, when no prior action of the Board of Directors is required by law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the corporation in accordance with applicable law, or, if prior action by the Board of Directors is required by law, shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action; and (3) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 1.9. List of Stockholders Entitled to Vote. The officer who has charge of the stock ledger shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting at least ten (10) days prior to the meeting (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of meeting or (ii) during ordinary business hours at the principal place of business of the corporation. The list of stockholders must also be open to examination at the meeting as required by applicable law. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 1.9 or to vote in person or by proxy at any meeting of stockholders.

Section 1.10. Action By Written Consent of Stockholders. Unless otherwise restricted by the certificate of incorporation, any action required or permitted to be taken at any annual or special meeting of the stockholders may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the corporation by delivery to its registered office in the State of Delaware, its principal place of business, or an officer or agent of the corporation having custody of the book in which minutes of proceedings of stockholders are recorded. Delivery made to the corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall, to the extent required by law, be given to those stockholders who have not consented in writing

and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the corporation.

Section 1.11. Inspectors of Election. The corporation may, and shall if required by law, in advance of any meeting of stockholders, appoint one or more inspectors of election, who may be employees of the corporation, to act at the meeting or any adjournment thereof and to make a written report thereof. The corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. In the event that no inspector so appointed or designated is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of his or her ability. The inspector or inspectors so appointed or designated shall (i) ascertain the number of shares of capital stock of the corporation outstanding and the voting power of each such share, (ii) determine the shares of capital stock of the corporation represented at the meeting and the validity of proxies and ballots, (iii) count all votes and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their determination of the number of shares of capital stock of the corporation represented at the meeting and such inspectors' count of all votes and ballots. Such certification and report shall specify such other information as may be required by law. In determining the validity and counting of proxies and ballots cast at any meeting of stockholders of the corporation, the inspectors may consider such information as is permitted by applicable law. No person who is a candidate for an office at an election may serve as an inspector at such election.

Section 1.12. Conduct of Meetings. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the person presiding over the meeting. The Board of Directors may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the person presiding over any meeting of stockholders shall have the right and authority to convene and to adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such presiding person, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the presiding person of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the corporation, their duly authorized and constituted proxies or such other persons as the presiding person of the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. The presiding person at any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting and if such presiding person should so determine, such presiding person shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board of Directors or the person presiding over the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

ARTICLE II

Board of Directors

Section 2.1. Number; Qualifications. The Board of Directors shall consist of one or more members, the number thereof to be determined from time to time by resolution of the Board of Directors. Directors need not be stockholders.

Section 2.2. Election; Resignation; Vacancies. At each annual meeting of stockholders, the stockholders shall elect directors each of whom shall hold office for a term of one year or until his or her successor is duly elected and qualified, subject to such director's earlier death, resignation, disqualification or removal. Any director may resign at any time upon notice to the corporation. Unless otherwise provided by law or the certificate of incorporation, any newly created directorship or any vacancy occurring in the Board of Directors for any cause may be filled by a majority of the remaining members of the Board of Directors, although such majority is less than a quorum, or by a plurality of the votes cast at a meeting of stockholders, and each director so elected shall hold office until the expiration of the term of office of the director whom he or she has replaced or until his or her successor is elected and qualified.

Section 2.3. Regular Meetings. Regular meetings of the Board of Directors may be held at such places within or without the State of Delaware and at such times as the Board of Directors may from time to time determine.

Section 2.4. Special Meetings. Special meetings of the Board of Directors may be held at any time or place within or without the State of Delaware whenever called by the President, any Vice President, the Secretary, or by any member of the Board of Directors. Notice of a special meeting of the Board of Directors shall be given by the person or persons calling the meeting at least twenty-four hours before the special meeting.

Section 2.5. Telephonic Meetings Permitted. Members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting thereof by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this by-law shall constitute presence in person at such meeting.

Section 2.6. Quorum; Vote Required for Action. At all meetings of the Board of Directors the directors entitled to cast a majority of the votes of the whole Board of Directors shall constitute a quorum for the transaction of business. Except in cases in which the certificate of incorporation, these by-laws or applicable law otherwise provides, a majority of the votes entitled to be cast by the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 2.7. Organization. Meetings of the Board of Directors shall be presided over by the Chairperson of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in his or her absence by the President, or in their absence by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

Section 2.8. Action by Unanimous Consent of Directors. Unless otherwise restricted by the certificate of incorporation or these by-laws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board of Directors or such committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or electronic transmissions are filed with the minutes of proceedings of the board or committee in accordance with applicable law.

ARTICLE III

Committees

Section 3.1. Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member. Any such committee, to the extent permitted by law and to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it.

Section 3.2. Committee Rules. Unless the Board of Directors otherwise provides, each committee designated by the Board of Directors may make, alter and repeal rules for the conduct of its business. In the absence of such rules each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to Article II of these by-laws.

ARTICLE IV

Officers

Section 4.1. Officers; Election; Qualifications; Term of Office; Resignation; Removal; Vacancies. The Board of Directors shall elect a President and Secretary, and it may, if it so determines, choose a Chairperson of the Board and a Vice Chairperson of the Board from among its members. The Board of Directors may also choose one or more Vice Presidents, one or more Assistant Secretaries, a Treasurer and one or more Assistant Treasurers and such other officers as it shall from time to time deem necessary or desirable. Each such officer shall hold office until the first meeting of the Board of Directors after the annual meeting of stockholders next succeeding his or her election, and until his or her successor is elected and qualified or until his or her earlier resignation or removal. Any officer may resign at any time upon written notice to the corporation. The Board of Directors may remove any officer with or without cause at any time, but such removal shall be without prejudice to the contractual rights of such officer, if any, with the corporation. Any number of offices may be held by the same person. Any vacancy occurring in any office of the corporation by death, resignation, removal or otherwise may be filled for the unexpired portion of the term by the Board of Directors at any regular or special meeting.

Section 4.2. Powers and Duties of Officers. The officers of the corporation shall have such powers and duties in the management of the corporation as may be prescribed in a resolution by the Board of Directors and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the Board of Directors. The Board of Directors may require any officer, agent or employee to give security for the faithful performance of his or her duties.

Section 4.3. Appointing Attorneys and Agents; Voting Securities of Other Entities. Unless otherwise provided by resolution adopted by the Board of Directors, the Chairperson of the Board, the President or any Vice President may from time to time appoint an attorney or attorneys or agent or agents of the corporation, in the name and on behalf of the corporation, to cast the votes which the corporation may be entitled to cast as the holder of stock or other securities in any other corporation or other entity, any of whose stock or other securities may be held by the corporation, at meetings of the holders of the stock or other securities of such other corporation or other entity, or to consent in writing, in the name of the corporation as such holder, to any action by such other corporation or other entity, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consents, and may execute or cause to be executed in the name and on behalf of the corporation and under its corporate seal or otherwise, all such written proxies or other instruments as he or she may deem necessary or proper. Any of the rights set forth in this Section 4.3 which may be delegated to an attorney or agent may also be exercised directly by the Chairperson of the Board, the President or the Vice President.

ARTICLE V

Stock

Section 5.1. Certificates. The shares of the corporation shall be represented by certificates, provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by or in the name of the corporation by the Chairperson or Vice Chairperson of the Board of Directors, if any, or the President or a Vice President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary, of the corporation certifying the number of shares owned by such holder in the corporation. Any of or all the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if such person were such officer, transfer agent, or registrar at the date of issue.

Section 5.2. Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates. The corporation may issue a new certificate of stock in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

ARTICLE VI

Indemnification and Advancement of Expenses

Section 6.1. Right to Indemnification. The corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (a "Covered Person") who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director or officer of the corporation or, while a director or officer of the corporation, is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Covered Person. Notwithstanding the preceding sentence, except as otherwise provided in Section 6.3, the corporation shall be required to indemnify a Covered Person in connection with a proceeding (or part thereof) commenced by such Covered Person only if the commencement of such proceeding (or part thereof) by the Covered Person was authorized in the specific case by the Board of Directors of the corporation.

Section 6.2. Prepayment of Expenses. The corporation shall to the fullest extent not prohibited by applicable law pay the expenses (including attorneys' fees) incurred by a Covered Person in defending any proceeding in advance of its final disposition, provided, however, that, to the extent required by law, such payment of expenses in advance of the final disposition of the proceeding shall be made only upon receipt of an undertaking by the Covered Person to repay all amounts advanced if it should be ultimately determined that the Covered Person is not entitled to be indemnified under this Article VI or otherwise.

Section 6.3. Claims. If a claim for indemnification (following the final disposition of such action, suit or proceeding) or advancement of expenses under this Article VI is not paid in full within thirty days after a written claim therefor by the Covered Person has been received by the corporation, the Covered Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim to the fullest extent permitted by law. In any such action the corporation shall have the burden of proving that the Covered Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

Section 6.4. Nonexclusivity of Rights. The rights conferred on any Covered Person by this Article VI shall not be exclusive of any other rights which such Covered Person may have or hereafter acquire under any statute, provision of the certificate of incorporation, these by-laws, agreement, vote of stockholders or disinterested directors or otherwise.

Section 6.5. Other Sources. The corporation's obligation, if any, to indemnify or to advance expenses to any Covered Person who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, enterprise or nonprofit entity shall be reduced by any amount such Covered Person may collect as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, enterprise or non-profit enterprise.

Section 6.6. Amendment or Repeal. Any repeal or modification of the foregoing provisions of this Article VI shall not adversely affect any right or protection hereunder of any Covered Person in respect of any proceeding (regardless of when such proceeding is first threatened, commenced or completed) arising out of, or related to, any act or omission occurring prior to the time of such repeal or modification.

Section 6.7. Other Indemnification and Prepayment of Expenses. This Article VI shall not limit the right of the corporation, to the extent and in the manner permitted by law, to indemnify and to advance expenses to persons other than Covered Persons when and as authorized by appropriate corporate action.

ARTICLE VII

Miscellaneous

Section 7.1. Fiscal Year. The fiscal year of the corporation shall be determined by resolution of the Board of Directors.

Section 7.2. Seal. The corporate seal shall have the name of the corporation inscribed thereon and shall be in such form as may be approved from time to time by the Board of Directors.

Section 7.3. Manner of Notice. Except as otherwise provided herein or permitted by applicable law, notices to directors and stockholders shall be in writing and delivered personally or mailed to the directors or stockholders at their addresses appearing on the books of the corporation. Without limiting the manner by which notice otherwise may be given effectively to stockholders, and except as prohibited by applicable law, any notice to stockholders given by the corporation under any provision of applicable law, the certificate of incorporation, or these by-laws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation. Any stockholder who fails to object in writing to the corporation, within 60 days of having been given written notice by the corporation of its intention to send the single notice permitted under this Section 7.3, shall be deemed to have consented to receiving such single written notice. Notice to directors may be given by telecopier, telephone or other means of electronic transmission.

Section 7.4. Waiver of Notice of Meetings of Stockholders, Directors and Committees. Any waiver of notice, given by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of any regular or special meeting of the stockholders, directors, or members of a committee of directors need be specified in a waiver of notice.

Section 7.5. Form of Records. Any records maintained by the corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or by means of, or be in the form of, any information storage device or method, provided that the records so kept can be converted into clearly legible paper form within a reasonable time.

Section 7.6. Amendment of By-Laws. These by-laws may be altered, amended or repealed, and new by-laws made, by the Board of Directors, but the stockholders may make additional by-laws and may alter and repeal any by-laws whether adopted by them or otherwise.

Exhibit 4.18

EXECUTION COPY

FIRST AMENDMENT AND WAIVER TO
AMENDED AND RESTATED CREDIT AGREEMENT

FIRST AMENDMENT AND WAIVER dated as of May 22, 2008 (this "Amendment") to the Amended and Restated Customer Credit Agreement dated as of July 30, 2007 (the "Credit Agreement") between SIRIUS SATELLITE RADIO INC., a corporation organized under the laws of Delaware ("Customer"), and SPACE SYSTEMS/LORAL, INC., a corporation organized under the laws of Delaware ("SS/L").

WITNESSETH:

WHEREAS, Sirius has requested an amendment and a waiver to the Credit Agreement; and

WHEREAS, SS/L has agreed to the requested amendment and waiver on the terms and conditions, and subject to making certain other amendments to the Credit Agreement, in each case as set forth herein.

NOW THEREFORE, the parties hereto agree as follows:

SECTION 1. *Defined Terms; References*. (a) Unless otherwise specifically defined herein, each term used herein which is defined in the Credit Agreement has the meaning assigned to such term in the Credit Agreement. Each reference to "hereof", "hereunder", "herein" and "hereby" and each other similar reference and each reference to "this Agreement" and each other similar reference contained in the Credit Agreement shall, after this Amendment becomes effective, refer to the Credit Agreement as amended hereby, except that, for the avoidance of doubt, references to "the date hereof" or other similar references contained in the Credit Agreement shall mean the date of the Credit Agreement, and not the Amendment.

SECTION 2. *Mandatory Prepayment*. Section 2.06(b)(1)(B) of the Credit Agreement is hereby amended by replacing "May 31, 2008" with "September 30, 2008."

SECTION 3. *No Material Adverse Change*. Section 4.02(a) is hereby amended by adding a new clause (f) to the first sentence thereof, which clause (f) shall read as follows: "or (f) Customer's prospect in obtaining the FM-6 License, including without limitation, the prospect of obtaining the FM-6 License with conditions that are not more onerous to Customer, in any material respect, than those relating to the FM-5 License."

SECTION 4. *Waiver*. SS/L hereby waives its right to terminate the Commitment as a result of the letter (the "May Letter") dated May 15, 2008 from the FCC to Customer dismissing Customer's application for the FM-6 License without prejudice (the "Dismissal without Prejudice"). Such waiver is being made in reliance upon the representations made by Customer in Section 5 below, as well as Customer's express acknowledgement and agreement that except as expressly provided in this Section 4, this waiver is being made without prejudice to any of the rights and remedies of the Lender under any Loan Document, including without limitation, its rights under Section 2.06(b)(1)(B) with respect to any future dismissal by the FCC of Customer's new application for the FM-6 License.

SECTION 5. *Certain Representations and Warranties.* Customer hereby represents and warrants to SS/L as follows:

(a) The Dismissal without Prejudice has not adversely affected Customer's prospect for obtaining the FM-6 License and that Customer will promptly following the date of this Amendment, file a new application with the FCC for the FM-6 License, which application will be in conformity with the requirements set forth in the May Letter.

(b) After giving effect to the provisions of this Amendment, no Default or Event of Default shall have occurred and be continuing.

SECTION 6. *Miscellaneous Provisions*.

(a) This Amendment shall be considered a "Loan Document" for all purposes of the Credit Agreement.

(b) Except as expressly set forth herein, this Amendment shall not constitute a waiver or amendment of any term or condition of the Credit Agreement or any other Loan Document and all such terms and conditions shall remain in full force and effect.

SECTION 7. *Governing Law*. This Amendment shall be governed by and construed in accordance with the laws of the State of New York.

SECTION 8. *Counterparts*. This Amendment may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

[Remainder of page left intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed as of the date first written above.

SIRIUS SATELLITE RADIO, INC.

By: /s/ Patrick Donnelly
Name: Patrick Donnelly
Title: EVP & General Counsel

SPACE SYSTEMS/LORAL, INC.

By: /s/ Richard P. Mastoloni
Name: Richard P. Mastoloni
Title: Senior Vice President and Treasurer

We acknowledge the foregoing and confirm our Subsidiary Guarantee.

Satellite CD Radio, Inc.

By: /s/ Patrick Donnelly
Name: Patrick Donnelly
Title: President

Exhibit 4.62

EXECUTION COPY

FIRST AMENDMENT

This First Amendment to the Credit Agreement referred to below (this "First Amendment"), dated as of July 22, 2008, is among XM Satellite Radio Inc. (the "Borrower"), XM Satellite Radio Holdings Inc. ("Holdings"), and the undersigned lenders party to the Credit Agreement referred to below.

Reference is made to that certain Credit Agreement, dated as of June 26, 2006 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Borrower, Holdings, the lenders party thereto, UBS AG, Stamford Branch, as administrative agent (the "Administrative Agent") and UBS Securities LLC, as Sole Bookrunner and Sole Lead Arranger. Capitalized terms used but not defined herein have the meanings given such terms in the Credit Agreement.

The Borrower and Holdings have informed the Administrative Agent that XM Escrow LLC, a newly formed, wholly-owned subsidiary of Holdings, intends to issue under the XM Escrow Senior Notes Indenture (as defined below) up to $1.0 billion aggregate principal amount of senior unsecured notes (the "XM Escrow Issuance"). The Borrower and Holdings have requested that the Required Lenders, in connection with the foregoing, agree to amend the Credit Agreement in connection with the XM Escrow Issuance and certain related matters.

Accordingly, the Lenders hereby agree to amend the Credit Agreement as set forth herein:

1. Section 1.01 of the Credit Agreement is hereby amended by adding the following definitions in proper alphabetical sequence:

"First Amendment" means that certain First Amendment to this Agreement, dated as of July 22, 2008, among Holdings, the Borrower and the Lenders listed on the signature pages thereto.

"First Amendment Effective Date" has the meaning assigned to such term in Section 23 of the First Amendment.

"XM Escrow Merger" means the merger of XM Escrow LLC, a newly formed, wholly-owned subsidiary of Holdings, with and into the Borrower, with the Borrower as the surviving corporation.

"XM Escrow Senior Notes" means the up to $1.0 billion in aggregate principal amount of senior unsecured notes issued by XM Escrow LLC.

"XM Escrow Senior Notes Indenture" means the indenture made by XM Escrow LLC in favor of the trustee thereunder pursuant to which the XM Escrow Senior Notes will be issued.

2. The definition of "Asset Sale" is hereby amended by (a) in clause (vii) thereof, replacing the word "any" appearing immediately before the words "Qualified Sale and Leaseback Transaction" with the words "a single" and (b) deleting in clause (vii) thereof the words ", including an XM-4 Sale and Leaseback Transaction" appearing therein.

3. The definition of "Change in Control" in Section 1.01 of the Credit Agreement is hereby amended by adding the phrase "the XM Escrow Senior Notes," in clause (b)(vi) thereof immediately after the phrase "the Owner Trustee Notes," appearing therein.

4. The definition of "Permitted Holdings Debt" in Section 1.01 of the Credit Agreement is hereby amended by replacing in clause (b) thereof the words "an XM-4 Sale and Leaseback Transaction" with the words "a single Qualified Sale and Leaseback Transaction".

5. The definition of "Permitted Investments" in Section 1.01 of the Credit Agreement is hereby amended by deleting the "and" at the end of clause (k) thereof, replacing the period at the end of clause (l) thereof with "; and", and adding the following new clause (m) immediately after clause (l) thereof:

"(m) Investments by Holdings in XM Escrow LLC in an aggregate amount not to exceed $60,000,000 at any time the proceeds of which shall be used solely for payments of accrued interest, fees and expenses with respect to the XM Escrow Senior Notes prior to or at the time of the XM Escrow Merger."

6. The definition of "Permitted Liens" in Section 1.01 of the Credit Agreement is hereby amended by:

a. deleting clause (u) thereof in its entirety and inserting "intentionally omitted" in place thereof; and

b. in clause (y) thereof, deleting the word "any" appearing before the words "Qualified Sale and Leaseback Transaction" and replacing it with the words "a single" and deleting the words ", with respect to the XM-4 Sale and Leaseback Transaction" appearing therein.

7. The definition of "Qualified Sale and Leaseback Transaction" is hereby amended and restated as follows:

""Qualified Sale and Leaseback Transaction" means the XM-4 Sale and Leaseback Transaction as in effect on the Fifth Amendment Effective Date";provided that Indebtedness (the proceeds of which financed the purchase of the XM-4 Satellite Collateral) of a lessor in the XM-4 Sale and Leaseback Transaction that is assumed by Holdings, the Borrower or a Material Subsidiary following the termination of the associated lease and reacquisition of the associated assets by Holdings, the Borrower or such Material Subsidiary (as applicable) shall continue to constitute a Qualified Sale and Leaseback Transaction following such assumption and reacquisition as long as the Liens securing such Indebtedness do not spread to cover any other assets other than those that were subjected to such Liens pursuant to the XM-4 Sale and Leaseback Transaction immediately prior to such assumption and reacquisition.".

8. Section 1.01 of the Credit Agreement is hereby amended by deleting the definition of "Qualified Receivables" in its entirety.

9. Section 5.10 of the Credit Agreement is hereby amended by inserting the following new clause (i) immediately after clause (h) thereof:

"(i) Promptly (but in no event more than 30 days) following the termination of the Borrower's obligations under the Participation Agreement and the release of the liens on all or

any portion of the XM-4 Satellite Collateral securing such obligations, the Borrower and Holdings shall, and shall cause each Subsidiary Guarantor to, execute and/or amend any and all documents and instruments, and take all such further actions (including the filing and recording of financing statements, mortgages and other documents), necessary or advisable to grant and perfect a first priority security interest (subject to, (x) in the case of personal property other than Equity Interests, Permitted Liens, (y) in the case of Equity Interests, Liens referenced in clauses (a), (b), (f) and (g) of the definition of "Permitted Liens" and (z) in the case of real property, such Liens as shall be agreed upon by the Administrative Agent) in favor of the Collateral Agent, for the benefit of the Lenders, the other Existing Secured Parties and the Revolving Credit Facility Secured Parties, or, if the Release Date shall previously have occurred, the New Collateral Agent, for the benefit of the New Secured Parties and the Revolving Credit Facility Secured Parties, in the XM-4 Satellite Collateral and the Capital Stock of XM 1500 Eckington LLC and XM Investment LLC."

10. Section 6.01(b) of the Credit Agreement is hereby amended by:

a. in clause (i) thereof, deleting the reference to "$500,000,000" appearing therein and replacing it with "$250,000,000";

b. in clause (vi) thereof, deleting the reference to "(x)," appearing therein;

c. in clause (viii) thereof, deleting the words "incurred in the ordinary course of business" and replacing them with the words "directly related to Indebtedness permitted to be incurred under this Agreement";

d. deleting clause (x) in its entirety and inserting the following in place thereof:

"(x) the incurrence by the Borrower of unsecured subordinated Indebtedness or Disqualified Stock in an aggregate principal amount not to exceed $250,000,000 at any time outstanding the proceeds of which are used to finance the construction, expansion, development or acquisition of music libraries and other recorded music programming, furniture, fixtures and equipment (including satellites, ground stations and related equipment); provided that such subordinated Indebtedness or Disqualified Stock, as applicable, shall have a Weighted Average Life to Maturity longer than the Weighted Average Life to Maturity of the Loans and a final Stated Maturity of principal at least six months later than the Maturity Date;"

e. in clause (xii), replacing the words "any Qualified Sale and Leaseback Transaction, including an XM-4 Sale and Leaseback Transaction" appearing therein with the words "a single Qualified Sale and Leaseback Transaction";

f. adding the following at the end of clause (xv) thereof:

"if such MLB Letters of Credit are not drawn upon, or, if and to the extent drawn upon, such drawing is not reimbursed within ten Business Days following payment on such MLB Letters of Credit"; and

g. deleting the "and" at the end of clause (xvi) thereof, replacing the period at the end of clause (xvii) thereof with "; and", and adding the following new clause (xviii) immediately after clause (xvii) thereof:

"(xviii) The incurrence by Holdings and any Subsidiary Loan Party of unsecured Indebtedness represented by unsecured Guarantees of the XM Escrow Senior Notes; provided, however, that (i) the obligations contained in such unsecured Guarantees shall not become effective prior to the consummation of the XM Escrow Merger, (ii) such unsecured Guarantees shall be in form and substance reasonably satisfactory to the Administrative Agent and (iii) the proceeds of the XM Escrow Senior Notes shall be used, substantially concurrently with the consummation of the XM Escrow Merger, solely to repay the Senior Fixed Rate Notes or other Existing Indebtedness, including the payment of all accrued interest thereon and the amount of all expenses, consent fees and premiums incurred in connection therewith."

11. Section 6.01 of the Credit Agreement is hereby amended by inserting the words "(and later reclassify)" after the word "classify".

12. Section 6.03 of the Credit Agreement is hereby amended by deleting the "or" appearing immediately before the "(y)" in the last sentence of clause (a) thereof and replacing it with "," and inserting the words "or (z) the XM Escrow Merger; provided that, at the time of the XM Escrow Merger, the assumption by the Borrower of the obligations of XM Escrow LLC under the XM Escrow Senior Notes is permitted under Section 6.01, whether as Permitted Refinancing Indebtedness or otherwise," immediately after the phrase "the Parent Company Merger" appearing therein.

13. Section 6.05(a) of the Credit Agreement is hereby amended by replacing the words "a Qualified Sale and Leaseback Transaction, including an XM-4 Sale and Leaseback Transaction" appearing therein with the words "a single Qualified Sale and Leaseback Transaction and any Permitted Refinancing Indebtedness in respect thereof".

14. Section 6.06(a)(ii) of the Credit Agreement is hereby amended by adding the following proviso to the end thereof immediately before the period:

"provided, however, that Restricted Payments made pursuant to this clause (ii) shall be made solely by the Borrower to Holdings (and shall not be made by Holdings to any other Person) and shall be made solely to the extent that (1) Holdings in turn uses all amounts paid to it pursuant to this clause (ii) solely, and reasonably promptly upon receipt thereof, for the payment of expenses in the ordinary course of its business (which may include payments of amounts due to vendors in respect of its satellites and the payment of interest then due and payable (but not the payment of principal) with respect to its Convertible Senior Notes due 2009) and (2) Holdings is a party to the Guarantee Agreement and the other Loan Documents to which it is a party as of the Fifth Amendment Effective Date".

15. Section 6.06(b) of the Credit Agreement is hereby amended by deleting clause (xv) thereof in its entirety and inserting the following in place thereof:

"(xv) the payment of dividends or the making of one or more distributions by the Borrower to Holdings in an aggregate amount not to exceed $40,000,000 the proceeds of which shall be used by Holdings solely, and reasonably promptly upon receipt thereof, in accordance with clause (m) of the definition of Permitted Investments.".

16. Section 6.07(b) of the Credit Agreement is hereby amended by:

a. in clause (vi) thereof, replacing the "and" immediately after the words "subclauses (h)" with "," and inserting the words "and (m)" immediately after "(i)" in clause (vi) thereof; and

b. deleting the “and” at the end of clause (x) thereof, replacing the period at the end of clause (xi) thereof with “; and”, and adding the following new clause (xii) immediately after clause (xi) thereof:

“(xii) the XM Escrow Merger.”

17. Section 6.11(b) of the Credit Agreement is hereby amended by adding the phrase “or, from and after the consummation of the XM Escrow Merger, the XM Escrow Senior Notes Indenture,” immediately after the words “the Senior Notes Documents” on the third line thereof.

18. Section 6.14 of the Credit Agreement is hereby amended by:

a. adding the phrase “, the XM Escrow Senior Notes, the Convertible Senior Notes due 2009 issued by Holdings” immediately after the first two appearances of the words “New Senior Notes” therein; and

b. replacing the “and” at the end of clause (x) in the proviso thereof with “,” and replacing the period at the end of clause (y) in the proviso thereof with the following:

“and (z) any cash or Cash Equivalents of the Borrower may be used as set forth in clause (m) of the definition of “Permitted Investments”.”

19. Section 9.05 of the Credit Agreement is hereby amended by:

a. adding the following into the last sentence of clause (a) thereof immediately after the reference to “6.03(a),”:

“6.06 (except as provided in Schedule 9.05(a)),”

b. replacing the text “and 6.13” appearing in the last sentence in clause (a) thereof with “, 6.13 and 6.14; and

c. adding the following new clause (d) immediately after clause (c) thereof:

“(d) So long as the XM Escrow Senior Notes are obligations of XM Escrow LLC and not of the Borrower, the restrictions set forth in Section 6.14 hereof shall not prohibit any Investment made by Holdings in XM Escrow LLC in accordance with clause (m) of the definition of “Permitted Investments”.”

20. The Credit Agreement is hereby amended by deleting Schedule 6.06 in its entirety and each reference thereto in the Credit Agreement.

21. Schedule 9.05(a) to the Credit Agreement is hereby amended by deleting the words “the Existing 10% Notes, or” and “the Existing 10% Notes or” that appear in clause (i) under the heading “Section 6.06 Restricted Payments”.

22. The Credit Agreement is hereby further amended as set forth on Annex A attached hereto.

23. The amendments included in this First Amendment, subject to the proviso below, shall be effective when (i) the Administrative Agent shall have received a counterpart signature page of this First Amendment duly executed by each of the Loan Parties and each of the Required Lenders and (ii) the "Fifth Amendment Effective Date" shall have occurred under the Revolving Credit Facility Agreement (the date on which such conditions are satisfied, the "First Amendment Effective Date"); provided that, notwithstanding the foregoing, the amendments in Sections 2, 4, 6, 7, 8, 10(a) – (f), 13, 14, 20 and 22 of this First Amendment shall not become effective until the later of (x) the First Amendment Effective Date and (y) the earlier of (1) the effectiveness of the XM Escrow Merger and (2) the effectiveness of the Exchange Notes Indenture (as defined in Annex A hereto).

24. The Required Lenders hereby (x) consent to any amendment of the Loan Documents that may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of Section 5.10(i) of the Credit Agreement, (y) agree that no further consent or agreement of the Required Lenders shall be necessary to effectuate any such amendment that is satisfactory to the Administrative Agent and (z) confirm for the avoidance of doubt that they do not object to the modifications to the Revolving Credit Facility Agreement contained in that certain Fifth Amendment to the Revolving Credit Facility Agreement including, without limitation, the amendments set forth on Annex A thereto (the "Revolving Credit Facility Amendment"), dated as of the date of this First Amendment, among the Borrower, Holdings and the lenders party to the Revolving Credit Facility Agreement signatory to such Revolving Credit Facility Amendment.

25. The Required Lenders hereby irrevocably authorize the Administrative Agent to, and authorize the Administrative Agent to direct the Collateral Agent to, enter into and execute any amendments or modifications to Section 3.2(a)(1) of each of the Existing Intercreditor Agreements that may be necessary or appropriate, in the opinion of the Administrative Agent, to broaden the representation therein so that it may be made by any Person that may choose to and is otherwise permitted by the Loan Documents to become a Secured Party and/or Additional Creditor (each as defined in the Existing Intercreditor Agreements), regardless of whether such Person is a corporation, national banking association or state licensed branch of a foreign bank, which amendments or modifications may take the form of a representation to the effect that the subject Person is duly formed or organized, existing and in good standing under the laws of the jurisdiction of its formation or organization, and which amendments or modifications shall be effective as of the Closing Date.

26. The Borrower hereby agrees to pay a fee (the "Amendment Fee") to the Lenders executing this First Amendment on or prior to 12:00 PM New York time on July 22, 2008 in an aggregate amount equal to 0.125% of such Lenders' outstanding Commitments as of the First Amendment Effective Date, which Amendment Fee shall be received by the Administrative Agent no later than the Merger Effective Time for distribution to such Lenders (provided, that, for the avoidance of doubt, such Lenders shall not be entitled to payment of such Amendment Fee until the Merger Effective Time).

27. Each Guarantor is referred to herein as a "Loan Support Party" and collectively as the "Loan Support Parties", and the Loan Documents to which they are a party are collectively referred to herein as the "Loan Support Documents". Each Loan Support Party hereby acknowledges that it has reviewed the terms and provisions of the Credit Agreement and this First Amendment and consents to the amendment of the Credit Agreement effected pursuant to this First Amendment (including, without limitation, the amendments set forth on Annex A hereto). Each Loan Support Party hereby confirms that each Loan Support Document to which it is a party

or otherwise bound and all Collateral encumbered thereby will continue to guarantee or secure, as the case may be, to the fullest extent possible in accordance with the Loan Support Documents the payment and performance of all "Obligations" under each of the Loan Support Documents to which it is a party (in each case as such terms are defined in the applicable Loan Support Document). Each Loan Support Party acknowledges and agrees that each of the Loan Support Documents to which it is a party or otherwise bound shall continue in full force and effect and that all of its obligations thereunder shall be valid and enforceable and shall not be impaired or limited by the execution or effectiveness of this First Amendment (including, without limitation, the amendments set forth on Annex A hereto). Each Loan Support Party acknowledges and agrees that (i) notwithstanding the conditions to effectiveness set forth in this First Amendment (including, without limitation, the amendments set forth on Annex A hereto), such Loan Support Party is not required by the terms of the Credit Agreement or any other Loan Support Document to consent to the amendments to the Credit Agreement effected pursuant to this First Amendment and (ii) nothing in the Credit Agreement, this First Amendment (including, without limitation, the amendments set forth on Annex A hereto) or any other Loan Support Document shall be deemed to require the consent of such Loan Support Party to any future amendments to the Credit Agreement.

Except as expressly set forth herein, this First Amendment shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Lenders or the Administrative Agent 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 are ratified and affirmed in all respects and shall continue in full force and effect. Nothing herein shall be deemed to entitle any Loan Party to a further consent to, or any 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.

On and after the First Amendment Effective Date, each reference in the Credit Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the Credit Agreement, and each reference in the other Loan Documents to the "Credit Agreement", "thereunder", "thereof" or words of like import referring to the Credit Agreement, shall mean and be a reference to the Credit Agreement, as amended by and in accordance with this First Amendment.

THIS FIRST AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

This First Amendment 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.

Remainder of page intentionally left blank.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be duly executed by their respective officers as of the day and year first above written.

XM SATELLITE RADIO INC.

By: /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

XM SATELLITE RADIO HOLDINGS INC.

By: /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

XM EQUIPMENT LEASING LLC

By: /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

XM RADIO INC.

By: /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

UBS AG STAMFORD BRANCH,
as ADMINISTRATIVE AGENT

By: /s/ Irja R. Otsa
Name: Irja R. Otsa
Title: Associate Director

By: /s/ Richard L. Tavrow
Name: Richard L. Tavrow
Title: Director

UBS AG, Stamford Branch, as a Lender

By: /s/ Douglas Gervolino
Name: Douglas Gervolino
Title: Director, Banking Products Services, US

By: /s/ Leslie Evans
Name: Leslie Evans
Title: Associate Director, Banking Product Services, US

FIELD POINT III, LTD., as a Lender

By: /s/ Richard Petrilli
Name: Richard Petrilli
Title: Authorized Signatory

FIELD POINT IV, LTD., as a Lender

By: /s/ Richard Petrilli
Name: Richard Petrilli
Title: Authorized Signatory

GRAND CENTRAL ASSET TRUST, SIL SERIES, as a Lender

By: /s/ Bernard Marasa
Name: Bernard Marasa
Title: As Attorney-In-Fact

Additional Amendments

A. If (i) the Borrower issues new notes (the "Exchange Notes") in exchange for any of the Senior Fixed Rate Notes and the indenture in respect of such new notes (the "Exchange Notes Indenture") does not contain a specific, stand-alone carve-out in the indebtedness covenant to permit $100 million of capital leases, purchase money indebtedness and/or sale and leaseback transactions and/or a specific, stand-alone carve-out in the lien covenant for liens in respect of such capital leases, purchase money indebtedness and/or sale and leaseback transactions (collectively, the "Specified Baskets"), or (ii) the XM Escrow Senior Notes Indenture does not contain the Specified Baskets, then the Credit Agreement will, upon the later of (1) the First Amendment Effective Date and (2) the earlier to occur of (x) the effectiveness of the Exchange Notes Indenture and (y) the effectiveness of the XM Escrow Merger, and without any further action on the part of the Borrower, any Guarantor or any Lender, be automatically amended as set forth below:

1. The definition of "Permitted Liens" in Section 1.01 of the Credit Agreement is amended by deleting clause (e) thereof in its entirety and inserting "intentionally omitted" in place thereof.

2. Section 5.10(f)(ii) of the Credit Agreement will be amended by deleting the words "(except in the case of assets acquired with Indebtedness permitted pursuant to Section 6.01(b)(v) that is secured by a Lien permitted pursuant to clause (e) of the definition of Permitted Lien (to the extent such clause (e) refers to Section 6.01(b)(v)))" appearing therein.

3. Section 6.01(b) of the Credit Agreement will be amended by:

a. deleting clause (v) in its entirety and inserting "intentionally omitted" in place thereof; and

b. in clause (vi) thereof, deleting the reference to "(v)," appearing therein.

4. Section 6.05 of the Credit Agreement will be amended by:

a. deleting the "(a)" appearing therein;

b. deleting the "or" at the end of clause (a); and

c. deleting clause (b) in its entirety.

B. If the Exchange Notes Indenture or the XM Escrow Senior Notes Indenture includes the issuance of a letter of credit for the account of a specified Person as "Indebtedness" under and as defined in such Exchange Notes Indenture or the XM Escrow Senior Notes Indenture, as applicable, and does not contain a specific, stand-alone carve-out in the indebtedness covenant for the MLB Letter of Credit and/or a specific, stand-alone carve-out in the lien covenant for the MLB Letter of Credit Cash Collateral, then the Credit Agreement will, upon the later of (1) the First Amendment Effective Date and (2) the earlier to occur of (x) the effectiveness of the Exchange Notes Indenture and (y) the effectiveness of the XM Escrow Merger, and without any further action on the part of the Borrower, any Guarantor or any Lender, be automatically amended as set forth below:

1. The definition of "Permitted Liens" in Section 1.01 of the Credit Agreement will be amended by replacing clause (z) thereof with the following:

"(z) Liens on cash in an amount not to exceed $120,000,000 and Liens on MLB Intellectual Property, in each case, incurred in connection with the MLB Contract while such agreement is in effect."

2. Section 1.01 of the Credit Agreement will be amended by deleting the definitions of "MLB Letter of Credit" and "MLB Letter of Credit Cash Collateral" in their entirety.

3. Section 6.01(b) of the Credit Agreement will be amended by deleting clause (xv) in its entirety and inserting "intentionally omitted" in place thereof.

C. If the XM Escrow Senior Notes Indenture and, if the Borrower issues Exchange Notes, the Exchange Notes Indenture, each, upon the effectiveness thereof, contain a separate, stand-alone Convertible Senior Notes Interest Payment Basket (as defined below) in the restricted payments covenant set forth therein, then the Credit Agreement will, upon the later of (1) the First Amendment Effective Date and (2) the earlier to occur of (x) the effectiveness of the Exchange Notes Indenture and (y) the effectiveness of the XM Escrow Merger, and without any further action on the part of the Borrower, any Guarantor or any Lender, be automatically amended to add the Convertible Senior Notes Interest Payment Basket to Section 6.06(b) of the Credit Agreement as a new clause appearing at the end thereof (and the clause preceding it shall be modified to delete the period at the end thereof and replace such period with a semicolon, followed by the word "and"); provided that, notwithstanding the foregoing, if (x) at the time of the effectiveness of the XM Escrow Merger the Exchange Notes shall not have been issued and the Exchange Notes are subsequently issued and the Exchange Notes Indenture does not contain the Convertible Senior Notes Interest Payment Basket, or (y) at the time of the effectiveness of the Exchange Notes Indenture the XM Escrow Merger shall not then have occurred and it shall subsequently occur and at such time the XM Escrow Senior Notes Indenture shall not contain the Convertible Senior Notes Interest Payment Basket, then, in the case of either clause (x) or (y), the Credit Agreement will, without any further action on the part of the Borrower, any Guarantor or any Lender, be automatically amended to remove the Convertible Senior Notes Interest Payment Basket.

"Convertible Senior Notes Interest Payment Basket" means a carve out to the applicable restricted payment covenant which reads as follows (with such modifications as may be made to the XM Escrow Senior Notes Indenture and/or the Exchange Notes Indenture in order to accommodate capitalized terms set forth below that are specific to the Credit Agreement, it being understood that the intention of this paragraph C is that the basket to be added to the Credit Agreement provide for no greater Restricted Payment capacity in respect of the matters described below than the comparable basket that may appear in the XM Escrow Senior Notes Indenture and/or the Exchange Notes Indenture and it being further understood that the amount of the comparable basket that may appear in the XM Escrow Senior Notes Indenture and/or the Exchange Notes Indenture may be greater than $25,000,000):

"[(__)] the payment of dividends or the making of one or more distributions by the Borrower to Holdings the proceeds of which are used by Holdings promptly after receipt thereof solely to pay interest, fees and expenses then due and payable with respect to its Convertible Senior Notes due 2009, provided that (x) the amount of all such Restricted Payments in the aggregate shall not exceed $25,000,000 at any time from the First Amendment Effective Date through the Maturity Date and (y) at the time of and after giving effect to such Restricted Payment, no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof."

Exhibit 4.63

EXECUTION COPY

FIFTH AMENDMENT

This Fifth Amendment to the Credit Agreement referred to below (this "Fifth Amendment"), dated as of July 22, 2008, is among XM Satellite Radio Inc. (the "Borrower"), XM Satellite Radio Holdings Inc. ("Holdings"), and the undersigned lenders party to the Credit Agreement referred to below.

Reference is made to that certain Credit Agreement, dated as of May 5, 2006 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Borrower, Holdings, the lenders party thereto, JPMorgan Chase Bank, N.A., as administrative agent (the "Administrative Agent"), Credit Suisse Securities (USA) LLC, as Syndication Agent, Citicorp North America Inc., as Documentation Agent, and J.P. Morgan Securities Inc. and UBS Securities LLC, as Joint Bookrunners and Joint Lead Arrangers. Capitalized terms used but not defined herein have the meanings given such terms in the Credit Agreement.

The Borrower and Holdings have informed the Administrative Agent that XM Escrow LLC, a newly formed, wholly-owned subsidiary of Holdings, intends to issue under the XM Escrow Senior Notes Indenture (as defined below) up to $1.0 billion aggregate principal amount of senior unsecured notes (the "XM Escrow Issuance"). The Borrower and Holdings have requested that the Required Lenders, in connection with the foregoing, agree to amend the Credit Agreement in connection with the XM Escrow Issuance and certain related matters.

Accordingly, the Lenders hereby agree to amend the Credit Agreement as set forth herein:

1. Section 1.01 of the Credit Agreement is hereby amended by adding the following definitions in proper alphabetical sequence:

"Fifth Amendment" means that certain Fifth Amendment to this Agreement, dated as of July 22, 2008, among Holdings, the Borrower and the Lenders listed on the signature pages thereto.

"Fifth Amendment Effective Date" has the meaning assigned to such term in Section 23 of the Fifth Amendment.

"XM Escrow Merger" means the merger of XM Escrow LLC, a newly formed, wholly-owned subsidiary of Holdings, with and into the Borrower, with the Borrower as the surviving corporation.

"XM Escrow Senior Notes" means the up to $1.0 billion in aggregate principal amount of senior unsecured notes issued by XM Escrow LLC.

"XM Escrow Senior Notes Indenture" means the indenture made by XM Escrow LLC in favor of the trustee thereunder pursuant to which the XM Escrow Senior Notes will be issued.

2. The definition of "Asset Sale" is hereby amended by (a) in clause (viii) thereof, replacing the word "any" appearing immediately before the words "Qualified Sale and Leaseback Transaction" with the words "a single"; (b) deleting in clause (viii) thereof the words ", including an XM-4 Sale and Leaseback Transaction" appearing therein; and (c) re-numbering clause (viii) as clause (vii).

3. The definition of "Change in Control" in Section 1.01 of the Credit Agreement is hereby amended by adding the phrase "the XM Escrow Senior Notes," in clause (b)(vi) thereof immediately after the phrase "the Owner Trustee Notes," appearing therein.

4. The definition of "Permitted Holdings Debt" in Section 1.01 of the Credit Agreement is hereby amended by replacing in clause (b) thereof the words "an XM-4 Sale and Leaseback Transaction" with the words "a single Qualified Sale and Leaseback Transaction".

5. The definition of "Permitted Investments" in Section 1.01 of the Credit Agreement is hereby amended by deleting the "and" at the end of clause (k) thereof, replacing the period at the end of clause (l) thereof with "; and", and adding the following new clause (m) immediately after clause (l) thereof:

"(m) Investments by Holdings in XM Escrow LLC in an aggregate amount not to exceed $60,000,000 at any time the proceeds of which shall be used solely for payments of accrued interest, fees and expenses with respect to the XM Escrow Senior Notes prior to or at the time of the XM Escrow Merger."

6. The definition of "Permitted Liens" in Section 1.01 of the Credit Agreement is hereby amended by:

a. deleting clause (u) thereof in its entirety and inserting "intentionally omitted" in place thereof; and

b. in clause (y) thereof, deleting the word "any" appearing before the words "Qualified Sale and Leaseback Transaction" and replacing it with the words "a single" and deleting the words ", with respect to the XM-4 Sale and Leaseback Transaction" appearing therein.

7. The definition of "Qualified Sale and Leaseback Transaction" is hereby amended and restated as follows:

""Qualified Sale and Leaseback Transaction" means the XM-4 Sale and Leaseback Transaction as in effect on the Fifth Amendment Effective Date";provided that Indebtedness (the proceeds of which financed the purchase of the XM-4 Satellite Collateral) of a lessor in the XM-4 Sale and Leaseback Transaction that is assumed by Holdings, the Borrower or a Material Subsidiary following the termination of the associated lease and reacquisition of the associated assets by Holdings, the Borrower or such Material Subsidiary (as applicable) shall continue to constitute a Qualified Sale and Leaseback Transaction following such assumption and reacquisition as long as the Liens securing such Indebtedness do not spread to cover any other assets other than those that were subjected to such Liens pursuant to the XM-4 Sale and Leaseback Transaction immediately prior to such assumption and reacquisition.".

8. Section 1.01 of the Credit Agreement is hereby amended by deleting the definition of "Qualified Receivables" in its entirety.

9. Section 5.10 of the Credit Agreement is hereby amended by inserting the following new clause (i) immediately after clause (h) thereof:

"(i) Promptly (but in no event more than 30 days) following the termination of the Borrower's obligations under the Participation Agreement and the release of the liens on all or any portion of the XM-4 Satellite Collateral securing such obligations, the Borrower and Holdings shall, and shall cause each Subsidiary Guarantor to, execute and/or amend any and all documents and instruments, and take all such further actions (including the filing and recording of financing statements, mortgages and other documents), necessary or advisable to grant and perfect a first priority security interest (subject to, (x) in the case of personal property other than Equity Interests, Permitted Liens, (y) in the case of Equity Interests, Liens referenced in clauses (a), (b), (f) and (g) of the definition of "Permitted Liens" and (z) in the case of real property, such Liens as shall be agreed upon by the Administrative Agent) in favor of the Collateral Agent, for the benefit of the Lenders, the other Existing Secured Parties and the Term Loan Secured Parties, or, if the Release Date shall previously have occurred, the New Collateral Agent, for the benefit of the New Secured Parties and the Term Loan Secured Parties, in the XM-4 Satellite Collateral and the Capital Stock of XM 1500 Eckington LLC and XM Investment LLC."

10. Section 6.01(b) of the Credit Agreement is hereby amended by:

a. in clause (i) thereof, deleting the reference to "$500,000,000" appearing therein and replacing it with "$250,000,000";

b. in clause (vi) thereof, deleting the reference to "(x)," appearing therein;

c. in clause (viii) thereof, deleting the words "incurred in the ordinary course of business" and replacing them with the words "directly related to Indebtedness permitted to be incurred under this Agreement";

d. deleting clause (x) in its entirety and inserting the following in place thereof:

"(x) the incurrence by the Borrower of unsecured subordinated Indebtedness or Disqualified Stock in an aggregate principal amount not to exceed $250,000,000 at any time outstanding the proceeds of which are used to finance the construction, expansion, development or acquisition of music libraries and other recorded music programming, furniture, fixtures and equipment (including satellites, ground stations and related equipment); provided that such subordinated Indebtedness or Disqualified Stock, as applicable, shall have a Weighted Average Life to Maturity longer than the Weighted Average Life to Maturity of the Loans and a final Stated Maturity of principal at least six months later than the Maturity Date;"

e. in clause (xii), replacing the words "any Qualified Sale and Leaseback Transaction, including an XM-4 Sale and Leaseback Transaction" appearing therein with the words "a single Qualified Sale and Leaseback Transaction";

f. adding the following at the end of clause (xv) thereof:

"if such MLB Letters of Credit are not drawn upon, or, if and to the extent drawn upon, such drawing is not reimbursed within ten Business Days following payment on such MLB Letters of Credit"; and

g. deleting the "and" at the end of clause (xvi) thereof, replacing the period at the end of clause (xvii) thereof with "; and", and adding the following new clause (xviii) immediately after clause (xvii) thereof:

"(xviii) The incurrence by Holdings and any Subsidiary Loan Party of unsecured Indebtedness represented by unsecured Guarantees of the XM Escrow Senior Notes; provided, however, that (i) the obligations contained in such unsecured Guarantees shall not become effective prior to the consummation of the XM Escrow Merger, (ii) such unsecured Guarantees shall be in form and substance reasonably satisfactory to the Administrative Agent and (iii) the proceeds of the XM Escrow Senior Notes shall be used, substantially concurrently with the consummation of the XM Escrow Merger, solely to repay the Senior Fixed Rate Notes or other Existing Indebtedness, including the payment of all accrued interest thereon and the amount of all expenses, consent fees and premiums incurred in connection therewith."

11. Section 6.01 of the Credit Agreement is hereby amended by inserting the words "(and later reclassify)" after the word "classify".

12. Section 6.03 of the Credit Agreement is hereby amended by deleting the "or" appearing immediately before the "(y)" in the last sentence of clause (a) thereof and replacing it with "," and inserting the words "or (z) the XM Escrow Merger; provided that, at the time of the XM Escrow Merger, the assumption by the Borrower of the obligations of XM Escrow LLC under the XM Escrow Senior Notes is permitted under Section 6.01, whether as Permitted Refinancing Indebtedness or otherwise," immediately after the phrase "the Parent Company Merger" appearing therein.

13. Section 6.05(a) of the Credit Agreement is hereby amended by replacing the words "a Qualified Sale and Leaseback Transaction, including an XM-4 Sale and Leaseback Transaction" appearing therein with the words "a single Qualified Sale and Leaseback Transaction and any Permitted Refinancing Indebtedness in respect thereof".

14. Section 6.06(a)(ii) of the Credit Agreement is hereby amended by adding the following proviso to the end thereof immediately before the period:

"provided, however, that Restricted Payments made pursuant to this clause (ii) shall be made solely by the Borrower to Holdings (and shall not be made by Holdings to any other Person) and shall be made solely to the extent that (1) Holdings in turn uses all amounts paid to it pursuant to this clause (ii) solely, and reasonably promptly upon receipt thereof, for the payment of expenses in the ordinary course of its business (which may include payments of amounts due to vendors in respect of its satellites and the payment of interest then due and payable (but not the payment of principal) with respect to its Convertible Senior Notes due 2009) and (2) Holdings is a party to the Guarantee Agreement and the other Loan Documents to which it is a party as of the Fifth Amendment Effective Date".

15. Section 6.06(b) of the Credit Agreement is hereby amended by deleting clause (xv) thereof in its entirety and inserting the following in place thereof:

"(xv) the payment of dividends or the making of one or more distributions by the Borrower to Holdings in an aggregate amount not to exceed $40,000,000 the proceeds of which shall be used by Holdings solely, and reasonably promptly upon receipt thereof, in accordance with clause (m) of the definition of Permitted Investments.".

16. Section 6.07(b) of the Credit Agreement is hereby amended by:

a. in clause (vi) thereof, replacing the "and" immediately after the words "subclauses (h)" with "," and inserting the words "and (m)" immediately after "(i)" in clause (vi) thereof; and

b. deleting the "and" at the end of clause (x) thereof, replacing the period at the end of clause (xi) thereof with "; and", and adding the following new clause (xii) immediately after clause (xi) thereof:

"(xii) the XM Escrow Merger. "

17. Section 6.11(b) of the Credit Agreement is hereby amended by adding the phrase "or, from and after the consummation of the XM Escrow Merger, the XM Escrow Senior Notes Indenture," immediately after the words "the Senior Notes Documents" on the third line thereof.

18. Section 6.14 of the Credit Agreement is hereby amended by:

a. adding the phrase ", the XM Escrow Senior Notes, the Convertible Senior Notes due 2009 issued by Holdings" immediately after the first two appearances of the words "New Senior Notes" therein; and

b. replacing the "and" at the end of clause (x) in the proviso thereof with "," and replacing the period at the end of clause (y) in the proviso thereof with the following:

"and (z) any cash or Cash Equivalents of the Borrower may be used as set forth in clause (m) of the definition of "Permitted Investments"."

19. Section 9.05 of the Credit Agreement is hereby amended by:

a. adding the following into the last sentence of clause (a) thereof immediately after the reference to "6.03(a),":

"6.06 (except as provided in Schedule 9.05(a)),"

b. replacing the text "and 6.13" appearing in the last sentence in clause (a) thereof with ", 6.13 and 6.14; and

c. adding the following new clause (d) immediately after clause (c) thereof:

"(d) So long as the XM Escrow Senior Notes are obligations of XM Escrow LLC and not of the Borrower, the restrictions set forth in Section 6.14 hereof shall not prohibit any Investment made by Holdings in XM Escrow LLC in accordance with clause (m) of the definition of "Permitted Investments"."

20. The Credit Agreement is hereby amended by deleting Schedule 6.06 in its entirety and each reference thereto in the Credit Agreement.

21. Schedule 9.05(a) to the Credit Agreement is hereby amended by deleting the words "the Existing 10% Notes, or" and "the Existing 10% Notes or" that appear in clause (i) under the heading "Section 6.06 Restricted Payments".

22. The Credit Agreement is hereby further amended as set forth on Annex A attached hereto.

23. The amendments included in this Fifth Amendment, subject to the proviso below, shall be effective when (i) the Administrative Agent shall have received a counterpart signature page of this Fifth Amendment duly executed by each of the Loan Parties and each of the Required Lenders and (ii) the "First Amendment Effective Date" shall have occurred under the Term Loan Credit (the date on which such conditions are satisfied, the "Fifth Amendment Effective Date"); provided that, notwithstanding the foregoing, the amendments in Sections 2, 4,6, 7, 8, 10(a) – (f), 13, 14, 20 and 22 of this Fifth Amendment shall not become effective until the later of (x) the Fifth Amendment Effective Date and (y) the earlier of (1) the effectiveness of the XM Escrow Merger and (2) the effectiveness of the Exchange Notes Indenture (as defined in Annex A hereto).

24. The Required Lenders hereby (x) consent to any amendment of the Loan Documents that may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of Section 5.10(i) of the Credit Agreement, (y) agree that no further consent or agreement of the Required Lenders shall be necessary to effectuate any such amendment that is satisfactory to the Administrative Agent and (z) confirm for the avoidance of doubt that they do not object to the modifications to the Term Loan Credit Agreement contained in that certain First Amendment to the Term Loan Credit Agreement including, without limitation, the amendments set forth on Annex A thereto (the "Term Loan Amendment"), dated as of the date of this Fifth Amendment, among the Borrower, Holdings and the lenders party to the Term Loan Credit Agreement signatory to such Term Loan Amendment.

25. The Required Lenders hereby irrevocably authorize the Administrative Agent to, and authorize the Administrative Agent to direct the Collateral Agent to, enter into and execute any amendments or modifications to Section 3.2(a)(1) of each of the Existing Intercreditor Agreements that may be necessary or appropriate, in the opinion of the Administrative Agent, to broaden the representation therein so that it may be made by any Person that may choose to and is otherwise permitted by the Loan Documents to become a Secured Party and/or Additional Creditor (each as defined in the Existing Intercreditor Agreements), regardless of whether such Person is a corporation, national banking association or state licensed branch of a foreign bank, which amendments or modifications may take the form of a representation to the effect that the subject Person is duly formed or organized, existing and in good standing under the laws of the jurisdiction of its formation or organization, and which amendments or modifications shall be effective as of the Closing Date.

26. The Borrower hereby agrees to pay a fee (the "Amendment Fee") to the Lenders executing this Fifth Amendment on or prior to 12:00 PM New York time on July 22, 2008 in an aggregate amount equal to 0.125% of such Lenders' outstanding Commitments as of the Fifth Amendment Effective Date, which Amendment Fee shall be received by the Administrative Agent no later than the Merger Effective Time for distribution to such Lenders (provided, that, for the avoidance of doubt, such Lenders shall not be entitled to payment of such Amendment Fee until the Merger Effective Time).

27. Each Guarantor is referred to herein as a "Loan Support Party" and collectively as the "Loan Support Parties", and the Loan Documents to which they are a party are collectively referred to herein as the "Loan Support Documents". Each Loan Support Party hereby acknowledges that it has reviewed the terms and provisions of the Credit Agreement and this Fifth Amendment and consents to the amendment of the Credit Agreement effected pursuant to this Fifth Amendment (including, without limitation, the amendments set forth on Annex A hereto). Each Loan Support Party hereby confirms that each Loan Support Document to which it

is a party or otherwise bound and all Collateral encumbered thereby will continue to guarantee or secure, as the case may be, to the fullest extent possible in accordance with the Loan Support Documents the payment and performance of all "Obligations" under each of the Loan Support Documents to which it is a party (in each case as such terms are defined in the applicable Loan Support Document). Each Loan Support Party acknowledges and agrees that each of the Loan Support Documents to which it is a party or otherwise bound shall continue in full force and effect and that all of its obligations thereunder shall be valid and enforceable and shall not be impaired or limited by the execution or effectiveness of this Fifth Amendment (including, without limitation, the amendments set forth on Annex A hereto). Each Loan Support Party acknowledges and agrees that (i) notwithstanding the conditions to effectiveness set forth in this Fifth Amendment (including, without limitation, the amendments set forth on Annex A hereto), such Loan Support Party is not required by the terms of the Credit Agreement or any other Loan Support Document to consent to the amendments to the Credit Agreement effected pursuant to this Fifth Amendment and (ii) nothing in the Credit Agreement, this Fifth Amendment (including, without limitation, the amendments set forth on Annex A hereto) or any other Loan Support Document shall be deemed to require the consent of such Loan Support Party to any future amendments to the Credit Agreement.

Except as expressly set forth herein, this Fifth Amendment shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Lenders or the Administrative Agent 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 are ratified and affirmed in all respects and shall continue in full force and effect. Nothing herein shall be deemed to entitle any Loan Party to a further consent to, or any 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.

On and after the Fifth Amendment Effective Date, each reference in the Credit Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import referring to the Credit Agreement, and each reference in the other Loan Documents to the "Credit Agreement", "thereunder", "thereof" or words of like import referring to the Credit Agreement, shall mean and be a reference to the Credit Agreement, as amended by and in accordance with this Fifth Amendment.

THIS FIFTH AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

This Fifth Amendment 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.

Remainder of page intentionally left blank.

IN WITNESS WHEREOF, the parties hereto have caused this Fifth Amendment to be duly executed by their respective officers as of the day and year first above written.

XM SATELLITE RADIO INC.

By: /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

XM SATELLITE RADIO HOLDINGS INC.

By: /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

XM EQUIPMENT LEASING LLC

By: /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

XM RADIO INC.

By: /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

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

By: /s/ Peter B. Thauer
Name: Peter B. Thauer
Title: Executive Director

[XM - Signature Page to Fifth Amendment to Credit Agreement]

CREDIT SUISSE, CAYMAN ISLANDS BRANCH, as a Lender

By: /s/ Judy Smith
Name: Judy Smith
Title: Director

By: /s/ Markus Frenzen
Name: Markus Frenzen
Title: Assistant Vice President

CITICORP NORTH AMERICA, INC., as a Lender

By: /s/ Brian Blessing
Name: Brian Blessing
Title: Attorney-In-Fact

By: _____
Name:
Title:

UBS LOAN FINANCE LLC, as a Lender

By: /s/ Mary E. Evans
Name: Mary E. Evans
Title: Associate Director

By: /s/ David B. Julie
Name: David B. Julie
Title: Associate Director

BEAR STEARNS CORPORATE LENDING INC., as a Lender

By: JPMORGAN CHASE BANK, N.A., authorized signatory

By: /s/ Peter B. Thauer
Name: Peter B. Thauer
Title: Executive Director

WELLS FARGO FOOTHILL, INC., as a Lender

By: /s/ Kelly Walsh
Name: Kelly Walsh
Title: Vice President

BLT II LLC, as a Lender

By: /s/ Robert Healey
Name: Robert Healey
Title: Authorized Signatory

Additional Amendments

A. If (i) the Borrower issues new notes (the "Exchange Notes") in exchange for any of the Senior Fixed Rate Notes and the indenture in respect of such new notes (the "Exchange Notes Indenture") does not contain a specific, stand-alone carve-out in the indebtedness covenant to permit $100 million of capital leases, purchase money indebtedness and/or sale and leaseback transactions and/or a specific, stand-alone carve-out in the lien covenant for liens in respect of such capital leases, purchase money indebtedness and/or sale and leaseback transactions (collectively, the "Specified Baskets"), or (ii) the XM Escrow Senior Notes Indenture does not contain the Specified Baskets, then the Credit Agreement will, upon the later of (1) the Fifth Amendment Effective Date and (2) the earlier to occur of (x) the effectiveness of the Exchange Notes Indenture and (y) the effectiveness of the XM Escrow Merger, and without any further action on the part of the Borrower, any Guarantor or any Lender, be automatically amended as set forth below:

1. The definition of "Permitted Liens" in Section 1.01 of the Credit Agreement is amended by deleting clause (e) thereof in its entirety and inserting "intentionally omitted" in place thereof.

2. Section 5.10(f)(ii) of the Credit Agreement will be amended by deleting the words "(except in the case of assets acquired with Indebtedness permitted pursuant to Section 6.01(b)(v) that is secured by a Lien permitted pursuant to clause (e) of the definition of Permitted Lien (to the extent such clause (e) refers to Section 6.01(b)(v)))" appearing therein.

3. Section 6.01(b) of the Credit Agreement will be amended by:

a. deleting clause (v) in its entirety and inserting "intentionally omitted" in place thereof; and

b. in clause (vi) thereof, deleting the reference to "(v)," appearing therein.

4. Section 6.05 of the Credit Agreement will be amended by:

a. deleting the "(a)" appearing therein;

b. deleting the "or" at the end of clause (a); and

c. deleting clause (b) in its entirety.

B. If the Exchange Notes Indenture or the XM Escrow Senior Notes Indenture includes the issuance of a letter of credit for the account of a specified Person as "Indebtedness" under and as defined in such Exchange Notes Indenture or the XM Escrow Senior Notes Indenture, as applicable, and does not contain a specific, stand-alone carve-out in the indebtedness covenant for the MLB Letter of Credit and/or a specific, stand-alone carve-out in the lien covenant for the MLB Letter of Credit Cash Collateral, then the Credit Agreement will, upon the later of (1) the Fifth Amendment Effective Date and (2) the earlier to occur of (x) the effectiveness of the Exchange Notes Indenture and (y) the effectiveness of the XM Escrow Merger, and without any further action on the part of the Borrower, any Guarantor or any Lender, be automatically amended as set forth below:

1. The definition of "Permitted Liens" in Section 1.01 of the Credit Agreement will be amended by replacing clause (z) thereof with the following:

"(z) Liens on cash in an amount not to exceed $120,000,000 and Liens on MLB Intellectual Property, in each case, incurred in connection with the MLB Contract while such agreement is in effect."

2. Section 1.01 of the Credit Agreement will be amended by deleting the definitions of "MLB Letter of Credit" and "MLB Letter of Credit Cash Collateral" in their entirety.

3. Section 6.01(b) of the Credit Agreement will be amended by deleting clause (xv) in its entirety and inserting "intentionally omitted" in place thereof.

C. If the XM Escrow Senior Notes Indenture and, if the Borrower issues Exchange Notes, the Exchange Notes Indenture, each, upon the effectiveness thereof, contain a separate, stand-alone Convertible Senior Notes Interest Payment Basket (as defined below) in the restricted payments covenant set forth therein, then the Credit Agreement will, upon the later of (1) the Fifth Amendment Effective Date and (2) the earlier to occur of (x) the effectiveness of the Exchange Notes Indenture and (y) the effectiveness of the XM Escrow Merger, and without any further action on the part of the Borrower, any Guarantor or any Lender, be automatically amended to add the Convertible Senior Notes Interest Payment Basket to Section 6.06(b) of the Credit Agreement as a new clause appearing at the end thereof (and the clause preceding it shall be modified to delete the period at the end thereof and replace such period with a semicolon, followed by the word "and"); provided that, notwithstanding the foregoing, if (x) at the time of the effectiveness of the XM Escrow Merger the Exchange Notes shall not have been issued and the Exchange Notes are subsequently issued and the Exchange Notes Indenture does not contain the Convertible Senior Notes Interest Payment Basket, or (y) at the time of the effectiveness of the Exchange Notes Indenture the XM Escrow Merger shall not then have occurred and it shall subsequently occur and at such time the XM Escrow Senior Notes Indenture shall not contain the Convertible Senior Notes Interest Payment Basket, then, in the case of either clause (x) or (y), the Credit Agreement will, without any further action on the part of the Borrower, any Guarantor or any Lender, be automatically amended to remove the Convertible Senior Notes Interest Payment Basket.

"Convertible Senior Notes Interest Payment Basket" means a carve out to the applicable restricted payment covenant which reads as follows (with such modifications as may be made to the XM Escrow Senior Notes Indenture and/or the Exchange Notes Indenture in order to accommodate capitalized terms set forth below that are specific to the Credit Agreement, it being understood that the intention of this paragraph C is that the basket to be added to the Credit Agreement provide for no greater Restricted Payment capacity in respect of the matters described below than the comparable basket that may appear in the XM Escrow Senior Notes Indenture and/or the Exchange Notes Indenture and it being further understood that the amount of the comparable basket that may appear in the XM Escrow Senior Notes Indenture and/or the Exchange Notes Indenture may be greater than $25,000,000):

"[(__)] the payment of dividends or the making of one or more distributions by the Borrower to Holdings the proceeds of which are used by Holdings promptly after receipt thereof solely to pay interest, fees and expenses then due and payable with respect to its Convertible Senior Notes due 2009, provided that (x) the amount of all such Restricted Payments in the aggregate shall not exceed $25,000,000 at any time from the Fifth Amendment Effective Date through the Maturity Date and (y) at the time of and after giving effect to such Restricted Payment, no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof."

Exhibit 4.64

EXECUTION COPY

SUPPLEMENTAL INDENTURE

SUPPLEMENTAL INDENTURE, dated as of July 24, 2008 (this "First Supplemental Indenture"), by and between XM Satellite Radio Holdings Inc., a Delaware corporation (the "Company"), having its principal office at 1500 Eckington Place N.E., Washington, D.C. 20002 and The Bank of New York, a New York banking corporation, as Trustee (the "Trustee") under the Indenture (as defined below), having its principal corporate trust office at 101 Barclay Street, 8 West, New York, New York 10286.

W I T N E S S E T H:

WHEREAS, the Company and the Trustee have heretofore executed and delivered an Indenture, dated as of November 23, 2004 (the "Indenture"), pursuant to which the Company issued $400 million aggregate principal amount of 1.75% Convertible Senior Notes due 2009 (the "Notes");

WHEREAS, the Company is party to an Agreement and Plan of Merger, dated as of February 19, 2007, as it may be amended, modified or extended (the "Merger Agreement"), among the Company, Vernon Merger Corporation and Sirius Satellite Radio Inc. ("Sirius") pursuant to the terms of which the Company will be merged with Vernon Merger Corporation, a wholly-owned subsidiary of Sirius (the "Merger");

WHEREAS, Section 11.1(f) of the Indenture provides that the Company and the Trustee may amend the Indenture and the Notes without the consent of any Holder (as defined in the Indenture) in order to add or modify any provisions of the Indenture which the Company and the Trustee may deem necessary or desirable and which shall not adversely affect the interests of the Holders of the Notes;

WHEREAS, Section 11.2 of the Indenture provides that the Indenture may be amended with the consent of each Holder of Notes affected by such amendment (in addition to the consent of Holders of at least a majority in principal amount of the then outstanding Notes);

WHEREAS, the Company has entered into a letter agreement, dated as of June 26, 2008, with the Holders party thereo (each, a "Consenting Holder" and collectively, the "Consenting Holders"), Brown Rudnick LLP (solely for purposes of Section 21 thereto) and Sirius (solely for purposes of Section 22 thereto), as amended by the Consent and Amendment Agreement, dated as of July 10, 2008 (as amended, the "Letter Agreement"), pursuant to which (i) effective upon consummation of the Merger, the Company has agreed to amend the Indenture and the Notes in order to increase the interest rate applicable to the Notes to 10% per annum retroactive to July 2, 2008, effective upon consummation of the Merger, (ii) the Consenting Holders have delivered an instruction to the Trustee to execute such amendment to the Indenture, and (iii) the Consenting Holders have agreed not to assert any claim that the Merger constitutes a Fundamental Change (as defined in the Indenture) under the terms of the Indenture;

WHEREAS, pursuant to the terms of the Letter Agreement and the Consenting Holders' instruction to the Trustee, the Company and the Trustee intend to

amend the Indenture and the Notes in order to (i) increase the interest rate applicable to the Notes effective upon consummation of the Merger and (ii) make clear that the Merger does not constitute a Fundamental Change under the terms of the Indenture with respect to the Consenting Holders (collectively, the "Proposed Amendments");

WHEREAS, the Proposed Amendment described in clause (ii) above shall have no force or effect with respect to the Holders, if any, to whom notice of the offer contained in the Letter Agreement was provided, but who are not parties to the Letter Agreement;

WHEREAS, in the event that the Merger is not consummated by October 1, 2008, Holders party to the Letter Agreement may terminate the Letter Agreement and, following such termination, the parties to the Letter Agreement shall be restored to the same position that they were in and have the same legal rights that they possessed prior to the execution of the Letter Agreement;

WHEREAS, the Board of Directors of the Company has determined that it is in the best interests of the Company to authorize and approve the Proposed Amendments; and

WHEREAS, the execution and delivery of this First Supplemental Indenture have been duly authorized by all necessary corporate action on the part of the Company and all conditions and requirements necessary to make this instrument a valid and binding agreement have been duly performed and complied with.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Trustee mutually covenant and agree, for the equal and ratable benefit of the Holders of the Notes, as follows:

ARTICLE I - AMENDMENTS

Section 1.1. Amendments to the Indenture and the Notes.

(a) Section 1.1 of the Indenture is amended to add the following defined terms:

"**Letter Agreement**" means the Letter Agreement, dated as of June 26, 2008, among the Company, the Holders party thereto, Brown Rudnick LLP (solely for purposes of Section 21 thereto) and Sirius Satellite Radio Inc. (solely for purposes of Section 22 thereto), as amended by the Consent and Amendment Agreement, dated as of July 10, 2008.

"**Merger**" means the merger of the Company with Vernon Merger Corporation pursuant to the terms of the Merger Agreement.

"**Merger Agreement**" means the Agreement and Plan of Merger, dated as of February 19, 2007, as it may be amended, modified or extended, among the Company, Vernon Merger Corporation and Sirius Satellite Radio Inc.

"**Non-consenting Holder**" means any Holder to whom notice of the offer contained in the Letter Agreement has been provided (which notice may be in the form of a press release), but who has not executed the Letter Agreement.

(b) Section 1.1 of the Indenture is amended to add the following to the end of the definition of "Fundamental Change":

"With respect to the Notes held by Holders who are parties to the Letter Agreement, the Merger shall not constitute a Fundamental Change and no such Holder shall be entitled to any notice, offer to repurchase Notes or payment with respect thereto. The foregoing shall have no force or effect with respect to Non-consenting Holders, if any. In no event shall the foregoing be construed as an admission or statement of belief by the Company that the consummation of the Merger constitutes a Fundamental Change."

(c) Upon the Amendment Operative Date (as defined in Section 2.14 hereof):

(i) all references in the Indenture and the Notes to "1.75% Convertible Senior Notes due 2009" shall be deemed to be deleted and the term "10.00% Convertible Senior Notes due 2009" shall be deemed to be substituted therefor; and

(ii) the Notes shall pay interest at an annual rate of 10.00% commencing on the first Interest Payment Date after the Amendment Operative Date with such interest accruing retroactively from July 2, 2008.

ARTICLE II - MISCELLANEOUS

Section 2.1. Effect of Supplemental Indenture. From and after the effective date of this First Supplemental Indenture (with respect to the amendments set forth in Sections 1.1(a) and (b) hereof) and from and after the Amendment Operative Date (with respect to the amendments set forth in Section 1.1(c) hereof), the Indenture and the Notes shall be supplemented in accordance herewith, and this First Supplemental Indenture shall form a part of the Indenture and the Notes for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered under the Indenture shall be bound thereby; provided, that, in the event the Letter Agreement is terminated by the Holders party thereto pursuant to the terms thereof, this First Supplemental Indenture shall cease to have any force or effect.

Section 2.2. Indenture Remains in Full Force and Effect. Except as supplemented by this First Supplemental Indenture, all provisions in the Indenture and the Notes shall remain in full force and effect.

Section 2.3. References to Supplemental Indenture. Any and all notices, requests, certificates and other instruments executed and delivered after the execution and delivery of this First Supplemental Indenture may refer to the Indenture without making specific reference to this First Supplemental Indenture, but nevertheless all such references shall include this First Supplemental Indenture unless the context requires otherwise.

Section 2.4. Trust Indenture Act Controls. If any provision of this First Supplemental Indenture limits, qualifies or conflicts with any provision of the TIA that is required under the TIA to be part of and govern any provision of this First Supplemental Indenture, the provision of the TIA shall control. If any provision of this First Supplemental Indenture expressly modifies or excludes any provision of the TIA that may be so modified or excluded under the TIA, the provision of the TIA shall be deemed to apply to the Indenture as so modified or to be excluded by this First Supplemental Indenture, as the case may be.

Section 2.5. Separability Clause. In case any provision of this First Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 2.6. Terms Defined in the Indenture. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Indenture.

Section 2.7. Headings. The Article and Section headings of this First Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part of this First Supplemental Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 2.8. Benefits of First Supplemental Indenture. Nothing in this First Supplemental Indenture or the Notes, express or implied, shall give to any Person, other than the parties hereto and thereto and their successors hereunder and thereunder and the Holders of the Notes any benefit of any legal or equitable right, remedy or claim under the Indenture, this First Supplemental Indenture or the Notes.

Section 2.9. Successors. All agreements of the Company in this First Supplemental Indenture shall bind its successors. All agreements of the Trustee in this First Supplemental Indenture shall bind its successors.

Section 2.10. Trustee Not Responsible for Recitals. The recitals contained herein shall be taken as the statements of the Company and the Trustee assumes no responsibility for their correctness.

Section 2.11. Certain Duties and Responsibilities of the Trustee. In entering into this First Supplemental Indenture, the Trustee shall be entitled to the benefit of every provision of the Indenture and the Notes relating to the conduct or affecting the liability or affording protection to the Trustee, whether or not elsewhere herein so provided.

Section 2.12. Governing Law. This First Supplemental Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 2.13. Multiple Originals. The parties may sign any number of copies of this First Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this First Supplemental Indenture.

Section 2.14. Effectiveness. This First Supplemental Indenture shall become effective upon execution by the Company and the Trustee. As used herein, the "Amendment Operative Date," which is the date that the Proposed Amendment set forth in Section 1.1(c) hereof shall be operative, shall mean the date that the Company delivers written notice to the Trustee that the Merger has been consummated, which notice shall be delivered no later than three (3) Business Days following the consummation of the Merger.

Section 2.15. Confirmation. Each of the Company and the Trustee hereby confirms and reaffirms the Indenture in every particular except as amended and supplemented by this First Supplemental Indenture.

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed as of the date first above written.

XM SATELLITE RADIO HOLDINGS INC.

By: /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Chief Financial Officer

THE BANK OF NEW YORK,
as Trustee

By: /s/ Remo J. Reale
Name: Remo J. Reale
Title: Vice President

Exhibit 4.65

Execution Copy

XM ESCROW LLC
XM SATELLITE RADIO INC.

$778,500,000 13% Senior Notes due 2014

PURCHASE AGREEMENT

July 24, 2008
New York, New York

J.P. MORGAN SECURITIES INC.
UBS SECURITIES LLC
MORGAN STANLEY & CO. INCORPORATED
c/o J.P. Morgan Securities Inc.
270 Park Avenue
New York, New York 10017

Ladies and Gentlemen:

XM Escrow LLC, a Delaware limited liability company ("**XM Escrow**"), XM Satellite Radio Inc., a Delaware corporation (the "**Company**"), XM Satellite Radio Holdings Inc., a Delaware corporation ("**XM Holdings**"), and each of the other Guarantors (as defined herein) agree with you as follows:

1. Issuance of Notes. XM Escrow proposes to issue and sell to J.P. Morgan Securities Inc. (the "**Representative**") and UBS Securities LLC and Morgan Stanley & Co. Incorporated (together with the Representative, the "**Initial Purchasers**") $778,500,000 aggregate principal amount of 13% Senior Notes due 2014 (the "**Senior Notes**"). The Securities (as defined below) will be issued pursuant to an indenture (the "**Indenture**"), to be dated as of the Closing Date (as defined herein), by and between XM Escrow and The Bank of New York, N.A., as trustee (the "**Trustee**"). XM Escrow is expected to merge with and into the Company with the Company as the surviving entity (the "**Escrow Merger**") immediately prior to the merger contemplated by the Agreement and Plan of Merger, dated as of February 19, 2007, among XM Holdings, Sirius Satellite Radio Inc. ("**Sirius**"), and Vernon Merger Corporation (as amended or supplemented by any subsequent letter agreement, the "**Merger Agreement**"), pursuant to which Vernon Merger Corporation shall be merged with and into XM Holdings with XM Holdings as the surviving corporation (the "**Sirius Merger,**" and, together with the Escrow Merger, the "**Mergers**").

Upon consummation of the Escrow Merger, the Company will succeed to the obligations of XM Escrow hereunder and under the Note Documents (as defined below). Upon consummation of this offering, the Company and XM Escrow will execute a supplemental indenture to the Indenture in connection therewith (the "**Assumption Indenture**"). In addition, upon consummation of the Escrow Merger,

the Company's obligations under the Senior Notes will be, jointly and severally, unconditionally guaranteed (the "**Guarantees**"), on a senior basis, by XM Holdings and each of the other guarantors listed on the signature pages hereto (collectively, the "**Guarantors,**" and together with the Company and XM Escrow, the "**Issuers**"). Upon consummation of this offering, the Company, XM Escrow and the Guarantors will execute a supplemental indenture to the Indenture in connection with the Guarantees (the "**Guarantor Indenture**" and the Indenture, as amended by the Assumption Indenture and the Guarantor Indenture, the "**Post-Merger Indenture**"). The Senior Notes and the Guarantees thereof are referred to herein as the "**Securities**."

Pursuant to this Purchase Agreement (this "**Agreement**"), the Indenture and the escrow and security agreement (the "**Escrow Agreement**") among XM Escrow, XM Holdings, The Bank of New York, as trustee and JPMorgan Chase Bank, N.A., as escrow agent (the "**Escrow Agent**"), XM Escrow is required on the Closing Date to (i) direct the Initial Purchasers to deposit into an escrow account (the "**Escrow Account**") $684,002,633.85 (the aggregate purchase price of the Senior Notes, as determined in accordance with Section 2 hereof, such amount being the "**Offering Proceeds**") and (ii) deposit or have deposited on its behalf an amount, together with the Offering Proceeds, sufficient to redeem the Senior Notes in cash at the redemption price equal to 100.0% of the accreted value of the Senior Notes, plus accrued interest to, but not including October 31, 2008) (such amount, together with the Offering Proceeds, the "**Initial Escrow Amount**", and together with all proceeds from the investment of the Initial Escrow Amount by the Escrow Agent, the "**Escrowed Funds**"). Unless the Initial Escrow Amount is released by the Escrow Agent to effectuate a Special Redemption (as such term is defined in the Indenture), the Escrowed Funds shall be released to XM Escrow at one time to be used in the manner described in the Pricing Disclosure Package under the caption "Use of proceeds."

The Securities will be offered and sold to the Initial Purchasers pursuant to an exemption from the registration requirements under the Securities Act of 1933, as amended (the "**Act**"). The Issuers have prepared a preliminary offering memorandum, dated as of July 20, 2008 (the "**Preliminary Offering Memorandum**"), a preliminary offering memorandum supplement dated July 24, 2008 (the "**Supplement**") and a pricing supplement thereto dated the date hereof including the information attached hereto as Exhibit B (the "**Pricing Supplement**"). The Preliminary Offering Memorandum, the Supplement and the Pricing Supplement are herein referred to as the "**Pricing Disclosure Package**." Promptly after the execution of this Agreement, the Issuers will prepare a final offering memorandum dated the date hereof (the "**Final Offering Memorandum**"). Unless stated to the contrary, any references herein to the terms "**Pricing Disclosure Package**" and "**Final Offering Memorandum**" shall be deemed to refer to and include any information filed under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), prior to the date hereof and incorporated by reference therein, and any references herein to the terms "amend," "amendment" or "supplement" with respect to the Final Offering Memorandum shall be deemed to refer to and include any information filed under the Exchange Act subsequent to the date hereof that is incorporated by reference therein. All references in this Agreement to financial statements and schedules and other information which is "contained," "included" or "stated" (or other references of like import) in the Pricing Disclosure Package (including the Preliminary Offering Memorandum) or the Final Offering Memorandum shall be deemed to mean and include all such financial statements and schedules and other information which are incorporated by reference in the Pricing Disclosure Package or the Final Offering Memorandum, as the case may be.

The Initial Purchasers have advised the Issuers that the Initial Purchasers intend, as soon as they deem practicable after this Agreement has been executed and delivered, to resell (the "**Exempt Resales**") the Securities in private sales exempt from registration under the Act on the terms set forth in the Pricing Disclosure Package, solely to (i) persons whom the Initial Purchasers reasonably believe to be "qualified institutional buyers" ("**QIBs**"), as defined in Rule 144A under the Act ("**Rule 144A**"), in accordance

with Rule 144A and (ii) other eligible purchasers pursuant to offers and sales that occur outside the United States within the meaning of Regulation S under the Act ("**Regulation S**") in accordance with Regulations S (the persons specified in clauses (i) and (ii), the "**Eligible Purchasers**").

The Securities are being offered and sold by the Issuers in connection with the refinancing of certain debt obligations of the Issuers, as described in the Pricing Disclosure Package under the caption "Summary—Refinancing transactions" (the "**Refinancing Transactions**").

This Agreement, the Senior Notes, the Guarantees, the Indenture, the Post-Merger Indenture and the Escrow Agreement are hereinafter sometimes referred to collectively as the "**Note Documents**." The issuance and sale of the Securities, the Refinancing Transactions and the consummation of the Mergers are collectively referred to as the "**Transactions**."

2. Agreements to Sell and Purchase. On the basis of the representations, warranties and covenants contained in this Agreement, the Issuers agree to issue and sell to the Initial Purchasers, and on the basis of the representations, warranties and covenants contained in this Agreement, and subject to the terms and conditions contained in this Agreement, each of the Initial Purchasers, severally and not jointly, agrees to purchase from XM Escrow, the aggregate principal amount of the Senior Notes set forth opposite its name on Schedule I attached hereto. The purchase price for the Senior Notes shall be 87.861610% of their principal amount.

3. Delivery and Payment. Delivery of, and payment of the purchase price for, the Securities shall be made at 10:00 a.m., New York time, on July 31, 2008 (such date and time, the "**Closing Date**") at the offices of Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022. The Closing Date and the location of delivery of and the form of payment for the Securities may be varied by mutual agreement between the Initial Purchasers and the Company.

The Securities shall be delivered by the Issuers to the Initial Purchasers (or as the Initial Purchasers direct) through the facilities of The Depository Trust Company ("**DTC**") against payment by the Initial Purchasers of the purchase price therefor by means of wire transfer of immediately available funds to such account or accounts specified by the Company in accordance with Section 8(i) on or prior to the Closing Date, or by such means as the parties hereto shall agree prior to the Closing Date. The Securities shall be evidenced by one or more certificates in global form registered in such names as the Initial Purchasers may request upon at least one business day's notice prior to the Closing Date and having an aggregate principal amount corresponding to the aggregate principal amount of the Securities.

4. Agreements of the Issuers. The Issuers, jointly and severally, covenant and agree with the Initial Purchasers as follows:

(a) To furnish the Initial Purchasers and those persons identified by the Initial Purchasers, without charge, as many copies of the Preliminary Offering Memorandum, the Supplement, the Pricing Supplement, any Issuer Written Communication (as defined below) and the Final Offering Memorandum, and any amendments or supplements thereto, as the Initial Purchasers may reasonably request. The Issuers consent to the use of the Preliminary Offering Memorandum, the Supplement, the Pricing Supplement and the Final Offering Memorandum by the Initial Purchasers in connection with Exempt Resales.

(b) As promptly as practicable following the execution and delivery of this Agreement and in any event not later than the second business day following the date hereof, to prepare and deliver to the Initial Purchasers the Final Offering Memorandum, which shall consist of the

Preliminary Offering Memorandum as modified only by the information contained in the Supplement and the Pricing Supplement; not to amend or supplement the Preliminary Offering Memorandum (other than as amended by the Supplement), the Supplement or the Pricing Supplement; not to amend or supplement the Final Offering Memorandum prior to the Closing Date unless the Initial Purchasers shall previously have been advised of such proposed amendment or supplement at least two business days prior to the proposed use, and shall not have objected to such amendment or supplement.

(c) If, prior to the later of (x) the Closing Date and (y) the time that the Initial Purchasers have completed their distribution of the Securities, any event shall occur that, in the judgment of the Issuers or in the judgment of counsel to the Initial Purchasers, makes any statement of a material fact in the Pricing Disclosure Package or the Final Offering Memorandum, as either is then amended or supplemented, untrue or that requires the making of any additions to or changes in the Pricing Disclosure Package or Final Offering Memorandum in order to make the statements in the Pricing Disclosure Package or the Final Offering Memorandum, as either is then amended or supplemented, in the light of the circumstances under which they are made, not misleading, or if it is necessary to amend or supplement the Pricing Disclosure Package or the Final Offering Memorandum to comply with all applicable laws, the Company shall promptly notify the Initial Purchasers of such event and (subject to Section 4(b)) prepare an appropriate amendment or supplement to the Pricing Disclosure Package or the Final Offering Memorandum so that (i) the statements in the Pricing Disclosure Package or Final Offering Memorandum, as amended or supplemented, will not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances at the Closing Date and at the time of sale of Securities, not misleading and (ii) the Pricing Disclosure Package and the Final Offering Memorandum will comply with applicable law.

(d) To qualify or register the Securities under the securities laws of such jurisdictions as the Initial Purchasers may request and to continue such qualification in effect so long as required for the Exempt Resales. Notwithstanding the foregoing, no Issuer shall be required to qualify as a foreign corporation in any jurisdiction in which it is not so qualified or to execute a general consent to service of process in any such jurisdiction or subject itself to taxation in excess of a nominal dollar amount in any such jurisdiction where it is not then so subject.

(e) To advise the Initial Purchasers promptly, and if requested by the Initial Purchasers, to confirm such advice in writing, of the issuance by any securities commission of any stop order suspending the qualification or exemption from qualification of any of the Securities for offering or sale in any jurisdiction, or the initiation of any proceeding for such purpose by any securities commission or other regulatory authority. The Issuers shall use their reasonable best efforts to prevent the issuance of any stop order or order suspending the qualification or exemption of any of the Securities under any securities laws, and if at any time any securities commission or other regulatory authority shall issue an order suspending the qualification or exemption of any of the Securities under any securities laws, the Issuers shall use their reasonable best efforts to obtain the withdrawal or lifting of such order at the earliest possible time.

(f) Whether or not the transactions contemplated by this Agreement are consummated, to pay all costs, expenses, fees and disbursements (including fees and disbursements of counsel and accountants for the Issuers) incurred and stamp, documentary or similar taxes incident to and in connection with: (i) the preparation, printing and distribution of the Preliminary Offering Memorandum, the Supplement, the Pricing Supplement, any Issuer Written Communication and the Final Offering Memorandum and any amendments or supplements thereto, (ii) all

expenses (including travel expenses) of the Issuers and the Initial Purchasers in connection with any meetings with prospective investors in the Securities, (iii) the preparation, notarization (if necessary) and delivery of the Note Documents and all other agreements, memoranda, correspondence and documents prepared and delivered in connection with this Agreement and with the Exempt Resales, (iv) the issuance, transfer and delivery of the Securities by the Issuers to the Initial Purchasers, (v) the qualification or registration of the Securities for offer and sale under the securities laws of the several states of the United States or provinces of Canada (including, without limitation, the cost of printing and mailing preliminary and final Blue Sky or legal investment memoranda and fees and disbursements of counsel (including local counsel) to the Initial Purchasers relating thereto), (vi) the application for quotation of the Securities in The PORTAL Market ("**Portal**") of The Nasdaq Stock Market, (vii) the inclusion of the Securities in the book-entry system of DTC, (viii) the rating of the Securities by rating agencies, (ix) the fees and expenses of the Trustee and its counsel and (x) the performance by the Issuers of their other obligations under the Note Documents. For the avoidance of doubt, the Issuers' obligations under this Section 4(f) shall not affect any expense sharing or contribution arrangements one or more of the Issuers may have with Sirius.

(g) To use the proceeds from the sale of the Securities in the manner described in the Pricing Disclosure Package under the caption "Use of proceeds," unless XM Escrow is required to effectuate a Special Redemption pursuant to the Indenture.

(h) To use its best efforts to do and perform all things required to be done and performed under this Agreement by it prior to or after the Closing Date and to satisfy all conditions precedent on their part to the delivery of the Securities.

(i) Not to, and not to permit any Subsidiary (as defined herein) nor any affiliates (as defined in Rule 501(b) of Regulation D under the Act) to, sell, offer for sale or solicit offers to buy any security (as defined in the Act) that would be integrated with the sale of the Securities in a manner that would require the registration under the Act of the sale of the Securities to the Initial Purchasers or any Eligible Purchasers.

(j) Not to, and to cause its affiliates (as defined in Rule 144 under the Act) not to, resell any of the Securities that have been reacquired by any of them.

(k) Not to engage, not to allow any Subsidiary to engage, and to cause its other affiliates and any person acting on their behalf (other than, in any case, the Initial Purchasers and any of their affiliates, as to whom the Issuers make no covenant) not to engage, in any form of general solicitation or general advertising (within the meaning of Regulation D under the Act) in connection with any offer or sale of the Securities in the United States.

(l) Not to engage, not to allow any Subsidiary to engage, and to cause its other affiliates and any person acting on their behalf (other than, in any case, the Initial Purchasers and any of their affiliates, as to whom the Issuers make no covenant) not to engage, in any directed selling effort with respect to the Securities, and to comply with the offering restrictions requirement of Regulation S. Terms used in this paragraph have the meanings given to them by Regulation S.

(m) From and after the Closing Date, for so long as any of the Securities remain outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the Act and during any period in which XM Holdings is not subject to Section 13 or 15(d) of the Exchange

Act, to make available upon request the information required by Rule 144A(d)(4) under the Act to (i) any holder or beneficial owner of Securities in connection with any sale of such Securities and (ii) any prospective purchaser of such Securities from any such holder or beneficial owner designated by the holder or beneficial owner. XM Holdings will pay the expenses of preparing, printing and distributing such documents.

(n) [Intentionally Omitted].

(o) To comply with their obligations under the letter of representations to DTC relating to the approval of the Securities by DTC for "book-entry" transfer and to use their best efforts to obtain approval of the Securities by DTC for "book-entry" transfer.

(p) Prior to the Closing Date, to furnish without charge to the Initial Purchasers, (i) all reports and other communications (financial or otherwise) that XM Holdings mails or otherwise makes available to its security holders and (ii) such other information as the Initial Purchasers shall reasonably request.

(q) Not to, and not to permit any of its affiliates or anyone acting on its or its affiliates' behalf to (other than the Initial Purchasers and their affiliates), distribute prior to the Closing Date any offering material in connection with the offer and sale of the Securities other than the Preliminary Offering Memorandum, the Supplement, the Pricing Supplement, any "road show" (as defined in Rule 433 under the Securities Act) and the Final Offering Memorandum. Before making, preparing, using, authorizing, approving or referring to any Issuer Written Communication, the Issuers will furnish to the Representative and counsel for the Initial Purchasers a copy of such written communication for review and will not make, prepare, use, authorize, approve or refer to any such written communication to which the Representative reasonably objects.

(r) During the period of two years after the Closing Date or, if earlier, until such time as the Securities are no longer restricted securities (as defined in Rule 144 under the Act), not to be or become a closed-end investment company required to be registered, but not registered, under the Investment Company Act of 1940.

(s) In connection with the offering, until the Initial Purchasers shall have notified XM Holdings and the Company of the completion of the distribution of the Securities, not to, and not to permit any of their affiliates (as such term is defined in Rule 501(b) of Regulation D under the Act) to, either alone or with one or more other persons, bid for or purchase for any account in which it or any of their affiliates has a beneficial interest, for the purpose of creating actual or apparent active trading in, or of raising the price of, the Securities.

(t) To use their reasonable best efforts to effect the inclusion of the Securities in Portal.

(u) During the period from the date hereof through and including the date that is 90 days after the date hereof, without the prior written consent of the Representative, offer, sell, contract to sell or otherwise dispose of in any transaction required to be registered under the Act or pursuant to Rule 144A, any debt securities issued or guaranteed by XM Holdings, XM Escrow, the Company or any Subsidiary and having a tenor of more than one year, *provided*, *however*, that the foregoing restriction shall not apply to debt securities issued in connection with the Refinancing Transactions or a letter of credit or other collateral used to replace the MLB escrow arrangement, in an amount not to exceed $120.0 million.

(v) To deposit the Offering Proceeds into the Escrow Account and to comply with all of its agreements set forth in the Escrow Agreement and to use its best efforts to do and perform all things necessary to perfect a first priority security interest in Escrowed Funds and the other Collateral (as such terms are defined in the Escrow Agreement).

(w) Upon consummation of the Escrow Merger, that the Company shall assume all of XM Escrow's obligations under the Note Documents pursuant to the Assumption Indenture and the Escrow Merger Agreement.

5. Representations and Warranties. (a) The Issuers, jointly and severally, represent and warrant to the Initial Purchasers that, as of the date hereof and as of the Closing Date:

(i) Neither the Pricing Disclosure Package, as of the date hereof, nor the Final Offering Memorandum, as of its date or (as amended or supplemented in accordance with Section 4(b), if applicable) as of the Closing Date, contains or represents any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided*, *however*, that the Issuers make no representation or warranty with respect to information relating to the Initial Purchasers contained in or omitted from the Pricing Disclosure Package, the Final Offering Memorandum or any amendment or supplement thereto in reliance upon and in conformity with information furnished to the Company in writing by or on behalf of any Initial Purchaser through the Representative expressly for inclusion in the Pricing Disclosure Package, the Final Offering Memorandum or amendment or supplement thereto, as the case may be. No order preventing the use of the Preliminary Offering Memorandum, the Supplement, the Pricing Supplement or the Final Offering Memorandum, or any amendment or supplement thereto, or any order asserting that any of the transactions contemplated by this Agreement are subject to the registration requirements of the Act, has been issued or, to the knowledge of the Issuers, has been threatened.

(ii) The Issuers (including its agents and representatives, other than the Initial Purchasers in their capacity as such) have not prepared, made, used, authorized, approved or referred to and will not prepare, make, use, authorize, approve or refer to any written communication that constitutes an offer to sell or solicitation of an offer to buy the Securities (each such communication by the Company or its agents and representatives an "**Issuer Written Communication**") other than (i) the Pricing Disclosure Package, (ii) the Final Offering Memorandum, and (iii) any electronic road show or other written communications, in each case used in accordance with Section 4(q). Each such Issuer Written Communication, when taken together with the Pricing Disclosure Package, did not, and at the Closing Date will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(iii) The documents incorporated by reference in each of the Pricing Disclosure Package and the Final Offering Memorandum at the time they were or hereafter are filed with the Securities and Exchange Commission (the "**Commission**") complied and will comply in all material respects with the requirements of the Exchange Act and the rules and regulations of the Commission thereunder (the "**Exchange Act Regulations**").

(iv) There are no securities of the Issuers that are listed on a national securities exchange registered under Section 6 of the Exchange Act or that are quoted in a United States automated interdealer quotation system of the same class within the meaning of Rule 144A as the Securities.

(v) The capitalization of XM Holdings and it subsidiaries (i) was, as of March 31, 2008, as set forth in the Pricing Disclosure Package and the Final Offering Memorandum in the "Actual" column under the heading "Capitalization," (ii) is, as of the date hereof, as set forth in the Pricing Disclosure Package and the Final Offering Memorandum in the "As adjusted for incremental borrowings subsequent to March 31, 2008" column under heading "Capitalization" and (iii) assuming the consummation of the Transactions on the terms described therein, will be, as of the Closing Date, as set forth in the Pricing Disclosure Package and the Final Offering Memorandum in the "Pro Forma as adjusted for the merger and Refinancing Transactions" column under the heading "Capitalization." Attached as Schedule II is a true and complete list of each entity in which XM Holdings has a direct or indirect majority equity or voting interest (each, a "**Subsidiary**" and, together, the "**Subsidiaries**"), their jurisdictions of organization, name of its equityholder(s) and percentage held by each equityholder. All of the issued and outstanding equity interests of each Subsidiary have been duly and validly authorized and issued, are and after giving effect to the Mergers will be, fully paid and nonassessable, were not issued in violation of any preemptive or similar right and, except as set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum, are owned, and after giving effect to the Mergers will be owned, directly or indirectly through Subsidiaries, by XM Holdings free and clear of all liens (other than transfer restrictions imposed by the Act, the securities or Blue Sky laws of certain jurisdictions and security interests granted pursuant to existing security agreements (the "**Existing Security Agreements**") in respect of the Third Amended and Restated Distribution and Credit Agreement, dated as of February 6, 2008, the 10% senior secured discount convertible notes due 2009, the Credit Agreement, dated May 5, 2006, as amended, and the Credit Agreement, dated June 26, 2008. Except as set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum, there are not currently and after giving effect to the Mergers there will not be, any outstanding options, warrants or other rights to acquire or purchase, or instruments convertible into or exchangeable for, any equity interests of XM Escrow, XM Holdings, the Company or any of the Subsidiaries.

(vi) Each of XM Escrow, the Company, XM Holdings and each Subsidiary (A) is a corporation, limited liability company, partnership or other entity duly organized and validly existing under the laws of the jurisdiction of its organization; (B) has, and after giving effect to the Mergers will have, all requisite corporate or other power and authority necessary to own its property and carry on its business as now being conducted and (C) is, and after giving effect to the Mergers will be, qualified to do business and is in good standing in all jurisdictions in which the nature of the business conducted by it or its ownership of property makes such qualification necessary, except where the failure to be so qualified and be in good standing, individually or in the aggregate, could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. A "**Material Adverse Effect**" means (x) a material adverse effect on the business, proposed business (including giving effect to the Transactions), condition (financial or other), results of operations, performance, properties or affairs of XM Holdings and the Subsidiaries, taken as a whole or (y) an adverse effect on the ability to consummate the Transactions on a timely basis. As of the date hereof, XM Escrow does not have and as of the Closing Date will not have, any operations, Subsidiaries, assets, indebtedness, liabilities or obligations, other than the Senior Notes and obligations pursuant to this Agreement or the Note Documents.

(vii) Each Issuer has all requisite corporate or other power and authority to execute, deliver and perform all of its obligations under the Note Documents to which it is a party and to consummate the transactions contemplated hereby, and, without limitation, XM Escrow has all requisite corporate power and authority to issue, sell and deliver and perform its obligations under the Senior Notes.

(viii) This Agreement has been duly and validly authorized, executed and delivered by each Issuer.

(ix) The Indenture has been duly and validly authorized by XM Escrow and, when it is duly executed and delivered by XM Escrow (assuming the due authorization, execution and delivery thereof by the Trustee), will be a legally binding and valid obligation of XM Escrow, enforceable against XM Escrow in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity and the discretion of the court before which any proceeding therefor may be brought (the "**Bankruptcy Exceptions**"). The Indenture, when executed and delivered, will conform in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(x) The Senior Notes have been duly and validly authorized for issuance and sale to the Initial Purchasers by XM Escrow, and when issued, authenticated and delivered by XM Escrow against payment therefor by the Initial

Purchasers in accordance with the terms of this Agreement and the Indenture, the Senior Notes will be legally binding and valid obligations of XM Escrow, entitled to the benefits of the Indenture and enforceable against XM Escrow in accordance with their terms, except as the enforcement thereof may be limited by the Bankruptcy Exceptions. The Assumption Indenture has been duly and validly authorized by the Company and XM Escrow and the Guarantor Indenture has been duly and validly authorized by XM Escrow, the Company and the Guarantors and (1) when each such supplemental indenture is duly executed and delivered by the Company and XM Escrow in the case of the Assumption Indenture and the Company, XM Escrow and the Guarantors in the case of the Guarantor Indenture (assuming in each case the due authorization, execution and delivery thereof by the Trustee) and (2) upon consummation of the Escrow Merger, the Assumption Indenture will be a legally valid and binding obligation of the Company and XM Escrow and the Guarantor Indenture will be a legally binding and valid obligation of the Company and the Guarantors, each enforceable against the Company, XM Escrow and/or the Guarantors (as applicable) in accordance with its terms, except as the enforcement thereof may be limited by the Bankruptcy Exceptions. The Senior Notes, when issued, authenticated and delivered, will conform in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(xi) The Guarantees have been duly and validly authorized by each of the Guarantors and, upon consummation of the Escrow Merger and the effectiveness of the Guarantor Indenture, the Guarantees will be legally binding and valid obligations of the Guarantors, enforceable against each of them in accordance with their terms, except that enforceability thereof may be limited by the Bankruptcy Exceptions. The Guarantees, when executed and delivered, will conform in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(xii) [Intentionally Omitted].

(xiii) The Escrow Agreement has been duly and validly authorized by XM Escrow and XM Holdings, when it is duly executed and delivered by XM Escrow and XM Holdings (assuming the due authorization, execution and delivery thereof by the Escrow Agent and the Trustee), will be a legally binding and valid obligation of each of XM Escrow and XM Holdings, enforceable against each of them in accordance with it terms, except as the enforcement thereof may be limited by the Bankruptcy Exceptions. The Escrow Agreement conforms in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(xiv) The Merger Agreement conforms in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(xv) The Agreement of Merger of XM Escrow into and with the Company, to be dated as of the Closing Date (the "**Escrow Merger Agreement**") has been duly and validly authorized by XM Escrow and the Company and will be, as of the Closing Date, a legally binding and valid obligation of each of XM Escrow and the Company, enforceable against each of them in accordance with its terms, except as the enforcement thereof may be limited by the Bankruptcy Exceptions.

(xvi) XM Escrow has not entered into any Agreements and Instruments (as defined below) other than the respective Note Documents to which it is a party.

(xvii) None of XM Escrow, XM Holdings, the Company nor any Subsidiary is, or after giving effect to the Mergers and the offering of Senior Notes will be, (A) in violation of its charter, bylaws or other constitutive documents, (B) in default (or, with notice or lapse of time or both, would be in default) in the performance or observance of any obligation, agreement, covenant or condition contained in any bond, debenture, note, indenture, mortgage, deed of trust, loan or credit agreement, lease, license, franchise agreement, authorization, permit, certificate or other agreement or instrument to which XM Escrow, XM Holdings, Company or any Subsidiary is a party or by which any of them is bound or to which any of their assets or properties is subject (collectively, "**Agreements and Instruments**"), or (C) except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, in violation of any law, statute, rule or regulation or any judgment, order or decree of any domestic or foreign court or other governmental or regulatory authority, agency or other body with jurisdiction over any of them or any of their assets or properties ("**Governmental Authority**") including, without limitation, the Communications Act of 1934 (the "**Communications Act**") and the rules and regulations of the Federal Communications Commission (the "**FCC**"), except, in the case of clauses (B) and (C), for such defaults or violations as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, XM Holdings and its Subsidiaries possess all licenses, permits, approvals, registrations and other authorizations from the FCC and foreign regulatory bodies necessary to the conduct of its business (the "**Communications Licenses**"). Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, the Communications Licenses are in full force and effect, have not been revoked, suspended, canceled, rescinded or terminated, have not expired, and are not subject to any condition except those set forth on the Communications Licenses themselves or which are generally applicable to authorizations of such type. Except as set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum (i) to the best knowledge of XM Escrow, the Company and XM Holdings, there is not pending any action by or before the FCC or any foreign regulatory body to revoke, suspend, cancel, rescind or materially and adversely modify any of the Communications Licenses (other than proceedings of general applicability); (ii)

there is not issued or outstanding, by or before the FCC or any foreign regulatory body, any order to show cause, notice of violation, notice of apparent liability, order of forfeiture or similar notice against XM Holdings or any of its Subsidiaries that could result in any such action; (iii) to the best knowledge of XM Escrow, the Company and XM Holdings, there are not pending or threatened any petitions to deny, complaints, investigations, or other proceedings by or before the FCC, any foreign regulatory body or any court of competent jurisdiction (with respect to any appeal of any decision by the FCC or a foreign regulatory body) concerning XM Holdings or any of its Subsidiaries or the Communications Licenses that can reasonably be expected to result in a Material Adverse Effect. Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, XM Holdings and its Subsidiaries have made, or have caused to be made, all reports and filings required to be filed by XM Holdings and any of it Subsidiaries with the FCC or any foreign or international regulatory body (including, without limitation, the International Telecommunication Union), and such reports and filings have been timely filed and are accurate and complete in all material respects, except for such filings which if not made or untimely filed would not reasonably be expected to result in a Material Adverse Effect. Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, to the best knowledge of XM Escrow, the Company and XM Holdings, there exists no condition that, and after giving effect to the Mergers there will exist no condition that, with notice, the passage of time or otherwise, would constitute a default under any such document or instrument described in this Section 5(xvii), which default could reasonably be expected to have a Material Adverse Effect.

(xviii) The execution, delivery and performance of the Note Documents and consummation of the Transactions does not and will not (i) violate the charter, bylaws or other constitutive documents of XM Escrow, XM Holdings, the Company or any Subsidiary, (ii) conflict with or constitute a breach of or a default under (or an event that with notice or the lapse of time, or both, would constitute a default), or require consent under, or result in a Repayment Event (as defined below), other than a Repayment Event that will be satisfied at the Closing Date or as contemplated by each of the Pricing Disclosure Package and the Final Offering Memorandum (including the Refinancing Transactions, any offer to repurchase any of the Company's senior floating rate notes due 2013 or 10% senior secured discount notes and the amendment to the indenture governing the Company's 1.75% convertible senior notes due 2009 (the "**1.75% Notes**") to increase the interest rate on such 1.75% Notes), or the creation or imposition of a lien, charge or encumbrance on any property or assets of XM Escrow, XM Holdings, the Company or any Subsidiary under any of the Agreements and Instruments, to the extent a party thereto or (iii) violate any law, statute, rule or regulation, including, without limitation, Regulation T, U or X of the Board of Governors of the Federal Reserve System, or any judgment, order or decree of any Governmental Authority. Assuming the accuracy of the representations and warranties of the Initial Purchasers in Section 5(b) of this Agreement,

no consent, approval, authorization or order of, or filing, registration, qualification, license or permit of or with, any Governmental Authority is required to be obtained or made by XM Escrow, XM Holdings, the Company or any Subsidiary for the execution, delivery and performance by XM Escrow, XM Holdings, the Company or any Subsidiary of the Note Documents and the consummation of the Transactions, except such as have been or will be obtained or made on or prior to the Closing Date. No consents or waivers from any other person or entity are or will be required for the execution, delivery and performance of the Note Documents and the consummation of the Transactions, other than such consents and waivers as have been obtained or will be obtained prior to the Closing Date and will be in full force and effect. As used herein, a "**Repayment Event**" means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by XM Escrow, XM Holdings, the Company or any Subsidiary.

(xix) (1) KPMG LLP, the public accountants whose report is included or incorporated by reference in each of the Pricing Disclosure Package and the Final Offering Memorandum, are independent within the meaning of the Act and the rules of the Public Company Accounting Oversight Board. The historical financial statements (including the notes thereto) included or incorporated by reference in each of the Pricing Disclosure Package and the Final Offering Memorandum present fairly in all material respects the consolidated financial position, results of operations, cash flows and changes in stockholder's equity of the entities to which they relate at the respective dates and for the respective periods indicated. All such financial statements have been prepared in accordance with generally accepted accounting principles in the United States ("**GAAP**") applied on a consistent basis throughout the periods presented (except as disclosed therein) and in compliance with Regulation S-X ("**Regulation S-X**") under the Exchange Act, except that the interim financial statements do not include full footnote disclosure. The information set forth under the caption "Summary — Summary of historical consolidated financial data" included in each of the Pricing Disclosure Package and the Final Offering Memorandum have been prepared on a basis consistent with that of the audited financial statements of the Company. (2) Since the date as of which information is given in each of the Pricing Disclosure Package and the Final Offering Memorandum, except as set forth or contemplated in each of the Pricing Disclosure Package and the Final Offering Memorandum, (A) none of XM Escrow, XM Holdings, the Company or any Subsidiary has (1) incurred any liabilities or obligations, direct or contingent, that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, or (2) entered into any material transaction not in the ordinary course of business, (B) there has not been any event or development in respect of the business or condition (financial or other) of XM Holdings, the Company or any Subsidiary that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, (C) there has

been no dividend or distribution of any kind declared, paid or made by XM Holdings on any of its equity interests and (D) there has not been any change in the long-term debt of XM Holdings, the Company or any Subsidiary.

(xx) The assumptions used in the pro forma and as adjusted financial information included in each of the Pricing Disclosure Package and the Final Offering Memorandum are reasonable, and the adjustments used therein are appropriate to give effect to the transactions or circumstances referred to therein.

(xxi) The statistical and market-related data and forward-looking statements included in each of the Pricing Disclosure Package and the Final Offering Memorandum are based on or derived from sources that the Issuers believe to be reliable and accurate in all material respects and represent their good faith estimates that are made on the basis of data derived from such sources. The Company has obtained the written consent to the use of such data from such sources to the extent required.

(xxii) As of the date hereof and as of the Closing Date, immediately prior to and immediately following the consummation of the Transactions, each Issuer is and will be Solvent. As used herein, "**Solvent**" shall mean, for any person on a particular date, that on such date (A) the fair value of the property of such person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such person, (B) the present fair salable value of the assets of such person is not less than the amount that will be required to pay the probable liability of such person on its debts as they become absolute and matured, (C) such person does not intend to, and does not believe that it will, incur debts and liabilities beyond such person's ability to pay or refinance as such debts and liabilities mature, (D) such person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such person's property would constitute an unreasonably small capital and (E) such person is able to pay or refinance its debts as they become due and payable.

(xxiii) Except as set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum, there is (A) no action, suit or proceeding before or by any Governmental Authority or arbitrator, now pending or, to the knowledge of the Issuers, threatened or contemplated, to which XM Escrow, XM Holdings, the Company or any Subsidiary is or may be a party or to which the business, assets or property of XM Escrow, XM Holdings, the Company or any Subsidiary is or may be subject, (B) no law, statute, rule or regulation that has been enacted, adopted or issued or, to the knowledge of the Issuers, that has been proposed by any Governmental Authority, (C) no judgment, decree or order of any Governmental Authority that, in any of clause (A), (B) or (C), could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(xxiv) Except as could not reasonably be expected to have a Material Adverse Effect, no labor disturbance by the employees of XM Holdings, the Company or any Subsidiary exists or, to the knowledge of the Issuers, is imminent.

(xxv) None of XM Escrow, XM Holdings, the Company or any of the Subsidiaries has, or after giving effect to the Mergers will have, violated any environmental, safety or similar law or regulation applicable to it or its business or property relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants ("**Environmental Laws**"), lacks or after giving effect to the Mergers will lack, any permit, license or other approval required of it under applicable Environmental Laws, is violating or after giving effect to the Mergers will be violating, any term or condition of such permit, license or approval or is subject to any pending or threatened liability under the Environmental Laws which could reasonably be expected to, either individually or in the aggregate, have a Material Adverse Effect.

(xxvi) Each of XM Escrow, XM Holdings, the Company and the Subsidiaries have, and after giving effect to the Mergers will have, except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum (A) all licenses, certificates, permits, authorizations, approvals, franchises and other rights from, and has made all declarations and filings with, all applicable Governmental Authorities and all self-regulatory authorities (each, an "**Authorization**") necessary to engage in the business conducted by it in the manner described in each of the Pricing Disclosure Package and the Final Offering Memorandum, except where the failure to hold such Authorizations could not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect, and (B) no reason to believe that any Governmental Authority or self-regulatory authority is considering or threatening limiting, suspending or revoking any such Authorization, except where such limitation, suspension or revocation could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, all such Authorizations are, and after giving effect to the Mergers will be, valid and in full force and effect, and XM Escrow, XM Holdings, the Company and the Subsidiaries are, and after giving effect to the Mergers will be, in compliance in all material respects with the terms and conditions of all such Authorizations and with the rules and regulations of the authorities having jurisdiction with respect to such Authorizations, except for any invalidity, failure to be in full force and effect or noncompliance with any Authorization that could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(xxvii) Each of XM Holdings and the Subsidiaries have, and after giving effect to the Mergers will have, good, valid and marketable title in fee simple to all items of owned real property and valid title to all personal property owned by each of them, in each case free and clear of any pledge, lien,

encumbrance, security interest or other defect or claim of any third party, except (A) such as do not materially and adversely affect the value of such property and do not materially interfere with the use made or proposed to be made of such property by XM Holdings or such Subsidiary, (B) liens described in each of the Pricing Disclosure Package and the Final Offering Memorandum, (C) as created pursuant to the Indenture or the Post-Merger Indenture and (D) liens permitted by the Indenture, Post-Merger Indenture and Existing Security Agreements. Any real property, personal property and buildings held under lease by XM Holdings or any such Subsidiary are, and after giving effect to the Mergers will be, held under valid, subsisting and enforceable leases, with such exceptions as do not materially interfere with the use made or proposed to be made of such property and buildings by XM Holdings or such Subsidiary.

(xxviii) Each of XM Escrow, XM Holdings, the Company and each Subsidiary owns, possesses or has the right to employ, and after giving effect to the Mergers will own, possess or have the right to employ all patents, patent rights, licenses (including all FCC, state, local or other regulatory licenses) inventions, copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks and trade names, (collectively, the "**Intellectual Property**") necessary to conduct the businesses operated by it or that are proposed to be operated by it, including after giving effect to the Mergers, as described in each of the Pricing Disclosure Package and the Final Offering Memorandum, except where the failure to own, possess or have the right to employ such Intellectual Property, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. None of XM Escrow, XM Holdings, nor the Company nor any Subsidiary has received any notice of infringement of or conflict with (and neither knows of any such infringement or a conflict with) asserted rights of others with respect to any of the foregoing that could reasonably be expected to have a Material Adverse Effect. The use of the Intellectual Property in connection with the business and operations of XM Holdings, the Company and the Subsidiaries does not infringe, and after giving effect to the Mergers will not infringe, on the rights of any person, except for such infringement as could not reasonably be expected to have a Material Adverse Effect.

(xxix) All tax returns required to be filed by XM Escrow, XM Holdings, the Company or any Subsidiary have been filed in all jurisdictions where such returns are required to be filed; and all taxes, including withholding taxes, value added and franchise taxes, penalties and interest, assessments, fees and other charges due or claimed to be due from such entities or that are due and payable have been paid, other than those being contested in good faith and for which reserves have been provided in accordance with GAAP or those currently payable without penalty or interest and except where the failure to make such required filings or payments could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(xxx) Neither XM Escrow, XM Holdings, nor the Company nor any Subsidiary has, or after giving effect to the Mergers will have, any liability for any prohibited transaction or accumulated funding deficiency (within the meaning of Section 412 of the Internal Revenue Code) or any complete or partial withdrawal liability with respect to any pension, profit sharing or other plan which is subject to the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), to which XM Escrow, XM Holdings, the Company or any Subsidiary makes or ever has made a contribution and in which any employee of XM Escrow, XM Holdings, the Company or any Subsidiary is or has ever been a participant. With respect to such plans, each of XM Escrow, XM Holdings, the Company and each Subsidiary is, and after giving effect to the Mergers will be, in compliance in all material respects with all applicable provisions of ERISA.

(xxxi) None of XM Holdings nor any Subsidiary is, or after giving effect to the Transactions will be, required to be registered as an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

(xxxii) XM Holdings, the Company and the Subsidiaries maintain, and after giving effect to the Mergers will maintain, a system of internal accounting controls sufficient to provide reasonable assurance that: (A) transactions are executed in accordance with management's general or specific authorizations; (B) transactions are recorded as necessary to permit preparation of their financial statements in conformity with GAAP and to maintain accountability for assets; (C) access to assets is permitted only in accordance with management's general or specific authorization; and (D) the recorded accountability for their assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(xxxiii) XM Escrow, XM Holdings, the Company and the Subsidiaries have established and maintain, and after giving effect to the Mergers will maintain, disclosure controls and procedures (as such term is defined in Rules 13a-15 and 15d-14 under the Exchange Act); such disclosure controls and procedures are designed to ensure that material information relating to XM Holdings, the Company and the Subsidiaries is made known to the chief executive officer and chief financial officer of XM Holdings and the Company by others within XM Holdings or Company or any Subsidiary, and such disclosure controls and procedures are reasonably effective to perform the functions for which they were established subject to the limitations of any such control system; XM Holdings' and the Company's auditors and the audit committee of the board of directors of XM Holdings and the Company have been advised of: (A) any significant deficiencies in the design or operation of internal controls which could adversely affect XM Holdings' or the Company's ability to record, process, summarize, and report financial data; and (B) any fraud, whether or not material, that involves management or other employees who have a role in XM Holdings' or the Company's internal controls;

and since the date of the most recent evaluation of such disclosure controls and procedures, there have been no significant changes in internal controls or in other factors that could significantly affect internal controls. XM Escrow, XM Holdings and the Company has provided or made available to the Initial Purchasers or their counsel true and complete copies of all extant minutes or draft minutes of meetings, or resolutions adopted by written consent, of the boards of directors of XM Escrow, XM Holdings and the Company and each committee of each such board in the past three years, and all agendas for each such meeting for which minutes or draft minutes do not exist.

(xxxiv) Neither XM Holdings nor any of its affiliates (as defined in Rule 501(b) of Regulation D under the Act) has, directly or through any person acting on its or their behalf (other than any Initial Purchaser, as to which no representation is made), (A) taken, directly or indirectly, any action designed to, or that might reasonably be expected to, cause or result in stabilization or manipulation of the price of any security of any Issuer to facilitate the sale or resale of the Securities, (B) sold, bid for, purchased or paid any person any compensation for soliciting purchases of the Securities in a manner that would require registration of the Securities under the Act or paid or agreed to pay to any person any compensation for soliciting another to purchase any other securities of any Issuer in a manner that would require registration of the Securities under the Act, (C) sold, offered for sale, contracted to sell, pledged, solicited offers to buy or otherwise disposed of or negotiated in respect of any security (as defined in the Act) that is currently or will be integrated with the sale of the Securities in a manner that would require the registration of the Securities under the Act or (D) engaged in any directed selling effort (as defined by Regulation S) with respect to the Securities, and each of them has complied with the offering restrictions requirement of Regulation S.

(xxxv) No form of general solicitation or general advertising (prohibited by the Act in connection with offers or sales such as the Exempt Resales) was used by XM Escrow, XM Holdings, the Company or any person acting on its behalf (other than any Initial Purchaser, as to which no representation is made) in connection with the offer and sale of any of the Securities or in connection with Exempt Resales, including, but not limited to, articles, notices or other communications published in any newspaper, magazine or similar medium or broadcast over television or radio or the Internet, or any seminar or meeting whose attendees have been invited by any general solicitation or general advertising within the meaning of Regulation D under the Act. Neither XM Escrow nor the Company nor any of its affiliates has entered into, or will enter into, any contractual arrangement with respect to the distribution of the Securities except for this Agreement.

(xxxvi) Except as described in the section entitled “Plan of distribution” in each of the Pricing Disclosure Package and the Final Offering Memorandum, there are no contracts, agreements or understandings between XM Escrow, XM Holdings, the Company or any Subsidiary and any other person

other than the Initial Purchasers pursuant to this Agreement that would give rise to a valid claim against XM Escrow, XM Holdings, the Company, any Subsidiary or any of the Initial Purchasers for a brokerage commission, finder's fee or like payment in connection with the issuance, purchase and sale of the Securities.

(xxxvii) There is and has been no failure on the part of XM Escrow, XM Holdings, the Company and any of XM Holdings' or the Company's directors or officers, in their capacities as such, to comply in all material respects with any presently applicable provision of the Sarbanes Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the "**Sarbanes Oxley Acf**"), including Section 402 related to loans and Sections 302 and 906 related to certifications.

Each certificate signed by any officer of any Issuer and delivered to the Initial Purchasers or counsel for the Initial Purchasers pursuant to, or in connection with, this Agreement shall be deemed to be a representation and warranty by the Issuers to the Initial Purchasers as to the matters covered by such certificate.

The Issuers acknowledge that the Initial Purchasers and, for purposes of the opinions to be delivered to the Initial Purchasers pursuant to Section 8 of this Agreement, counsel to the Issuers and counsel to the Initial Purchasers will rely upon the accuracy and truth of the foregoing representations and the Issuers hereby consent to such reliance.

(b) Each Initial Purchaser represents that it is a QIB and acknowledges that it is purchasing the Securities pursuant to a private sale exemption from registration under the Act, and that the Securities have not been registered under the Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except pursuant to an exemption from the registration requirements of the Act. Each Initial Purchaser, severally and not jointly, represents, warrants and covenants to the Issuers that:

(i) Neither it, nor any person acting on its behalf, has or will solicit offers for, or offer or sell, the Securities by any form of general solicitation or general advertising (as those terms are used in Regulation D under the Act) or in any manner involving a public offering within the meaning of Section 4(2) of the Act, and it has and will solicit offers for the Securities only from, and will offer and sell the Securities only to, (1) persons whom such Initial Purchaser reasonably believes to be QIBs or, if any such person is buying for one or more institutional accounts for which such person is acting as fiduciary or agent, only when such person has represented to such Initial Purchaser that each such account is a QIB to whom notice has been given that such sale or delivery is being made in reliance on Rule 144A, and, in each case, in reliance on the exemption from the registration requirements of the Act pursuant to Rule 144A, or (2) persons other than U.S. persons outside the United States in reliance on, and in compliance with, the exemption from the registration requirements of the Act provided by Regulation S.

(ii) With respect to offers and sales outside the United States, such Initial Purchaser has offered the Securities and will offer and sell the Securities

(1) as part of its distribution at any time and (2) otherwise until 40 days after the later of the commencement of the offering of the Securities and the Closing Date, only in accordance with Rule 903 of Regulation S or another exemption from the registration requirements of the Act. Accordingly, neither such Initial Purchasers nor any person acting on their behalf has engaged or will engage in any directed selling efforts (within the meaning of Regulation S) with respect to the Securities, and any such persons have complied and will comply with the offering restrictions requirements of Regulation S. Terms used in this Section 5(b)(ii) have the meanings given to them by Regulation S.

Each Initial Purchaser severally agrees that, at or prior to confirmation of a sale of Securities pursuant to Regulation S it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Securities from it or through it during the restricted period a confirmation or notice to substantially the following effect:

"The Securities covered hereby have not been registered under the United States Securities Act of 1933, as amended (the "Securities Act"), and may not be offered or sold within the United States or to or for the account or benefit of, U.S. persons (i) as part of their distribution at any time and (ii) otherwise until forty days after the later of the date upon which the offering of the Securities commenced and the date of closing, except in either case in accordance with Regulation S or Rule 144A under the Securities Act. Terms used above have the meaning given to them by Regulation S."

The Initial Purchasers understand that the Issuers and, for purposes of the opinions to be delivered to them pursuant to Section 8 hereof, counsel to the Issuers and counsel to the Initial Purchasers will rely upon the accuracy and truth of the foregoing representations, and each Initial Purchaser hereby consents to such reliance.

6. Indemnification. (a) The Issuers, jointly and severally, agree to indemnify and hold harmless the Initial Purchasers, each person, if any, who controls any Initial Purchaser within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act, the agents, employees, officers and directors of any Initial Purchaser and the agents, employees, officers and directors of any such controlling person from and against any and all losses, liabilities, claims, damages and expenses whatsoever (including, but not limited, to reasonable attorneys' fees and any and all reasonable expenses whatsoever incurred in investigating, preparing or defending against any litigation, commenced or threatened, or any claim whatsoever, and any and all reasonable amounts paid in settlement of any claim or litigation) (collectively, "**Losses**") to which they or any of them may become subject under the Act, the Exchange Act or otherwise insofar as such Losses (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Pricing Disclosure Package, any Issuer Written Communication (including, but not limited to, any "road show," as defined in Rule 433 under the Securities Act), the Final Offering Memorandum, or in any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided* that none of the Issuers will be liable in any such case to the extent, but only to the extent, that any such Loss arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission relating to an Initial Purchaser made therein in reliance upon and in conformity with written information furnished to XM Escrow and the Company by or on behalf of such Initial Purchaser through the Representative expressly for use therein. This indemnity agreement will be in addition to any liability that the Issuers may otherwise have, including, but not limited to, liability under this Agreement.

(b) Each Initial Purchaser agrees to indemnify and hold harmless the Issuers, and each person, if any, who controls any of the Issuers within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act, the agents, employees, officers and directors and the agents, employees, officers and directors of any of the Issuers of any such controlling person from and against any and all Losses to which they or any of them may become subject under the Act, the Exchange Act or otherwise insofar as such Losses (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Pricing Disclosure Package or the Final Offering Memorandum, or in any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, in each case to the extent, but only to the extent, that any such Loss arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission relating to such Initial Purchaser made therein in reliance upon and in conformity with information furnished in writing to XM Escrow and the Company by or on behalf of such Initial Purchaser through the Representative expressly for use therein.

(c) Promptly after receipt by an indemnified party under subsection 6(a) or 6(b) above of notice of the commencement of any action, suit or proceeding (collectively, an "**action**"), such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify each party against whom indemnification is to be sought in writing of the commencement of such action; *provided* that the failure so to notify an indemnifying party shall not relieve such indemnifying party from any liability that it may have under this Section 6 except to the extent that it has been prejudiced in any material respect by such failure; and *provided further*, that the failure to notify an indemnifying party shall not relieve such indemnifying party from any liability that it may have to an indemnified person otherwise than under this Section 6. In case any such action is brought against any indemnified party, and it notifies an indemnifying party of the commencement of such action, the indemnifying party will be entitled to participate in such action, and to the extent it may elect by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense of such action with counsel satisfactory to such indemnified party. Notwithstanding the foregoing, the indemnified party or parties shall have the right to employ its or their own counsel in any such action, but the reasonable fees and expenses of such counsel shall be at the expense of such indemnified party or parties unless (i) the employment of such counsel shall have been authorized in writing by the indemnifying parties in connection with the defense of such action, (ii) the indemnifying parties shall not have employed counsel to take charge of the defense of such action within a reasonable time after notice of commencement of the action, or (iii) the named parties to such action (including any impleaded parties) include such indemnified party and the indemnifying parties (or such indemnifying parties have assumed the defense of such action), and such indemnified party or parties shall have reasonably concluded that there may be defenses available to it or them that are different from or additional to those available to one or all of the indemnifying parties (in which case the indemnifying parties shall not have the right to direct the defense of such action on behalf of the indemnified party or parties), in any of which events such reasonable fees and expenses of counsel shall be borne by the indemnifying parties. In no event shall the indemnifying parties be liable for the fees and expenses of more than one counsel (together with appropriate local counsel) at any time for all indemnified parties in connection with any one action or separate but substantially similar or related actions arising in the same jurisdiction out of the same general allegations or circumstances. An indemnifying party shall not be liable for any settlement of any claim or action effected without its written consent, which consent may not be unreasonably withheld. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as

contemplated by paragraph (a) or (b) of this Section 6, then the indemnifying party agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement and (iii) such indemnified party shall have given the indemnifying party at least 45 days' prior notice of its intention to settle. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement (x) includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding and (y) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

7. Contribution. In order to provide for contribution in circumstances in which the indemnification provided for in Section 6 of this Agreement is for any reason held to be unavailable from the indemnifying party, or is insufficient to hold harmless a party indemnified under Section 6 of this Agreement, each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such aggregate Losses (i) in such proportion as is appropriate to reflect the relative benefits received by the Issuers, on the one hand, and the Initial Purchasers, on the other hand, from the offering of the Securities or (ii) if such allocation is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to above but also the relative fault of the Issuers, on the one hand, and the Initial Purchasers, on the other hand, in connection with the statements or omissions that resulted in such Losses, as well as any other relevant equitable considerations. The relative benefits received by the Issuers, on the one hand, and the Initial Purchasers, on the other hand, shall be deemed to be in the same proportion as (x) the total proceeds from the offering of Securities (net of discounts and commissions but before deducting expenses) received by the Issuers are to (y) the total discount and commissions received by the Initial Purchasers. The relative fault of the Issuers, on the one hand, and the Initial Purchasers, on the other hand, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by an Issuer or the Initial Purchasers and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission or alleged statement or omission.

The Issuers and the Initial Purchasers agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to above. Notwithstanding the provisions of this Section 7, (i) in no case shall any Initial Purchaser be required to contribute any amount in excess of the amount by which the total discount and commissions applicable to the Securities purchased by such Initial Purchaser pursuant to this Agreement exceeds the amount of any damages that such Initial Purchaser has otherwise been required to pay by reason of any untrue or alleged untrue statement or omission or alleged omission and (ii) no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 7, each person, if any, who controls any Initial Purchaser within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act shall have the same rights to contribution as the Initial Purchasers, and each person, if any, who controls an Issuer within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act and each director, officer, employee and agent of an Issuer shall have the same rights to contribution as the Issuers. Any party entitled to contribution will, promptly after receipt of notice of commencement of any action against such party in respect of which a claim for contribution may be made against another party or parties under this Section 7, notify such party or parties from whom contribution may be sought, but the

omission to so notify such party or parties shall not relieve the party or parties from whom contribution may be sought from any obligation it or they may have under this Section 7 or otherwise, except to the extent that it has been prejudiced in any material respect by such failure; *provided*, *however*, that no additional notice shall be required with respect to any action for which notice has been given under Section 6 for purposes of indemnification. Anything in this section to the contrary notwithstanding, no party shall be liable for contribution with respect to any action or claim settled without its written consent; *provided*, *however*, that such written consent was not unreasonably withheld.

8. Conditions of Initial Purchasers' Obligations. The obligations of the Initial Purchasers to purchase and pay for the Securities, as provided for in this Agreement, shall be subject to satisfaction of the following conditions prior to or concurrently with such purchase:

(a) All of the representations and warranties of the Issuers contained in this Agreement shall be true and correct on the date of this Agreement and on the Closing Date. The Issuers shall have performed or complied with all of the agreements and covenants contained in this Agreement and required to be performed or complied with by them at or prior to the Closing Date. The Initial Purchasers shall have received certificates, dated the Closing Date, signed by any combination of two of the chairman of the board of directors, chief executive officer, chief financial officer and general counsel of each of XM Holdings and the Company, certifying as to the foregoing and to the effect in Section 8(c), among other matters.

(b) The Final Offering Memorandum shall have been printed and copies distributed to the Initial Purchasers as required by Section 5(b). No stop order suspending the qualification or exemption from qualification of the Securities in any jurisdiction shall have been issued and no proceeding for that purpose shall have been commenced or shall be pending or, to XM Holdings's knowledge, threatened.

(c) Since the execution of this Agreement, there shall not have been any decrease in the rating of any debt or preferred stock of XM Holdings, the Company or any Subsidiary by any "nationally recognized statistical rating organization" (as defined for purposes of Rule 436(g) under the Act), or any notice given of any intended or potential decrease in any such rating or of a possible change in any such rating that does not indicate the direction of the possible change.

(d) No event or condition of a type described in Section 5(a)(xix)(2) hereof shall have occurred or shall exist, which event or condition is not described in each of the Pricing Disclosure Package (excluding any amendment or supplement thereto) and the Final Offering Memorandum (excluding any amendment or supplement thereto) the effect of which in the judgment of the Representative makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Securities on the terms and in the manner contemplated by this Agreement, the Pricing Disclosure Package and the Final Offering Memorandum.

(e) The Initial Purchasers shall have received on the Closing Date (i) an opinion and negative assurance letter each dated the Closing Date, addressed to the Initial Purchasers, of Skadden, Arps, Slate, Meagher & Flom LLP, counsel to the Company, substantially in the form of Exhibit A-1 attached hereto, (ii) an opinion and negative assurance letter each dated the Closing Date, addressed to the Initial Purchasers, of Hogan & Hartson L.L.P., regarding regulatory and certain corporate matters, substantially in the form of Exhibit A-2 attached hereto and (iii) an opinion dated the Closing Date, addressed to the Initial Purchasers, of Simpson Thacher & Bartlett LLP, counsel to Sirius, substantially in the form of Exhibit A-3 hereto.

(f) The Initial Purchasers shall have received on the Closing Date an opinion and negative assurance letter dated the Closing Date of Latham & Watkins LLP, counsel to the Initial Purchasers, in form and substance satisfactory to the Representative. Such counsel shall have been furnished with such certificates and documents as they may reasonably request to enable them to review or pass upon the matters referred to in this Section 8 and in order to evidence the accuracy, completeness or satisfaction in all material respects of any of the representations, warranties or conditions contained in this Agreement.

(g) On the date hereof, the Initial Purchasers shall have received (i) a "comfort letter" from the independent public accountants for the Company, dated the date of this Agreement, addressed to the Initial Purchasers and in form and substance satisfactory to the Representative and counsel to the Initial Purchasers, covering the financial and accounting information in the Pricing Disclosure Package and (ii) a "comfort letter" from the independent public accountants for the Company, dated the date of this Agreement, addressed to the Initial Purchasers and in form and substance satisfactory to the Representative and counsel to the Initial Purchasers, covering the financial and accounting information in the Final Offering Memorandum. In addition, the Initial Purchasers shall have received a "bring-down comfort letter" from the independent public accountants for the Company, dated as of the Closing Date, addressed to the Initial Purchasers and in the form of the "comfort letter" delivered on the date hereof, except that (i) it shall cover the financial and accounting information in the Final Offering Memorandum and any amendment or supplement thereto and (ii) procedures shall be brought down to a date no more than 5 days prior to the Closing Date, and otherwise in form and substance satisfactory to the Representative and counsel to the Initial Purchasers.

(h) XM Escrow and the Trustee shall have executed and delivered the Indenture, the Company, XM Escrow and the Trustee shall have executed and delivered the Assumption Indenture and the Company, XM Escrow and the Guarantors and the Trustee shall have executed and delivered the Guarantor Indenture and the Initial Purchasers shall have received copies thereof.

(i) The Initial Purchasers shall have been furnished with wiring instructions for the application of the proceeds of the Securities in accordance with this Agreement and such other information as they may reasonably request.

(j) XM Escrow, XM Holdings, the Escrow Agent and the Trustee shall have executed and delivered the Escrow Agreement and the Initial Purchasers shall have received copies thereof. The Escrow Account shall have been established by the Escrow Agent, to the reasonable satisfaction of the Initial Purchasers. XM Holdings and the Company shall have deposited the Initial Escrow Amount into the Escrow Account and the Escrowed Funds shall be remaining in the Escrow Account. XM Escrow shall have granted, to the extent it has rights therein, a valid first priority security interest in the Escrow Account and all Escrowed Funds maintained therein in favor of the Trustee on behalf of the holders of the Senior Notes and shall have perfected such security interest to the reasonable satisfaction of the Initial Purchasers and the other conditions contained in the Escrow Agreement shall have been satisfied. The Initial Purchasers shall have received copies of such documents as they may reasonably request in connection with the foregoing.

(k) XM Escrow and the Company shall have executed and delivered the Escrow Merger Agreement and the Initial Purchasers shall have received copies thereof.

(l) The Securities shall be eligible for trading in Portal upon issuance. All agreements set forth in the blanket representation letter of the Company to DTC relating to the approval of the Senior Notes by DTC for "book-entry" transfer shall have been complied with.

If any of the conditions specified in this Section 8 shall not have been fulfilled when and as required by this Agreement to be fulfilled (or waived by the Initial Purchasers), this Agreement may be terminated by the Initial Purchasers on notice to the Company at any time at or prior to the Closing Date, and such termination shall be without liability of any party to any other party.

The documents required to be delivered by this Section 8 will be delivered at the office of counsel for the Initial Purchasers on the Closing Date.

9. Initial Purchasers Information. XM Escrow, XM Holdings, the Company and the Initial Purchasers severally acknowledge that, for all purposes (including Sections 5(a)(i) and 6), the statements set forth in the seventh and ninth paragraphs and the fifth sentence of the tenth paragraph under "Plan of distribution" in the Preliminary Offering Memorandum and the Final Offering Memorandum constitute the only information furnished in writing by or behalf of any Initial Purchaser expressly for use in the Pricing Disclosure Package or the Final Offering Memorandum.

10. Survival of Representations and Agreements. All representations and warranties, covenants and agreements contained in this Agreement, including the agreements contained in Sections 4(f) and 11(d), the indemnity agreements contained in Section 6 and the contribution agreements contained in Section 7, shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the Initial Purchasers or any controlling person thereof or by or on behalf of XM Escrow, XM Holdings, the Company or any controlling person thereof, and shall survive delivery of and payment for the Senior Notes to and by the Initial Purchasers. The agreements contained in Sections 4(f), 6, 7, 9 and 11(c) shall survive the termination of this Agreement, including pursuant to Section 11.

11. Effective Date of Agreement; Termination. This Agreement shall become effective upon execution and delivery of a counterpart hereof by each of the parties hereto.

(a) The Initial Purchasers shall have the right to terminate this Agreement at any time prior to the Closing Date by written notice to the Company from the Initial Purchasers, without liability (other than with respect to Sections 6 and 7) on the Initial Purchasers' part to XM Holdings, the Company or any affiliate thereof if, on or prior to such date, (i) the Issuers shall have failed, refused or been unable to perform any agreement on its part to be performed under this Agreement when and as required; (ii) any other condition to the obligations of the Initial Purchasers under this Agreement to be fulfilled by the Issuers pursuant to Section 8 is not fulfilled when and as required in any material respect; (iii) trading in any securities of the Company, XM Holdings or any Subsidiary shall be suspended or limited by the Commission or The Nasdaq National Market or trading in securities generally on the New York Stock Exchange, the American Stock Exchange or The Nasdaq National Market shall have been suspended or materially limited, or minimum prices shall have been established thereon by the Commission, or by such exchange or other regulatory body or governmental authority having jurisdiction; (iv) a general moratorium shall have been declared by either Federal or New York State authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States shall have occurred; (v) there is an outbreak or escalation of hostilities or national or international calamity in any case involving the United States, on or after the date of this Agreement, or if there has been a declaration by the United States of a national emergency or war or other national or international calamity or crisis (economic, political, financial or otherwise) which affects the U.S. and international markets, making it, in the Representative's judgment, impracticable to proceed with the offering, sale or

delivery of the Securities on the terms and in the manner contemplated in the Pricing Disclosure Package; or (vi) there shall have been such a material adverse change in general economic, political or financial conditions or the effect (or potential effect if the financial markets in the United States have not yet opened) of international conditions on the financial markets in the United States shall be such as, in the Representative's judgment, to make it inadvisable or impracticable to proceed with the offering, sale or delivery of the Securities on the terms and in the manner contemplated in the Pricing Disclosure Package.

(b) Any notice of termination pursuant to this Section 11 shall be given at the address specified in Section 12 below by telephone or facsimile, confirmed in writing by letter.

(c) If this Agreement shall be terminated pursuant to Section 11(a), or if the sale of the Securities provided for in this Agreement is not consummated because of any refusal, inability or failure on the part of the Issuers to satisfy any condition to the obligations of the Initial Purchasers set forth in this Agreement to be satisfied or because of any refusal, inability or failure on the part of the Issuers to perform any agreement in this Agreement or comply with any provision of this Agreement, the Issuers, jointly and severally, will reimburse the Initial Purchasers for all of their reasonable out-of-pocket expenses (including, without limitation, the fees and expenses of the Initial Purchasers' counsel) incurred in connection with this Agreement and the transactions contemplated hereby.

(d) If any one or more Initial Purchasers shall fail to purchase and pay for any of the Securities agreed to be purchased by such Initial Purchaser hereunder and such failure to purchase shall constitute a default in the performance of its or their obligations under this Agreement, the remaining Initial Purchasers shall be obligated severally to take up and pay for (in the respective proportions which the principal amount of Securities set forth opposite their names in Schedule I hereto bears to the aggregate principal amount of Securities set forth opposite the names of all the remaining Initial Purchasers) the Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase; *provided*, *however*, that in the event that the aggregate principal amount of Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase shall exceed 10% of the aggregate principal amount of Securities set forth in Schedule I hereto, the remaining Initial Purchasers shall have the right to purchase all, but shall not be under any obligation to purchase any, of the Securities, and if such nondefaulting Initial Purchasers do not purchase all the Securities, this Agreement will terminate without liability to any nondefaulting Initial Purchaser or the Company. In the event of a default by any Initial Purchaser as set forth in this Section 11(e), the Closing Date shall be postponed for such period, not exceeding seven Business Days, as the Representative shall determine in order that the required changes in the Final Offering Memorandum or in any other documents or arrangements may be effected. Nothing contained in this Agreement shall relieve any defaulting Initial Purchaser of its liability, if any, to the Company or any nondefaulting Initial Purchaser for damages occasioned by its default hereunder.

12. Notice. All communications with respect to or under this Agreement, except as may be otherwise specifically provided in this Agreement, shall be in writing and, if sent to the Initial Purchasers, shall be mailed, delivered or telecopied and confirmed in writing to c/o J.P. Morgan Securities Inc. 270 Park Avenue, 5th Floor, New York, NY 10017 (fax number : 212-270-1063, Attention: Jessica Kearns and (ii) Latham & Watkins LLP, 885 Third Avenue, Suite 1000, New York, NY 10022 (fax number: 212-751-4864), Attention: Marc D. Jaffe; and if sent to the Issuers, shall be mailed, delivered or telecopied and confirmed in writing to (i) XM Satellite Radio Inc., 1500 Eckington Place, NE, Washington, DC 20002 (telephone: 202-380-4000, fax: 202-380-4534), Attention: General Counsel, (ii) with a copy for information purposes only to (a) Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, NY 10036 (fax number: 212-735-3574) Attention: David J. Goldschmidt (b) Sirius Satellite Radio Inc., 1221 Avenue of the Americas, 36th Floor, New York, NY 10020 (telephone: 212-584-5100, fax: 212-584-5353), Attention: General Counsel and (c) Simpson, Thacher & Bartlett LLP, 425 Lexington Avenue, New York, NY 10017 (fax: 212-455-2695), Attention: Gary L. Sellers.

All such notices and communications shall be deemed to have been duly given: when delivered by hand, if personally delivered; five business days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged by telecopier machine, if telecopied; and one business day after being timely delivered to a next-day air courier.

13. Parties. This Agreement shall inure solely to the benefit of, and shall be binding upon, the Initial Purchasers, the Issuers and the other indemnified parties referred to in Sections 6 and 7, and their respective successors and assigns, and no other person shall have or be construed to have any legal or equitable right, remedy or claim under or in respect of or by virtue of this Agreement or any provision herein contained. The term "successors and assigns" shall not include a purchaser, in its capacity as such, of Notes from the Initial Purchasers.

14. Construction. This Agreement shall be construed in accordance with the internal laws of the State of New York (without giving effect to any provisions thereof relating to conflicts of law other than New York General Obligations Law Section 5-1401 and 5-1402).

15. Submission to Jurisdiction; Waiver of Jury Trial No proceeding related to this Agreement or the transactions contemplated hereby may be commenced, prosecuted or continued in any court other than the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York, which courts shall have jurisdiction over the adjudication of such matters, and the Issuers hereby consent to the jurisdiction of such courts and personal service with respect thereto. The Issuers hereby waive all right to trial by jury in any proceeding (whether based upon contract, tort or otherwise) in any way arising out of or relating to this Agreement. The Issuers agree that a final judgment in any such proceeding brought in any such court shall be conclusive and binding upon the Issuers and may be enforced in any other courts in the jurisdiction of which the Issuers are or may be subject, by suit upon such judgment.

16. Captions. The captions included in this Agreement are included solely for convenience of reference and are not to be considered a part of this Agreement.

17. Counterparts. This Agreement may be executed in various counterparts that together shall constitute one and the same instrument.

18. No Fiduciary Relationship. The Issuers hereby acknowledge that the Initial Purchasers are acting solely as initial purchasers in connection with the purchase and sale of the Securities. The Issuers further acknowledge that each of the Initial Purchasers is acting pursuant to a contractual relationship created solely by this Agreement entered into on an arm's length basis and in no event do the parties intend that any Initial Purchaser act or be responsible as a fiduciary to the Issuers, their management, stockholders, creditors or any other person in connection with any activity that such Initial Purchaser may undertake or has undertaken in furtherance of the purchase and sale of the Securities, either before or after the date hereof. The Initial Purchasers hereby expressly disclaim any fiduciary or similar obligations to the Issuers, either in connection with the transactions contemplated by this Agreement or any matters leading up to such transactions, and the Issuers hereby confirm their understanding and agreement to that effect. The Issuers and each Initial Purchaser agree that they are each responsible for making their own independent judgments with respect to any such transactions, and that any opinions or views expressed by any Initial Purchaser to the Issuers regarding such transactions, including but not limited to any opinions or views with respect to the price or market for the Securities, do not constitute advice or

recommendations to the Issuers. The Issuers hereby waive and release, to the fullest extent permitted by law, any claims that such Issuers may have against the Initial Purchasers with respect to any breach or alleged breach of any fiduciary or similar duty to the Issuers in connection with the transactions contemplated by this Agreement or any matters leading up to such transactions.

[Signature Pages Follow]

If the foregoing Purchase Agreement correctly sets forth the understanding among the Issuers and the Initial Purchasers, please so indicate in the space provided below for the purpose, whereupon this letter and your acceptance shall constitute a binding agreement among the Issuers and the Initial Purchasers.

XM ESCROW LLC

By: /s/ Nate Davis
Name: Nate Davis
Title: President and Chief Executive Officer

XM SATELLITE RADIO INC.

By: /s/ Nate Davis
Name: Nate Davis
Title: President and Chief Executive Officer

XM SATELLITE RADIO HOLDINGS INC.

By: /s/ Nate Davis
Name: Nate Davis
Title: President and Chief Executive Officer

XM EQUIPMENT LEASING LLC

By: /s/ Nate Davis
Name: Nate Davis
Title: President and Chief Executive Officer

XM RADIO INC.

By: /s/ Nate Davis
Name: Nate Davis
Title: President and Chief Executive Officer

Confirmed and accepted as of the date first above written:

J.P. MORGAN SECURITIES INC.
UBS SECURITIES LLC
MORGAN STANLEY & CO. INCORPORATED

By: J.P. MORGAN SECURITIES INC.
Acting on behalf of itself and as Representative of the several Initial Purchasers

By: /s/ Jessica Kearns
Name: Jessica Kearns
Title: Managing Director

Schedule I

Initial Purchaser	Principal Amount of 13% Senior Notes due 2014 to be Purchased
J.P. Morgan Securities Inc.	$ 467,100,000
UBS Securities LLC	$ 155,700,000
Morgan Stanley & Co. Incorporated	$ 155,700,000
Total	$ 778,500,000

Schedule II

Subsidiaries of XM Satellite Radio Holdings Inc.

XM Satellite Radio Inc.
XM 1500 Eckington LLC
XM Orbit LLC
XM Investments LLC
XM Escrow LLC

Subsidiaries of XM Satellite Radio Inc.

XM Radio Inc.
XM Innovations Inc.
XM Equipment Leasing LLC
XM EMall Inc.
XM Capital Resources Inc.

All of these subsidiaries are organized in the State of Delaware and are wholly owned subsidiaries.

Exhibit 4.66

Execution Copy

XM SATELLITE RADIO INC.
SIRIUS SATELLITE RADIO INC.

$550,000,000 7.00% Exchangeable Senior Subordinated Notes due 2014
Exchangeable for Shares of Common Stock of Sirius Satellite Radio Inc.

PURCHASE AGREEMENT

July 28, 2008
New York, New York

J.P. MORGAN SECURITIES INC.
277 Park Avenue
New York, NY 10172

MORGAN STANLEY & CO. INCORPORATED
1585 Broadway
New York, New York 10036

UBS SECURITIES LLC
299 Park Avenue
New York, New York 10171

Ladies and Gentlemen:

XM Satellite Radio Inc., a Delaware corporation (the "**Company**"), XM Satellite Radio Holdings Inc., a Delaware corporation ("**XM Holdings**"), and each of the other Guarantors (as defined herein) and Sirius Satellite Radio Inc., a Delaware corporation ("**Sirius,**" and together with the Company and the Guarantors, the "**Issuers**") agree with you as follows:

1. Issuance of Notes. The Company proposes to issue and sell to J.P. Morgan Securities Inc., Morgan Stanley & Co. Incorporated and UBS Securities LLC (collectively, the "**Initial Purchasers**") $550,000,000 aggregate principal amount of its 7.00% Exchangeable Senior Subordinated Notes due 2014 (the "**Exchangeable Notes**"), which are exchangeable into common stock (the "**Underlying Securities**"), par value $0.001 per share (the "**Sirius Common Stock**") of Sirius. The Securities (as defined below) will be issued pursuant to an indenture (the "**Indenture**"), to be dated as of the Closing Date (as defined herein), by and between the Company, XM Holdings and each of the other Guarantors (as defined herein), Sirius and The Bank of New York Mellon, as trustee (the "**Trustee**").

The Securities are being offered and sold by the Issuers in connection with the merger (the "**Merger**") contemplated by the Agreement and Plan of Merger, dated as of February 19, 2007, among XM Holdings, Sirius and Vernon Merger Corporation (as amended or supplemented by any subsequent letter agreement, the "**Merger Agreement**"), pursuant to which Vernon Merger Corporation shall be merged with and into XM Holdings with XM Holdings as the surviving corporation and the refinancing

of certain debt obligations of the Company and the Guarantors, as described in the Pricing Disclosure Package under the caption "Summary—Refinancing transactions", (collectively, the "**Refinancing Transactions**").

The Company's obligations under the Exchangeable Notes will be, jointly and severally, unconditionally guaranteed (the "**Guarantees**"), on a senior subordinated basis, by XM Holdings and each of the other guarantors listed on the signature pages hereto (collectively, the "**Guarantors**"). The Exchangeable Notes and the Guarantees thereof are referred to herein as the "**Securities**."

Concurrently with this offering of Securities, 262,399,983 shares of Sirius Common Stock are being offered in a transaction registered under the Securities Act by means of a prospectus supplement and accompanying prospectus (the "**Share Borrow Transaction**"). In connection with the Share Borrow Transaction, Sirius will enter into separate share lending agreements dated the date hereof pursuant to which it will agree to lend (i) up to 176,239,993 shares of Sirius Common Stock to Morgan Stanley Capital Services, Inc, an affiliate of Morgan Stanley & Co. Incorporated (the "**Morgan Stanley Share Lending Agreement**") and (ii) up to 86,159,990 shares of Sirius Common Stock to UBS AG, London Branch, an affiliate of UBS Investment Bank (the "**UBS Share Lending Agreement**" and together with the Morgan Stanley Share Lending Agreement, the "**Share Lending Agreements**").

The Securities will be offered and sold to the Initial Purchasers pursuant to an exemption from the registration requirements under the Securities Act of 1933, as amended (the "**Act**"). The Issuers have prepared a preliminary offering memorandum, dated as of July 28, 2008 (the "**Preliminary Offering Memorandum**") and a pricing supplement thereto dated the date hereof including the information attached hereto as Exhibit C (the "**Pricing Supplement**"). The Preliminary Offering Memorandum and the Pricing Supplement are herein referred to as the "**Pricing Disclosure Package**." Promptly after the execution of this Agreement, the Issuers will prepare a final offering memorandum dated the date hereof (the "**Final Offering Memorandum**"). Unless stated to the contrary, any references herein to the terms "**Pricing Disclosure Package**" and "**Final Offering Memorandum**" shall be deemed to refer to and include any information filed under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), prior to the date hereof and incorporated by reference therein, and any references herein to the terms "amend," "amendment" or "supplement" with respect to the Final Offering Memorandum shall be deemed to refer to and include any information filed under the Exchange Act subsequent to the date hereof that is incorporated by reference therein. All references in this Agreement to financial statements and schedules and other information which is "contained," "included" or "stated" (or other references of like import) in the Pricing Disclosure Package (including the Preliminary Offering Memorandum) or the Final Offering Memorandum shall be deemed to mean and include all such financial statements and schedules and other information which are incorporated by reference in the Pricing Disclosure Package or the Final Offering Memorandum, as the case may be.

Holders (including subsequent transferees) of the Securities will have the registration rights under the registration rights agreement (the "**Registration Rights Agreement**"), between the Company, Sirius and the Initial Purchasers, to be dated the Closing Date (as defined below), substantially in the form attached hereto as Exhibit A.

The Initial Purchasers have advised the Issuers that the Initial Purchasers intend, as soon as they deem practicable after this Agreement has been executed and delivered, to resell (the "**Exempt Resales**") the Securities in private sales exempt from registration under the Act on the terms set forth in the Pricing Disclosure Package, solely to persons whom the Initial Purchasers reasonably believe to be "qualified institutional buyers" ("**QIBs**"), as defined in Rule 144A under the Act ("**Rule 144A**"), in accordance with Rule 144A (the "**Eligible Purchasers**").

This Agreement, the Exchangeable Notes, the Guarantees, the Indenture, the Registration Rights Agreement and the Share Lending Agreements are hereinafter sometimes referred to collectively as the "**Note Documents**." The issuance and sale of the Securities, the Refinancing Transactions, the entry into and performance of the Share Lending Agreements and the Merger are collectively referred to as the "**Transactions**."

2. Agreements to Sell and Purchase. On the basis of the representations, warranties and covenants contained in this Agreement, the Issuers agree to issue and sell to the Initial Purchasers, and on the basis of the representations, warranties and covenants contained in this Agreement, and subject to the terms and conditions contained in this Agreement, each of the Initial Purchasers, severally and not jointly, agrees to purchase from the Issuers, the aggregate principal amount of the Securities set forth opposite its name on Schedule I attached hereto. The purchase price for the Securities shall be 98.00% of their principal amount.

3. Delivery and Payment. Delivery of, and payment of the purchase price for, the Securities shall be made at 10:00 a.m., New York time, on August 1, 2008 (such date and time, the "**Closing Date**") at the offices of Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022. The Closing Date and the location of delivery of and the form of payment for the Securities may be varied by mutual agreement between the Initial Purchasers and the Company.

The Securities shall be delivered by the Issuers to the Initial Purchasers (or as the Initial Purchasers direct) through the facilities of The Depository Trust Company ("**DTC**") against payment by the Initial Purchasers of the purchase price therefor by means of wire transfer of immediately available funds to such account or accounts specified by the Company in accordance with Section 8(j) on or prior to the Closing Date, or by such means as the parties hereto shall agree prior to the Closing Date. The Securities shall be evidenced by one or more certificates in global form registered in such names as the Initial Purchasers may request upon at least one business day's notice prior to the Closing Date and having an aggregate principal amount corresponding to the aggregate principal amount of the Securities.

4. Agreements of the Issuers. (i) The Issuers, jointly and severally, covenant and agree with the Initial Purchasers as follows:

(a) To furnish the Initial Purchasers and those persons identified by the Initial Purchasers, without charge, as many copies of the Preliminary Offering Memorandum, the Pricing Supplement, any Issuer Written Communication (as defined below) and the Final Offering Memorandum, and any amendments or supplements thereto, as the Initial Purchasers may reasonably request. The Issuers consent to the use of the Preliminary Offering Memorandum, the Pricing Supplement and the Final Offering Memorandum by the Initial Purchasers in connection with Exempt Resales.

(b) As promptly as practicable following the execution and delivery of this Agreement and in any event not later than the second business day following the date hereof, to prepare and deliver to the Initial Purchasers the Final Offering Memorandum, which shall consist of the Preliminary Offering Memorandum as modified only by the information contained in the Pricing Supplement; not to amend or supplement the Preliminary Offering Memorandum (except by the Pricing Supplement) or the Pricing Supplement; not to amend or supplement the Final Offering Memorandum prior to the Closing Date unless the Initial Purchasers shall previously have been advised of such proposed amendment or supplement at least two business days prior to the proposed use, and shall not have reasonably objected to such amendment or supplement.

(c) If, prior to the later of (x) the Closing Date and (y) the time that the Initial Purchasers have completed their distribution of the Securities, any event shall occur that, in the judgment of the Issuers or in the judgment of counsel to the Initial Purchasers, makes any statement of a material fact in the Pricing Disclosure Package or the Final Offering Memorandum, as either is then amended or supplemented, untrue or that requires the making of any additions to or changes in the Pricing Disclosure Package or Final Offering Memorandum in order to make the statements in the Pricing Disclosure Package or the Final Offering Memorandum, as either is then amended or supplemented, in the light of the circumstances under which they are made, not misleading, or if it is necessary to amend or supplement the Pricing Disclosure Package or the Final Offering Memorandum to comply with all applicable laws, the Issuers shall promptly notify the Initial Purchasers of such event and (subject to Section 4(i)(b)) prepare an appropriate amendment or supplement to the Pricing Disclosure Package or the Final Offering Memorandum so that (i) the statements in the Pricing Disclosure Package or Final Offering Memorandum, as amended or supplemented, will not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances at the Closing Date and at the time of sale of Securities, not misleading and (ii) the Pricing Disclosure Package and the Final Offering Memorandum will comply with applicable law.

(d) Whether or not the transactions contemplated by this Agreement are consummated, to pay all costs, expenses, fees and disbursements (including fees and disbursements of counsel and accountants for the Issuers) incurred and stamp, documentary or similar taxes incident to and in connection with: (i) the preparation, printing and distribution of the Preliminary Offering Memorandum, the Pricing Supplement, any Issuer Written Communication and the Final Offering Memorandum and any amendments or supplements thereto, (ii) all expenses (including travel expenses) of the Issuers and the Initial Purchasers in connection with any meetings with prospective investors in the Securities, (iii) the preparation, notarization (if necessary) and delivery of the Note Documents and all other agreements, memoranda, correspondence and documents prepared and delivered in connection with this Agreement and with the Exempt Resales, (iv) the issuance, transfer and delivery of the Securities by the Issuers to the Initial Purchasers, (v) the qualification or registration of the Securities for offer and sale under the securities laws of the several states of the United States (including, without limitation, the cost of printing and mailing preliminary and final Blue Sky or legal investment memoranda and fees and disbursements of counsel (including local counsel) to the Initial Purchasers relating thereto), (vi) the application for quotation of the Securities in The PORTAL Market ("**Portal**") of The Nasdaq Stock Market, (vii) the inclusion of the Securities in the book-entry system of DTC, (viii) the rating of the Securities by rating agencies, (ix) the fees and expenses of the Trustee and its counsel (x) all expenses and application fees related to the listing of the Underlying Securities on The Nasdaq Global Select Market and (xi) the performance by the Issuers of their other obligations under the Note Documents. For the avoidance of doubt, the Issuers' obligations under this Section 4(d) shall not affect any expense sharing or contribution arrangements they may have with each other.

(e) To use its best efforts to do and perform all things required to be done and performed under this Agreement by it prior to or after the Closing Date and to satisfy all conditions precedent on their part to the delivery of the Securities.

(f) Not to, and not to permit any of their subsidiaries nor any of their affiliates (as defined in Rule 501(b) of Regulation D under the Act) to, sell, offer for sale or solicit offers to buy any security (as defined in the Act) that would be integrated with the sale of the Securities in a manner that would require the registration under the Act of the sale of the Securities to the Initial Purchasers or any Eligible Purchasers.

(g) Not to, and to cause its affiliates (as defined in Rule 144 under the Act) not to, resell any of the Securities that have been reacquired by any of them.

(h) Not to engage, not to allow any subsidiary to engage, and to cause their other affiliates and any person acting on their behalf (other than, in any case, the Initial Purchasers and any of their affiliates, as to whom the Issuers make no covenant) not to engage, in any form of general solicitation or general advertising (within the meaning of Regulation D under the Act) in connection with any offer or sale of the Securities in the United States.

(i) Prior to the Closing Date, to furnish without charge to the Initial Purchasers, (i) all reports and other communications (financial or otherwise) that the Issuers mail or otherwise make available to its security holders to the extent not available on EDGAR or the Issuers' websites and (ii) such other information as the Initial Purchasers shall reasonably request.

(j) Not to, and not to permit any of its affiliates or anyone acting on its or its affiliates' behalf to (other than the Initial Purchasers and their affiliates), distribute prior to the Closing Date any offering material in connection with the offer and sale of the Securities other than the Preliminary Offering Memorandum, the Pricing Supplement, any "road show" (as defined in Rule 433 under the Securities Act) and the Final Offering Memorandum. Before making, preparing, using, authorizing, approving or referring to any Issuer Written Communication, the Issuers will furnish to the Initial Purchasers and counsel for the Initial Purchasers a copy of such written communication for review and will not make, prepare, use, authorize, approve or refer to any such written communication to which the Initial Purchasers reasonably object.

(k) During the period of two years after the Closing Date or, if earlier, until such time as the Securities are no longer restricted securities (as defined in Rule 144 under the Act), not to be or become a closed-end investment company required to be registered, but not registered, under the Investment Company Act of 1940.

(l) In connection with the offering, until the Initial Purchasers shall have notified the Issuers of the completion of the distribution of the Securities, not to, and not to permit any of their affiliates (as such term is defined in Rule 501(b) of Regulation D under the Act) to, either alone or with one or more other persons, bid for or purchase for any account in which it or any of their affiliates has a beneficial interest, for the purpose of creating actual or apparent active trading in, or of raising the price of, the Securities.

(m) not to take, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Securities or the Sirius Common Stock and to not take any action prohibited by Regulation M under the Exchange Act in connection with the distribution of the Securities contemplated hereby.

(ii) The Company and the Guarantors, jointly and severally, covenant and agree with the Initial Purchasers as follows:

(a) To qualify or register the Securities under the securities laws of such jurisdictions as the Initial Purchasers may request and to continue such qualification in effect so long as required for the Exempt Resales. Notwithstanding the foregoing, no Issuer shall be required to qualify as a foreign corporation in any jurisdiction in which it is not so qualified or to execute a general consent to service of process in any such jurisdiction or subject itself to taxation in excess of a nominal dollar amount in any such jurisdiction where it is not then so subject.

(b) To advise the Initial Purchasers promptly, and if requested by the Initial Purchasers, to confirm such advice in writing, of the issuance by any securities commission of any stop order suspending the qualification or exemption from qualification of any of the Securities for offering or sale in any jurisdiction, or the initiation of any proceeding for such purpose by any securities commission or other regulatory authority. The Issuers shall use their reasonable best efforts to prevent the issuance of any stop order or order suspending the qualification or exemption of any of the Securities under any securities laws, and if at any time any securities commission or other regulatory authority shall issue an order suspending the qualification or exemption of any of the Securities under any securities laws, the Issuers shall use their reasonable best efforts to obtain the withdrawal or lifting of such order at the earliest possible time.

(c) To use the proceeds from the sale of the Securities in the manner described in the Pricing Disclosure Package under the caption "Use of proceeds."

(d) From and after the Closing Date, for so long as any of the Securities remain outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the Act and during any period in which XM Holdings is not subject to Section 13 or 15(d) of the Exchange Act, to make available upon request the information required by Rule 144A(d)(4) under the Act to (i) any holder or beneficial owner of Securities in connection with any sale of such Securities and (ii) any prospective purchaser of such Securities from any such holder or beneficial owner designated by the holder or beneficial owner. XM Holdings will pay the expenses of preparing, printing and distributing such documents.

(e) To comply with their obligations under the letter of representations to DTC relating to the approval of the Securities by DTC for "book-entry" transfer and to use their best efforts to obtain approval of the Securities by DTC for "book-entry" transfer.

(f) To use their reasonable best efforts to effect the inclusion of the Securities in Portal.

(g) During the period from the date hereof through and including the date that is 90 days after the date hereof, without the prior written consent of each of the Initial Purchasers, offer, sell, contract to sell or otherwise dispose of in any transaction required to be registered under the Act or pursuant to Rule 144A, any debt securities issued or guaranteed by XM Holdings, the Company or any XM Subsidiary and having a tenor of more than one year, *provided*, *however*, that the foregoing restriction shall not apply to debt securities issued in connection with the Refinancing Transactions or a letter of credit or other collateral used to replace the MLB escrow arrangement, in an amount not to exceed $120.0 million.

(iii) Sirius covenants and agrees with the Initial Purchasers as follows:

(a) For a period of 90 days after the date of the offering of the Securities, Sirius will not (i) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of, directly or indirectly, any shares of Sirius Common Stock or any securities convertible into or exercisable or exchangeable for Sirius Common Stock or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Sirius Common Stock, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Sirius Common Stock or such other securities, in cash or otherwise, without the prior written consent of the Initial Purchasers,

other than the Securities to be sold hereunder and any shares of Sirius Common Stock issued upon the exercise of options granted under existing employee stock option plans, outstanding convertible and equity-linked securities (including such securities issued by Holdings and the Company), or pursuant to the Merger or in related to the Share Borrow Transaction.

(b) To maintain a transfer agent and, if necessary under the jurisdiction of incorporation of Sirius, a registrar for the Sirius Common Stock.

(c) To at all times reserve and keep available, free of preemptive rights, shares of Sirius Common Stock in an amount equal to Sirius Common Stock deliverable upon exchange of the Exchangeable Notes then outstanding.

(d) To use its best efforts to cause the Underlying Securities to be listed on The NASDAQ Global Select Market.

5. Representations and Warranties. (a) The Company and the Guarantors, jointly and severally, represent and warrant to the Initial Purchasers that, as of the date hereof and as of the Closing Date:

(i) Neither the Pricing Disclosure Package, as of the date hereof, nor the Final Offering Memorandum, as of its date or (as amended or supplemented in accordance with Section 4(i)(b), if applicable) as of the Closing Date, contains or represents any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided*, *however*, that the Company and the Guarantors make no representation or warranty with respect to information relating to the Initial Purchasers contained in or omitted from the Pricing Disclosure Package, the Final Offering Memorandum or any amendment or supplement thereto in reliance upon and in conformity with information furnished to the Company in writing by or on behalf of any Initial Purchaser expressly for inclusion in the Pricing Disclosure Package, the Final Offering Memorandum or amendment or supplement thereto, as the case may be. No order preventing the use of the Preliminary Offering Memorandum, the Pricing Supplement or the Final Offering Memorandum, or any amendment or supplement thereto, or any order asserting that any of the transactions contemplated by this Agreement are subject to the registration requirements of the Act, has been issued or, to the knowledge of the Company and the Guarantors, has been threatened.

(ii) They (including its agents and representatives, other than the Initial Purchasers in their capacity as such) have not prepared, made, used, authorized, approved or referred to and will not prepare, make, use, authorize, approve or refer to any written communication that constitutes an offer to sell or solicitation of an offer to buy the Securities (each such communication by any Issuer or its agents and representatives an "**Issuer Written Communication**") other than (i) the Pricing Disclosure Package, (ii) the Final Offering Memorandum, and (iii) any electronic road show or other written communications, in each case used in accordance with Section 4(j). Each such Issuer Written Communication, when taken together

with the Pricing Disclosure Package, did not, and at the Closing Date will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(iii) The documents of XM Holdings incorporated by reference in each of the Pricing Disclosure Package and the Final Offering Memorandum at the time they were or hereafter are filed with the Securities and Exchange Commission (the "**Commission**") complied and will comply in all material respects with the requirements of the Exchange Act and the rules and regulations of the Commission thereunder (the "**Exchange Act Regulations**").

(iv) There are no securities of the Company or the Guarantors that are listed on a national securities exchange registered under Section 6 of the Exchange Act or that are quoted in a United States automated interdealer quotation system of the same class within the meaning of Rule 144A as the Securities.

(v) The capitalization of XM Holdings and it subsidiaries (i) was, as of June 30, 2008, as set forth in the Pricing Disclosure Package and the Final Offering Memorandum in the "Actual" column under the heading "Capitalization of XM Holdings" and (ii) assuming the consummation of the Transactions on the terms described therein, will be, as of the Closing Date, as set forth in the Pricing Disclosure Package and the Final Offering Memorandum in the "As adjusted for the merger and Refinancing Transactions" column under the heading "Capitalization of XM Holdings." Attached as Schedule II is a true and complete list of each entity in which XM Holdings has a direct or indirect majority equity or voting interest (each, an "**XM Subsidiary**" and, together, the "**XM Subsidiaries**"), their jurisdictions of organization, name of its equityholder(s) and percentage held by each equityholder. All of the issued and outstanding equity interests of each Subsidiary have been duly and validly authorized and issued, are and immediately after giving effect to the Merger will be, fully paid and nonassessable, were not issued in violation of any preemptive or similar right and, except as set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum, are owned, and immediately after giving effect to the Merger will be owned, directly or indirectly through Subsidiaries, by XM Holdings free and clear of all liens (other than transfer restrictions imposed by the Act, the securities or Blue Sky laws of certain jurisdictions and security interests granted pursuant to existing security agreements (the "**XM Existing Security Agreements**") in respect of the Third Amended and Restated Distribution and Credit Agreement, dated as of February 6, 2008, the 10% senior secured discount convertible notes due 2009, the Credit Agreement, dated May 5, 2006, as amended, and the Credit Agreement, dated June 26, 2008, as amended. Except as set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum, there are not currently and immediately after giving effect to the Merger there will not be, any outstanding options, warrants or other rights to acquire or purchase, or instruments convertible into or exchangeable for, any equity interests of XM Holdings, the Company or any of the XM Subsidiaries.

(vi) Each of the Company, XM Holdings and each XM Subsidiary (A) is a corporation, limited liability company, partnership or other entity duly organized and validly existing under the laws of the jurisdiction of its organization; (B) has, and after giving effect to the Transactions will have, all requisite corporate or other power and authority necessary to own its property and carry on its business as now being conducted and (C) is, and after giving effect to the Transactions will be, qualified to do business and is in good standing in all jurisdictions in which the nature of the business conducted by it or its ownership of property makes such qualification necessary, except where the failure to be so qualified and be in good standing, individually or in the aggregate, could not reasonably be expected to have, individually or in the aggregate, an XM Material Adverse Effect. An "**XM Material Adverse Effect**" means (x) a material adverse effect on the business, proposed business (including giving effect to the Transactions), condition (financial or other), results of operations, performance, properties or affairs of XM Holdings and the XM Subsidiaries, taken as a whole or (y) an adverse effect on the ability to consummate the Transactions on a timely basis.

(vii) Each of the Company and the Guarantors has all requisite corporate or other power and authority to execute, deliver and perform all of its obligations under the Note Documents to which it is a party and to consummate the transactions contemplated hereby, and, without limitation, the Company has all requisite corporate power and authority to issue, sell and deliver and perform its obligations under the Exchangeable Notes.

(viii) This Agreement has been duly and validly authorized, executed and delivered by each of the Company and the Guarantors.

(ix) The Indenture has been duly and validly authorized by each of the Company and the Guarantors and, when it is duly executed and delivered by each of the Company and the Guarantors (assuming the due authorization, execution and delivery thereof by the Trustee and Sirius), will be a legally binding and valid obligation of each of the Company and the Guarantors, enforceable against each of the Company and the Guarantors in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity and the discretion of the court before which any proceeding therefor may be brought and an implied covenant of good faith and fair dealing (the "**Bankruptcy Exceptions**"). The Indenture, when executed and delivered, will conform in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(x) The Exchangeable Notes have been duly and validly authorized for issuance and sale to the Initial Purchasers by the Company, and when issued,

authenticated and delivered by the Company against payment therefor by the Initial Purchasers in accordance with the terms of this Agreement and the Indenture, the Exchangeable Notes will be legally binding and valid obligations of the Company, entitled to the benefits of the Indenture and the Registration Rights Agreement and enforceable against the Company in accordance with their terms, except as the enforcement thereof may be limited by the Bankruptcy Exceptions. The Exchangeable Notes, when issued, authenticated and delivered, will conform in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(xi) The Guarantees have been duly and validly authorized by each of the Guarantors and, when the Exchangeable Notes are issued, authenticated by the Trustee and delivered by the Company against payment by the Initial Purchasers in accordance with the terms of this Agreement and the Indenture, the Guarantees will be legally binding and valid obligations of the Guarantors, enforceable against each of them in accordance with their terms, except that enforceability thereof may be limited by the Bankruptcy Exceptions. The Guarantees, when executed and delivered, will conform in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(xii) The Registration Rights Agreement has been duly and validly authorized by the Company and, when it is duly executed and delivered by the Company (assuming the due authorization, execution and delivery thereof by the Initial Purchasers and Sirius), will be a legally binding and valid obligation of the Company, enforceable against it in accordance with it terms, except as the enforcement thereof may be limited by the Bankruptcy Exceptions. The Registration Rights Agreement conforms in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(xiii) [Intentionally Omitted].

(xiv) The Merger Agreement has been duly and validly authorized, executed and delivered by XM Holdings and is a valid and binding agreement of XM Holdings, enforceable against XM Holdings in accordance with its terms, except as the enforcement thereof may be limited by the Bankruptcy Exceptions. The Merger Agreement conforms in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(xv) None of XM Holdings, the Company nor any XM Subsidiary is, or immediately after giving effect to the Merger and the offering of Exchangeable Notes will be, (A) in violation of its charter, bylaws or other constitutive documents, (B) in default (or, with notice or lapse of time or both, would be in default) in the performance or observance of any obligation, agreement, covenant or condition contained in any bond, debenture, note, indenture, mortgage, deed of trust, loan or credit agreement, lease, license, franchise agreement, authorization, permit, certificate or other

agreement or instrument to which XM Holdings, Company or any XM Subsidiary is a party or by which any of them is bound or to which any of their assets or properties is subject (collectively, "**XM Agreements and Instruments**"), or (C) except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, in violation of any law, statute, rule or regulation or any judgment, order or decree of any domestic or foreign court or other governmental or regulatory authority, agency or other body with jurisdiction over any of them or any of their assets or properties ("**Governmental Authority**") including, without limitation, the Communications Act of 1934 (the "**Communications Act**") and the rules and regulations of the Federal Communications Commission (the "**FCC**"), except, in the case of clauses (B) and (C), for such defaults or violations as could not reasonably be expected to have, individually or in the aggregate, an XM Material Adverse Effect. Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, XM Holdings and the XM Subsidiaries possess all licenses, permits, approvals, registrations and other authorizations from the FCC and foreign regulatory bodies necessary to the conduct of its business (the "**XM Communications Licenses**"). Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, the XM Communications Licenses are in full force and effect, have not been revoked, suspended, canceled, rescinded or terminated, have not expired, and are not subject to any condition except those set forth on the XM Communications Licenses themselves or which are generally applicable to authorizations of such type. Except as set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum (i) to the best knowledge of the Company and XM Holdings, there is not pending any action by or before the FCC or any foreign regulatory body to revoke, suspend, cancel, rescind or materially and adversely modify any of the XM Communications Licenses (other than proceedings of general applicability); (ii) there is not issued or outstanding, by or before the FCC or any foreign regulatory body, any order to show cause, notice of violation, notice of apparent liability, order of forfeiture or similar notice against XM Holdings or any of its Subsidiaries that could result in any such action; (iii) to the best knowledge of the Company and XM Holdings, there are not pending or threatened any petitions to deny, complaints, investigations, or other proceedings by or before the FCC, any foreign regulatory body or any court of competent jurisdiction (with respect to any appeal of any decision by the FCC or a foreign regulatory body) concerning XM Holdings or any of its Subsidiaries or the Communications Licenses that can reasonably be expected to result in an XM Material Adverse Effect. Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, XM Holdings and its Subsidiaries have made, or have caused to be made, all reports and filings required to be filed by XM Holdings and any of it Subsidiaries with the FCC or any foreign or international regulatory body (including, without limitation, the International Telecommunication Union), and such reports and filings have been timely filed and are accurate and complete in all material respects, except for such filings which if not made or untimely filed would not reasonably be expected to result in an XM Material

Adverse Effect. Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, to the best knowledge of the Company and XM Holdings, there exists no condition that, and after giving effect to the Transactions there will exist no condition that, with notice, the passage of time or otherwise, would constitute a default under any such document or instrument described in this Section 5(a)(xv), which default could reasonably be expected to have an XM Material Adverse Effect.

(xvi) The execution, delivery and performance of the Note Documents and consummation of the Transactions (including the delivery of the Underlying Securities upon exchange of the Exchangeable Notes) does not and will not (i) violate the charter, bylaws or other constitutive documents of XM Holdings, the Company or any XM Subsidiary, (ii) conflict with or constitute a breach of or a default under (or an event that with notice or the lapse of time, or both, would constitute a default), or require consent under, or result in an XM Repayment Event (as defined below), other than an XM Repayment Event that will be satisfied at the Closing Date or as contemplated by each of the Pricing Disclosure Package and the Final Offering Memorandum (including the Refinancing Transactions, any offer to repurchase, at a repurchase price of 101%, any of the Company's 9.75% senior notes due 2014, senior floating rate notes due 2013 or 10% senior secured discount notes and the amendment to the indenture governing the Company's 1.75% convertible senior notes due 2009 (the "**1.75% Notes**") to increase the interest rate on such 1.75%), or the creation or imposition of a lien, charge or encumbrance on any property or assets of XM Holdings, the Company or any XM Subsidiary under any of the XM Agreements and Instruments, to the extent a party thereto or (iii) violate any law, statute, rule or regulation, including, without limitation, Regulation T, U or X of the Board of Governors of the Federal Reserve System, or any judgment, order or decree of any Governmental Authority. Assuming the accuracy of the representations and warranties of the Initial Purchasers in Section 5(c) of this Agreement and compliance by the holders of the Securities with the transfer restrictions set forth in the Indenture, no consent, approval, authorization or order of, or filing, registration, qualification, license or permit of or with, any Governmental Authority is required to be obtained or made by XM Holdings, the Company or any XM Subsidiary for the execution, delivery and performance by XM Holdings, the Company or any XM Subsidiary of the Note Documents and the consummation of the Transactions (including the delivery of the Underlying Securities upon exchange of the Exchangeable Notes), except such as have been or will be obtained or made on or prior to the Closing Date. No consents or waivers from any other person or entity are or will be required for the execution, delivery and performance of the Note Documents and the consummation of the Transactions, other than such consents and waivers as have been obtained or will be obtained prior to the Closing Date and will be in full force and effect. As used herein, an "**XM Repayment Event**" means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the

right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by XM Holdings, the Company or any XM Subsidiary.

(xvii) KPMG LLP, the public accountants whose report is included or incorporated by reference in each of the Pricing Disclosure Package and the Final Offering Memorandum with respect to Holdings and the XM Subsidiaries, are independent within the meaning of the Act and the rules of the Public Company Accounting Oversight Board. The historical financial statements (including the notes thereto) of Holdings and the XM Subsidiaries included or incorporated by reference in each of the Pricing Disclosure Package and the Final Offering Memorandum present fairly in all material respects the consolidated financial position, results of operations, cash flows and changes in stockholder's equity of the entities to which they relate at the respective dates and for the respective periods indicated. All such financial statements have been prepared in accordance with generally accepted accounting principles in the United States ("**GAAP**") applied on a consistent basis throughout the periods presented (except as disclosed therein) and in compliance with Regulation S-X ("**Regulation S-X**") under the Exchange Act, except that the interim financial statements do not include full footnote disclosure. The information set forth under the caption "Summary — Summary historical consolidated financial data of XM Holdings" included in each of the Pricing Disclosure Package and the Final Offering Memorandum have been prepared on a basis consistent with that of the audited financial statements of the Company.

(xviii) Since the date as of which information is given in each of the Pricing Disclosure Package and the Final Offering Memorandum, except as set forth or contemplated in each of the Pricing Disclosure Package and the Final Offering Memorandum, (A) none XM Holdings, the Company or any XM Subsidiary has (1) incurred any liabilities or obligations, direct or contingent, that could, individually or in the aggregate, reasonably be expected to have an XM Material Adverse Effect, or (2) entered into any material transaction not in the ordinary course of business, (B) there has not been any event or development in respect of the business or condition (financial or other) of XM Holdings, the Company or any XM Subsidiary that, either individually or in the aggregate, could reasonably be expected to have an XM Material Adverse Effect, (C) there has been no dividend or distribution of any kind declared, paid or made by XM Holdings on any of its equity interests and (D) there has not been any material change in the long-term debt of XM Holdings, the Company or any XM Subsidiary.

(xix) The assumptions used in the as adjusted financial information of Holdings included in each of the Pricing Disclosure Package and the Final Offering Memorandum are reasonable, and the adjustments used therein are appropriate to give effect to the transactions or circumstances referred to therein.

(xx) The statistical and market-related data and forward-looking statements included in each of the Pricing Disclosure Package and the Final Offering Memorandum are based on or derived from sources that the Issuers believe to be reliable and accurate in all material respects and represent their good faith estimates that are made on the basis of data derived from such sources. The Company has obtained the written consent to the use of such data from such sources to the extent required.

(xxi) As of the date hereof and as of the Closing Date, immediately prior to and immediately following the consummation of the Transactions, the Company and the Guarantors are and will be Solvent. As used in this clause (xxi) "**Solvent**" shall mean, for any person on a particular date, that on such date (A) the fair value of the property of such person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such person, (B) the present fair salable value of the assets of such person is not less than the amount that will be required to pay the probable liability of such person on its debts as they become absolute and matured, (C) such person does not intend to, and does not believe that it will, incur debts and liabilities beyond such person's ability to pay or refinance as such debts and liabilities mature, (D) such person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such person's property would constitute an unreasonably small capital and (E) such person is able to pay or refinance its debts as they become due and payable.

(xxii) Except as set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum, there is (A) no action, suit or proceeding before or by any Governmental Authority or arbitrator, now pending or, to the knowledge of the Company and the Guarantors, threatened or contemplated, to which XM Holdings, the Company or any XM Subsidiary is or may be a party or to which the business, assets or property of XM Holdings, the Company or any XM Subsidiary is or may be subject, (B) no law, statute, rule or regulation that has been enacted, adopted or issued or, to the knowledge of the Company and the Guarantors, that has been proposed by any Governmental Authority, (C) no judgment, decree or order of any Governmental Authority that, in any of clause (A), (B) or (C), could reasonably be expected, individually or in the aggregate, to have an XM Material Adverse Effect.

(xxiii) Except as could not reasonably be expected to have an XM Material Adverse Effect, no labor disturbance by the employees of XM Holdings, the Company or any XM Subsidiary exists or, to the knowledge of the Company and the Guarantors, is imminent.

(xxiv) None of XM Holdings, the Company or any of the XM Subsidiaries has, or immediately after giving effect to the Merger will have, violated any environmental, safety or similar law or regulation applicable to it or its business or property relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants ("**Environmental Laws**"), lacks or immediately

after giving effect to the Merger will lack, any permit, license or other approval required of it under applicable Environmental Laws, is violating or immediately after giving effect to the Merger will be violating, any term or condition of such permit, license or approval or is subject to any pending or threatened liability under the Environmental Laws which could reasonably be expected to, either individually or in the aggregate, have an XM Material Adverse Effect.

(xxv) Each of XM Holdings, the Company and the XM Subsidiaries have, and immediately after giving effect to the Merger will have, except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum (A) all licenses, certificates, permits, authorizations, approvals, franchises and other rights from, and has made all declarations and filings with, all applicable Governmental Authorities and all self-regulatory authorities (each, an "**Authorization**" and collectively, the "**Authorizations**") necessary to engage in the business conducted by it in the manner described in each of the Pricing Disclosure Package and the Final Offering Memorandum, except where the failure to hold such Authorizations could not, individually or in the aggregate, be reasonably expected to have an XM Material Adverse Effect, and (B) no reason to believe that any Governmental Authority or self-regulatory authority is considering or threatening limiting, suspending or revoking any such Authorization, except where such limitation, suspension or revocation could not, individually or in the aggregate, reasonably be expected to have an XM Material Adverse Effect. Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, all such Authorizations are, and immediately after giving effect to the Merger will be, valid and in full force and effect, and XM Holdings, the Company and the XM Subsidiaries are, and immediately after giving effect to the Merger will be, in compliance in all material respects with the terms and conditions of all such Authorizations and with the rules and regulations of the authorities having jurisdiction with respect to such Authorizations, except for any invalidity, failure to be in full force and effect or noncompliance with any Authorization that could not, individually or in the aggregate, reasonably be expected to have an XM Material Adverse Effect.

(xxvi) Each of XM Holdings and the XM Subsidiaries have, and immediately after giving effect to the Merger will have, good, valid and marketable title in fee simple to all items of owned real property and valid title to all personal property owned by each of them, in each case free and clear of any pledge, lien, encumbrance, security interest or other defect or claim of any third party, except (A) such as do not materially and adversely affect the value of such property and do not materially interfere with the use made or proposed to be made of such property by XM Holdings or such XM Subsidiary, (B) liens described in each of the Pricing Disclosure Package and the Final Offering Memorandum, (C) as created pursuant to the Indenture and (D) liens permitted by the Indenture and XM Existing Security Agreements. Any real property, personal property and buildings held under lease by XM Holdings or any such XM Subsidiary are, and immediately after giving effect to the Merger will be, held under

valid, subsisting and enforceable leases, with such exceptions as do not materially interfere with the use made or proposed to be made of such property and buildings by XM Holdings or such XM Subsidiary.

(xxvii) Each of XM Holdings, the Company and each XM Subsidiary own, possesses or has the right to employ, and immediately after giving effect to the Merger will own, possess or have the right to employ all patents, patent rights, licenses (including all FCC, state, local or other regulatory licenses) inventions, copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks and trade names, (collectively, the "**Intellectual Property**") necessary to conduct the businesses operated by it or that are proposed to be operated by it, including immediately after giving effect to the Merger, as described in each of the Pricing Disclosure Package and the Final Offering Memorandum, except where the failure to own, possess or have the right to employ such Intellectual Property, individually or in the aggregate, could not reasonably be expected to have an XM Material Adverse Effect. None of XM Holdings, nor the Company nor any XM Subsidiary has received any notice of infringement of or conflict with (and neither knows of any such infringement or a conflict with) asserted rights of others with respect to any of the foregoing that could reasonably be expected to have an XM Material Adverse Effect. The use of the Intellectual Property in connection with the business and operations of XM Holdings, the Company and the XM Subsidiaries does not infringe, and immediately after giving effect to the Merger will not infringe, on the rights of any person, except for such infringement as could not reasonably be expected to have an XM Material Adverse Effect.

(xxviii) All tax returns required to be filed by XM Holdings, the Company or any XM Subsidiary have been filed in all jurisdictions where such returns are required to be filed; and all taxes, including withholding taxes, value added and franchise taxes, penalties and interest, assessments, fees and other charges due or claimed to be due from such entities or that are due and payable have been paid, other than those being contested in good faith and for which reserves have been provided in accordance with GAAP or those currently payable without penalty or interest and except where the failure to make such required filings or payments could not, individually or in the aggregate, reasonably be expected to have an XM Material Adverse Effect.

(xxix) Neither XM Holdings, nor the Company nor any XM Subsidiary has, or immediately after giving effect to the Merger will have, any liability for any prohibited transaction or accumulated funding deficiency (within the meaning of Section 412 of the Internal Revenue Code) or any complete or partial withdrawal liability with respect to any pension, profit sharing or other plan which is subject to the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), to which XM Holdings, the Company or any XM Subsidiary makes or ever has made a contribution and in which any employee of XM Holdings, the Company or any XM

Subsidiary is or has ever been a participant. With respect to such plans, each of XM Holdings, the Company and each XM Subsidiary is, and immediately after giving effect to the Merger will be, in compliance in all material respects with all applicable provisions of ERISA.

(xxx) None of XM Holdings nor any XM Subsidiary is, or after giving effect to the Transactions will be, required to be registered as an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

(xxxi) XM Holdings, the Company and the XM Subsidiaries maintain, and immediately after giving effect to the Merger will maintain, a system of internal accounting controls sufficient to provide reasonable assurance that: (A) transactions are executed in accordance with management's general or specific authorizations; (B) transactions are recorded as necessary to permit preparation of their financial statements in conformity with GAAP and to maintain accountability for assets; (C) access to assets is permitted only in accordance with management's general or specific authorization; and (D) the recorded accountability for their assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(xxxii) XM Holdings, the Company and the XM Subsidiaries have established and maintain, and immediately after giving effect to the Merger will maintain, disclosure controls and procedures (as such term is defined in Rules 13a-15 and 15d-14 under the Exchange Act); such disclosure controls and procedures are designed to ensure that material information relating to XM Holdings, the Company and the XM Subsidiaries is made known to the chief executive officer and chief financial officer of XM Holdings and the Company by others within XM Holdings or Company or any XM Subsidiary, and such disclosure controls and procedures are reasonably effective to perform the functions for which they were established subject to the limitations of any such control system; XM Holdings' and the Company's auditors and the audit committee of the board of directors of XM Holdings and the Company have been advised of: (A) any significant deficiencies in the design or operation of internal controls which could adversely affect XM Holdings' or the Company's ability to record, process, summarize, and report financial data; and (B) any fraud, whether or not material, that involves management or other employees who have a role in XM Holdings' or the Company's internal controls; and since the date of the most recent evaluation of such disclosure controls and procedures, there have been no significant changes in internal controls or in other factors that could significantly affect internal controls. XM Holdings and the Company has provided or made available to the Initial Purchasers or their counsel true and complete copies of all existent minutes or draft minutes of meetings, or resolutions adopted by written consent, of the boards of directors of XM Holdings and the Company and each committee of each such board in the past three years, and all agendas for each such meeting for which minutes or draft minutes do not exist.

(xxxiii) Neither XM Holdings nor any of its affiliates (as defined in Rule 501(b) of Regulation D under the Act) has, directly or through any person acting on its or their behalf (other than any Initial Purchaser, as to which no representation is made), (A) taken, directly or indirectly, any action designed to, or that might reasonably be expected to, cause or result in stabilization or manipulation of the price of any security of any Issuer to facilitate the sale or resale of the Securities, (B) sold, bid for, purchased or paid any person any compensation for soliciting purchases of the Securities in a manner that would require registration of the Securities under the Act or paid or agreed to pay to any person any compensation for soliciting another to purchase any other securities of any Issuer in a manner that would require registration of the Securities under the Act, (C) sold, offered for sale, contracted to sell, pledged, solicited offers to buy or otherwise disposed of or negotiated in respect of any security (as defined in the Act) that is currently or will be integrated with the sale of the Securities in a manner that would require the registration of the Securities under the Act.

(xxxiv) No form of general solicitation or general advertising (prohibited by the Act in connection with offers or sales such as the Exempt Resales) was used by XM Holdings, the Company or any person acting on its behalf (other than any Initial Purchaser, as to which no representation is made) in connection with the offer and sale of any of the Securities or in connection with Exempt Resales, including, but not limited to, articles, notices or other communications published in any newspaper, magazine or similar medium or broadcast over television or radio or the Internet, or any seminar or meeting whose attendees have been invited by any general solicitation or general advertising within the meaning of Regulation D under the Act. Neither the Company nor any of its affiliates has entered into, or will enter into, any contractual arrangement with respect to the distribution of the Securities except for this Agreement.

(xxxv) Except as described in the section entitled “Plan of distribution” in each of the Pricing Disclosure Package and the Final Offering Memorandum, there are no contracts, agreements or understandings between, XM Holdings, the Company or any XM Subsidiary and any other person other than the Initial Purchasers pursuant to this Agreement that would give rise to a valid claim against XM Holdings, the Company, any XM Subsidiary or any of the Initial Purchasers for a brokerage commission, finder’s fee or like payment in connection with the issuance, purchase and sale of the Securities.

(xxxvi) There is and has been no failure on the part of XM Holdings, the Company and any of XM Holdings’ or the Company’s directors or officers, in their capacities as such, to comply in all material respects with any presently applicable provision of the Sarbanes Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the “**Sarbanes Oxley Act**”), including Section 402 related to loans and Sections 302 and 906 related to certifications.

(b) Sirius represents and warrants to the Initial Purchasers that, as of the date hereof and as of the Closing Date:

(i) Neither the Pricing Disclosure Package, as of the date hereof, nor the Final Offering Memorandum, as of its date or (as amended or supplemented in accordance with Section 4(i)(b), if applicable) as of the Closing Date, contains or represents any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided*, *however*, that Sirius make no representation or warranty with respect to information relating to the Initial Purchasers contained in or omitted from the Pricing Disclosure Package, the Final Offering Memorandum or any amendment or supplement thereto in reliance upon and in conformity with information furnished to the Issuers in writing by or on behalf of any Initial Purchaser expressly for inclusion in the Pricing Disclosure Package, the Final Offering Memorandum or amendment or supplement thereto, as the case may be. No order preventing the use of the Preliminary Offering Memorandum, the Pricing Supplement or the Final Offering Memorandum, or any amendment or supplement thereto, or any order asserting that any of the transactions contemplated by this Agreement are subject to the registration requirements of the Act, has been issued or, to the knowledge of Sirius, has been threatened.

(ii) Sirius (including its agents and representatives, other than the Initial Purchasers in their capacity as such) has not prepared, made, used, authorized, approved or referred to and will not prepare, make, use, authorize, approve or refer to any Issuer Written Communication other than (i) the Pricing Disclosure Package, (ii) the Final Offering Memorandum, and (iii) any electronic road show or other written communications, in each case used in accordance with Section 4(j). Each such Issuer Written Communication, when taken together with the Pricing Disclosure Package, did not, and at the Closing Date will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(iii) The documents of Sirius incorporated by reference filed with the Commission in each of the Pricing Disclosure Package and the Final Offering Memorandum at the time they were or hereafter are filed with the Commission complied and will comply in all material respects with the requirements of the Exchange Act and the Exchange Act Regulations.

(iv) The capitalization of Sirius and it subsidiaries (i) was, as of March 31, 2008, as set forth in the Pricing Disclosure Package and the Final Offering Memorandum in the "Actual" column under the heading "Capitalization of Sirius" and (ii) assuming the consummation of the Transactions

on the terms described therein, will be, as of the Closing Date, as set forth in the Pricing Disclosure Package and the Final Offering Memorandum in the "As adjusted for the merger and Refinancing Transactions" column under the heading "Capitalization of Sirius." Attached as Schedule III is a true and complete list of each domestic entity in which Sirius has a direct or indirect majority equity or voting interest (each, a "**Sirius Subsidiary**" and, together, the "**Sirius Subsidiaries**"), their jurisdictions of organization, name of its equityholder(s) and percentage held by each equityholder. All of the issued and outstanding equity interests of each Sirius Subsidiary have been duly and validly authorized and issued, are and immediately after giving effect to the Merger will be, fully paid and nonassessable, were not issued in violation of any preemptive or similar right and, except as set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum, are owned, and after giving effect to the Merger will be owned, directly or indirectly through the Sirius Subsidiaries, by Sirius free and clear of all liens (other than transfer restrictions imposed by the Act, the securities or Blue Sky laws of certain jurisdictions and security interests granted pursuant to existing security agreements (the "**Sirius Existing Security Agreements**") in respect of the Term Credit Agreement, dated as of June 20, 2007 and the Loral Credit Agreement referenced in the Pricing Disclosure Package and the Final Offering Memorandum. Except as set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum, there are not currently and after giving effect to the Merger there will not be, any outstanding options, warrants or other rights to acquire or purchase, or instruments convertible into or exchangeable for, any equity interests of Sirius or any of the Sirius Subsidiaries. All the outstanding shares of capital stock of Sirius have been duly and validly authorized and issued and are fully paid and non-assessable and are not subject to any pre-emptive or similar rights; except as described in or expressly contemplated in the Pricing Disclosure Package and the Final Offering Memorandum, there are no outstanding rights (including, without limitation, pre-emptive rights), warrants or options to acquire, or instruments convertible into or exchangeable for, any shares of capital stock or other equity interest in Sirius or any of the Sirius Subsidiaries, or any contract, commitment, agreement, understanding or arrangement of any kind relating to the issuance of any capital stock of Sirius or any such subsidiary, any such convertible or exchangeable securities or any such rights, warrants or options; the capital stock of the Sirius conforms in all material respects to the description thereof contained in the Pricing Disclosure Package and Final Offering Memorandum.

(v) Sirius (A) is a corporation duly organized and validly existing under the laws of the jurisdiction of its organization; (B) has, and after giving effect to the Transactions will have, all requisite corporate or other power and authority necessary to own its property and carry on its business as now being conducted and (C) is qualified to do business and is in good standing in all jurisdictions in which the nature of the business conducted by it or its ownership of property makes such qualification necessary, except where the failure to be so qualified and be in good standing, individually or in the aggregate, could not reasonably be expected to have,

individually or in the aggregate, a Sirius Material Adverse Effect. A '**Sirius Material Adverse Effecf**' means (x) a material adverse effect on the business, proposed business (including giving effect to the Transactions), condition (financial or other), results of operations, performance, properties or affairs of Sirius and the Sirius Subsidiaries, taken as a whole or (y) an adverse effect on the ability to consummate the Transactions on a timely basis. As used herein a "**Material Adverse Effecf**" means an XM Material Adverse Effect and a Sirius Material Adverse Effect.

(vi) Sirius has all requisite corporate or other power and authority to execute, deliver and perform all of its obligations under the Note Documents to which it is a party and to consummate the transactions contemplated hereby, and, without limitation, the Company has all requisite corporate power and authority to perform its obligations under the Exchangeable Notes.

(vii) This Agreement has been duly and validly authorized, executed and delivered by Sirius.

(viii) The Indenture has been duly and validly authorized by Sirius and, when it is duly executed and delivered by Sirius (assuming the due authorization, execution and delivery thereof by the Trustee and the Company and the Guarantors), will be a legally binding and valid obligation of Sirius, enforceable against Sirius in accordance with its terms, except as the enforcement thereof may be limited by the Bankruptcy Exceptions. The Indenture, when executed and delivered, will conform in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(ix) The Registration Rights Agreement has been duly and validly authorized by Sirius and, when it is duly executed and delivered by Sirius (assuming the due authorization, execution and delivery thereof by the Initial Purchasers and the Company), will be a legally binding and valid obligation of Sirius, enforceable against Sirius in accordance with it terms, except as the enforcement thereof may be limited by the Bankruptcy Exceptions. The Registration Rights Agreement conforms in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(x) The Share Lending Agreements have been duly and validly authorized by Sirius and, when each is duly executed and delivered by Sirius (assuming the due authorization, execution and delivery thereof by Morgan Stanley Capital Services, Inc. and UBS AG, London Branch, as applicable) each Share Lending Agreement will be a legally binding and valid obligation of Sirius, enforceable against it in accordance with it terms, except as the enforcement thereof may be limited by the Bankruptcy Exceptions. The Share Lending Agreements conform in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(xi) At or before the Closing Date, the Underlying Securities issuable upon exchange of the Exchangeable Notes will have been duly authorized and validly reserved for issuance upon exchange of the Exchangeable Notes, and, upon exchange of the Exchangeable Notes in accordance with their terms and the terms of the Indenture, will be issued free of statutory and contractual preemptive rights, resale rights, rights of first refusal and similar rights and free of any voting restrictions (and will be free of any restriction, pursuant to Sirius's charter or bylaws or any agreement or other instrument to which Sirius is a party, upon the transfer thereof), and will be sufficient in number to meet the current exchange requirements (assuming all conditions to such exchange have been satisfied) based on "the sum of the Exchange Rate (as defined in the Indenture) in effect as of the time of purchase and as of each additional time of purchase and the maximum number of additional shares identified in the table under the caption "Description of Notes—Adjustment to shares delivered upon exchange upon certain fundamental changes" in the Pricing Disclosure Package and the Final Offering Memorandum"; such Underlying Securities, when so issued upon such exchange in accordance with the terms of the Exchangeable Notes and of the Indenture, will be duly and validly issued and fully paid and nonassessable; and the certificates for such Underlying Securities will be in due and proper form.

(xii) The Merger Agreement has been duly and validly authorized, executed and delivered by Sirius and is a valid and binding agreement of Sirius, enforceable against Sirius in accordance with its terms, except as the enforcement thereof may be limited by the Bankruptcy Exceptions. The Merger Agreement conforms in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(xiii) None of Sirius nor any Sirius Subsidiary is, or immediately after giving effect to the Merger and the offering of the Exchangeable Notes will be, (A) in violation of its charter, bylaws or other constitutive documents, (B) in default (or, with notice or lapse of time or both, would be in default) in the performance or observance of any obligation, agreement, covenant or condition contained in any bond, debenture, note, indenture, mortgage, deed of trust, loan or credit agreement, lease, license, franchise agreement, authorization, permit, certificate or other agreement or instrument to which Sirius or any Sirius Subsidiary is a party or by which any of them is bound or to which any of their assets or properties is subject (collectively, "**Sirius Agreements and Instruments**"), or (C) except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, in violation of any law, statute, rule or regulation or any judgment, order or decree of any domestic or foreign Governmental Authority including, without limitation, the Communications Act and the rules and regulations of the FCC, except, in the case of clauses (B) and (C), for such defaults or violations as could not reasonably be expected to have, individually or in the aggregate, a Sirius Material Adverse Effect. Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, Sirius and the Sirius Subsidiaries possess

all licenses, permits, approvals, registrations and other authorizations from the FCC and foreign regulatory bodies necessary to the conduct of its business (the "**Sirius Communications Licenses**"). Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, the Sirius Communications Licenses are in full force and effect, have not been revoked, suspended, canceled, rescinded or terminated, have not expired, and are not subject to any condition except those set forth on the Sirius Communications Licenses themselves or which are generally applicable to authorizations of such type. Except as set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum (i) to the best knowledge of Sirius and the Sirius Subsidiaries, there is not pending any action by or before the FCC or any foreign regulatory body to revoke, suspend, cancel, rescind or materially and adversely modify any of the Sirius Communications Licenses (other than proceedings of general applicability); (ii) there is not issued or outstanding, by or before the FCC or any foreign regulatory body, any order to show cause, notice of violation, notice of apparent liability, order of forfeiture or similar notice against Sirius or any of the Sirius Subsidiaries that could result in any such action; (iii) to the best knowledge of Sirius, there are not pending or threatened any petitions to deny, complaints, investigations, or other proceedings by or before the FCC, any foreign regulatory body or any court of competent jurisdiction (with respect to any appeal of any decision by the FCC or a foreign regulatory body) concerning Sirius or any of the Sirius Subsidiaries or the Sirius Communications Licenses that can reasonably be expected to result in a Sirius Material Adverse Effect. Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, Sirius and the Sirius Subsidiaries have made, or have caused to be made, all reports and filings required to be filed by Sirius and any of the Sirius Subsidiaries with the FCC or any foreign or international regulatory body (including, without limitation, the International Telecommunication Union), and such reports and filings have been timely filed and are accurate and complete in all material respects, except for such filings which if not made or untimely filed would not reasonably be expected to result in a Sirius Material Adverse Effect. Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, to the best knowledge of Sirius, there exists no condition that, and after giving effect to the Merger there will exist no condition that, with notice, the passage of time or otherwise, would constitute a default under any such document or instrument described in this Section 5(b)(xiii), which default could reasonably be expected to have a Sirius Material Adverse Effect.

(xiv) The execution, delivery and performance of the Note Documents to which it is a party by Sirius and the consummation of the Transactions to which it is a party by Sirius does not and will not (i) violate the charter, bylaws or other constitutive documents of Sirius or any Sirius Subsidiary, (ii) conflict with or constitute a breach of or a default under (or an event that with notice or the lapse of time, or both, would constitute a default), or require consent under, or result in a Sirius Repayment Event (as defined below), other than a Sirius Repayment Event that will be satisfied

at the Closing Date or as contemplated by each of the Pricing Disclosure Package and the Final Offering Memorandum, or the creation or imposition of a lien, charge or encumbrance on any property or assets of Sirius or Sirius Subsidiary under any of the Agreements and Instruments, to the extent a party thereto or (iii) violate any law, statute, rule or regulation, including, without limitation, Regulation T, U or X of the Board of Governors of the Federal Reserve System, or any judgment, order or decree of any Governmental Authority. Assuming the accuracy of the representations and warranties of the Initial Purchasers in Section 5(c) of this Agreement, no consent, approval, authorization or order of, or filing, registration, qualification, license or permit of or with, any Governmental Authority is required to be obtained or made by Sirius or any Sirius Subsidiary for the execution, delivery and performance by XM Holdings, the Company or any Sirius Subsidiary of the Note Documents and the consummation of the Transactions, except such as have been or will be obtained or made on or prior to the Closing Date. No consents or waivers from any other person or entity are or will be required for the execution, delivery and performance of the Note Documents and the consummation of the Transactions, other than such consents and waivers as have been obtained or will be obtained prior to the Closing Date and will be in full force and effect. As used herein, a "**Sirius Repayment Event**" means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by Sirius or any Sirius Subsidiary.

(xv) Ernst & Young LLP, the public accountants whose report is included or incorporated by reference in each of the Pricing Disclosure Package and the Final Offering Memorandum with respect to Sirius and the Sirius Subsidiaries, are independent within the meaning of the Act and the rules of the Public Company Accounting Oversight Board. The historical financial statements (including the notes thereto) of Sirius and the Sirius Subsidiaries included or incorporated by reference in each of the Pricing Disclosure Package and the Final Offering Memorandum present fairly in all material respects the consolidated financial position, results of operations, cash flows and changes in stockholder's equity of the entities to which they relate at the respective dates and for the respective periods indicated. All such financial statements have been prepared in accordance with GAAP applied on a consistent basis throughout the periods presented (except as disclosed therein) and in compliance with Regulation S-X under the Exchange Act, except that the interim financial statements do not include full footnote disclosure. Except as may otherwise be indicated in the Pricing Disclosure Package and the Final Offering Memorandum, the information set forth under the caption "Summary — Summary historical and pro forma consolidated financial data of Sirius" and —Unaudited pro forma condensed combined financial statements" included in each of the Pricing Disclosure Package and the Final Offering Memorandum have been prepared on a basis consistent with that of the audited financial statements of Sirius.

(xvi) Since the date as of which information is given in each of the Pricing Disclosure Package and the Final Offering Memorandum, except as set forth or contemplated in each of the Pricing Disclosure Package and the Final Offering Memorandum, (A) none Sirius or any Sirius Subsidiary has (1) incurred any liabilities or obligations, direct or contingent, that could, individually or in the aggregate, reasonably be expected to have a Sirius Material Adverse Effect, or (2) entered into any material transaction not in the ordinary course of business, (B) there has not been any event or development in respect of the business or condition (financial or other) of Sirius or any Sirius Subsidiary that, either individually or in the aggregate, could reasonably be expected to have a Sirius Material Adverse Effect, (C) there has been no dividend or distribution of any kind declared, paid or made by Sirius on any of its equity interests and (D) there has not been any material change in the long-term debt of Sirius or any Sirius Subsidiary.

(xvii) The unaudited pro forma financial statements (including the notes thereto) (A) comply as to form in all material respects with the applicable requirements of Regulation S-X, (B) have been prepared in accordance with the Commission's rules and guidelines with respect to pro forma financial statements and (C) have been properly computed on the bases described therein. The assumptions used in the pro forma and as adjusted financial information included in each of the Pricing Disclosure Package and the Final Offering Memorandum are reasonable, and the adjustments used therein are appropriate to give effect to the transactions or circumstances referred to therein.

(xviii) The statistical and market-related data and forward-looking statements included in each of the Pricing Disclosure Package and the Final Offering Memorandum are based on or derived from sources that the Issuers believe to be reliable and accurate in all material respects and represent their good faith estimates that are made on the basis of data derived from such sources. Sirius has obtained the written consent to the use of such data from such sources to the extent required.

(xix) As of the date hereof and as of the Closing Date, immediately prior to and immediately following the consummation of the Transactions, Sirius is and will be Solvent. As used in this clause (xix), "**Solvent**" shall mean, for any person on a particular date, that on such date (A) the fair value of the property of such person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such person, (B) the present fair salable value of the assets of such person is not less than the amount that will be required to pay the probable liability of such person on its debts as they become absolute and matured, (C) such person does not intend to, and does not believe that it will, incur debts and liabilities beyond such person's ability to pay or refinance as such debts and liabilities mature, (D) such person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such person's property would constitute an unreasonably small capital and (E) such person is able to pay or refinance its debts as they become due and payable.

(xx) Except as set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum, there is (A) no action, suit or proceeding before or by any Governmental Authority or arbitrator, now pending or, to the knowledge of Sirius, threatened or contemplated, to which Sirius or any Sirius Subsidiary is or may be a party or to which the business, assets or property of Sirius or any Sirius Subsidiary is or may be subject, (B) no law, statute, rule or regulation that has been enacted, adopted or issued or, to the knowledge of the Issuers, that has been proposed by any Governmental Authority, (C) no judgment, decree or order of any Governmental Authority that, in any of clause (A), (B) or (C), could reasonably be expected, individually or in the aggregate, to have a Sirius Material Adverse Effect.

(xxi) Except as could not reasonably be expected to have a Sirius Material Adverse Effect, no labor disturbance by the employees of Sirius or any Sirius Subsidiary exists or, to the knowledge of Sirius, is imminent.

(xxii) None of Sirius or any of the Sirius Subsidiaries has, or immediately after giving effect to the Merger will have, violated any Environmental Laws, lacks or immediately after giving effect to the Merger will lack, any permit, license or other approval required of it under applicable Environmental Laws, is violating or immediately after giving effect to the Merger will be violating, any term or condition of such permit, license or approval or is subject to any pending or threatened liability under the Environmental Laws which could reasonably be expected to, either individually or in the aggregate, have a Sirius Material Adverse Effect.

(xxiii) Each of Sirius and the Sirius Subsidiaries have, and immediately after giving effect to the Merger will have, except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum (A) all Authorizations necessary to engage in the business conducted by it in the manner described in each of the Pricing Disclosure Package and the Final Offering Memorandum, except where the failure to hold such Authorizations could not, individually or in the aggregate, be reasonably expected to have a Sirius Material Adverse Effect, and (B) no reason to believe that any Governmental Authority or self-regulatory authority is considering or threatening limiting, suspending or revoking any Authorization, except where such limitation, suspension or revocation could not, individually or in the aggregate, reasonably be expected to have a Sirius Material Adverse Effect. Except as set forth in each of the Pricing Disclosure Package and Final Offering Memorandum, all Authorizations are, and immediately after giving effect to the Merger will be, valid and in full force and effect, and Siruis and the Sirius Subsidiaries are, and immediately after giving effect to the Merger will be, in compliance in all material respects with the terms and conditions of all such Authorizations and with the rules and regulations of the authorities having jurisdiction with respect to such Authorizations, except for any invalidity, failure

to be in full force and effect or noncompliance with any Authorization that could not, individually or in the aggregate, reasonably be expected to have a Sirius Material Adverse Effect.

(xxiv) Each of Sirius and the Sirius Subsidiaries have, and immediately after giving effect to the Merger will have, good, valid and marketable title in fee simple to all items of owned real property and valid title to all personal property owned by each of them, in each case free and clear of any pledge, lien, encumbrance, security interest or other defect or claim of any third party, except (A) such as do not materially and adversely affect the value of such property and do not materially interfere with the use made or proposed to be made of such property by Sirius or such Sirius Subsidiary, (B) liens described in each of the Pricing Disclosure Package and the Final Offering Memorandum, (C) as created pursuant to the Indenture and (D) liens permitted by the Indenture and Sirius Existing Security Agreements. Any real property, personal property and buildings held under lease by Sirius or any such Sirius Subsidiary are, and immediately after giving effect to the Merger will be, held under valid, subsisting and enforceable leases, with such exceptions as do not materially interfere with the use made or proposed to be made of such property and buildings by Sirius or such Sirius Subsidiary.

(xxv) Each of Sirius and each Sirius Subsidiary owns, possesses or has the right to employ, and immediately after giving effect to the Merger will own, possess or have the right to employ all Intellectual Property necessary to conduct the businesses operated by it or that are proposed to be operated by it, including after giving effect to the Merger, as described in each of the Pricing Disclosure Package and the Final Offering Memorandum, except where the failure to own, possess or have the right to employ such Intellectual Property, individually or in the aggregate, could not reasonably be expected to have a Sirius Material Adverse Effect. None of Sirius nor any Sirius Subsidiary has received any notice of infringement of or conflict with (and neither knows of any such infringement or a conflict with) asserted rights of others with respect to any of the foregoing that could reasonably be expected to have a Sirius Material Adverse Effect. The use of the Intellectual Property in connection with the business and operations of Sirius and the Sirius Subsidiaries does not infringe, and immediately after giving effect to the Merger will not infringe, on the rights of any person, except for such infringement as could not reasonably be expected to have a Sirius Material Adverse Effect.

(xxvi) All tax returns required to be filed by Sirius or any Sirius Subsidiary have been filed in all jurisdictions where such returns are required to be filed; and all taxes, including withholding taxes, value added and franchise taxes, penalties and interest, assessments, fees and other charges due or claimed to be due from such entities or that are due and payable have been paid, other than those being contested in good faith and for which reserves have been provided in accordance with GAAP or those currently payable without penalty or interest and except where the failure to make such required filings or payments could not, individually or in the aggregate, reasonably be expected to have a Sirius Material Adverse Effect.

(xxvii) Neither Sirius nor any Sirius Subsidiary has, or after giving effect to the Merger will have, any liability for any prohibited transaction or accumulated funding deficiency (within the meaning of Section 412 of the Internal Revenue Code) or any complete or partial withdrawal liability with respect to any pension, profit sharing or other plan which is subject to ERISA, to which Sirius or any Sirius Subsidiary makes or ever has made a contribution and in which any employee of Sirius or any Sirius Subsidiary is or has ever been a participant. With respect to such plans, each of Sirius and each Sirius Subsidiary is, and immediately after giving effect to the Merger will be, in compliance in all material respects with all applicable provisions of ERISA.

(xxviii) None of Sirius nor any Sirius Subsidiary is, or after giving effect to the Transactions will be, required to be registered as an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

(xxix) Sirius and the Sirius Subsidiaries maintain, and immediately after giving effect to the Merger will maintain, a system of internal accounting controls sufficient to provide reasonable assurance that: (A) transactions are executed in accordance with management's general or specific authorizations; (B) transactions are recorded as necessary to permit preparation of their financial statements in conformity with GAAP and to maintain accountability for assets; (C) access to assets is permitted only in accordance with management's general or specific authorization; and (D) the recorded accountability for their assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(xxx) Sirius and the Sirius Subsidiaries have established and maintain, and immediately after giving effect to the Merger will maintain, disclosure controls and procedures (as such term is defined in Rules 13a-15 and 15d-14 under the Exchange Act); such disclosure controls and procedures are designed to ensure that material information relating to Sirius and the Sirius Subsidiaries is made known to the chief executive officer and chief financial officer of Sirius by others within Sirius or any Sirius Subsidiary, and such disclosure controls and procedures are reasonably effective to perform the functions for which they were established subject to the limitations of any such control system; Sirius's auditors and the audit committee of the board of directors of Sirius have been advised of: (A) any significant deficiencies in the design or operation of internal controls which could adversely affect Sirius's ability to record, process, summarize, and report financial data; and (B) any fraud, whether or not material, that involves management or other employees who have a role in Sirius's internal controls; and since the date of the most recent evaluation of such disclosure controls and procedures, there have been no significant changes in internal controls or in other factors that could significantly

affect internal controls. Sirius has provided or made available to the Initial Purchasers or their counsel true and complete copies of all existent minutes or draft minutes of meetings, or resolutions adopted by written consent, of the boards of directors of Sirius and each committee of each such board in the past three years, and all agendas for each such meeting for which minutes or draft minutes do not exist.

(xxxi) Sirius nor any of its affiliates (as defined in Rule 501(b) of Regulation D under the Act) has, directly or through any person acting on its or their behalf (other than any Initial Purchaser, as to which no representation is made), (A) taken, directly or indirectly, any action designed to, or that might reasonably be expected to, cause or result in stabilization or manipulation of the price of any security of any Issuer to facilitate the sale or resale of the Securities, (B) sold, bid for, purchased or paid any person any compensation for soliciting purchases of the Securities in a manner that would require registration of the Securities under the Act or paid or agreed to pay to any person any compensation for soliciting another to purchase any other securities of any Issuer in a manner that would require registration of the Securities under the Act, (C) sold, offered for sale, contracted to sell, pledged, solicited offers to buy or otherwise disposed of or negotiated in respect of any security (as defined in the Act) that is currently or will be integrated with the sale of the Securities in a manner that would require the registration of the Securities under the Act.

(xxxii) No form of general solicitation or general advertising (prohibited by the Act in connection with offers or sales such as the Exempt Resales) was used by Sirius or any person acting on its behalf (other than any Initial Purchaser, as to which no representation is made) in connection with the offer and sale of any of the Securities or in connection with Exempt Resales, including, but not limited to, articles, notices or other communications published in any newspaper, magazine or similar medium or broadcast over television or radio or the Internet, or any seminar or meeting whose attendees have been invited by any general solicitation or general advertising within the meaning of Regulation D under the Act. Neither Sirius nor any of its affiliates has entered into, or will enter into, any contractual arrangement with respect to the distribution of the Securities except for this Agreement.

(xxxiii) Except as described in the section entitled “Plan of distribution” in each of the Pricing Disclosure Package and the Final Offering Memorandum, there are no contracts, agreements or understandings between Sirius or any Sirius Subsidiary and any other person other than the Initial Purchasers pursuant to this Agreement that would give rise to a valid claim against Sirius, any Sirius Subsidiary or any of the Initial Purchasers for a brokerage commission, finder’s fee or like payment in connection with the issuance, purchase and sale of the Securities.

(xxxiv) There is and has been no failure on the part of Sirius and any of Sirius’s directors or officers, in their capacities as such, to comply in all material

respects with any presently applicable provision of the Sarbanes Oxley Act and the rules and regulations promulgated in connection therewith, including Section 402 related to loans and Sections 302 and 906 related to certifications.

(xxxv) The issuance and sale of the Exchangeable Notes as contemplated hereby will not cause any holder of any shares of capital stock, securities convertible into or exchangeable or exercisable for capital stock or options, warrants or other rights to purchase capital stock or any other securities of Sirius to have any right to acquire any shares of preferred stock of Sirius.

(xxxvi) The Company has not received any notice from the NASDAQ regarding the delisting of the Common Stock from the NASDAQ;

Each certificate signed by any officer of the Company, XM Holdings or any XM Subsidiary or Sirius or any Sirius Subsidiary and delivered to the Initial Purchasers or counsel for the Initial Purchasers pursuant to, or in connection with, this Agreement shall be deemed to be a representation and warranty by the Issuers to the Initial Purchasers as to the matters covered by such certificate.

The Company and Sirius acknowledge that the Initial Purchasers and, for purposes of the opinions to be delivered to the Initial Purchasers pursuant to Section 8 of this Agreement, counsel to the Company and Sirius and counsel to the Initial Purchasers will rely upon the accuracy and truth of the foregoing representations and the Issuers hereby consent to such reliance

(c) Each Initial Purchaser represents that it is a QIB and acknowledges that it is purchasing the Securities pursuant to a private sale exemption from registration under the Act, and that the Securities have not been registered under the Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except pursuant to an exemption from the registration requirements of the Act. Each Initial Purchaser, severally and not jointly, represents, warrants and covenants to the Issuers that neither it, nor any person acting on its behalf, has or will solicit offers for, or offer or sell, the Securities by any form of general solicitation or general advertising (as those terms are used in Regulation D under the Act) or in any manner involving a public offering within the meaning of Section 4(2) of the Act, and it has and will solicit offers for the Securities only from, and will offer and sell the Securities only to, persons whom such Initial Purchaser reasonably believes to be QIBs or, if any such person is buying for one or more institutional accounts for which such person is acting as fiduciary or agent, only when such person has represented to such Initial Purchaser that each such account is a QIB to whom notice has been given that such sale or delivery is being made in reliance on Rule 144A, and, in each case, in reliance on the exemption from the registration requirements of the Act pursuant to Rule 144A. The Initial Purchasers understand that the Issuers and, for purposes of the opinions to be delivered to them pursuant to Section 8 hereof, counsel to the Issuers and counsel to the Initial Purchasers will rely upon the accuracy and truth of the foregoing representations, and each Initial Purchaser hereby consents to such reliance.

6. Indemnification. (a) The Issuers, jointly and severally, agree to indemnify and hold harmless the Initial Purchasers, each person, if any, who controls any Initial Purchaser within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act, the agents, employees, officers and directors of any Initial Purchaser and the agents, employees, officers and directors of any such controlling person from and against any and all losses, liabilities, claims, damages and expenses whatsoever (including, but not limited, to reasonable attorneys' fees and any and all reasonable expenses whatsoever

incurred in investigating, preparing or defending against any litigation, commenced or threatened, or any claim whatsoever, and any and all reasonable amounts paid in settlement of any claim or litigation) (collectively, "**Losses**") to which they or any of them may become subject under the Act, the Exchange Act or otherwise insofar as such Losses (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Pricing Disclosure Package, any Issuer Written Communication (including, but not limited to, any "road show," as defined in Rule 433 under the Securities Act), the Final Offering Memorandum, or in any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided* that none of the Issuers will be liable in any such case to the extent, but only to the extent, that any such Loss arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission relating to an Initial Purchaser made therein in reliance upon and in conformity with written information furnished to the Issuers by or on behalf of such Initial Purchaser expressly for use therein. This indemnity agreement will be in addition to any liability that the Issuers may otherwise have, including, but not limited to, liability under this Agreement.

(b) Each Initial Purchaser agrees to indemnify and hold harmless the Issuers, and each person, if any, who controls any of the Issuers within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act, the agents, employees, officers and directors and the agents, employees, officers and directors of any of the Issuers of any such controlling person from and against any and all Losses to which they or any of them may become subject under the Act, the Exchange Act or otherwise insofar as such Losses (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Pricing Disclosure Package or the Final Offering Memorandum, or in any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, in each case to the extent, but only to the extent, that any such Loss arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission relating to such Initial Purchaser made therein in reliance upon and in conformity with information furnished in writing to the Issuers by or on behalf of such Initial Purchaser expressly for use therein.

(c) Promptly after receipt by an indemnified party under subsection 6(a) or 6(b) above of notice of the commencement of any action, suit or proceeding (collectively, an "**action**"), such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify each party against whom indemnification is to be sought in writing of the commencement of such action; *provided* that the failure so to notify an indemnifying party shall not relieve such indemnifying party from any liability that it may have under this Section 6 except to the extent that it has been prejudiced in any material respect by such failure; and *provided further*, that the failure to notify an indemnifying party shall not relieve such indemnifying party from any liability that it may have to an indemnified person otherwise than under this Section 6. In case any such action is brought against any indemnified party, and it notifies an indemnifying party of the commencement of such action, the indemnifying party will be entitled to participate in such action, and to the extent it may elect by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense of such action with counsel satisfactory to such indemnified party. Notwithstanding the foregoing, the indemnified party or parties shall have the right to employ its or their own counsel in any such action, but the reasonable fees and expenses of such counsel shall be at the expense of such indemnified party or parties unless (i) the employment of such counsel shall have been authorized in writing by the indemnifying parties in connection with the defense of such action, (ii) the indemnifying parties shall not have employed counsel to take charge of the defense of such action within a reasonable time after notice of commencement of the action, or (iii) the named parties to such action (including

any impleaded parties) include such indemnified party and the indemnifying parties (or such indemnifying parties have assumed the defense of such action), and such indemnified party or parties shall have reasonably concluded that there may be defenses available to it or them that are different from or additional to those available to one or all of the indemnifying parties (in which case the indemnifying parties shall not have the right to direct the defense of such action on behalf of the indemnified party or parties), in any of which events such reasonable fees and expenses of counsel shall be borne by the indemnifying parties. In no event shall the indemnifying parties be liable for the fees and expenses of more than one counsel (together with appropriate local counsel) at any time for all indemnified parties in connection with any one action or separate but substantially similar or related actions arising in the same jurisdiction out of the same general allegations or circumstances. An indemnifying party shall not be liable for any settlement of any claim or action effected without its written consent, which consent may not be unreasonably withheld. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement (x) includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding and (y) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

7. Contribution. In order to provide for contribution in circumstances in which the indemnification provided for in Section 6 of this Agreement is for any reason held to be unavailable from the indemnifying party, or is insufficient to hold harmless a party indemnified under Section 6 of this Agreement, each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such aggregate Losses (i) in such proportion as is appropriate to reflect the relative benefits received by the Issuers, on the one hand, and the Initial Purchasers, on the other hand, from the offering of the Securities or (ii) if such allocation is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to above but also the relative fault of the Issuers, on the one hand, and the Initial Purchasers, on the other hand, in connection with the statements or omissions that resulted in such Losses, as well as any other relevant equitable considerations. The relative benefits received by the Issuers, on the one hand, and the Initial Purchasers, on the other hand, shall be deemed to be in the same proportion as (x) the total proceeds from the offering of Securities (net of discounts and commissions but before deducting expenses) received by the Issuers are to (y) the total discount and commissions received by the Initial Purchasers. The relative fault of the Issuers, on the one hand, and the Initial Purchasers, on the other hand, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by an Issuer or the Initial Purchasers and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission or alleged statement or omission.

The Issuers and the Initial Purchasers agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to above. Notwithstanding the provisions of this Section 7, (i) in no case shall any Initial Purchaser be required to contribute any amount in excess of the amount by which the total discount and commissions applicable to the Securities purchased by such Initial Purchaser pursuant to this Agreement exceeds the amount of any damages that such Initial Purchaser has otherwise been required to pay by reason of any untrue or alleged untrue statement or omission or alleged omission and (ii) no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 7, each person, if any, who controls any Initial Purchaser within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act shall have the same rights to contribution as the Initial Purchasers, and each person, if any, who controls

an Issuer within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act and each director, officer, employee and agent of an Issuer shall have the same rights to contribution as the Issuers. Any party entitled to contribution will, promptly after receipt of notice of commencement of any action against such party in respect of which a claim for contribution may be made against another party or parties under this Section 7, notify such party or parties from whom contribution may be sought, but the omission to so notify such party or parties shall not relieve the party or parties from whom contribution may be sought from any obligation it or they may have under this Section 7 or otherwise, except to the extent that it has been prejudiced in any material respect by such failure; *provided*, *however*, that no additional notice shall be required with respect to any action for which notice has been given under Section 6 for purposes of indemnification. Anything in this section to the contrary notwithstanding, no party shall be liable for contribution with respect to any action or claim settled without its written consent; *provided*, *however*, that such written consent was not unreasonably withheld.

8. Conditions of Initial Purchasers' Obligations. The obligations of the Initial Purchasers to purchase and pay for the Securities, as provided for in this Agreement, shall be subject to satisfaction of the following conditions prior to or concurrently with such purchase:

(a) All of the representations and warranties of the Issuers contained in this Agreement shall be true and correct on the date of this Agreement and on the Closing Date. The Issuers shall have performed or complied with all of the agreements and covenants contained in this Agreement and required to be performed or complied with by them at or prior to the Closing Date. The Initial Purchasers shall have received certificates, dated the Closing Date, (i) signed by any combination of two of the chairman of the board of directors, chief executive officer, chief financial officer and general counsel of each of XM Holdings and the Company and (ii) signed by any combination of two of the chairman of the board of directors, chief executive officer, chief financial officer and general counsel of Sirius, in each case certifying as to the foregoing and to the effect in Section 8(c), among other matters.

(b) The Final Offering Memorandum shall have been printed and copies distributed to the Initial Purchasers as required by Section 4(b). No stop order suspending the qualification or exemption from qualification of the Securities in any jurisdiction shall have been issued and no proceeding for that purpose shall have been commenced or shall be pending or, to XM Holdings's or Sirius's knowledge, threatened.

(c) Since the execution of this Agreement, there shall not have been any decrease in the rating of any debt or preferred stock of XM Holdings, the Company or any XM Subsidiary by any "nationally recognized statistical rating organization" (as defined for purposes of Rule 436(g) under the Act), or any notice given of any intended or potential decrease in any such rating or of a possible change in any such rating that does not indicate the direction of the possible change.

(d) No event or condition of a type described in Section 5(a)(xviii) or 5(b)(xvi) hereof shall have occurred or shall exist, which event or condition is not described in each of the Pricing Disclosure Package (excluding any amendment or supplement thereto) and the Final Offering Memorandum (excluding any amendment or supplement thereto) the effect of which in the judgment of the Initial Purchasers makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Securities on the terms and in the manner contemplated by this Agreement, the Pricing Disclosure Package and the Final Offering Memorandum.

(e) The Initial Purchasers shall have received on the Closing Date (i) an opinion and negative assurance letter each dated the Closing Date, addressed to the Initial Purchasers, of

Skadden, Arps, Slate, Meagher & Flom LLP, counsel to the Company, substantially in the form of Exhibit B-1 attached hereto, (ii) an opinion and negative assurance letter each dated the Closing Date, addressed to the Initial Purchasers, of Hogan & Hartson L.L.P., regarding regulatory and certain corporate matters, substantially in the form of Exhibit B-2 attached hereto, (iii) an opinion and negative assurance letter each dated the Closing Date, addressed to the Initial Purchasers, of Simpson Thacher & Bartlett LLP, counsel to Sirius, substantially in the form of Exhibit B-3 attached hereto and (iv) an opinion dated the Closing Date, addressed to the Initial Purchasers, of Wiley Rein LLP, regarding regulatory matters, substantially in the form of Exhibit B-4 attached hereto.

(f) The Initial Purchasers shall have received on the Closing Date an opinion and negative assurance letter dated the Closing Date of Latham & Watkins LLP, counsel to the Initial Purchasers, in form and substance satisfactory to the Initial Purchasers. Such counsel shall have been furnished with such certificates and documents as they may reasonably request to enable them to review or pass upon the matters referred to in this Section 8 and in order to evidence the accuracy, completeness or satisfaction in all material respects of any of the representations, warranties or conditions contained in this Agreement.

(g) On the date hereof, the Initial Purchasers shall have received (i) a "comfort letter" from the independent public accountants for the Company, dated the date of this Agreement, addressed to the Initial Purchasers and in form and substance satisfactory to the Initial Purchasers and counsel to the Initial Purchasers, covering the financial and accounting information in the Pricing Disclosure Package and (ii) a "comfort letter" from the independent public accountants for the Company, dated the date of this Agreement, addressed to the Initial Purchasers and in form and substance satisfactory to the Initial Purchasers and counsel to the Initial Purchasers, covering the financial and accounting information in the Final Offering Memorandum. In addition, the Initial Purchasers shall have received a "bring-down comfort letter" from the independent public accountants for the Company, dated as of the Closing Date, addressed to the Initial Purchasers and in the form of the "comfort letter" delivered on the date hereof, except that (i) it shall cover the financial and accounting information in the Final Offering Memorandum and any amendment or supplement thereto and (ii) procedures shall be brought down to a date no more than 3 days prior to the Closing Date, and otherwise in form and substance satisfactory to the Initial Purchasers and counsel to the Initial Purchasers.

(h) On the date hereof, the Initial Purchasers shall have received (i) a "comfort letter" from the independent public accountants for Sirius, dated the date of this Agreement, addressed to the Initial Purchasers and in form and substance satisfactory to the Initial Purchasers and counsel to the Initial Purchasers, covering the financial and accounting information in the Pricing Disclosure Package and (ii) a "comfort letter" from the independent public accountants for Sirus, dated the date of this Agreement, addressed to the Initial Purchasers and in form and substance satisfactory to the Initial Purchasers and counsel to the Initial Purchasers, covering the financial and accounting information in the Final Offering Memorandum. In addition, the Initial Purchasers shall have received a "bring-down comfort letter" from the independent public accountants for Sirius, dated as of the Closing Date, addressed to the Initial Purchasers and in the form of the "comfort letter" delivered on the date hereof, except that (i) it shall cover the financial and accounting information in the Final Offering Memorandum and any amendment or supplement thereto and (ii) procedures shall be brought down to a date no more than 3 days prior to the Closing Date, and otherwise in form and substance satisfactory to the Initial Purchasers and counsel to the Initial Purchasers.

(i) The Company and the Guarantors and Sirius and the Trustee shall have executed and delivered the Indenture and the Initial Purchasers shall have received copies thereof. The Company and Sirius shall have executed and delivered the Registration Rights Agreement and the Initial Purchasers shall have received copies thereof.

(j) The Initial Purchasers shall have been furnished with wiring instructions for the application of the proceeds of the Securities in accordance with this Agreement and such other information as they may reasonably request.

(k) The Initial Purchasers shall assist the Issuers in arranging for Portal trading and the Securities shall be eligible for trading in Portal upon issuance. All agreements set forth in the blanket representation letter of the Company to DTC relating to the approval of the Exchangeable Notes by DTC for "book-entry" transfer shall have been complied with.

(l) Sirius shall have submitted an application for the listing of the Underlying Securities and such application shall have been approved by The Nasdaq Stock Market, subject only to notice of issuance.

(m) On the date hereof, the Initial Purchasers shall have received a Certification from David J. Frear, Executive Vice President and Chief Financial Officer of Sirius (the "**CFO Certification**") regarding certain financial information contained in the Pricing Disclosure Package in form and substance satisfactory to the Initial Purchasers and counsel to the Initial Purchasers, dated the date of this Agreement. In addition, on the Closing Date the Initial Purchasers shall have received a bring-down certificate of the CFO Certification dated the Closing Date in form and substance satisfactory to the Initial Purchasers and counsel to the Initial Purchasers

(n) (i) Sirius, Morgan Stanley Capital Services, Inc. and UBS AG, London Branch shall have executed and delivered the Share Lending Agreements and Sirius and the Company shall have executed and delivered the Common Stock Delivery Agreement and the Initial Purchasers shall have received copies thereof and (ii) Sirius shall have made the initial delivery of borrowed shares to the share borrowers pursuant to the Share Lending Agreements.

(o) The Company and the Guarantors and Sirius and the Trustee shall have executed and delivered the Indenture and the Initial Purchasers shall have received copies thereof

(p) The Merger shall have been consummated and the Initial Purchasers and counsel to the Initial Purchasers shall have received evidence of such consummation.

If any of the conditions specified in this Section 8 shall not have been fulfilled when and as required by this Agreement to be fulfilled (or waived by the Initial Purchasers), this Agreement may be terminated by the Initial Purchasers on notice to the Company at any time at or prior to the Closing Date, and such termination shall be without liability of any party to any other party.

The documents required to be delivered by this Section 8 will be delivered at the office of counsel for the Initial Purchasers on the Closing Date.

9. Initial Purchasers Information. Except as otherwise provided in any letter from an Initial Purchaser dated the date hereof, the Company and the Guarantors and Sirius and the Initial Purchasers severally acknowledge that, for all purposes (including Sections 5(a)(i), 5(b)(i) and 6), the statements set forth in the second sentence of the first paragraph of the risk factor entitled "There is no public

market for the Notes, and we do not know if a market will ever develop or, if a market does develop, whether it will be sustained" and the second sentence of the fifth paragraph under "Plan of distribution" in the Preliminary Offering Memorandum and the Final Offering Memorandum constitute the only information furnished in writing by or behalf of any Initial Purchaser expressly for use in the Pricing Disclosure Package or the Final Offering Memorandum.

10. Survival of Representations and Agreements. All representations and warranties, covenants and agreements contained in this Agreement, including the agreements contained in Sections 4(d) and 11(d), the indemnity agreements contained in Section 6 and the contribution agreements contained in Section 7, shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the Initial Purchasers or any controlling person thereof or by or on behalf of the Company and the Guarantors or Sirius or any controlling person thereof, and shall survive delivery of and payment for the Exchangeable Notes to and by the Initial Purchasers. The agreements contained in Sections 4(d), 6, 7, 9 and 11(c) shall survive the termination of this Agreement, including pursuant to Section 11.

11. Effective Date of Agreement; Termination. This Agreement shall become effective upon execution and delivery of a counterpart hereof by each of the parties hereto.

(a) The Initial Purchasers shall have the right to terminate this Agreement at any time prior to the Closing Date by written notice to the Company from the Initial Purchasers, without liability (other than with respect to Sections 6 and 7) on the Initial Purchasers' part to XM Holdings, the Company or any affiliate thereof or Sirius or any affiliate thereof if, on or prior to such date, (i) the Issuers shall have failed, refused or been unable to perform any agreement on its part to be performed under this Agreement when and as required; (ii) any other condition to the obligations of the Initial Purchasers under this Agreement to be fulfilled by the Issuers pursuant to Section 8 is not fulfilled when and as required in any material respect; (iii) trading in any securities of the Company, XM Holdings or any XM Subsidiary or Sirius or any Sirius Subsidiary shall be suspended or limited by the Commission or The Nasdaq National Market or The Nasdaq Global Market or trading in securities generally on the New York Stock Exchange, the American Stock Exchange or The Nasdaq National Market shall have been suspended or materially limited, or minimum prices shall have been established thereon by the Commission, or by such exchange or other regulatory body or governmental authority having jurisdiction; (iv) a general moratorium shall have been declared by either Federal or New York State authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States shall have occurred; (v) there is an outbreak or escalation of hostilities or national or international calamity in any case involving the United States, on or after the date of this Agreement, or if there has been a declaration by the United States of a national emergency or war or other national or international calamity or crisis (economic, political, financial or otherwise) which affects the U.S. and international markets, making it, in the Initial Purchasers' judgment, impracticable to proceed with the offering, sale or delivery of the Securities on the terms and in the manner contemplated in the Pricing Disclosure Package; or (vi) there shall have been such a material adverse change in general economic, political or financial conditions or the effect (or potential effect if the financial markets in the United States have not yet opened) of international conditions on the financial markets in the United States shall be such as, in the Initial Purchasers' judgment, to make it inadvisable or impracticable to proceed with the offering, sale or delivery of the Securities on the terms and in the manner contemplated in the Pricing Disclosure Package.

(b) Any notice of termination pursuant to this Section 11 shall be given at the address specified in Section 12 below by telephone or facsimile, confirmed in writing by letter.

(c) If this Agreement shall be terminated pursuant to Section 11(a), or if the sale of the Securities provided for in this Agreement is not consummated because of any refusal, inability or failure on the part of the Issuers to satisfy any condition to the obligations of the Initial Purchasers set forth in this Agreement to be satisfied or because of any refusal, inability or failure on the part of the Issuers to perform any agreement in this Agreement or comply with any provision of this Agreement, the Issuers, jointly and severally, will reimburse the Initial Purchasers for all of their reasonable out-of-pocket expenses (including, without limitation, the fees and expenses of the Initial Purchasers' counsel) incurred in connection with this Agreement and the transactions contemplated hereby.

(d) If any one or more Initial Purchasers shall fail to purchase and pay for any of the Securities agreed to be purchased by such Initial Purchaser hereunder and such failure to purchase shall constitute a default in the performance of its or their obligations under this Agreement, the remaining Initial Purchasers shall be obligated severally to take up and pay for (in the respective proportions which the principal amount of Securities set forth opposite their names in Schedule I hereto bears to the aggregate principal amount of Securities set forth opposite the names of all the remaining Initial Purchasers) the Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase; *provided*, *however*, that in the event that the aggregate principal amount of Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase shall exceed 10% of the aggregate principal amount of Securities set forth in Schedule I hereto, the remaining Initial Purchasers shall have the right to purchase all, but shall not be under any obligation to purchase any, of the Securities, and if such nondefaulting Initial Purchasers do not purchase all the Securities, this Agreement will terminate without liability to any nondefaulting Initial Purchaser or the Company or Sirius. In the event of a default by any Initial Purchaser as set forth in this Section 11(e), the Closing Date shall be postponed for such period, not exceeding seven Business Days, as the Initial Purchasers shall determine in order that the required changes in the Final Offering Memorandum or in any other documents or arrangements may be effected. Nothing contained in this Agreement shall relieve any defaulting Initial Purchaser of its liability, if any, to the Company or Sirius or any nondefaulting Initial Purchaser for damages occasioned by its default hereunder.

12. Notice. All communications with respect to or under this Agreement, except as may be otherwise specifically provided in this Agreement, shall be in writing and, if sent to the Initial Purchasers, shall be mailed, delivered or telecopied and confirmed in writing to (i) J.P. Morgan Securities Inc., 270 Park Avenue, 5th Floor, New York, NY 10017 (fax number : 212-270-1063, Attention: Jessica Kearns) and Morgan Stanley & Co. Incorporated, 1585 Broadway, New York, New York 10036 (fax number: 212-761-0538, Attention: Global Capital Markets Syndicate Desk) and UBS Securities LLC, 299 Park Avenue, New York, New York 10171, Attention: Syndicate Desk and (ii) Latham & Watkins LLP, 885 Third Avenue, Suite 1000, New York, NY 10022 (fax number: 212-751-4864), Attention: Marc D. Jaffe; and if sent to the Issuers, shall be mailed, delivered or telecopied and confirmed in writing to (i) XM Satellite Radio Inc., 1500 Eckington Place, NE, Washington, DC 20002 (telephone: 202-380-4000, fax: 202-380-4534), Attention: General Counsel, (ii) with a copy for information purposes only to Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, NY 10036 (fax number: 212-735-3574) Attention: David J. Goldschmidt, (iii) Sirius Satellite Radio Inc., 1221 Avenue of the Americas, 36th Floor, New York, NY 10020 (telephone: 212-584-5100, fax: 212-584-5353), Attention: General Counsel and (iv) with a copy for informational purposes only to Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, NY 10017 (fax: 212-455-2695), Attention: Gary L. Sellers.

All such notices and communications shall be deemed to have been duly given: when delivered by hand, if personally delivered; five business days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged by telecopier machine, if telecopied; and one business day after being timely delivered to a next-day air courier.

13. Parties. This Agreement shall inure solely to the benefit of, and shall be binding upon, the Initial Purchasers, the Issuers and the other indemnified parties referred to in Sections 6 and 7, and their respective successors and assigns, and no other person shall have or be construed to have any legal or equitable right, remedy or claim under or in respect of or by virtue of this Agreement or any provision herein contained. The term "successors and assigns" shall not include a purchaser, in its capacity as such, of Notes from the Initial Purchasers.

14. Construction. This Agreement shall be construed in accordance with the internal laws of the State of New York (without giving effect to any provisions thereof relating to conflicts of law other than New York General Obligations Law Section 5-1401 and 5-1402).

15. Submission to Jurisdiction; Waiver of Jury Trial. No proceeding related to this Agreement or the transactions contemplated hereby may be commenced, prosecuted or continued in any court other than the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York, which courts shall have jurisdiction over the adjudication of such matters, and the Issuers hereby consent to the jurisdiction of such courts and personal service with respect thereto. The Issuers hereby waive all right to trial by jury in any proceeding (whether based upon contract, tort or otherwise) in any way arising out of or relating to this Agreement. The Issuers agree that a final judgment in any such proceeding brought in any such court shall be conclusive and binding upon the Issuers and may be enforced in any other courts in the jurisdiction of which the Issuers are or may be subject, by suit upon such judgment.

16. Captions. The captions included in this Agreement are included solely for convenience of reference and are not to be considered a part of this Agreement.

17. Counterparts. This Agreement may be executed in various counterparts that together shall constitute one and the same instrument.

18. No Fiduciary Relationship. The Issuers hereby acknowledge that the Initial Purchasers are acting solely as initial purchasers in connection with the purchase and sale of the Securities. The Issuers further acknowledge that each of the Initial Purchasers is acting pursuant to a contractual relationship created solely by this Agreement entered into on an arm's length basis and in no event do the parties intend that any Initial Purchaser act or be responsible as a fiduciary to the Issuers, their management, stockholders, creditors or any other person in connection with any activity that such Initial Purchaser may undertake or has undertaken in furtherance of the purchase and sale of the Securities, either before or after the date hereof. The Initial Purchasers hereby expressly disclaim any fiduciary or similar obligations to the Issuers, either in connection with the transactions contemplated by this Agreement or any matters leading up to such transactions, and the Issuers hereby confirm their understanding and agreement to that effect. The Issuers and each Initial Purchaser agree that they are each responsible for making their own independent judgments with respect to any such transactions, and that any opinions or views expressed by any Initial Purchaser to the Issuers regarding such transactions, including but not limited to any opinions or views with respect to the price or market for the Securities, do not constitute advice or recommendations to the Issuers. The Issuers hereby waive and release, to the fullest extent permitted by law, any claims that such Issuers may have against the Initial Purchasers with respect to any breach or alleged breach of any fiduciary or similar duty to the Issuers in connection with the transactions contemplated by this Agreement or any matters leading up to such transactions.

[Signature Pages Follow]

Schedule I

Initial Purchaser	Principal Amount of 7.00% Exchangeable Senior Subordinated Notes due 2014 to be Purchased
J.P. Morgan Securities Inc.	$ 206,250,000.00
Morgan Stanley & Co. Incorporated	$ 206,250,000.00
UBS Securities LLC	$ 137,500,000.00
Total	$ 550,000,000.00

Schedule II

Subsidiaries of XM Satellite Radio Holdings Inc.

XM Satellite Radio Inc.
XM 1500 Eckington LLC
XM Orbit LLC
XM Investments LLC
XM Escrow LLC

Subsidiaries of XM Satellite Radio Inc.

XM Radio Inc.
XM Innovations Inc.
XM Equipment Leasing LLC
XM EMall Inc.
XM Capital Resources Inc.

All of these subsidiaries are organized in the State of Delaware and are wholly owned subsidiaries.

Schedule III

Subsidiaries of Sirius Satellite Radio Inc.

Subsidiary	Jurisdiction of Organization
Satellite CD Radio, Inc.	Delaware
Sirius Asset Management Company LLC	Delaware
Sirius Entertainment Promotions LLC	Delaware
Spend LLC	Maryland
Vernon Merger Corporation	Delaware

All of these subsidiaries are wholly owned subsidiaries.

Exhibit 4.67

FIRST SUPPLEMENTAL WARRANT AGREEMENT

FIRST SUPPLEMENTAL WARRANT AGREEMENT (this "Supplemental Warrant Agreement") dated as of this 28th day of July, 2008, among Sirius Satellite Radio Inc., a Delaware corporation ("Sirius"), XM Satellite Radio Holdings Inc., a Delaware corporation ("Holdings") and The Bank of New York Mellon (formerly known as The Bank of New York and successor to United States Trust Company of New York), a New York banking corporation, as the Warrant Agent (the "Warrant Agent").

WHEREAS, Holdings and the Warrant Agent entered into a Warrant Agreement on March 15, 2000 (the "Warrant Agreement"), providing for the issuance of common stock purchase warrants (the "Warrants") to purchase shares of Class A common stock, par value $.01 per share (the "Class A Common Stock") of Holdings (the Class A Common Stock issuable on exercise of the Warrants being referred to herein as the "Warrant Shares").

WHEREAS, Section 8.13 of the Warrant Agreement provides that, in the event of a merger of Holdings with or into any person, upon consummation of such transaction each Warrant shall automatically become exercisable for the kind and amount of securities, cash or other assets which the holder of a Warrant would have owned immediately after the merger if the holder had exercised the Warrant immediately before the effective date of the transaction;

WHEREAS, pursuant to the Agreement and Plan of Merger, dated as of February 19, 2007, among Sirius, Vernon Merger Corporation, a Delaware corporation and a direct wholly-owned subsidiary of Sirius ("Merger Co.") and Holdings, Merger Co. has merged with and into Holdings (the "Merger") and, in connection therewith, each Warrant automatically became exercisable for 40.39 shares of common stock of Sirius, par value $0.001 per share (the "Sirius Common Stock"), in accordance with Section 8.13 of the Warrant Agreement;

WHEREAS, Sirius desires by this Supplemental Warrant Agreement to expressly, irrevocably and unconditionally assume the covenants, agreements, obligations and undertakings of Holdings under the Warrant Agreement and the Warrants;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, each party agrees, for the benefit of the others and for the equal and ratable benefit of the holders of the Warrants as follows:

SECTION 1. DEFINITIONS. For all purposes of this Supplemental Warrant Agreement, except as otherwise herein expressly provided or unless the context otherwise requires, the terms and expressions used herein shall have the same meanings as corresponding terms and expressions used in the Warrant Agreement.

SECTION 2. NOTICE TO HOLDERS. Sirius hereby agrees to mail the holders of the Warrants a notice describing this Supplemental Warrant Agreement in accordance with Section 8.13 of the Warrant Agreement.

SECTION 3. ASSUMPTION OF OBLIGATIONS OF SIRIUS. Sirius hereby expressly, irrevocably and unconditionally assumes each and every covenant, agreement, obligation and undertaking of Holdings in the Warrant Agreement as if Sirius had been named the Company in the Warrant Agreement and the original issuer of the Warrants, and also hereby expressly, irrevocably and unconditionally assumes each and every covenant, agreement, obligation and undertaking of Holdings in each Warrant outstanding on the date of this Supplemental Warrant Agreement.

SECTION 4. FURTHER ASSURANCES. Sirius hereby agrees, from time to time, to do and perform any and all acts and to execute any and all further instruments reasonably necessary to more fully effect the purposes of this Supplemental Warrant Agreement and the Warrant Agreement.

SECTION 5. ADJUSTMENT. In accordance with the provisions of Section 8.13 of the Warrant Agreement, concurrent with the effective time of the Merger, each Warrant automatically becomes exercisable for 40.39 shares of Sirius Common Stock at the Exercise Price of $9.83 per share payable to the Warrant Agent for the account of Sirius.

SECTION 6. EFFECT OF SUPPLEMENTAL WARRANT AGREEMENT. Upon the execution and delivery of this Supplemental Warrant Agreement by Sirius, Holdings and the Warrant Agent, the Warrant Agreement shall be supplemented in accordance herewith, and this Supplemental Warrant Agreement shall form a part of the Warrant Agreement for all purposes, and every holder of a Warrant heretofore or hereafter countersigned and delivered under the Warrant Agreement shall be bound hereby.

SECTION 7. WARRANT CERTIFICATES. The registered holder of a Warrant Certificate may request Sirius to exchange his or her Warrant Certificate for a warrant certificate substantially in the form set forth in Exhibit A attached hereto (a “New Warrant Certificate”), and Sirius may issue New Warrant Certificates in its sole discretion.

SECTION 8. WARRANT AGREEMENT REMAINS IN FULL FORCE AND EFFECT. Except as expressly supplemented hereby, the Warrant Agreement is in all respects ratified and confirmed and all terms, conditions and provisions of the Warrant Agreement shall remain in full force and effect.

SECTION 9. WARRANT AGREEMENT AND SUPPLEMENTAL WARRANT AGREEMENT CONSTRUED TOGETHER. This Supplemental Warrant Agreement is a warrant agreement supplemental to and in implementation of the Warrant Agreement, and the Warrant Agreement and this Supplemental Warrant Agreement shall be read and construed together.

SECTION 10. NOTICES TO SIRIUS AND THE WARRANT AGENT. Any notice or demand authorized or permitted by the Warrant Agreement to be given or made by the Warrant Agent or by the registered holder of any Warrant Certificate to or on Sirius shall be sufficiently given or made when and if deposited in the mail, first class or registered, postage prepaid, addressed (until another address is filed in writing by Sirius with the Warrant Agent), as follows:

Sirius Satellite Radio Inc.
1221 Avenue of the Americas
New York, New York 10020
Attention: Patrick Donnelly
Facsimile No.: (212) 584-5353

With a copy to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attention: Gary L. Sellers, Esq.
Kathryn King Sudol, Esq.
Facsimile No.: (212) 455-2502

In case Sirius shall fail to maintain such office or agency or shall fail to give such notice of the location or of any change in the location thereof, presentations may be made and notices and demands may be served at the principal office of the Warrant Agent.

Any notice pursuant to this Supplemental Warrant Agreement or the Warrant Agreement to be given by Sirius or by the registered holder(s) of any Warrant Certificate to the Warrant Agent shall be sufficiently given when and if deposited in the mail, first-class or registered, postage prepaid, addressed (until another address is filed in writing by the Warrant Agent with Sirius) to the Warrant Agent, as follows:

The Bank of New York Mellon
101 Barclay Street, Floor 8W
New York, NY 10286
Attention: Corporate Trust Administration

SECTION 11. SUCCESSORS. All the covenants and provisions of this Supplemental Warrant Agreement by or for the benefit of Sirius or the Warrant Agent shall bind and inure to the benefit of their respective successors and assigns hereunder.

SECTION 12. TERMINATION. This Supplemental Warrant Agreement shall terminate at 5:00 p.m., New York City time on March 15, 2010. Notwithstanding the foregoing, this Supplemental Warrant Agreement will terminate earlier upon the termination of the Warrant Agreement.

SECTION 13. GOVERNING LAW; JURISDICTION. This Supplemental Warrant Agreement and each Warrant Certificate issued hereunder shall be deemed to be a contract made under the laws of the State of New York and for all purposes shall be construed in accordance with the internal laws of said State. The parties hereto hereby waive the right to a jury trial in any action arising out of this Supplemental Warrant Agreement. Any dispute arising out of this Supplemental Warrant Agreement shall be litigated in the borough of Manhattan, New York City, New York, and the parties hereby submit to the jurisdiction of such courts and acknowledge that such courts are a convenient forum.

SECTION 14. BENEFITS OF SUPPLEMENTAL WARRANT AGREEMENT. Nothing in this Supplemental Warrant Agreement shall be construed to give to any person or corporation other than Sirius, Holdings, the Warrant Agent and the registered holders of the Warrant Certificates any legal or equitable right, remedy or claim under this Supplemental Warrant Agreement; but this Supplemental Warrant Agreement shall be for the sole and exclusive benefit of Sirius, Holdings, the Warrant Agent and the holders.

SECTION 15. COUNTERPARTS. This Supplemental Warrant Agreement may be executed in counterparts and each of such counterparts shall for all purposes be deemed to be an original, and both such counterparts shall together constitute but one and the same instrument.

SECTION 16. WARRANT AGENT'S DISCLAIMER. The recitals contained herein shall be taken as the statements of Sirius and Holdings, as the case may be, and the Warrant Agent assumes no responsibility for their correctness. The Warrant Agent makes no representation as to the validity or sufficiency of this Supplemental Warrant Agreement or as to the validity or value of any securities or assets issued upon exercise of Warrants.

[*signature page follows*]

IN WITNESS WHEREOF, the parties have caused this Supplemental Warrant Agreement to be duly executed as of the date first written above.

SIRIUS SATELLITE RADIO INC.

By: /s/ Patrick L. Donnelly
Name: Patrick L. Donnelly
Title: Executive Vice President,
General Counsel & Secretary

XM SATELLITE RADIO HOLDINGS INC.

By: /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and
Chief Financial Officer

THE BANK OF NEW YORK MELLON
as Warrant Agent

By: /s/ Remo J. Reale
Name: Remo J. Reale
Title: Vice President

EXHIBIT A

FORM OF WARRANT

[Face of Warrant Certificate]

[Insert Private Placement Legend, if applicable pursuant to the provision of the Warrant Agreement]

[Insert Global Warrant Legend, if applicable pursuant to the terms of the Warrant Agreement]

NOTWITHSTANDING ANY PROVISIONS OF THIS WARRANT OR ANY OTHER DOCUMENT TO THE CONTRARY, IN THE EVENT THAT THE CONSENT OF THE FEDERAL COMMUNICATIONS COMMISSION ("FCC") TO THE EXERCISE OF THIS WARRANT IS REQUIRED TO BE OBTAINED PRIOR TO SUCH EXERCISE, THIS WARRANT SHALL NOT BE EXERCISABLE UNLESS AND UNTIL SUCH FCC CONSENT SHALL HAVE BEEN OBTAINED. IN THE EVENT THAT THIS WARRANT IS INTENDED TO BE EXERCISED AND SUCH FCC CONSENT IS REQUIRED TO BE OBTAINED, SIRIUS AND THE HOLDER SHALL USE COMMERCIALLY REASONABLE EFFORTS TO OBTAIN SUCH FCC CONSENT PROMPTLY.

NOTWITHSTANDING ANY PROVISIONS OF THIS WARRANT OR ANY OTHER DOCUMENT TO THE CONTRARY, INCLUDING BUT NOT LIMITED TO THE PRECEDING PARAGRAPH, THIS WARRANT SHALL NOT BE EXERCISABLE IN THE EVENT THAT SUCH EXERCISE WOULD CAUSE THE AGGREGATE ALIEN OWNERSHIP OR VOTING INTEREST IN SIRIUS TO INCREASE TO ANY LEVEL ABOVE 24.5%, AS DETERMINED BY APPLICABLE FCC RULES, REGULATIONS, AND POLICIES, IT BEING WELL UNDERSTOOD THAT THIS WARRANT SHALL NOT BE EXERCISABLE IN THE EVENT THAT SUCH ALIEN OWNERSHIP OR VOTING INTEREST ALREADY EXCEEDS 24.5%, IT BEING FURTHER UNDERSTOOD THAT IN NO EVENT SHALL SIRIUS BE REQUIRED HEREUNDER TO SEEK FCC CONSENT TO EXCEED FCC ALIEN OWNERSHIP OR VOTING LIMITATIONS APPLICABLE TO SIRIUS.

EXERCISABLE ON OR AFTER THE SEPARATION DATE

No. _____ _____ Warrants

Warrant Certificate

SIRIUS SATELLITE RADIO INC.

This Warrant Certificate certifies that _____, or registered assigns, is the registered holder of Warrants expiring March 15, 2010 (the "Warrants") to purchase

Sirius Common Stock. Each Warrant entitles the holder upon exercise to receive from Sirius commencing on the Separation Date (as defined in the Warrant Agreement) until 5:00 p.m. New York City time on March 15, 2010, the number of fully paid and nonassessable Warrant Shares as set forth in the Warrant Agreement, dated as of March 15, 2000 (the "Warrant Agreement"), as supplemented by the First Supplemental Warrant Agreement, dated as of the__ day of July, 2008 (the "Supplemental Warrant Agreement"), subject to adjustment as set forth in Section 8 of the Warrant Agreement, at the initial exercise price (the "Exercise Price") of $9.83 per share payable in the lawful money of the United States of America upon surrender of this Warrant Certificate and payment of the Exercise Price at the office or agency of the Warrant Agent, but only subject to the conditions set forth herein and in the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, referred to on the reverse hereof. Notwithstanding the foregoing, Warrants may be exercised without the exchange of funds pursuant to the net exercise provisions of Section 4 of the Warrant Agreement. The Exercise Price and number of Warrant Shares issuable upon exercise of the Warrants are subject to adjustment upon the occurrence of certain events set forth in the Warrant Agreement. No Warrant may be exercised after 5:00 p.m., New York City time, on March 15, 2010, and to the extent not exercised by such time such Warrants shall become void. Reference is hereby made to the further provisions of this Warrant Certificate set forth on the reverse hereof and such further provisions shall for all purposes have the same effect as though fully set forth at this place. This Warrant Certificate shall not be valid unless countersigned by an authorized signatory of the Warrant Agent, as such term is used in the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement. This Warrant Certificate shall be governed and construed in accordance with the internal laws of the State of New York.

[*signature page follows*]

IN WITNESS WHEREOF, Sirius Satellite Radio Inc. has caused this Warrant Certificate to be signed by its President and Treasurer and by its Vice President and Secretary and may cause its corporate seal to be affixed hereunto or imprinted hereon.

Dated: _____, 200__

SIRIUS SATELLITE RADIO INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

Date of Countersignature:

_____, 200__

Certificate of Authentication:

This is one of the Warrants referred to in the within mentioned Warrant Agreement, as supplemented by the Supplemental Warrant Agreement.

THE BANK OF NEW YORK MELLON
as Warrant Agent

By: _____
Authorized Signatory

The Warrants evidenced by this Warrant Certificate are part of a duly authorized issue of Warrants expiring March 15, 2010 entitling the holder on exercise to receive shares of Sirius Class A Common Stock, and are issued or to be issued pursuant to a Warrant Agreement dated as of March 15, 2000 (the "Warrant Agreement"), as supplemented by the First Supplemental Warrant Agreement dated as of the __ day of July, 2008 (the "Supplemental Warrant Agreement"), duly executed and delivered by Sirius to The Bank of New York Mellon (successor to United States Trust Company of New York), as warrant agent (the "Warrant Agent"), which Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, (including the definitions set forth therein) is hereby incorporated by reference in and made a part of this instrument and is hereby referred to for a description of the rights, limitation of rights, obligations, duties and immunities thereunder of the Warrant Agent, Sirius and the holders (the words "holders" or "holder" meaning the registered holders or registered holder) of the Warrants. A copy of the Warrant Agreement and Supplemental Warrant Agreement may be obtained by the holder hereof upon written request to Sirius.

Warrants may be exercised at any time on or after the Separation Date or before March 15, 2010; provided that holders shall be able to exercise their Warrants only if a registration statement relating to the Warrant Shares is then in effect, or the exercise of such Warrants is exempt fro the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), and such securities are qualified for sale or exempt from qualification under the applicable securities laws of the states in which the various holders of the Warrants or other persons to whom it is proposed that the Warrant Shares be issued on exercise of the Warrants reside. In order to exercise all or any of the Warrants represented by this Warrant Certificate, (i) in the case of Definitive Warrants, the holder must surrender for exercise this Warrant Certificate to the Warrant Agent at its New York corporate trust office set forth in Section 16 of the Warrant Agreement, (ii) in the case of a book-entry interest in a Global Warrant, the exercising Participant whose name appears on a securities position listing of the Depositary as the holder of such book-entry interest must comply with the Depositary's procedures relating to the exercise of such book-entry interest in such Global Warrant and (iii) in the case of both Global Warrants and Definitive Warrants, the holder thereof or the Participant, as applicable, must deliver to the Warrant Agent the form of election to purchase on the reverse hereof duly filled in and signed, which signature shall be a medallion guaranteed by an institution which is a member of a Securities Transfer Association recognized signature guarantee program, and upon payment to the Warrant Agent for the account of Sirius of the Exercise Price, as adjusted as provided in the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, for the number of Warrant Shares in respect of which such Warrants are then exercised. No adjustment shall be made for any dividends on any Sirius Common Stock issuable upon exercise of this Warrant.

The Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, provides that upon the occurrence of certain events the Exercise Price set forth on the face hereof may, subject to certain conditions, be adjusted. If the Exercise

Price is adjusted, the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, provides that the number of shares of Class A Common Stock issuable upon the exercise of each Warrant shall be adjusted. No fractions of a share of Sirius Common Stock will be issued upon the exercise of any Warrant, but Sirius will pay the cash value thereof determined as provided in the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement.

Sirius has agreed under the terms of the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, to file within 90 days after the date of the Supplemental Warrant Agreement, and use its reasonable best efforts to make effective no later than 180 days after the date of the Supplemental Warrant Agreement, and (subject to Black Out Periods) to maintain effective until expiration or exercise of all Warrants shelf registration statements (the "Registration Statements") on appropriate forms under the Securities Act covering the issuance and resale of Warrant Shares upon exercise of the Warrants.

Warrant Certificates, when surrendered at the office of the Warrant Agent by the registered holder thereof in person or by legal representative or attorney duly authorized in writing, may be exchanged, in the manner and subject to the limitations provided in the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, but without payment of any service charge, for another Warrant Certificate or Warrant Certificates of like tenor evidencing in the aggregate a like number of Warrants.

Upon due presentation for registration of transfer of this Warrant Certificate at the office of the Warrant Agent a new Warrant Certificate or Warrant Certificates of like tenor and evidencing in the aggregate a like number of Warrants shall be issued to the transferee(s) in exchange for this Warrant Certificate, subject to the limitations provided in the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, without charge except for any tax or other governmental charge imposed in connection therewith.

Sirius and the Warrant Agent may deem and treat the registered holder(s) thereof as the absolute owner(s) of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone), for the purpose of any exercise hereof, of any distribution to the holder(s) hereof, and for all other purposes, and neither Sirius nor the Warrant Agent shall be affected by any notice to the contrary. Neither the Warrants nor this Warrant Certificate entitles any holder hereof to any rights of a stockholder of Sirius.

Exhibit 4.68

FIRST SUPPLEMENTAL WARRANT AGREEMENT

FIRST SUPPLEMENTAL WARRANT AGREEMENT (this "Supplemental Warrant Agreement") dated as of this 28th day of July, 2008 among Sirius Satellite Radio Inc., a Delaware corporation ("Sirius"), XM Satellite Radio Holdings Inc., a Delaware corporation ("Holdings") and The Bank of New York Mellon (formerly known as the Bank of New York), a New York banking corporation, as the Warrant Agent (the "Warrant Agent").

WHEREAS, Holdings and the Warrant Agent entered into a Warrant Agreement on January 28, 2003 (the "Warrant Agreement"), providing for the issuance of common stock purchase warrants (the "Warrants") to purchase up to an aggregate of 25,514,960 shares of Class A common stock, par value $.01 per share (the "Class A Common Stock") of Holdings (the Class A Common Stock issuable on exercise of the Warrants being referred to herein as the "Warrant Shares").

WHEREAS, Section 8.13 of the Warrant Agreement provides that, in the event of a merger of Holdings with or into any person, upon consummation of such transaction each Warrant shall automatically become exercisable for the kind and amount of securities, cash or other assets which the holder of a Warrant would have owned immediately after the merger if the holder had exercised the Warrant immediately before the effective date of the transaction;

WHEREAS, pursuant to the Agreement and Plan of Merger, dated as of February 19, 2007, among Sirius, Vernon Merger Corporation, a Delaware corporation and a direct wholly-owned subsidiary of Sirius ("Merger Co.") and Holdings, Merger Co. has merged with and into Holdings (the "Merger") and, in connection therewith, each Warrant automatically became exercisable for 391 shares of common stock of Sirius, par value $0.001 per share (the "Sirius Common Stock"), in accordance with Section 8.13 of the Warrant Agreement;

WHEREAS, Sirius desires by this Supplemental Warrant Agreement to expressly, irrevocably and unconditionally assume the covenants, agreements, obligations and undertakings of Holdings under the Warrant Agreement and the Warrants;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, each party agrees, for the benefit of the others and for the equal and ratable benefit of the holders of the Warrants as follows:

SECTION 1. DEFINITIONS. For all purposes of this Supplemental Warrant Agreement, except as otherwise herein expressly provided or unless the context otherwise requires, the terms and expressions used herein shall have the same meanings as corresponding terms and expressions used in the Warrant Agreement.

SECTION 2. NOTICE TO HOLDERS. Sirius hereby agrees to mail the holders of the Warrants a notice describing this Supplemental Warrant Agreement in accordance with Section 8.13 of the Warrant Agreement.

SECTION 3. ASSUMPTION OF OBLIGATIONS OF SIRIUS. Sirius hereby expressly, irrevocably and unconditionally assumes each and every covenant, agreement, obligation and undertaking of Holdings in the Warrant Agreement as if Sirius had been named the Company in the Warrant Agreement and the original issuer of the Warrants, and also hereby expressly, irrevocably and unconditionally assumes each and every covenant, agreement, obligation and undertaking of Holdings in each Warrant outstanding on the date of this Supplemental Warrant Agreement.

SECTION 4. FURTHER ASSURANCES. Sirius hereby agrees, from time to time, to do and perform any and all acts and to execute any and all further instruments reasonably necessary to more fully effect the purposes of this Supplemental Warrant Agreement and the Warrant Agreement.

SECTION 5. ADJUSTMENT. In accordance with the provisions of Section 8.13 of the Warrant Agreement, concurrent with the effective time of the Merger, each Warrant automatically becomes exercisable for 391 shares of Sirius Common Stock at the Exercise Price of $0.69 per share payable to the Warrant Agent for the account of Sirius.

SECTION 6. EFFECT OF SUPPLEMENTAL WARRANT AGREEMENT. Upon the execution and delivery of this Supplemental Warrant Agreement by Sirius, Holdings and the Warrant Agent, the Warrant Agreement shall be supplemented in accordance herewith, and this Supplemental Warrant Agreement shall form a part of the Warrant Agreement for all purposes, and every holder of a Warrant heretofore or hereafter countersigned and delivered under the Warrant Agreement shall be bound hereby.

SECTION 7. WARRANT CERTIFICATES. The registered holder of a Warrant Certificate may request Sirius to exchange his or her Warrant Certificate for a warrant certificate substantially in the form set forth in Exhibit A attached hereto (a "New Warrant Certificate"), and Sirius may issue New Warrant Certificates in its sole discretion.

SECTION 8. WARRANT AGREEMENT REMAINS IN FULL FORCE AND EFFECT. Except as expressly supplemented hereby, the Warrant Agreement is in all respects ratified and confirmed and all terms, conditions and provisions of the Warrant Agreement shall remain in full force and effect.

SECTION 9. WARRANT AGREEMENT AND SUPPLEMENTAL WARRANT AGREEMENT CONSTRUED TOGETHER. This Supplemental Warrant Agreement is a warrant agreement supplemental to and in implementation of the Warrant Agreement, and the Warrant Agreement and this Supplemental Warrant Agreement shall be read and construed together.

SECTION 10. NOTICES TO SIRIUS AND THE WARRANT AGENT. Any notice or demand authorized or permitted by the Warrant Agreement to be given or made by the Warrant Agent or by the registered holder of any Warrant Certificate to or on Sirius shall be sufficiently given or made when and if deposited in the mail, first class or registered, postage prepaid, addressed (until another address is filed in writing by Sirius with the Warrant Agent), as follows:

Sirius Satellite Radio Inc.
1221 Avenue of the Americas
New York, New York 10020
Attention: Patrick Donnelly
Facsimile No.: (212) 584-5353

With a copy to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attention: Gary L. Sellers, Esq.
Kathryn King Sudol, Esq.
Facsimile No.: (212) 455-2502

In case Sirius shall fail to maintain such office or agency or shall fail to give such notice of the location or of any change in the location thereof, presentations may be made and notices and demands may be served at the principal office of the Warrant Agent.

Any notice pursuant to this Supplemental Warrant Agreement or the Warrant Agreement to be given by Sirius or by the registered holder(s) of any Warrant Certificate to the Warrant Agent shall be sufficiently given when and if deposited in the mail, first-class or registered, postage prepaid, addressed (until another address is filed in writing by the Warrant Agent with Sirius) to the Warrant Agent, as follows:

The Bank of New York Mellon
101 Barclay Street, Floor 8 West
New York, New York 10286
Attention: Corporate Trust Administration

SECTION 11. SUCCESSORS. All the covenants and provisions of this Supplemental Warrant Agreement by or for the benefit of Sirius or the Warrant Agent shall bind and inure to the benefit of their respective successors and assigns hereunder.

SECTION 12. TERMINATION. This Supplemental Warrant Agreement shall terminate at 5:00 p.m., New York City time on December 31, 2009. Notwithstanding the foregoing, this Supplemental Warrant Agreement will terminate earlier upon the termination of the Warrant Agreement.

SECTION 13. GOVERNING LAW; JURISDICTION. This Supplemental Warrant Agreement and each Warrant Certificate issued hereunder shall be deemed to be a contract made under the laws of the State of New York and for all purposes shall be construed in accordance with the internal laws of said State. The parties hereto hereby waive the right to a jury trial in any action arising out of this Supplemental Warrant Agreement. Any dispute arising out of this Supplemental Warrant Agreement shall be litigated in the borough of Manhattan, New York City, New York, and the parties hereby submit to the jurisdiction of such courts and acknowledge that such courts are a convenient forum.

SECTION 14. BENEFITS OF SUPPLEMENTAL WARRANT AGREEMENT. Nothing in this Supplemental Warrant Agreement shall be construed to give to any person or corporation other than Sirius, Holdings, the Warrant Agent and the registered holders of the Warrant Certificates any legal or equitable right, remedy or claim under this Supplemental Warrant Agreement; but this Supplemental Warrant Agreement shall be for the sole and exclusive benefit of Sirius, Holdings, the Warrant Agent and the holders.

SECTION 15. COUNTERPARTS. This Supplemental Warrant Agreement may be executed in counterparts and each of such counterparts shall for all purposes be deemed to be an original, and both such counterparts shall together constitute but one and the same instrument.

SECTION 16. WARRANT AGENT'S DISCLAIMER. The recitals contained herein shall be taken as the statements of Sirius and Holdings, as the case may be, and the Warrant Agent assumes no responsibility for their correctness. The Warrant Agent makes no representation as to the validity or sufficiency of this Supplemental Warrant Agreement or as to the validity or value of any securities or assets issued upon exercise of Warrants.

[*signature page follows*]

IN WITNESS WHEREOF, the parties have caused this Supplemental Warrant Agreement to be duly executed as of the date first written above.

SIRIUS SATELLITE RADIO INC.

By: /s/ Patrick L. Donnelly
Name: Patrick L. Donnelly
Title: Executive Vice President,
General Counsel & Secretary

XM SATELLITE RADIO HOLDINGS INC.

By: /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and
Chief Financial Officer

THE BANK OF NEW YORK MELLON
as Warrant Agent

By: /s/ Remo J. Reale
Name: Remo J. Reale
Title: Vice President

EXHIBIT A

FORM OF WARRANT

[Face of Warrant Certificate]

[Insert Global Warrant Legend, if applicable pursuant to the terms of the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement]

NOTWITHSTANDING ANY PROVISIONS OF THIS WARRANT OR ANY OTHER DOCUMENT TO THE CONTRARY, IN THE EVENT THAT THE CONSENT OF THE FEDERAL COMMUNICATIONS COMMISSION ("FCC") TO THE EXERCISE OF THIS WARRANT IS REQUIRED TO BE OBTAINED PRIOR TO SUCH EXERCISE, THIS WARRANT SHALL NOT BE EXERCISABLE UNLESS AND UNTIL SUCH FCC CONSENT SHALL HAVE BEEN OBTAINED. IN THE EVENT THAT THIS WARRANT IS INTENDED TO BE EXERCISED AND SUCH FCC CONSENT IS REQUIRED TO BE OBTAINED, SIRIUS AND THE HOLDER SHALL USE COMMERCIALLY REASONABLE EFFORTS TO OBTAIN SUCH FCC CONSENT PROMPTLY.

NOTWITHSTANDING ANY PROVISIONS OF THIS WARRANT OR ANY OTHER DOCUMENT TO THE CONTRARY, INCLUDING BUT NOT LIMITED TO THE PRECEDING PARAGRAPH, THIS WARRANT SHALL NOT BE EXERCISABLE IN THE EVENT THAT SUCH EXERCISE WOULD CAUSE THE AGGREGATE ALIEN OWNERSHIP OR VOTING INTEREST IN SIRIUS TO INCREASE TO ANY LEVEL ABOVE 24.5%, AS DETERMINED BY APPLICABLE FCC RULES, REGULATIONS, AND POLICIES, IT BEING WELL UNDERSTOOD THAT THIS WARRANT SHALL NOT BE EXERCISABLE IN THE EVENT THAT SUCH ALIEN OWNERSHIP OR VOTING INTEREST ALREADY EXCEEDS 24.5%, IT BEING FURTHER UNDERSTOOD THAT IN NO EVENT SHALL SIRIUS BE REQUIRED HEREUNDER TO SEEK FCC CONSENT TO EXCEED FCC ALIEN OWNERSHIP OR VOTING LIMITATIONS APPLICABLE TO SIRIUS.

No. _____ _____ Warrants

Warrant Certificate

SIRIUS SATELLITE RADIO INC.

This Warrant Certificate certifies that _____, or registered assigns, is the registered holder of Warrants expiring December 31, 2009 (the "Warrants") to purchase Sirius Common Stock. Each Warrant entitles the holder upon exercise to receive from Sirius commencing on January 28, 2003 until 5:00 p.m. New York City time on December 31, 2009, the number of fully paid and nonassessable Warrant Shares as set forth in the Warrant Agreement, dated as of January 28, 2003 (the "Warrant Agreement"), as supplemented by the First Supplemental Warrant Agreement, dated as of

the __ day of July, 2008 (the "Supplemental Warrant Agreement"), subject to adjustment as set forth in Section 8 of the Warrant Agreement, at the initial exercise price (the "Exercise Price") of $0.69 per share payable upon surrender of this Warrant Certificate and payment of the Exercise Price at the office or agency of the Warrant Agent, but only subject to the conditions set forth herein and in the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, referred to on the reverse hereof. Notwithstanding the foregoing, Warrants may be exercised without the exchange of funds pursuant to the cashless exercise provisions of Section 4 of the Warrant Agreement. The Exercise Price and number of Warrant Shares issuable upon exercise of the Warrants are subject to adjustment upon the occurrence of certain events set forth in the Warrant Agreement. No Warrant may be exercised after 5:00 p.m., New York City time, on December 31, 2009, and to the extent not exercised by such time such Warrants shall become void. Reference is hereby made to the further provisions of this Warrant Certificate set forth on the reverse hereof and such further provisions shall for all purposes have the same effect as though fully set forth at this place. This Warrant Certificate shall not be valid unless countersigned by an authorized signatory of the Warrant Agent, as such term is used in the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement. This Warrant Certificate shall be governed and construed in accordance with the internal laws of the State of New York.

[*signature page follows*]

IN WITNESS WHEREOF, Sirius Satellite Radio Inc. has caused this Warrant Certificate to be signed by its President and Treasurer and by its Vice President and Secretary and may cause its corporate seal to be affixed hereunto or imprinted hereon.

Dated: _____, 200__

SIRIUS SATELLITE RADIO INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

Date of Countersignature:

_____, 200__

Certificate of Authentication:

This is one of the Warrants referred to in the within mentioned Warrant Agreement, as supplemented by the Supplemental Warrant Agreement.

THE BANK OF NEW YORK MELLON
as Warrant Agent

By: _____
Authorized Signatory

The Warrants evidenced by this Warrant Certificate are part of a duly authorized issue of Warrants expiring December 31, 2009 on exercise to receive shares of Sirius Common Stock, and are issued or to be issued pursuant to a Warrant Agreement dated as of January 28, 2003 (the "Warrant Agreement"), as supplemented by the First Supplemental Warrant Agreement dated as of the __ day of July, 2008 (the "Supplemental Warrant Agreement"), duly executed and delivered by Sirius to The Bank of New York Mellon, as warrant agent (the "Warrant Agent"), which Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, (including the definitions set forth therein) is hereby incorporated by reference in and made a part of this instrument and is hereby referred to for a description of the rights, limitation of rights, obligations, duties and immunities thereunder of the Warrant Agent, Sirius and the holders (the words "holders" or "holder" meaning the registered holders or registered holder) of the Warrants. A copy of the Warrant Agreement and Supplemental Warrant Agreement may be obtained by the holder hereof upon written request to Sirius.

Warrants may be exercised at any time on or before December 31, 2009; provided that holders shall be required to make payment of the Exercise Price upon exercise of their Warrants only by means of a Cashless Exercise, as provided in Section 4.3 of the Warrant Agreement, unless a registration statement relating to the Warrant Shares is then in effect under the Securities Act of 1933, as amended (the "Securities Act"), and the making of offers and sales of the Warrant Shares thereunder has not been suspended or terminated in accordance with the provisions of Section 16 of the Warrant Agreement (the periods in which such conditions are met being referred to herein as "Registered Periods"). In order to exercise all or any of the Warrants represented by this Warrant Certificate, (i) in the case of Definitive Warrants, the holder must surrender for exercise this Warrant Certificate to the Warrant Agent at its New York corporate trust office set forth in Section 17 of the Warrant Agreement, (ii) in the case of a book-entry interest in a Global Warrant, the exercising Participant whose name appears on a securities position listing of the Depositary as the holder of such book-entry interest must comply with the Depositary's procedures relating to the exercise of such book-entry interest in such Global Warrant and (iii) in the case of both Global Warrants and Definitive Warrants, the holder thereof or the Participant, as applicable, must deliver to the Warrant Agent the form of election to purchase on the reverse hereof duly filled in and signed, which signature shall be a medallion guaranteed by an institution which is a member of a Securities Transfer Association recognized signature guarantee program, and upon payment to the Warrant Agent for the account of Sirius of the Exercise Price, as adjusted as provided in the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, for the number of Warrant Shares in respect of which such Warrants are then exercised. No adjustment shall be made for any dividends on any Sirius Common Stock issuable upon exercise of this Warrant.

The Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, provides that upon the occurrence of certain events the Exercise Price set forth on the face hereof may, subject to certain conditions, be adjusted. If the Exercise

Price is adjusted, the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, provides that the number of shares of Sirius Common Stock issuable upon the exercise of each Warrant shall be adjusted. No fractions of a share of Sirius Common Stock will be issued upon the exercise of any Warrant, but Sirius will pay the cash value thereof determined as provided in the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement.

Sirius has agreed to use its Commercially Reasonable Efforts (subject to Black Out Periods) to (i) file within 90 days after the date of the Supplemental Warrant Agreement, a Shelf Registration Statement on an appropriate form under the Securities Act covering the issuance of Warrant Shares upon exercise of the Warrants, (ii) make the Shelf Registration Statement effective no later than 180 days after the date of the Supplemental Warrant Agreement, and (iii) keep the Shelf Registration Statement effective until the earlier of the second anniversary of the date on which such Shelf Registration Statement is declared effective by the Commission or such time as all Warrants have been exercised and all Warrant Shares have been issued in respect thereof.

Warrant Certificates, when surrendered at the office of the Warrant Agent by the registered holder thereof in person or by legal representative or attorney duly authorized in writing, may be exchanged, in the manner and subject to the limitations provided in the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, but without payment of any service charge, for another Warrant Certificate or Warrant Certificates of like tenor evidencing in the aggregate a like number of Warrants.

Upon due presentation for registration of transfer of this Warrant Certificate at the office of the Warrant Agent a new Warrant Certificate or Warrant Certificates of like tenor and evidencing in the aggregate a like number of Warrants shall be issued to the transferee(s) in exchange for this Warrant Certificate, subject to the limitations provided in the Warrant Agreement, as supplemented by the Supplemental Warrant Agreement, without charge except for any tax or other governmental charge imposed in connection therewith.

Sirius and the Warrant Agent may deem and treat the registered holder(s) thereof as the absolute owner(s) of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone), for the purpose of any exercise hereof, of any distribution to the holder(s) hereof, and for all other purposes, and neither Sirius nor the Warrant Agent shall be affected by any notice to the contrary. Neither the Warrants nor this Warrant Certificate entitles any holder hereof to any rights of a stockholder of Sirius.

FORM OF ELECTION TO PURCHASE
(To Be Executed Upon Exercise Of Warrant)

The undersigned hereby irrevocably elects to exercise the right, represented by this Warrant Certificate, to receive shares of Sirius Common Stock upon payment by the undersigned of the Exercise Price in effect as of the date hereof for the Warrants being surrendered.

The undersigned understands and acknowledges that if exercise is occurring other than during a Registered Period, the undersigned is exercising Warrants pursuant to the Cashless Exercise provisions of Section 4.3 of the Warrant Agreement. If exercise is occurring during a Registered Period, the undersigned elects to make payment of the Exercise Price:

☐ Check this box and complete if payment is to be made in cash, by wire transfer or by certified or official bank check payable to the order of Sirius. The undersigned elects to receive _____ shares of Sirius Common Stock and herewith tenders payment for such shares to the order of Sirius in the amount of $_____ in accordance with the terms hereof.

☐ Check this box and complete if payment is to be made pursuant to the Cashless Exercise provisions of Section 4.3 of the Warrant Agreement. The undersigned elects to receive such number of shares of Sirius Common Stock as Sirius then shall be required to issue in accordance with Section 4.3 of the Warrant Agreement upon tender by the undersigned for exchange of Warrants to purchase _____ shares of Sirius Common Stock.

The undersigned requests that a certificate for such shares be registered in the name of_____, whose address is _____ _____ and that such shares be delivered to_____ whose address is _____. If said number of shares is less than all of the shares of Sirius Common Stock purchasable hereunder, the undersigned requests that a new Warrant Certificate representing the remaining balance of such shares be registered in the name of _____, whose address is _____, and that such Warrant Certificate be delivered to_____, whose address is _____. If payment of the Exercise Price is to be made through Cashless Exercise, in accordance with Section 9 of the Warrant Agreement the undersigned requests that any cash in lieu of fractional interests be paid to _____ whose address is _____.

Date: _____, ____

_____
(Signature)

_____
(Signature Guaranteed)

SCHEDULE A
SCHEDULE OF WARRANTS
EVIDENCED BY THIS GLOBAL WARRANT

The initial number of Warrants evidenced by this Global Warrant shall be _____. The following decreases/increases in the number of Warrants evidenced by this Warrant have been made:

Date of Decrease/Increase	Decrease in Number of Warrants Evidenced by this Global Warrant	Increase in Number of Warrants Evidenced by this Global Warrant	Total Number of Warrants Evidenced by this Global Warrant Following such Decrease/Increase	Notation Made by or on Behalf of Warrant Agent

Exhibit 4.69

SIRIUS SATELLITE RADIO INC.

July 28, 2008

Space Systems/Loral, Inc.
3825 Fabian Way
Palo Alto, California 94303
Attention: Contract Manager

Loral Space & Communications Ltd.
c/o Loral SpaceCom Corporation
600 Third Avenue
New York, NY 10016
Attention: Richard Mastoloni

Dear Sir or Madam:

Reference is made to the XM Satellite Radio Holdings Inc. ("XM") Common Stock Purchase Warrant, represented by a certificate dated as of June 3, 2005 (the "Warrant") issued to Space Systems/Loral Inc. ("SS/L") and assumed by Sirius Satellite Radio Inc., a Delaware corporation ("Sirius") pursuant to the Agreement and Plan of Merger, dated as of February 19, 2007 (the "Merger Agreement"; capitalized terms used but not defined herein shall have the meaning set forth in the Merger Agreement) among Sirius, Vernon Merger Corporation, a Delaware corporation and direct wholly-owned subsidiary of Sirius ("Merger Co.") and XM, pursuant to which Merger Co. merged with and into XM, with XM as the surviving corporation (the "Merger"), on July 28, 2008.

Pursuant to Section 7.1(c) of the Warrant, notice is hereby given with respect to the following:

1. Pursuant to Section 7.4 of the Warrant, XM provided notice to SS/L on November 28, 2007, via facsimile and first-class certified mail, of the pending Merger.

2. Pursuant to the Merger Agreement, Merger Co. merged with and into XM, with XM as the surviving corporation on July 28, 2008.

3. Pursuant to Section 2.1(b) of the Merger Agreement, upon consummation of the Merger, issued and outstanding shares of XM Class A common stock, par value $0.01 per share ("XM Common Stock"), were canceled and extinguished and automatically converted into the right to receive 4.60 fully paid and nonassessable shares of Sirius common stock, par value $0.001 per share ("Sirius Common Stock").

4. Pursuant to Section 2.6 of the Merger Agreement, from and after the effective time of the Merger (the "Effective Time"), each warrant to purchase shares of the XM Common Stock (each, an "XM Warrant") which was outstanding immediately prior to the Effective Time, was converted into and become a warrant to purchase shares of Sirius Common Stock (each, a "Converted Warrant") on terms substantially identical to those in effect immediately prior to the Effective Time under the terms of the warrant or other related agreement or award pursuant to which such XM Warrant was granted; provided, however, that, subject to the terms of the XM Warrants, from and after the Effective Time, (i) each such Converted Warrant may be exercised solely to purchase shares of Sirius Common Stock, (ii) the number of shares of Sirius Common Stock issuable upon exercise of such Converted Warrant shall be equal to the number of shares of the XM Common Stock that were issuable upon exercise under the corresponding XM Warrant immediately prior to the Effective Time multiplied by 4.60 and rounded down to the nearest whole share and (iii) the per share exercise price under such Converted Warrant shall be determined by dividing the per share exercise price of the corresponding XM Warrant immediately prior to the Effective Time by the 4.60 and rounded up to the nearest whole cent.

5. In accordance with the foregoing, the Warrant has been adjusted from the right to acquire 400,000 shares of XM Common Stock at an exercise price of $32.42 per share to the right to acquire 1,840,000 shares of Sirius Common Stock at an exercise price of $7.05 per share payable to the Warrant Agent for the account of Sirius.

6. Sirius hereby assumes the obligation to deliver to SS/L the shares of stock, securities or assets to which SS/L may be entitled under the Warrant, and all other obligations of XM under the Warrant.

Sincerely,

SIRIUS SATELLITE RADIO INC.

By: /s/ Patrick L. Donnelly
Name: Patrick L. Donnelly
Title: Executive Vice President, General Counsel & Secretary

Exhibit 4.70

SIRIUS SATELLITE RADIO INC.

July 28, 2008

Bank of America, N.A.
c/o Banc of America Securities LLC
9 West 57th Street, 40th Floor
New York, New York 10019
Attention: Eric Hambleton

Dear Mr. Hambleton:

Reference is made to the XM Satellite Radio Holdings Inc. ("XM") Common Stock Purchase Warrant, represented by a certificate dated as of May 24, 2006 (the "Warrant") issued to Bank of America, N.A. ("BofA"), as purchaser and transferee of a warrant originally issued to Boeing Satellite Systems International, Inc. dated as of July 31, 2003, and assumed by Sirius Satellite Radio Inc., a Delaware corporation ("Sirius") pursuant to the Agreement and Plan of Merger, dated as of February 19, 2007 (the "Merger Agreement"; capitalized terms used but not defined herein shall have the meaning set forth in the Merger Agreement) among Sirius, Vernon Merger Corporation, a Delaware corporation and direct wholly-owned subsidiary of Sirius ("Merger Co.") and XM, pursuant to which Merger Co. merged with and into XM, with XM as the surviving corporation (the "Merger"), on July 28, 2008.

Pursuant to Section 7.1(c) of the Warrant, notice is hereby given with respect to the following:

1. Pursuant to Section 7.4 of the Warrant, XM provided notice to BofA on November 28, 2007, via facsimile and first-class certified mail, of the pending Merger.

2. Pursuant to the Merger Agreement, Merger Co. merged with and into XM, with XM as the surviving corporation on July 28, 2008.

3. Pursuant to Section 2.1(b) of the Merger Agreement, upon consummation of the Merger, issued and outstanding shares of XM Class A common stock, par value $0.01 per share ("XM Common Stock"), were canceled and extinguished and automatically converted into the right to receive 4.60 fully paid and nonassessable shares of Sirius common stock, par value $0.001 per share ("Sirius Common Stock").

4. Pursuant to Section 2.6 of the Merger Agreement, from and after the effective time of the Merger (the "Effective Time"), each warrant to purchase shares of the XM Common Stock (each, an "XM Warrant") which was outstanding immediately prior to the Effective Time, was converted into and become a warrant to purchase shares of Sirius Common Stock (each, a "Converted Warrant") on terms substantially identical to those in effect immediately prior to the Effective Time under the terms of the warrant or other related agreement or award pursuant to which such XM Warrant was granted; provided, however, that, subject to the terms of the XM Warrants, from and after the Effective Time, (i) each such Converted Warrant may be exercised solely to purchase shares of Sirius Common Stock, (ii) the number of shares of Sirius Common Stock issuable upon exercise of such Converted Warrant shall be equal to the number of shares of the XM Common Stock that were issuable upon exercise under the corresponding XM Warrant immediately prior to the Effective Time multiplied by 4.60 and rounded down to the nearest whole share and (iii) the per share exercise price under such Converted Warrant shall be determined by dividing the per share exercise price of the corresponding XM Warrant immediately prior to the Effective Time by 4.60 and rounded up to the nearest whole cent.

5. In accordance with the foregoing, the Warrant has been adjusted from the right to acquire 500,000 shares of XM Common Stock at an exercise price of $13.524 per share to the right to acquire 2,300,000 shares of Sirius Common Stock at an exercise price of $2.94 per share payable to the Warrant Agent for the account of Sirius.

6. Sirius hereby assumes the obligation to deliver to BofA the shares of stock, securities or assets to which BofA may be entitled under the Warrant, and all other obligations of XM under the Warrant.

Sincerely,

SIRIUS SATELLITE RADIO INC.

By: /s/ Patrick L. Donnelly
Name: Patrick L. Donnelly
Title: Executive Vice President, General Counsel & Secretary

Exhibit 4.71

THIS SECOND SUPPLEMENTAL INDENTURE, dated as of July 28, 2008 (this "Second Supplemental Indenture"), is by and among XM Satellite Radio Holdings, Inc., a Delaware corporation (the "Company"), Sirius Satellite Radio Inc., a Delaware corporation (the "Parent") and The Bank of New York, a New York banking corporation, as Trustee (the "Trustee").

W I T N E S S E T H

WHEREAS, the Company and the Trustee have heretofore executed and delivered an indenture dated as of November 23, 2004 (as amended and supplemented to the date hereof, the "Indenture"), providing for the issuance of the Company's 1.75% Convertible Senior Notes due 2009 (the "Notes");

WHEREAS, the Company and the Trustee have heretofore executed and delivered the First Supplemental Indenture, dated as of July 24, 2008, providing for an increased annual interest rate of 10.00% and certain amendments to the definition of "Fundamental Change";

WHEREAS, the Company, Parent and Vernon Merger Corporation ("Merger Sub"), a wholly-owned subsidiary of Parent, entered into the Agreement and Plan of Merger, dated as of February 19, 2007 (the "Merger Agreement") pursuant to which (i) Merger Sub will merge with and into the Company with the Company continuing as the surviving corporation (the "Merger"); and (ii) each issued and outstanding share of common stock, par value $0.01 per share, of the Company outstanding immediately prior to the Effective Time (as defined below), shall be converted into the right to receive, and shall become exchangeable in accordance with the Merger Agreement for, 4.6 shares of common stock, par value $0.001 per share, of Parent (the "Parent Common Stock");

WHEREAS, pursuant to Section 12.4 of the Indenture, as a condition to the consummation of the transactions contemplated by the Merger Agreement, the Company is required to execute a supplemental indenture (i) providing that the Notes shall be convertible into the kind and amount of shares of stock and other securities, property or assets, which Holders would have been entitled to receive upon the Effective Time had such Notes been converted into Common Stock immediately prior to the Effective Time; and (ii) providing for adjustments of the Conversion Rate which shall be as nearly equivalent as may be practicable to the adjustments provided for in Article XII of the Indenture;

WHEREAS, pursuant to Section 11.1 of the Indenture, the Company may amend or supplement the Indenture in certain circumstances without notice to or consent of any Holder; and

WHEREAS, pursuant to Section 11.6 of the Indenture, the Trustee is authorized to execute and deliver this Second Supplemental Indenture.

NOW, THEREFORE, for and in consideration of the foregoing premises, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders of the Notes, as follows:

1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. Amendments to Section 1.1. Section 1.1 of the Indenture is hereby amended by inserting each of the following definitions in place of the corresponding definition of such term in the Indenture or, where no definition for such term is provided in the Indenture, inserting the following definitions as new defined terms in appropriate alphabetical order:

"Applicable Stock" means (a) common stock, par value $0.001 per share, of Sirius Satellite Radio Inc. and/or (b) in the event of a transaction referred to in Section 12.4 of the Indenture in which the Notes become convertible into Equity Interests of another Person, such Equity Interests or any other Equity Interests into which such Equity Interests shall be reclassified or changed.

"Board of Directors" means either the board of directors of the Company or Parent, as the case may be, or any duly authorized committee of such board.

"Conversion Rate" means the number of shares of Common Stock issuable upon conversion of each $1,000 of the principal amount of the Notes, which is initially 92.0 shares, subject to adjustments as set forth in this Indenture.

"Effective Time" means the time at which the Merger becomes effective.

"Fundamental Change" means the occurrence of any of the following events: (i) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), is or becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that a Person shall be deemed to have beneficial ownership of all shares that such Person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of more than 50% of the total outstanding Voting Stock of the Parent or the Company; (ii) during any period of two consecutive years, individuals who at the beginning of such period constituted the Board of Directors of the Parent or the Company (together with any new directors whose election to such Board of Directors or whose nomination for election by the stockholders of the Parent or the Company, as the case may be, was approved by a vote of at least 66-2/3% of the directors then still in office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of such Board of Directors then in office; (iii) the Parent or the Company consolidates with or merges with or into any Person, in any such event pursuant to a transaction in which the outstanding Voting Stock of the Parent or the Company, as the case may be, is changed into or exchanged for cash, securities or other property, or conveys, transfers, sells or otherwise disposes of or leases all or substantially all of its assets to any Person, or any corporation consolidates with or merges into or with the Parent or the Company, as applicable, other than any such transaction where the outstanding Voting Stock of the Parent or Company, as applicable, is not changed or exchanged at all (except to the extent necessary to reflect a change in the jurisdiction of incorporation of the Parent or the Company, as applicable), or where (A) the outstanding Voting Stock of the Parent or the Company, as the case may be, is

changed into or exchanged for cash, securities and other property (other than Equity Interests of the surviving corporation) and (B) the stockholders of the Parent or the Company, as the case may be, immediately before such transaction own, directly or indirectly, immediately following such transaction, more than 50% of the total outstanding Voting Stock of the surviving corporation; (iv) the Parent or the Company is liquidated or dissolved or adopts a plan of liquidation or dissolution other than in a transaction which complies with the provisions described under ARTICLE VII; or (v) the Common Stock ceases to be traded on a national securities exchange or quoted on the Nasdaq National Market or the Nasdaq SmallCap Market or traded on an established automated over-the-counter trading market in the United States. With respect to the Notes held by Holders who are party to the Letter Agreement, the Merger shall not constitute a Fundamental Change and no such Holder shall be entitled to any notice, offer to repurchase Notes or payment with respect thereto. The foregoing shall have no force and effect with respect to Non-consenting Holders, if any. In no event shall the foregoing be construed as an admission or statement of belief of the Company that the consummation of the Merger constitutes a Fundamental Change.

Notwithstanding the foregoing provisions, a "Fundamental Change" shall not be deemed to have occurred if either:

(1) the Closing Sale Price of the Common Stock for each of at least five Trading Days within:

(i) the period of the ten consecutive Trading Days immediately after the later of the Fundamental Change or the public announcement of the Fundamental Change, in the case of a Fundamental Change resulting solely from a Fundamental Change in clause (i) of the definition of Fundamental Change; or

(ii) the period of the ten consecutive Trading Days immediately preceding the Fundamental Change, in the case of a Fundamental Change resulting from a Fundamental Change in clauses (ii), (iii) or (iv) of the definition of Fundamental Change;

is at least equal to 105% of the quotient where the numerator is the principal amount of a Note and the denominator is the Conversion Rate in effect on each of such five Trading Days, with such calculation being made for each Trading Day; or

(2) in the case of a merger or consolidation described in clause (iii) of the definition of Fundamental Change, at least 90% of the consideration, excluding cash payments for fractional shares and cash payments pursuant to dissenters' appraisal rights, in the merger or consolidation constituting the Fundamental Change, consists of common stock traded on a U.S. national securities exchange or quoted on the Nasdaq National Market or the Nasdaq SmallCap Market (or which shall be so traded or quoted when issued or exchanged in connection with such Fundamental Change) and as a result of such transaction or transactions the Notes become convertible solely into such common stock, excluding cash payments for fractional shares.

"Officer" means the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer or the Secretary of the Company or Parent, as the case may be.

"Officers' Certificate", when used with respect to the Company or Parent, as the case may be, means a written certificate containing the information specified in Section 14.4 and Section 14.5, signed in the name of the Company or Parent, as applicable, by any two Officers, at least one of whom is the Chief Executive Officer or the Chief Financial Officer, and delivered to the Trustee. An Officers' Certificate given pursuant to Section 6.3 shall be signed by two Officers, one of whom must be the principal executive officer, the principal financial officer or the principal accounting officer of the Company or Parent, as applicable.

"Opinion of Counsel" means a written opinion containing the information specified in Section 14.4 and Section 14.5, from legal counsel. The counsel may be an employee of, or counsel to, the Company or Parent.

"Parent" means Sirius Satellite Radio Inc., a Delaware corporation, and its successors and assigns.

"Parent Subsidiary" means (i) a corporation, a majority of whose outstanding Voting Stock is, at the date of determination, directly or indirectly owned by Parent, by one or more Parent Subsidiaries or by Parent and one or more Parent Subsidiaries, (ii) a partnership in which Parent or a Parent Subsidiary holds a majority interest in the equity capital or profits of such partnership, or (iii) any other Person (other than a corporation) in which Parent, a Parent Subsidiary or Parent and one or more Parent Subsidiaries, directly or indirectly, at the date of determination, has (x) at least a majority ownership interest or (y) the power to elect or direct the election of a majority of the directors or other governing body of such Person.

3. Amendments to Section 6.2(a). The words "and Parent" are hereby inserted after the word "Company" the first time it appears in the first sentence, and each time it appears in the fourth sentence of Section 6.2(a) of the Indenture. The words "or Parent" are hereby inserted after the word "Company" the second time it appears in the first sentence, each time it appears in the second and third sentences, and each time it appears in the seventh sentence of Section 6.2(a) of the Indenture. The words "or Parent's" shall be inserted after the word "Company's" in the fifth sentence of Section 6.2(a) of the Indenture.

4. Amendments to Section 6.2(b). The words "Each of" are hereby inserted before, and the words "and Parent" are hereby inserted after, the words "the Company" in the first sentence of Section 6.2(b) of the Indenture. The words "or Parent" are hereby inserted after the word "Company" each time it appears in the second and third sentence of Section 6.2(b) of the Indenture. The words "or Parent's" are hereby inserted after the word "Company's" in the fifth sentence of Section 6.2(b) of the Indenture.

5. Amendments to Section 6.3. The words “and Parent” are hereby inserted after the word “Company” the first time it appears. The words “or the Parent, as applicable,” are hereby inserted after the word “Company” the second time it appears.

6. Amendments to Section 6.4. The words “and Parent” are hereby inserted after the word “Company” each time it appears in Section 6.4 of the Indenture.

7. Amendments to Article 8. The words “or Parent” are hereby inserted after the word “Company” each time it appears in Section 8.1(f) of the Indenture.

8. Amendments to Article 11. The word “, Parent” is hereby inserted after the word “Company” in the preamble to Section 11.1 of the Indenture and each time it appears in Section 11.1(k) . The words “or Parent” are hereby inserted after the word “Company” in Sections 11.1(a), 11.1(b), 11.1(j), 11.1(l) and 11.2 of the Indenture. The words “or Parent’s” are hereby inserted after the word “Company’s” in Sections 11.1(c) and 11.1(d) of the Indenture.

9. Amendments to Sections 12.3, 12.7, 12.10. The words “the Company” are hereby replaced by the word “Parent”, and the words “the Company’s” are hereby replaced by the word “Parent’s”, each time they appear in Sections 12.3, 12.7, 12.9 and 12.10 of the Indenture.

10. Amendment to Section 12.1(b). The words “the Company” are hereby replaced by the word “Parent” the first time it appears in Section 12.1(b) of the Indenture.

11. Amendment to Section 12.2(a). The third and the fourth paragraphs of Section 12.2(a) of the Indenture are hereby amended in their entirety to read as follows:

“Parent shall not issue fractional shares of its Common Stock upon conversion of the Notes. In lieu thereof, the Company shall pay in cash the value of such fractional shares based upon the Closing Sale Price of its Common Stock on the Trading Day immediately prior to the date of conversion.

Except as described in Section 12.9, the Company and Parent will not make any payment in cash or Common Stock or other adjustment for accrued and unpaid interest or Additional Interest on any Notes when they are converted. The Company’s and Parent’s delivery to the Holder of the full number of shares of Common Stock into which the Note is convertible, together with any cash payment for such Holder’s fractional shares, shall be deemed to satisfy the Company’s obligation to pay the principal amount of the Note and to satisfy its obligation to pay accrued and unpaid interest and Additional Interest, if any through the conversion date. As a result, accrued interest, and Additional Interest are deemed paid in full rather than cancelled, extinguished or forfeited. Notwithstanding the foregoing, accrued interest and Additional Interest, if any, will be payable upon any conversion of Notes made concurrently with or after acceleration of the Notes following an Event of Default.”

12. Amendment to Section 12.2(e). The last paragraph of Section 12.2(e) of the Indenture is hereby amended in its entirety to read as follows:

"Notwithstanding the foregoing, in no event will the total number of shares of Common Stock issuable upon conversion exceed 129.651 per $1,000 principal amount of Notes, subject to adjustments in the same manner as the Conversion Rate as set forth in Section 12.3."

13. Amendment to Section 12.4. Section 12.4 is hereby amended by replacing the words "the Company" by the word "Parent" the first and second time they appear in Section 12.4 and by inserting a comma followed by the word "Parent" the third time the words "the Company" appear.

14. Amendments to Section 12.6. The words "or Parent" are hereby inserted after the word "Company" the first and third times it appears in Section 12.6(a) of the Indenture and each time it appears in Section 12.6(b) of the Indenture. The words "the Company" are hereby replaced by the word "Parent" the second time they appear in Section 12.6(a) of the Indenture.

15. Amendments to Section 12.11 and 12.12. The words "or Parent" are hereby inserted after the word "Company" each time it appears in Sections 12.11 and 12.12 of the Indenture.

16. Amendments of Section 14.2. Section 14.2 of the Indenture is hereby amended in its entirety to read as follows:

"Section 14.2. Notices. Any request, demand, authorization, notice, waiver, consent or communication shall be in writing and delivered in person (including by commercial courier services) or mailed by first-class mail, postage prepaid, addressed as follows or transmitted by facsimile transmission (confirmed by guaranteed overnight courier) to the following facsimile numbers:

if to the Parent:

Sirius Satellite Radio Inc.
1221 Avenue of the Americas, 36th Floor
New York, New York 10020
Attention: General Counsel
Facsimile: (212) 584-5353

with a copy to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attention: Gary Sellers, Esq.
Facsimile: (212) 455-2502

if to the Company:

XM Satellite Radio Holdings Inc.
1500 Eckington Place, N.E.

Washington, DC 20002
Attention: Chief Financial Officer
Facsimile: (202) 969-7113

with a copy to:

Hogan & Hartson L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004
Attention: Steven M. Kaufman, Esq.
Facsimile: (202) 637-5910

if to the Trustee:

The Bank of New York
101 Barclay Street, 8 West
New York, New York 10286
Attention: Corporate Trust Administration
Facsimile No.: (212) 815-5707

The Company, Parent or the Trustee by notice given to the other in the manner provided above may designate additional or different addresses for subsequent notices or communications.

Any notice or communication given to a Holder shall be mailed to the Holder, by first-class mail, postage prepaid, at the Holder's address as it appears on the registration books of the Registrar and shall be sufficiently given if so mailed within the time prescribed.

Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not received by the addressee.

If the Company or Parent mails a notice or communication to the Holders, it shall mail a copy to the Trustee and each Registrar, Paying Agent, Conversion Agent, or co-registrar."

17. Amendments of Section 14.11. The first sentence of Section 14.11 of the Indenture is hereby replaced with the following sentence: "All agreements of the Company and Parent in this Indenture and the Notes shall bind their respective successors."

18. Amendments to Note. The words "the Company" are hereby replaced by the word "Parent" in the third paragraph of Section 7 of the form of Note and the second time they appear in the fourth paragraph of Section 7 of the form of the Note.

19. Amendments to Schedule I. Schedule I of the Indenture is hereby amended in its entirety by replacing it with Schedule I to this Second Supplemental Indenture.

20. Ratification of Indenture; Second Supplemental Indenture Part of Indenture. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Second Supplemental Indenture shall form a part of the Indenture for all purposes, and every holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

21. Governing Law. This Second Supplemental Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.

22. Counterparts. The parties may sign any number of copies of this Second Supplemental Indenture. Each signed copy shall be an original, but all of them together shall represent the same agreement.

23. Effect of Headings. The section headings herein are for convenience only and shall not affect the construction hereof.

24. The Trustee. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Second Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Company.

IN WITNESS WHEREOF, the parties hereto have caused this Second Supplemental Indenture to be duly executed, all as of the date first above written.

XM SATELLITE RADIO HOLDINGS INC.

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President
and Chief Financial Officer

SIRIUS SATELLITE RADIO INC.

By /s/ Patrick Donnelley
Name: Patrick Donnelley
Title: Executive Vice President and General Counsel

THE BANK OF NEW YORK, as Trustee

By: /s/ Remo J. Reale
Name: Remo J. Reale
Title: Vice President

The following table sets forth the Stock Prices and number of Additional Shares to be issuable per $1,000 principal amount of Notes:

XM Satellite Radio Holdings Inc.
Conversion Rate Adjustment Table

	Stock Price														
Effective Date	**$7.71**	**$8.70**	**$9.78**	**$10.87**	**$11.96**	**$13.04**	**$14.13**	**$15.22**	**$16.30**	**$17.39**	**$18.48**	**$19.57**	**$20.65**	**$21.74**	**$27.17**
December 1, 2008	**37.504**	**26.698**	**18.409**	**12.751**	**8.878**	**6.224**	**4.393**	**3.128**	**2.249**	**1.633**	**1.205**	**0.902**	**0.685**	**0.529**	**0.184**
December 1, 2009	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**

Exhibit 4.72

FIRST SUPPLEMENTAL INDENTURE

FIRST SUPPLEMENTAL INDENTURE, dated as of July 28, 2008 (this "First Supplemental Indenture"), among XM Satellite Radio Inc., a Delaware corporation (the "Issuer"), XM Satellite Radio Holdings Inc. ("XM Holdings"), XM Equipment Leasing LLC as subsidiary guarantor, XM Radio Inc. as subsidiary guarantor (together with XM Equipment Leasing LLC, the "Subsidiary Guarantors"), and The Bank of New York Mellon, as trustee under the Indenture referred to below (the "Trustee").

W I T N E S S E T H:

WHEREAS, the Issuer, XM Holdings, the Subsidiary Guarantors and the Trustee have heretofore executed and delivered an Indenture, dated as of May 1, 2006 (the "Indenture"), providing for the issuance of 9.75% Senior Notes due 2014 (the "Notes");

WHEREAS, Section 9.02 of the Indenture provides that compliance with any provision of the Indenture may be waived with the consent of the Holders (as defined in the Indenture) of a majority in aggregate principal amount of the then outstanding Notes;

WHEREAS, the proposed merger of XM Holdings with Vernon Merger Corporation ("Merger Sub"), a wholly-owned subsidiary of Sirius Satellite Radio Inc. ("Sirius"), pursuant to the terms of an Agreement and Plan of Merger, dated as of February 19, 2007, as it may be amended, modified or extended (the "Merger Agreement"), among XM Holdings, Merger Sub and Sirius, or other business combination in which XM Holdings and Sirius become affiliated (the "Merger") may trigger certain obligations of the Issuer pursuant to the Indenture;

WHEREAS, the Issuer, XM Holdings and certain beneficial owners of the Notes (the "Beneficial Noteholders") have entered into a Waiver and Letter Agreement, dated as of July 14, 2008 (the "Waiver and Letter Agreement"), pursuant to which the Beneficial Noteholders, holding a majority in aggregate principal amount of the Notes, have duly agreed and consented that, to the extent the consummation of the Merger constitutes a "Change of Control" as defined under Section 1.01 of the Indenture, the requirements pursuant to Section 4.14 (Offer to Repurchase Upon Change of Control) of the Indenture that the Issuer repurchase the Notes or make an offer to the Holders of the Notes to repurchase the Notes and to give notice of such Change of Control or Offer to Repurchase Upon a Change of Control are waived in respect of such "Change of Control"; and

WHEREAS, the execution and delivery of this First Supplemental Indenture have been duly authorized by all necessary corporate or limited liability company, as the case may be, action on the part of the Issuer, XM Holdings and the Subsidiary Guarantors and all conditions and requirements necessary to make this instrument a valid and binding agreement have been duly performed and complied with.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Issuer, XM Holdings, the Subsidiary Guarantors and the Trustee mutually covenant and agree, for the equal and ratable benefit of the Holders of the Notes, as follows:

ARTICLE I - WAIVER OF COMPLIANCE

Section 1.1. Waiver of the "Change of Control" Provision in the Indenture

(a) To the extent that the consummation of the Merger constitutes a "Change of Control" as defined under Section 1.01 of the Indenture, the requirements pursuant to Section 4.14 (Offer to Repurchase Upon Change of Control) of the Indenture that the Issuer repurchase the Notes or make an offer to the Holders of the Notes to repurchase the Notes are waived in respect of such "Change of Control" (the "Waiver").

(b) The Waiver shall become effective upon signing and shall cease to be effective as of August 31, 2008 unless the following events have occurred on or prior to that date:

(i) the consummation of the Merger;

(ii) the Issuer or XM Holdings having caused funds to be raised in the amount of at least $400,000,000 through the issuance of (A) a new series of senior notes (the "New Senior Notes") or (B) other securities that will be equal or junior in right of payment to the new senior unsecured notes to be issued on substantially the terms set forth on Exhibit B to the Waiver and Letter Agreement (the "Exchange Notes"), to fund the cash portion of the consideration payable in the exchange offer to be made for the Notes held by the Beneficial Noteholders and other "qualified institutional buyers" (as defined in the Securities Act of 1933, as amended) (and at the Issuer's option, the other Holders of the Notes) (the "Exchange Offer");

(iii) the Issuer or XM Holdings having raised at least $500,000,000 through a contribution to the Issuer's equity capital, the issuance and sale of convertible or exchangeable notes that will be junior in right of payment to the Exchange Notes or the issuance and sale of equity securities (it being understood that the financing conditions in subsection (ii) above and this subsection (iii) are independent of each other resulting in an aggregate condition of $900,000,000 of financing);

(iv) the Issuer or XM Holdings having funded or contributed the necessary funds into a segregated account to fund the mandatory offer to repurchase all Senior Floating Rate Notes due 2013 of the Issuer (the "Floating Rate Notes") triggered by the Merger;

(v) the Issuer or XM Holdings having funded or contributed the necessary funds into a segregated account to fund the mandatory offer to repurchase transponders of the XM-4 satellite, triggered by the Merger under the sale and leaseback transaction pursuant to (A) the Participation Agreement, dated as of February 13, 2007, by and among XM Holdings, Wells Fargo Bank Northwest in its capacity as Owner Trustee and other parties, (B) the lease agreement, dated as of February 13, 2007, by and between Wells Fargo Bank Northwest, as Owner Trustee, and the Issuer and (C) the other related documents (the "Sale-Leaseback Transaction");

(vi) the Issuer or XM Holdings having repaid all borrowings under Section 13 and related "credit facility" portions of the Third Amended and Restated Distribution and Credit Agreement, dated as of February 6, 2008, by and among General Motors Corporation, XM Holdings and the Issuer;

(vii) with respect to XM Holdings' 1.75% Convertible Senior Notes due 2009 (the "Convertible Senior Notes"), XM Holdings having obtained the consent of holders of at least 98% of the aggregate principal amount of such Convertible Senior Notes to waive a change of control offer, if any, triggered by the Merger with the interest rate on such Convertible Senior Notes to be increased to 10% subject to the Merger being completed; and

(viii) the absence of any occurrence of an event that, with notice or lapse of time or both, would constitute a default, in the due performance or observance of any term, covenant or condition contained in the indenture governing the Exchange Notes.

ARTICLE II - MISCELLANEOUS

Section 2.1. Effect of Supplemental Indenture. From and after the effective date of this First Supplemental Indenture, the Indenture and the Notes shall be supplemented in accordance herewith, and this First Supplemental Indenture shall form a part of the Indenture and the Notes for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered under the Indenture shall be bound thereby.

Section 2.2. Indenture Remains in Full Force and Effect. Except as supplemented by this First Supplemental Indenture, all provisions in the Indenture and the Notes shall remain in full force and effect.

Section 2.3. References to Supplemental Indenture. Any and all notices, requests, certificates and other instruments executed and delivered after the execution and delivery of this First Supplemental Indenture may refer to the Indenture without making specific reference to this First Supplemental Indenture, but nevertheless all such references shall include this First Supplemental Indenture unless the context requires otherwise.

Section 2.4. Conflict with Trust Indenture Act ("TIA"). If any provision of this First Supplemental Indenture limits, qualifies or conflicts with any provision of the TIA that is required under the TIA to be part of and govern any provision of this First Supplemental Indenture, the provision of the TIA shall control. If any provision of this First Supplemental Indenture modifies or excludes any provision of the TIA that may be so modified or excluded, the provision of the TIA shall be deemed to apply to the Indenture as so modified or to be excluded by this First Supplemental Indenture, as the case may be.

Section 2.5. Severability. If any court of competent jurisdiction shall determine that any provision in this First Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 2.6. Terms Defined in the Indenture. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Indenture.

Section 2.7. Headings. The Article and Section headings of this First Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part of this First Supplemental Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 2.8. Benefits of First Supplemental Indenture. Nothing in this First Supplemental Indenture or the Notes, express or implied, shall give to any Person, other than the parties hereto and thereto and their successors hereunder and thereunder and the Holders of the Notes any benefit of any legal or equitable right, remedy or claim under the Indenture, this First Supplemental Indenture or the Notes.

Section 2.9. Successors. All agreements of the Issuer and XM Holdings in this First Supplemental Indenture shall bind their respective successors. All agreements of the Trustee in this First Supplemental Indenture shall bind its successors.

Section 2.10. Trustee Not Responsible for Recitals. The recitals contained herein shall be taken as the statements of the Issuer and XM Holdings and the Trustee assumes no responsibility for their correctness.

Section 2.11. Certain Duties and Responsibilities of the Trustee. In entering into this First Supplemental Indenture, the Trustee shall be entitled to the benefit of every provision of the Indenture and the Notes relating to the conduct or affecting the liability or affording protection to the Trustee, whether or not elsewhere herein so provided.

Section 2.12. Governing Law. This First Supplemental Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 2.13. Counterpart Originals. The parties may sign any number of copies of this First Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

Section 2.14. Effectiveness. This First Supplemental Indenture shall become effective upon execution hereof by the parties listed on the signature pages hereto.

Section 2.15. Confirmation. Each of the Issuer, XM Holdings, the Subsidiary Guarantors and the Trustee hereby confirms and reaffirms the Indenture in every particular except as amended and supplemented by this First Supplemental Indenture.

Section 2.16. Notation on Notes. Pursuant to Section 9.05 of the Indenture, new Notes reflecting the amendments to the Indenture made hereby shall not be issued; however, corresponding changes to the Notes to reflect the amendments made hereby shall be deemed to be made to the Notes as of the date of this First Supplemental Indenture. The Trustee may, but shall not be required to, place an appropriate notation as to this First Supplemental Indenture on any Note hereafter authenticated in accordance with Section 9.05 of the Indenture.

Section 2.17. Entire Agreement. This First Supplemental Indenture, together with the Indenture as amended hereby and the Notes, contains the entire agreement of the parties, and supersedes all other representations, warranties, agreements and understandings between the parties, oral or otherwise, with respect to the matters contained herein and therein.

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed as of the date first above written.

XM SATELLITE RADIO INC.

By: /s/ Joseph J. Euteneur
Name: Joseph J. Euteneur
Title: Executive Vice President and
Chief Financial Officer

XM SATELLITE RADIO HOLDINGS INC.

By: /s/ Joseph J. Euteneur
Name: Joseph J. Euteneur
Title: Executive Vice President and
Chief Financial Officer

XM EQUIPMENT LEASING LLC

By: /s/ Joseph J. Euteneur
Name: Joseph J. Euteneur
Title: Executive Vice President and
Chief Financial Officer

XM RADIO INC.

By: /s/ Joseph J. Euteneur
Name: Joseph J. Euteneur
Title: Executive Vice President and
Chief Financial Officer

THE BANK OF NEW YORK MELLON,
as Trustee

By: /s/ Remo J. Reale
Name: Remo J. Reale
Title: Vice President

Exhibit 4.73

SECOND SUPPLEMENTAL INDENTURE

9.75% Senior Notes due 2014

SECOND SUPPLEMENTAL INDENTURE, dated as of July 28, 2008 (this "Second Supplemental Indenture"), to the Indenture dated as of May 1, 2006 (as amended as set forth below, the "Indenture"), among XM Satellite Radio Inc., a Delaware corporation (the "Issuer"), XM Satellite Radio Holdings Inc., a Delaware corporation (the "Parent Guarantor"), XM Equipment Leasing LLC, a Delaware limited liability company, as subsidiary guarantor, XM Radio Inc., a Delaware corporation, as subsidiary guarantor (together with XM Equipment Leasing LLC, the "Subsidiary Guarantors"), and The Bank of New York Mellon, a New York banking corporation, as trustee under the Indenture referred to below (the "Trustee").

W I T N E S S E T H

WHEREAS, the Issuer, the Parent Guarantor, the Subsidiary Guarantors and the Trustee have heretofore executed and delivered the Indenture and the Issuer has issued pursuant to the Indenture the Issuer's 9.75% Senior Notes due 2014 (the "Notes"), in the aggregate amount of U.S.$600,000,000;

WHEREAS, the Issuer, the Parent Guarantor, the Subsidiary Guarantors and the Trustee have heretofore executed and delivered the First Supplemental Indenture, dated as of July 28, 2008, providing for the waiver of the change of control purchase obligation of the Issuer under the Indenture if certain conditions stated therein are satisfied;

WHEREAS, the Issuer, the Parent Guarantor and Vernon Merger Corporation ("Merger Sub"), a wholly-owned subsidiary of Sirius Satellite Radio Inc., a Delaware corporation ("Sirius"), entered into the Agreement and Plan of Merger, dated as of February 19, 2007 (the "Merger Agreement") pursuant to which (i) Merger Sub will merge with and into the Parent Guarantor with the Parent Guarantor continuing as the surviving corporation (the "Merger"); and (ii) each issued and outstanding share of common stock, par value $0.01 per share, of the Parent Guarantor outstanding immediately prior to the Effective Time (as defined below), shall be converted into the right to receive, and shall become exchangeable in accordance with the Merger Agreement for, 4.6 shares of common stock, par value $0.001 per share, of Sirius;

WHEREAS, pursuant to Section 9.01 of the Indenture, the Issuer and the Trustee may amend or supplement the Indenture without the consent of any Holder of the Notes to make any change that does not adversely affect the legal rights under the Indenture of any Holder of the Notes, including to provide for the assumption of the Issuer's or any Guarantor's obligations to the holders of the Notes by a successor thereto;

WHEREAS, the Issuer, the Parent Guarantor, the Subsidiary Guarantors and the Trustee have determined to enter into this Second Supplemental Indenture for the purpose of providing that the Parent Guarantor, as successor in the Merger, confirms its obligations as a Guarantor under the Indenture, its Indenture Guarantee and the Registration Rights Agreement on the terms set forth therein, and;

WHEREAS, the Issuer has delivered to the Trustee an Officer's Certificate as well as an Opinion of Counsel pursuant to Sections 9.06, 10.04, and 12.05 of the Indenture to the

effect that the execution and delivery of this Second Supplemental Indenture by the Issuer, the Parent Guarantor and the Subsidiary Guarantors is authorized and permitted under the Indenture and that all conditions precedent and covenants, if any, provided for in the Indenture relating to the execution and delivery of this Second Supplemental Indenture to be complied with by the Issuer, the Parent Guarantor and the Subsidiary Guarantors have been satisfied;

WHEREAS, all other acts and proceedings required by law, by the Indenture and by the charter documents of the Issuer, the Parent Guarantor and the Subsidiary Guarantors to make this Second Supplemental Indenture a valid and binding agreement for the purposes expressed herein, in accordance with its terms, have been duly done and performed.

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, and for other good and valuable consideration the receipt of which is hereby acknowledged, the Issuer, the Parent Guarantor, the Subsidiary Guarantors and the Trustee hereby agree as follows:

ARTICLE 1

RATIFICATION; DEFINITIONS

Section 1.01. Second Supplemental Indenture. This Second Supplemental Indenture is supplemental to, and is entered into in accordance with Section 9.01 of, the Indenture, and except as modified, amended and supplemented by this Second Supplemental Indenture, the provisions of the Indenture are in all respects ratified and confirmed and shall remain in full force and effect.

Section 1.02. Definitions. Unless the context shall otherwise require, all terms which are defined in Section 1.01 of the Indenture shall have the same meanings, respectively, in this Second Supplemental Indenture as such terms are given in said Section 1.01 of the Indenture.

ARTICLE 2

CONFIRMATION OF GUARANTEE

Section 2.01. Confirmation of Guarantee. The Parent Guarantor, as successor in the Merger, hereby expressly confirms its obligations as Guarantor of the Issuer's obligations under the Indenture, this Second Supplemental Indenture and the Notes.

ARTICLE 3

MISCELLANEOUS

Section 3.01. Effective Date. This Second Supplemental Indenture shall become effective as of the date hereof.

Section 3.02. Counterparts. This Second Supplemental Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 3.03. Acceptance. The Trustee accepts the Indenture, as supplemented by this Second Supplemental Indenture, and agrees to perform the same upon the terms and conditions set forth therein as so supplemented. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Second Supplemental Indenture of the due execution by the Issuer, the Parent Guarantor or the Subsidiary Guarantors, or for or in respect of the recitals contained herein, all of which are made solely by the Issuer, the Parent Guarantor or the Subsidiary Guarantors.

Section 3.04. Successors and Assigns. All covenants and agreements in this Second Supplemental Indenture by the Issuer, the Parent Guarantor or the Subsidiary Guarantors or the Trustee shall bind their respective successors and assigns, whether so expressed or not.

Section 3.05. Severability. In case any provision in this Second Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.06. Governing Law. This Second Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of New York.

Section 3.07. Incorporation into Indenture. All provisions of this Second Supplemental Indenture shall be deemed to be incorporated in, and made a part of, the Indenture; and the Indenture, as amended and supplemented by this Second Supplemental Indenture, shall be read, taken and construed as one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Second Supplemental Indenture to be duly executed, all as of the day and year first above written.

The Issuer:

XM SATELLITE RADIO INC.

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President
and Chief Financial Officer

The Parent Guarantor:

XM SATELLITE RADIO HOLDINGS INC.

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President
and Chief Financial Officer

The Subsidiary Guarantors:

XM EQUIPMENT LEASING LLC

/s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President
and Chief Financial Officer

XM RADIO INC.

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President
and Chief Financial Officer

The Trustee:

THE BANK OF NEW YORK

By /s/ Remo J. Reale
Name: Remo J. Reale
Title: Vice President

Exhibit 4.74

FIRST SUPPLEMENTAL INDENTURE

Senior Floating Rate Notes due 2013

FIRST SUPPLEMENTAL INDENTURE, dated as of July 28, 2008 (this "First Supplemental Indenture"), to the Indenture dated as of May 1, 2006 (the "Indenture"), among XM Satellite Radio Inc., a Delaware corporation (the "Issuer"), XM Satellite Radio Holdings Inc., a Delaware corporation (the "Parent Guarantor"), XM Equipment Leasing LLC, a Delaware limited liability company, as subsidiary guarantor, XM Radio Inc., a Delaware corporation, as subsidiary guarantor (together with XM Equipment Leasing LLC, the "Subsidiary Guarantors"), and The Bank of New York Mellon, a New York banking corporation, as trustee under the Indenture referred to below (the "Trustee").

W I T N E S S E T H

WHEREAS, the Issuer, the Parent Guarantor, the Subsidiary Guarantors and the Trustee have heretofore executed and delivered the Indenture and the Issuer has issued pursuant to the Indenture the Issuer's Senior Floating Rate Notes due 2013 (the "Notes"), in the aggregate amount of U.S.$200,000,000;

WHEREAS, the Issuer, the Parent Guarantor and Vernon Merger Corporation ("Merger Sub"), a wholly-owned subsidiary of Sirius Satellite Radio Inc., a Delaware corporation ("Sirius"), entered into the Agreement and Plan of Merger, dated as of February 19, 2007 (the "Merger Agreement") pursuant to which (i) Merger Sub will merge with and into the Parent Guarantor with the Parent Guarantor continuing as the surviving corporation (the "Merger"); and (ii) each issued and outstanding share of common stock, par value $0.01 per share, of the Parent Guarantor outstanding immediately prior to the Effective Time (as defined below), shall be converted into the right to receive, and shall become exchangeable in accordance with the Merger Agreement for, 4.6 shares of common stock, par value $0.001 per share, of Sirius;

WHEREAS, pursuant to Section 9.01 of the Indenture, the Issuer and the Trustee may amend or supplement the Indenture without the consent of any Holder of the Notes to make any change that does not adversely affect the legal rights under the Indenture of any Holder of the Notes, including to provide for the assumption of the Issuer's or any Guarantor' obligations to the holders of the Notes by a successor thereto;

WHEREAS, the Issuer, the Parent Guarantor, the Subsidiary Guarantors and the Trustee have determined to enter into this First Supplemental Indenture for the purpose of providing that the Parent Guarantor, as successor in the Merger, confirms its obligations as a Guarantor under the Indenture, its Indenture Guarantee and the Registration Rights Agreement on the terms set forth therein, and;

WHEREAS, the Issuer has delivered to the Trustee an Officer's Certificate as well as an Opinion of Counsel pursuant to Sections 9.06, 10.04 and 12.05 of the Indenture to the effect that the execution and delivery of this First Supplemental Indenture by the Issuer, the Parent Guarantor and the Subsidiary Guarantors is authorized and permitted under the Indenture and that all conditions precedent and covenants, if any, provided for in the Indenture relating to the execution and delivery of this First Supplemental Indenture to be complied with by the Issuer, the Parent Guarantor and the Subsidiary Guarantors have been satisfied;

WHEREAS, all other acts and proceedings required by law, by the Indenture and by the charter documents of the Issuer, the Parent Guarantor and the Subsidiary Guarantors to make this First Supplemental Indenture a valid and binding agreement for the purposes expressed herein, in accordance with its terms, have been duly done and performed.

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, and for other good and valuable consideration the receipt of which is hereby acknowledged, the Issuer, the Parent Guarantor, the Subsidiary Guarantors and the Trustee hereby agree as follows:

ARTICLE 1

RATIFICATION; DEFINITIONS

Section 1.01. First Supplemental Indenture. This First Supplemental Indenture is supplemental to, and is entered into in accordance with Section 9.01 of, the Indenture, and except as modified, amended and supplemented by this First Supplemental Indenture, the provisions of the Indenture are in all respects ratified and confirmed and shall remain in full force and effect.

Section 1.02. Definitions. Unless the context shall otherwise require, all terms which are defined in Section 1.01 of the Indenture shall have the same meanings, respectively, in this First Supplemental Indenture as such terms are given in said Section 1.01 of the Indenture.

ARTICLE 2

CONFIRMATION OF GUARANTEE

Section 2.01. Confirmation of Guarantee. The Parent Guarantor, as successor in the Merger, hereby expressly confirms its obligations as Guarantor of the Issuer's obligations under the Indenture, this First Supplemental Indenture and the Notes.

ARTICLE 3

MISCELLANEOUS

Section 3.01. Effective Date. This First Supplemental Indenture shall become effective as of the date hereof.

Section 3.02. Counterparts. This First Supplemental Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 3.03. Acceptance. The Trustee accepts the Indenture, as supplemented by this First Supplemental Indenture, and agrees to perform the same upon the terms and conditions set forth therein as so supplemented. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this First Supplemental Indenture of the due execution by the Issuer, the Parent Guarantor or the Subsidiary Guarantors, or for or in respect of the recitals contained herein, all of which are made solely by the Issuer, the Parent Guarantor or the Subsidiary Guarantors.

Section 3.04. Successors and Assigns. All covenants and agreements in this First Supplemental Indenture by the Issuer, the Parent Guarantor or the Subsidiary Guarantors or the Trustee shall bind their respective successors and assigns, whether so expressed or not.

Section 3.05. Severability. In case any provision in this First Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.06. Governing Law. This First Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of New York.

Section 3.07. Incorporation into Indenture. All provisions of this First Supplemental Indenture shall be deemed to be incorporated in, and made a part of, the Indenture; and the Indenture, as amended and supplemented by this First Supplemental Indenture, shall be read, taken and construed as one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed, all as of the day and year first above written.

The Issuer:

XM SATELLITE RADIO INC.

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

The Parent Guarantor:

XM SATELLITE RADIO HOLDINGS INC.

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

The Subsidiary Guarantors:

XM EQUIPMENT LEASING LLC

/s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

XM RADIO INC.

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

The Trustee:

THE BANK OF NEW YORK

By /s/ Remo J. Reale
Name: Remo J. Reale
Title: Vice President

Exhibit 4.75

[XM Letterhead]

July 28, 2008

Will Brett
Bank of America Tower
One Bryant Park
New York, NY 10036

Dear Mr. Brett:

Reference is made to (i) the Amended and Restated Note Purchase Agreement, dated as of June 16, 2003 (the "Note Purchase Agreement"), by and among XM Satellite Radio Inc., a Delaware corporation, XM Satellite Radio Holdings Inc., a Delaware corporation ("XM Holdings"), and the investors named therein, and (ii) the 10% Senior Secured Discount Convertible Notes due 2009 (the "Notes"). Capitalized terms used but not defined herein shall have the meanings set forth in the Note Purchase Agreement.

Pursuant to the Agreement and Plan of Merger, dated as of February 19, 2007 (the "Merger Agreement") by and among Sirius Satellite Radio Inc., a Delaware corporation ("Sirius"), Vernon Merger Corporation, a Delaware corporation and direct wholly-owned subsidiary of Sirius ("Merger Co.") and XM Holdings. Merger Co. merged with and into XM Holdings, with XM Holdings as the surviving corporation on July 28, 2008 (the "Merger"). By virtue of the Merger, each share of XM Holdings Class A common stock outstanding at the time of the Merger was converted the right to receive 4.60 shares of Sirius common stock, par value $0.001 per share.

Pursuant to Section 9.5 and Section 9.6 of the Note Purchase Agreement, XM hereby confirms its obligation to deliver or cause to be delivered shares of Sirius common stock, par value $.001 per share, upon Conversion of the Notes pursuant to the terms of the Note Purchase Agreement.

Sincerely,

XM SATELLITE RADIO HOLDINGS INC.

By: /s/ Joseph M. Titlebaum
Name: Joseph M. Titlebaum
Title: General Counsel and Secretary

Exhibit 4.76

CONFIRMATION OF ASSUMPTION

This CONFIRMATION OF ASSUMPTION (this "**Confirmation**") is made as of the 28th day of July, 2008 by XM Satellite Radio Holdings Inc., a Delaware corporation ("**Holdings**").

WHEREAS, Holdings, Sirius Satellite Radio Inc., a Delaware corporation ("**Sirius**"), and Vernon Merger Corporation, a Delaware corporation and a direct wholly-owned subsidiary of Sirius ("**Vernon**") are parties to that certain Agreement and Plan of Merger, dated as of February 19, 2007, pursuant to which Vernon merged with and into Holdings on the date hereof (the "**Merger**"); and

WHEREAS, pursuant to Section 10(b) of the Guaranty, dated as of February 13, 2007 (the "**Guaranty**"), by Holdings, XM Radio Inc., a Delaware corporation and a wholly owned subsidiary of Holdings, and XM Equipment Leasing, LLC, a Delaware limited liability company and a wholly owned subsidiary of Holdings (each a "**Guarantor**"), the successor entity to a merger involving a Guarantor is required to expressly assume in writing the due and punctual payment of all obligations of such Guarantor under the Guaranty.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth in the Guaranty and hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, Holdings, intending to be legally bound, hereby agrees as follows:

1. Holdings, as the surviving entity in the Merger, hereby acknowledges and confirms that the Guaranty continues to remain fully binding and enforceable against Holdings, and (for the avoidance of doubt) effective as of the consummation of the Merger unconditionally and irrevocably assumes the due and punctual payment and performance of all obligations of Holdings under the Guaranty.

2. This Confirmation shall be governed by, and construed in accordance with, the laws of the State of New York.

XM SATELLITE RADIO HOLDINGS INC.

By: Joseph M. Titlebaum
Name: Joseph M. Titlebaum
Title: General Counsel and Secretary

Exhibit 4.77

EXECUTION VERSION

XM ESCROW LLC

13% Senior Notes due 2014

INDENTURE

Dated as of July 31, 2008

THE BANK OF NEW YORK MELLON

Trustee

Table of Contents

INDENTURE dated as of July 31, 2008 between XM ESCROW LLC, a Delaware limited liability company (the "*Company*"), which is a wholly-owned subsidiary of XM Satellite Radio Holdings Inc., a Delaware corporation (alternately, "*Holdings*" and the "*Parent Guarantor*"), and THE BANK OF NEW YORK MELLON, a New York banking corporation (the "*Trustee*").

Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders of 13% Senior Notes due 2014 (the "*Notes*"):

ARTICLE 1

Definitions and Incorporation by Reference

SECTION 1.01. Definitions.

"*Additional Assets*" means:

(1) any property, plant, license or equipment used in a Related Business;

(2) the Capital Stock of a Person that becomes a Restricted Subsidiary as a result of the acquisition of such Capital Stock by the Company or another Restricted Subsidiary; or

(3) Capital Stock constituting a minority interest in any Person that at such time is a Restricted Subsidiary;

provided, however, that any such Restricted Subsidiary described in clause (2) or (3) above is primarily engaged in a Related Business.

"*Additional Notes*" means Notes under this Indenture after the Issue Date and in compliance with Sections 2.13 and 4.03, it being understood that any Notes issued in exchange for or replacement of any Note issued on the Issue Date shall not be an Additional Note.

"*Affiliate*" of any specified Person means any other Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing. For purposes of Sections 4.04, 4.06 and 4.07 only, "Affiliate" shall also mean any beneficial owner of Capital Stock representing 10% or more of the total voting power of the Voting Stock (on a fully diluted basis) of the Company (excluding any Person permitted to report such ownership on Schedule 13G under the Exchange Act) or of rights or warrants to purchase such Capital Stock (whether or not currently exercisable) and any Person who would be an Affiliate of any such beneficial owner pursuant to the first sentence hereof.

"*Asset Disposition*" means any sale, lease (other than an operating lease entered into in the ordinary course of business), transfer or other disposition (or series of related sales, leases,

transfers or dispositions) by the Company or any Restricted Subsidiary, including any disposition by means of a merger, consolidation or similar transaction (each referred to for the purposes of this definition as a "*disposition*"), of:

(1) any shares of Capital Stock of a Restricted Subsidiary (other than directors' qualifying shares or shares required by applicable law to be held by a Person other than the Company or a Restricted Subsidiary);

(2) all or substantially all the assets of any division or line of business of the Company or any Restricted Subsidiary; or

(3) any other assets of the Company or any Restricted Subsidiary outside of the ordinary course of business of the Company or such Restricted Subsidiary

(other than, in the case of clauses (1), (2) and (3) above,

(A) a disposition by a Restricted Subsidiary to the Company or by the Company or a Restricted Subsidiary to a Restricted Subsidiary;

(B) for purposes of Section 4.06 only, (i) a disposition that constitutes a Restricted Payment (or would constitute a Restricted Payment but for the exclusions from the definition thereof) and that is not prohibited by Section 4.04; (ii) the making of an Asset Swap and (iii) a disposition of all or substantially all the assets of the Company in accordance with Section 5.01;

(C) a disposition of assets with a fair market value of less than $10 million;

(D) a disposition of cash or Temporary Cash Investments;

(E) the creation of a Lien (but not the sale or other disposition of the property subject to such Lien);

(F) the licensing or sublicensing of intellectual property or other general intangibles and licenses, leases or subleases of other property,*provided, however*, such licensing or sublicensing shall not interfere in any material respect with the Company's continuing use of such intellectual property or other general intangibles and licenses, leases or subleases of other property;

(G) the sale or lease of equipment, inventory, accounts receivable or other assets in the ordinary course of business;

(H) any issuance or sale of Capital Stock of an Unrestricted Subsidiary;

(I) foreclosure on assets; and

(J) disposition of damaged, obsolete or worn-out property in the ordinary course of business.)

"*Asset Swap*" means concurrent purchase and sale or exchange of Related Business Assets between the Company or any of its Restricted Subsidiaries and another Person; *provided* that any cash received must be applied in accordance with Section 4.06.

"*Attributable Debt*" in respect of a Sale/Leaseback Transaction means, as at the time of determination, the present value (discounted at the interest rate borne by the Notes, compounded annually) of the total obligations of the lessee for rental payments during the remaining term of the lease included in such Sale/Leaseback Transaction (including any period for which such lease has been extended); *provided, however*, that if such Sale/Leaseback Transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of "Capital Lease Obligation".

"*Average Life*" means, as of the date of determination, with respect to any Indebtedness, the quotient obtained by dividing:

(1) the sum of the products of the numbers of years from the date of determination to the dates of each successive scheduled principal payment of or redemption or similar payment with respect to such Indebtedness multiplied by the amount of such payment by

(2) the sum of all such payments.

"*Board of Directors*" means the Board of Directors of the Company or Sirius Satellite Radio Inc., as the case may be, or any committee thereof duly authorized to act on behalf of such Board.

"*Business Day*" means each day which is not a Legal Holiday.

"*Capital Lease Obligation*" means an obligation that is required to be classified and accounted for as a capital lease for financial reporting purposes in accordance with GAAP, and the amount of Indebtedness represented by such obligation shall be the capitalized amount of such obligation determined in accordance with GAAP; and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be terminated by the lessee without payment of a penalty. For purposes of Section 4.11, a Capital Lease Obligation will be deemed to be secured by a Lien on the property being leased.

"*Capital Stock*" of any Person means any and all shares, interests (including partnership interests), rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into such equity.

"*Change of Control*" means the occurrence of any of the following:

(1) any "person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act), other than one or more Permitted Holders, is or becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that for

purposes of this clause (1) such person shall be deemed to have "beneficial ownership" of all shares that any such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of more than 50% of the total voting power of the Voting Stock of the Company or Sirius Satellite Radio Inc. (for the purposes of this clause (1), such other person shall be deemed to beneficially own any Voting Stock of a Person held by any other Person (the "*parent entity*"), if such other person is the beneficial owner (as defined above in this clause (1)), directly or indirectly, of more than 50% of the voting power of the Voting Stock of such parent entity);

(2) the first day on which a majority of the members of the Board of Directors of the Company or Sirius Satellite Radio Inc. are not Continuing Directors, other than in connection with the Merger;

(3) the adoption of a plan relating to the liquidation or dissolution of the Company or Sirius Satellite Radio Inc.; or

(4) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole, or of Sirius Satellite Radio Inc. and its Subsidiaries taken as a whole, to any "person" (as that term is used in Section 13(d)(3) of the Exchange Act);

Notwithstanding the foregoing, the consummation of none of the Merger, a Holdings-Company Merger, the Escrow LLC-Company Merger, a Company-Sirius Merger or a Holdings-Sirius Merger will constitute a Change of Control under this Indenture.

"*Code*" means the Internal Revenue Code of 1986, as amended.

"*Company*" means the party named as such in this Indenture until a successor replaces it and, thereafter, means the successor.

"*Company-Sirius Merger*" means (a) a merger or consolidation of XM Satellite Radio Inc. with or into Sirius Satellite Radio Inc. or a merger or consolidation of Sirius Satellite Radio Inc. with or into XM Satellite Radio Inc. or (b) any assignment, transfer, conveyance or other disposition of all or substantially all of the properties or assets of XM Satellite Radio Inc. to Sirius Satellite Radio Inc. or of Sirius Satellite Radio Inc. to XM Satellite Radio Inc.

"*Consolidated Current Liabilities*" as of the date of determination means the aggregate amount of liabilities of the Company and its consolidated Restricted Subsidiaries which may properly be classified as current liabilities (including taxes accrued as estimated), on a consolidated basis, after eliminating:

(1) all intercompany items between the Company and any Restricted Subsidiary; and

(2) all current maturities of long-term Indebtedness, all as determined in accordance with GAAP consistently applied.

"*Consolidated Income Tax Expense*" means, with respect to the Company for any period, the provision for federal, state, local and foreign taxes based on income or profits (including franchise taxes) payable by the Company and its Restricted Subsidiaries for such period as determined on a consolidated basis in accordance with GAAP.

"*Consolidated Interest Expense*" means, for any period, the total interest expense of the Company and its Restricted Subsidiaries for such period, whether paid or accrued and whether or not capitalized (including amortization of debt issuance costs and original issue discount), non-cash interest payments, the interest component of any deferred payment Obligations, the interest component of all payments associated with Capital Lease Obligations and Attributable Debt, commissions, discounts and other fees and charges Incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations.

"*Consolidated Leverage Ratio*" as of any date of determination means the ratio of (x) the aggregate amount of Indebtedness of the Company and its Restricted Subsidiaries as of such date of determination to (y) Consolidated Operating Cash Flow for the most recent four consecutive fiscal quarters ending prior to such date of determination for which financial information is available (the "*Reference Period*"); *provided, however*, that:

(1) if the transaction giving rise to the need to calculate the Consolidated Leverage Ratio is an Incurrence of Indebtedness, the amount of such Indebtedness shall be calculated after giving effect on a *pro forma* basis to such Indebtedness;

(2) if the Company or any Restricted Subsidiary has repaid, repurchased, defeased or otherwise discharged any Indebtedness that was outstanding as of the end of such fiscal quarter or if any Indebtedness is to be repaid, repurchased, defeased or otherwise discharged on the date of the transaction giving rise to the need to calculate the Consolidated Leverage Ratio (other than, in each case, Indebtedness Incurred under any revolving credit agreement), the aggregate amount of Indebtedness shall be calculated on a *pro forma* basis and Consolidated Operating Cash Flow shall be calculated as if the Company or such Restricted Subsidiary had not earned the interest income, if any, actually earned during the Reference Period in respect of cash or Temporary Cash Investments used to repay, repurchase, defease or otherwise discharge such Indebtedness;

(3) if since the beginning of the Reference Period the Company or any Restricted Subsidiary shall have made any Asset Disposition, the Consolidated Operating Cash Flow for the Reference Period shall be reduced by an amount equal to the Consolidated Operating Cash Flow (if positive) directly attributable to the assets which are the subject of such Asset Disposition for the Reference Period or increased by an amount equal to the Consolidated Operating Cash Flow (if negative) directly attributable thereto for the Reference Period;

(4) if since the beginning of the Reference Period the Company or any Restricted Subsidiary (by merger or otherwise) shall have made an Investment in any Restricted Subsidiary (or any Person which becomes a Restricted Subsidiary) or an acquisition of assets which constitutes all or substantially all of an operating unit of a business, Consolidated Operating Cash Flow for the Reference Period shall be calculated after giving *pro forma* effect thereto (including the Incurrence of any Indebtedness) as if such Investment or acquisition had occurred on the first day of the Reference Period; and

(5) if since the beginning of the Reference Period any Person (that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such Reference Period) shall have made any Asset Disposition, any Investment or acquisition of assets that would have required an adjustment pursuant to clause (3) or (4) above if made by the Company or a Restricted Subsidiary during the Reference Period, Consolidated Operating Cash Flow for the Reference Period shall be calculated after giving *pro forma* effect thereto as if such Asset Disposition, Investment or acquisition had occurred on the first day of the Reference Period.

For purposes of this definition, whenever *pro forma* effect is to be given to an acquisition of assets, the amount of income or earnings relating thereto and the amount of Consolidated Interest Expense associated with any Indebtedness Incurred in connection therewith, the *pro forma* calculations shall be determined in accordance with GAAP in good faith by a responsible financial or accounting Officer of the Company. 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 Interest Rate Agreement applicable to such Indebtedness if such Interest Rate Agreement has a remaining term in excess of 12 months). If any Indebtedness is Incurred under a revolving credit facility and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated based on the average daily balance of such Indebtedness for the four fiscal quarters subject to the *pro forma* calculation to the extent such Indebtedness was Incurred solely for working capital purposes.

"*Consolidated Net Income*" means, for any period, the net income of the Company and its consolidated Subsidiaries;*provided, however*, that there shall not be included in such Consolidated Net Income:

(1) any net income of any Person (other than the Company) if such Person is not a Restricted Subsidiary, except that:

(A) subject to the exclusion contained in clauses (3), (4) and (5) below, the Company's equity in the net income of any such Person for such period shall be included in such Consolidated Net Income up to the aggregate amount of cash actually distributed by such Person during such period to the Company or a Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend or other distribution paid to a Restricted Subsidiary, to the limitations contained in clause (2) below); and

(B) the Company's equity in a net loss of any such Person for such period shall be included in determining such Consolidated Net Income to the extent such loss has been funded with cash from the Company or a Restricted Subsidiary;

(2) any net income of any Restricted Subsidiary if such Restricted Subsidiary is subject to restrictions, directly or indirectly, on the payment of dividends or the making of distributions by such Restricted Subsidiary, directly or indirectly, to the Company, except that:

(A) subject to the exclusion contained in clauses (3), (4) and (5) below, the Company's equity in the net income of any such Restricted Subsidiary for such period shall be included in such Consolidated Net Income up to the aggregate amount of cash that could have been distributed by such Restricted Subsidiary during such period to the Company or another Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend or other distribution paid to another Restricted Subsidiary, to the limitation contained in this clause); and

(B) the Company's equity in a net loss of any such Restricted Subsidiary for such period shall be included in determining such Consolidated Net Income;

(3) any gain (or loss) realized upon the sale or other disposition of any assets of the Company or its consolidated Restricted Subsidiaries (including pursuant to any Sale/Leaseback Transaction) which is not sold or otherwise disposed of in the ordinary course of business and any gain (or loss) realized upon the sale or other disposition of any Capital Stock of any Person;

(4) extraordinary gains or losses; and

(5) the cumulative effect of a change in accounting principles,

in each case, for such period. Notwithstanding the foregoing, for the purpose of Section 4.04 only, there shall be excluded from Consolidated Net Income any repurchases, repayments or redemptions of Investments, proceeds realized on the sale of Investments or return of capital to the Company or a Restricted Subsidiary to the extent such repurchases, repayments, redemptions, proceeds or returns increase the amount of Restricted Payments permitted under such Section pursuant to Section 4.04(a)(3)(D).

"*Consolidated Operating Cash Flow*" means, with respect to the Company and its Restricted Subsidiaries on a consolidated basis, for any period, an amount equal to Consolidated Net Income for such period increased (without duplication) by the sum of:

(1) Consolidated Income Tax Expense accrued for such period to the extent deducted in determining Consolidated Net Income for such period;

(2) Consolidated Interest Expense for such period to the extent deducted in determining Consolidated Net Income for such period; and

(3) depreciation, amortization and any other noncash items for such period to the extent deducted in determining Consolidated Net Income for such period (other than any noncash item which requires the accrual of, or a reserve for, cash charges for any future period) of the Company and the Restricted Subsidiaries (including amortization of capitalized debt issuance costs for such period, any noncash compensation expense realized for grants of stock options or other rights to officers, directors, consultants and employees and noncash charges related to equity granted to third parties), all of the foregoing determined on a consolidated basis in accordance with GAAP, and decreased by noncash items to the extent they increase Consolidated Net Income (including the partial or entire reversal of reserves taken in prior periods, but excluding reversals of accruals or reserves for cash charges taken in prior periods) for such period.

"*Consolidated Total Assets*" means the total assets of the Company and its consolidated Restricted Subsidiaries, as shown on the most recent balance sheet of the Company, determined on a consolidated basis in accordance with GAAP.

"*Continuing Directors*" means, as of any date of determination, any member of the Board of Directors who:

(1) was a member of such Board of Directors on the Issue Date; or

(2) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such board at the time of such nomination or election.

"*Corporate Trust Office*" means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at 101 Barclay Street, Floor 8 West, New York, New York 10286, Attention: Corporate Trust Administration, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

"*Default*" means any event which is, or after notice or passage of time or both would be, an Event of Default.

"*Disqualified Stock*" means, with respect to any Person, any Capital Stock which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the holder) or upon the happening of any event:

(1) matures or is mandatorily redeemable (other than redeemable only for Capital Stock of such Person which is not itself Disqualified Stock) pursuant to a sinking fund obligation or otherwise;

(2) is convertible or exchangeable at the option of the holder for Indebtedness or Disqualified Stock; or

(3) is mandatorily redeemable or must be purchased upon the occurrence of certain events or otherwise, in whole or in part;

in each case on or prior to the date that is 91 days after the Stated Maturity of the Notes; *provided, however*, that any Capital Stock that would not constitute Disqualified Stock but for provisions thereof giving holders thereof the right to require such Person to purchase or redeem such Capital Stock upon the occurrence of an "asset sale" or "change of control" shall not constitute Disqualified Stock if:

(A) the "asset sale" or "change of control" provisions applicable to such Capital Stock are not more favorable to the holders of such Capital Stock than the terms applicable to the Notes in Sections 4.06 and 4.10 of this Indenture; and

(B) any such requirement only becomes operative after compliance with such terms applicable to the Notes, including the purchase of any Notes tendered pursuant thereto.

The amount of any Disqualified Stock that does not have a fixed redemption, repayment or repurchase price will be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were redeemed, repaid or repurchased on any date on which the amount of such Disqualified Stock is to be determined pursuant to this Indenture; *provided, however*, that if such Disqualified Stock could not be required to be redeemed, repaid or repurchased at the time of such determination, the redemption, repayment or repurchase price will be the book value of such Disqualified Stock as reflected in the most recent financial statements of such Person.

"*Equity Offering*" means a primary public or private offering of Capital Stock of Sirius Satellite Radio Inc. pursuant to an effective registration statement under the Securities Act, an offering memorandum, private placement memorandum or otherwise, other than offerings with respect to the Common Stock, or options, warrants or rights of Sirius Satellite Radio Inc., registered on Form S-4 or S-8, the Net Cash Proceeds of which are contributed to the Company's equity capital within 90 days after receipt by Sirius Satellite Radio Inc. of such cash proceeds.

"*Escrow Agreement*" means the Escrow and Security Agreement dated July 31, 2008 among XM Escrow LLC, XM Satellite Radio Holdings Inc., The Bank of New York Mellon, as trustee, JPMorgan Chase Bank, N.A., as securities intermediary and escrow agent.

"*Escrow LLC-Company Merger*" means a merger of XM Escrow LLC with or into XM Satellite Radio Inc. upon release of the funds held in escrow to XM Escrow LLC to effectuate a special redemption or to fund the exercise of the change of control puts.

"*Exchange Act*" means the U.S. Securities Exchange Act of 1934, as amended.

"*Existing Sale and Leaseback Transaction*" means the Sale/Leaseback Transaction pursuant to (i) the transponder purchase agreement, dated as of February 13, 2007, by and between Holdings and Wells Fargo Bank Northwest in its capacity as Owner Trustee, (ii) the lease agreement, dated as of February 13, 2007, by and between Wells Fargo Bank Northwest, as Owner Trustee, and XM Satellite Radio Inc. and (iii) the other related documents.

"*FCC License Subsidiary*" means XM Radio Inc., a wholly owned subsidiary of XM Satellite Radio Inc., which owns all of the FCC Licenses of XM Satellite Radio Inc. used to provide satellite digital radio service in the United States.

"*GAAP*" means generally accepted accounting principles in the United States of America as in effect as of the Issue Date, including those set forth in:

(1) the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants;

(2) statements and pronouncements of the Financial Accounting Standards Board;

(3) such other statements by such other entity as approved by a significant segment of the accounting profession; and

(4) the rules and regulations of the SEC governing the inclusion of financial statements (including*pro forma* financial statements) in periodic reports required to be filed pursuant to Section 13 of the Exchange Act, including opinions and pronouncements in staff accounting bulletins and similar written statements from the accounting staff of the SEC.

"*GM Facility*" means the Third Amended and Restated Distribution and Credit Agreement, dated as of February 6, 2008, by and among General Motors Corporation, Holdings and XM Satellite Radio Inc.

"*Guarantee*" means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any Person and any obligation, direct or indirect, contingent or otherwise, of such Person:

(1) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay or to maintain financial statement conditions or otherwise); or

(2) entered into for the purpose of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part);

provided, however, that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" used as a verb has a corresponding meaning.

"Guarantor" means the Parent Guarantor and each Subsidiary Guarantor.

"*Hedging Obligations*" of any Person means the obligations of such Person under:

(1) currency exchange or interest rate swap agreements, currency exchange or interest rate cap agreements or currency exchange or interest rate collar agreements; or

(2) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange or interest rate prices.

"*Holder*" or "*Noteholder*" means the Person in whose name a Note is registered on the Registrar's books.

"*Holdings*" refers to XM Satellite Radio Holdings Inc.

"*Holdings-Company Merger*" means (a) a merger or consolidation of XM Satellite Radio Inc. with or into Holdings or a merger or consolidation of Holdings with or into XM Satellite Radio Inc. or (b) any assignment, transfer, conveyance or other disposition of all or substantially all of the properties or assets of XM Satellite Radio Inc. to Holdings or of Holdings to XM Satellite Radio Inc.

"Holdings-Sirius Merger" means (a) a merger or consolidation of Holdings with or into Sirius Satellite Radio Inc. or a merger or consolidation of Sirius Satellite Radio Inc. with or into Holdings or (b) any assignment, transfer, conveyance or other disposition of all or substantially all of the properties or assets of Holdings to Sirius Satellite Radio Inc. or of Sirius Satellite Radio Inc. to Holdings.

"*Incur*" means issue, assume, Guarantee, incur or otherwise become liable for;*provided, however*, that any Indebtedness of a Person existing at the time such Person becomes a Restricted Subsidiary (whether by merger, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Person at the time it becomes a Restricted Subsidiary. The term "Incurrence" when used as a noun shall have a correlative meaning. Solely for purposes of determining compliance with Section 4.03:

(1) amortization of debt discount or the accretion of principal with respect to a non-interest bearing or other discount security;

(2) the payment of regularly scheduled interest in the form of additional Indebtedness of the same instrument or the payment of regularly scheduled dividends on Capital Stock in the form of additional Capital Stock of the same class and with the same terms; and

(3) the obligation to pay a premium in respect of Indebtedness arising in connection with the issuance of a notice of redemption or making of a mandatory offer to purchase such Indebtedness will not be deemed to be the Incurrence of Indebtedness.

"*Indebtedness*" means, with respect to any Person on any date of determination (without duplication):

(1) the principal in respect of (A) indebtedness of such Person for money borrowed and (B) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable, including, in each case, any premium on such indebtedness to the extent such premium has become due and payable;

(2) all Capital Lease Obligations of such Person and all Attributable Debt in respect of Sale/Leaseback Transactions entered into by such Person;

(3) all obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations of such Person and all obligations of such Person under any title retention agreement (but excluding any accounts payable or other liability to trade creditors arising in the ordinary course of business), in each case only if and to the extent due more than 12 months after the delivery of property;

(4) the principal component of all obligations of such Person for the reimbursement of any obligor on any letter of credit or bankers' acceptance (other than obligations with respect to letters of credit securing obligations (other than obligations described in clauses (1) through (3) above) entered into in the ordinary course of business of such Person, including obligations relating to the MLB Letter Agreement, to the extent such letters of credit are not drawn upon or, if and to the extent drawn upon, such drawing is reimbursed no later than the tenth Business Day following payment on the letter of credit;

(5) the principal component of the amount of all obligations of such Person with respect to the redemption, repayment or other repurchase of any Disqualified Stock of such Person or, with respect to any Preferred Stock of any Restricted Subsidiary of such Person, the principal amount attributable to such Preferred Stock to be determined in accordance with this Indenture (but excluding, in each case, any accrued dividends);

(6) all obligations of the type referred to in clauses (1) through (5) of other Persons and all dividends of other Persons for the payment of which, in either case, such Person is responsible or liable, directly or indirectly, as obligor, guarantor or otherwise, including by means of any Guarantee;

(7) all obligations of the type referred to in clauses (1) through (6) of other Persons secured by any Lien on any property or asset of such Person (whether or not such obligation is assumed by such Person), the amount of such obligation being deemed to be the lesser of the fair market value of such property or assets and the amount of the obligation so secured; and

(8) to the extent not otherwise included in this definition, Hedging Obligations of such Person.

Notwithstanding the foregoing, in connection with the purchase by the Company or any Restricted Subsidiary of any business, the term "Indebtedness" will exclude post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; *provided, however*, that, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid within 30 days thereafter. Furthermore, in no event shall the Company's obligations to pay amounts under any programming or content acquisition arrangements, in each case, consistent with past practice, be considered Indebtedness.

The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all obligations as described above;*provided, however*, that in the case of Indebtedness sold at a discount, the amount of such Indebtedness at any time will be the accreted value thereof at such time.

"*Indenture*" means this Indenture as amended or supplemented from time to time.

"*Independent Qualified Party*" means an investment banking firm, accounting firm, appraisal firm, economic consulting firm or management consulting firm, each of national standing; *provided, however,* that such firm is not an Affiliate of the Company.

"*Interest Rate Agreement*" means any interest rate swap agreement, interest rate cap agreement or other financial agreement or arrangement with respect to exposure to interest rates.

"*Investment*" in any Person means any direct or indirect advance, loan (other than advances to customers in the ordinary course of business that are recorded as accounts receivable on the balance sheet of the lender) or other extensions of credit (including by way of Guarantee or similar arrangement) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or any purchase or acquisition of Capital Stock, Indebtedness or other similar instruments issued by such Person. If the Company or any Restricted Subsidiary issues, sells or otherwise disposes of any Capital Stock of a Person that is a Restricted Subsidiary such that, after giving effect thereto, such Person is no longer a Restricted Subsidiary, any Investment by the Company or any Restricted Subsidiary in such Person remaining after giving effect thereto will be deemed to be a new Investment at such time. Except as otherwise provided for herein, the amount of an Investment shall be its fair market value at the time the Investment is made and without giving effect to subsequent changes in value; *provided* that none of the following will be deemed to be an Investment:

(1) Hedging Obligations entered into in the ordinary course of business and in compliance with this Indenture;

(2) endorsements of negotiable instruments and documents in the ordinary course of business;

(3) an acquisition of assets by the Company or a Subsidiary for consideration to the extent such consideration consists of Capital Stock of the Company; and

(4) advances, deposits, escrows or similar arrangements in respect of retail or automotive distribution arrangements, programming or content acquisitions or extensions.

For purposes of the definition of "Unrestricted Subsidiary", the definition of "Restricted Payment" and Section 4.04, "Investment" shall include:

(1) the portion (proportionate to the Company's equity interest in such Subsidiary) of the fair market value of the net assets of any Subsidiary of the Company at the time that such Subsidiary is designated an Unrestricted Subsidiary; *provided, however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company shall be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary equal to an amount (if positive) equal to (A) the Company's "Investment" in such Subsidiary at the time of such redesignation less (B) the portion (proportionate to the Company's equity interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its fair market value at the time of such transfer, in each case as determined in good faith by the Board of Directors of the Company.

"*Issue Date*" means July 31, 2008.

"*Legal Holiday*" means a Saturday, a Sunday or a day on which banking institutions are not required to be open in the State of New York.

"*Lien*" means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof).

"Material Subsidiary" means, any domestic Restricted Subsidiary (including the FCC License Subsidiary but only to the extent permitted under applicable law) that has Guaranteed any Indebtedness or other obligation of the Company or any Restricted Subsidiary in excess of $2.0 million.

"*Merger*" means the merger pursuant to the Agreement and Plan of Merger, dated as of February 19, 2007, by and among Sirius Satellite Radio Inc., Vernon Merger Corporation and XM Satellite Radio Holdings Inc.

"*Moody's*" means Moody's Investors Service, Inc. and any successor to its rating agency business.

"*Net Available Cash*" from an Asset Disposition means cash payments received therefrom (including any cash payments received by way of deferred payment of principal

pursuant to a note or installment receivable or otherwise and proceeds from the sale or other disposition of any securities received as consideration, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring Person of Indebtedness or other obligations relating to such properties or assets or received in any other non-cash form), in each case net of:

(1) all legal, title and recording tax expenses, commissions and other fees and expenses Incurred, and all Federal, state, provincial, foreign and local taxes required to be accrued as a liability under GAAP, as a consequence of such Asset Disposition;

(2) all payments made on any Indebtedness which is secured by any assets subject to such Asset Disposition, in accordance with the terms of any Lien upon or other security agreement of any kind with respect to such assets, or which must by its terms, or in order to obtain a necessary consent to such Asset Disposition, or by applicable law, be repaid out of the proceeds from such Asset Disposition;

(3) all distributions and other payments required to be made to minority interest holders in Restricted Subsidiaries as a result of such Asset Disposition;

(4) the deduction of appropriate amounts provided by the seller as a reserve, in accordance with GAAP, against any liabilities associated with the property or other assets disposed in such Asset Disposition and retained by the Company or any Restricted Subsidiary after such Asset Disposition; and

(5) any portion of the purchase price from an Asset Disposition placed in escrow, whether as a reserve for adjustment of the purchase price, for satisfaction of indemnities in respect of such Asset Disposition or otherwise in connection with that Asset Disposition; *provided, however*, that upon the termination of that escrow, Net Available Cash will be increased by any portion of funds in the escrow that are released to the Company or any Restricted Subsidiary.

"*Net Cash Proceeds*", with respect to any issuance or sale of Capital Stock or Indebtedness, means the cash proceeds of such issuance or sale net of attorneys' fees, accountants' fees, underwriters' or placement agents' fees, discounts or commissions and brokerage, consultant and other fees actually incurred in connection with such issuance or sale and net of taxes paid or payable as a result thereof.

"*Note Guarantees*" means the Guarantees of the Parent Guarantor and of the Subsidiary Guarantors pursuant to the terms of this Indenture, and "Note Guarantee" means any of them.

"*Obligations*" means, with respect to any Indebtedness, all obligations for principal, premium, interest, penalties, fees, indemnifications, reimbursements and other amounts payable pursuant to the documentation governing such Indebtedness.

"*Offering Memorandum*" means the offering memorandum of the Company dated July 24, 2008 pursuant to which the Notes were offered to the Holders.

"*Officer*" means the Chairman of the Board, the President, any Vice President, the Treasurer or the Secretary of the Company.

"*Officers' Certificate*" means a certificate signed by two Officers.

"*Opinion of Counsel*" means a written opinion from legal counsel who is acceptable to the Trustee. The counsel may be an employee of or counsel to the Company or the Trustee.

"Parent Guarantor" means Holdings, in its capacity as a guarantor of the Notes pursuant to this Indenture.

"*Permitted Holder*" means Holdings, Sirius Satellite Radio Inc. or any of their Affiliates.

"*Permitted Investment*" means an Investment by the Company or any Restricted Subsidiary in:

(1) the Company, a Restricted Subsidiary or a Person that will, upon the making of such Investment, become a Restricted Subsidiary; *provided, however*, that the primary business of such Restricted Subsidiary is a Related Business;

(2) another Person if, as a result of such Investment, such other Person is merged or consolidated with or into, or transfers or conveys all or substantially all its assets to, the Company or a Restricted Subsidiary; *provided, however*, that such Person's primary business is a Related Business;

(3) cash and Temporary Cash Investments;

(4) receivables owing to the Company or any Restricted Subsidiary if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms; *provided, however*, that such trade terms may include such concessionary trade terms as the Company or any such Restricted Subsidiary deems reasonable under the circumstances;

(5) payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;

(6) loans or advances to employees made in the ordinary course of business consistent with past practices of the Company or such Restricted Subsidiary not to exceed $2.0 million at any time outstanding;

(7) stock, obligations or securities received in settlement of debts created in the ordinary course of business and owing to the Company or any Restricted Subsidiary or in satisfaction of judgments or pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of a debtor;

(8) any Person to the extent such Investment represents the non-cash portion of the consideration received for (A) an Asset Disposition as permitted pursuant to Section 4.06 or (B) a disposition of assets not constituting an Asset Disposition;

(9) any Person where such Investment was acquired by the Company or any of its Restricted Subsidiaries (A) in exchange for any other Investment or accounts receivable held by the Company or any such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the issuer of such other Investment or accounts receivable or (B) as a result of a foreclosure by the Company or any of its Restricted Subsidiaries with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(10) any Person to the extent such Investments consist of prepaid expenses, negotiable instruments held for collection and lease, utility and workers' compensation, performance and other similar deposits made in the ordinary course of business by the Company or any Restricted Subsidiary;

(11) any Person to the extent such Investments consist of Hedging Obligations otherwise permitted under Section 4.03;

(12) any Person to the extent such Investment exists on the Issue Date, and any extension, modification or renewal of any such Investments existing on the Issue Date, but only to the extent not involving additional advances, contributions or other Investments of cash or other assets or other increases thereof (other than as a result of the accrual or accretion of interest or original issue discount or the issuance of pay-in-kind securities, in each case, pursuant to the terms of such Investment as in effect on the Issue Date);

(13) Persons to the extent such Investments, when taken together with all other Investments made pursuant to this clause (13) that are at the time outstanding, do not exceed the greater of (x) $500.0 million or (y) 15% of Tangible Assets (as determined based on the consolidated balance sheet of the Company as of the end of the most recent fiscal quarter for which internal financial statements are available prior to such Investment), at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value); *provided, however*, that any Unrestricted Subsidiary of the Company or Person (other than a Restricted Subsidiary of the Company) that is directly or indirectly controlled by Sirius in which an Investment is made pursuant to this clause (13) shall thereafter become subject, as if such Person were a Restricted Subsidiary, to Section 4.04 and Section 4.07;

(14) Any Investment that becomes an Investment of the Company as a result of a Holdings-Company Merger or a Company-Sirius Merger; and

(15) any Asset Swap made in accordance with Section 4.06.

"*Permitted Liens*" means, with respect to any Person:

(1) pledges or deposits by such Person under worker's compensation laws, unemployment insurance laws or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or United States government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for contested taxes or import duties or for the payment of rent, in each case Incurred in the ordinary course of business;

(2) Liens imposed by law, such as carriers', warehousemen's and mechanics' Liens, in each case for sums not yet due or being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review and Liens arising solely by virtue of any statutory or common law provision relating to banker's Liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a creditor depository institution; *provided, however*, that (A) such deposit account is not a dedicated cash collateral account and is not subject to restrictions against access by the Company in excess of those set forth by regulations promulgated by the Federal Reserve Board and (B) such deposit account is not intended by the Company or any Restricted Subsidiary to provide collateral to the depository institution;

(3) Liens for taxes, assessments or other governmental charges not yet subject to penalties for non-payment or which are being contested in good faith by appropriate proceedings;

(4) Liens in favor of issuers of surety bonds, performance bonds or letters of credit issued pursuant to the request of and for the account of such Person in the ordinary course of its business, including with respect to the MLB Letter Agreement; *provided, however*, that such letters of credit do not constitute Indebtedness;

(5) minor survey exceptions, minor encumbrances, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real property or Liens incidental to the conduct of the business of such Person or to the ownership of its properties which were not Incurred in connection with Indebtedness and which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(6) Liens securing Indebtedness Incurred to finance the construction, purchase or lease of, or repairs, improvements or additions to, property, plant or equipment of such Person; *provided, however*, that the Lien may not extend to any other property owned by such Person or any of its Restricted Subsidiaries at the time the Lien is Incurred (other than assets and property affixed or appurtenant thereto), and the Indebtedness (other than any interest thereon) secured by the Lien may not be Incurred more than 180 days after the later of the acquisition, completion of construction, repair, improvement, addition or commencement of full operation of the property subject to the Lien;

(7) Liens existing on the Issue Date;

(8) Liens on property or shares of Capital Stock of another Person at the time such other Person becomes a Restricted Subsidiary of such Person; *provided, however*, that the Liens may not extend to any other property owned by such Person or any of its Restricted Subsidiaries (other than assets and property affixed or appurtenant thereto);

(9) Liens on property at the time such Person or any of its Restricted Subsidiaries acquires the property, including any acquisition by means of a merger or consolidation with or into such Person or a Subsidiary of such Person; *provided, however*, that the Liens may not extend to any other property owned by such Person or any of its Restricted Subsidiaries (other than assets and property affixed or appurtenant thereto);

(10) Liens securing Indebtedness or other obligations of a Subsidiary of such Person owing to such Person or a Wholly Owned Subsidiary of such Person;

(11) Liens securing Hedging Obligations so long as such Hedging Obligations are permitted to be Incurred under this Indenture;

(12) Liens to secure Indebtedness permitted under Section 4.03(b)(1);

(13) leases, licenses, subleases and sublicenses of assets (including, without limitation, real property and intellectual property rights) which do not materially interfere with the ordinary conduct of the business of the Company or any of its Restricted Subsidiaries;

(14) Liens arising from Uniform Commercial Code financing statement filing regarding operating leases entered into by the Company and its Restricted Subsidiaries in the ordinary course of business;

(15) Liens in connection with advances, deposits, escrows and similar arrangements in the ordinary course of business in respect of retail or automotive distribution arrangements, programming and content acquisitions and extensions;

(16) Liens to secure any Refinancing (or successive Refinancings) as a whole, or in part, of any Indebtedness secured by any Lien referred to in clauses (6), (7), (8), (9) or (20); *provided, however*, that:

(A) such new Lien shall be limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Lien (plus improvements and accessions to, such property or proceeds or distributions thereof); and

(B) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (i) the outstanding principal amount or, if greater, committed amount of the Indebtedness described under clause (6), (7), (8) or (9) at the time the original Lien became a Permitted Lien and (ii) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing, refunding, extension, renewal or replacement;

(17) any interest or title of a lessor under any Capital Lease Obligation;

(18) any Lien that becomes a Lien of the Company as a result of a Holdings-Company Merger or Company-Sirius Merger;

(19) Liens relating to Replacement Satellite Vendor Indebtedness, including Refinancing Indebtedness in respect thereof covering only the assets acquired, constructed or improved with such Indebtedness;

(20) Liens securing Indebtedness incurred pursuant to the $100.0 million term loan maturing on May 5, 2009, with UBS AG, Stamford branch, acting as administrative agent and JPMorgan Chase Bank, N.A. as collateral agent;

(21) Liens incurred in connection with the Letter Agreement and Binding Term Sheet ("MLB Letter Agreement"), dated as of October 15, 2004, between XM Satellite Radio Inc. and the Office of the Commissioner of Baseball, as agent for Major League Baseball Clubs ("MLB"), together with all agreements subsequently entered into between XM Satellite Radio Inc. and MLB or any of their respective affiliates, regarding the broadcast of Major League Baseball games and related programming on XM Satellite Radio, the creation of and liens on an escrow account to hold funds payable to MLB or other matters contemplated by the MLB Letter Agreement; and

(22) Liens incurred in the ordinary course of business of the Company or any Restricted Subsidiary with respect to obligations that do not exceed $20.0 million at any one time outstanding.

Notwithstanding the foregoing, "*Permitted Liens*" will not include any Lien described in clause (6), (8) or (9) above to the extent such Lien applies to any Additional Assets acquired directly or indirectly with Net Available Cash pursuant to Section 4.06. For purposes of this definition, the term "Indebtedness" shall be deemed to include interest on such Indebtedness.

"*Permitted Subordinated Obligations*" means Subordinated Obligations of the Company that at the time of Incurrence have a weighted Average Life of not less than the lesser of five years and the remaining weighted Average Life of the Notes and that are convertible at the option of the holders thereof into Capital Stock (other than Disqualified Stock) of the Company or Sirius Satellite Radio Inc.

"*Person*" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"*Preferred Stock*", as applied to the Capital Stock of any Person, means Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends or distributions, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

"*principal*" of a Note means the principal of the Note plus the premium, if any, payable on the Note which is due or overdue or is to become due at the relevant time.

"*Purchase Money Indebtedness*" means Indebtedness:

(1) consisting of the deferred purchase price of an asset, conditional sale obligations, obligations under any title retention agreement and other purchase money obligations, in each case where the maturity of such Indebtedness does not exceed the anticipated useful life of the asset being financed, and

(2) Incurred to finance the acquisition by the Company or a Restricted Subsidiary of such asset, including additions and improvements;

provided, however, that such Indebtedness is Incurred within 180 days after the acquisition by the Company or such Restricted Subsidiary of such asset.

"*Refinance*" means, in respect of any Indebtedness, to refinance, extend, renew, refund, repay, prepay, purchase, redeem, defease or retire, or to issue other Indebtedness in exchange or replacement for, such Indebtedness. "Refinanced" and "Refinancing" shall have correlative meanings.

"*Refinancing Indebtedness*" means Indebtedness that Refinances any Indebtedness of the Company or any Restricted Subsidiary existing on the Issue Date or Incurred in compliance with this Indenture, including Indebtedness that Refinances Refinancing Indebtedness; *provided, however*, that:

(1) such Refinancing Indebtedness has a Stated Maturity no earlier than the Stated Maturity of the Indebtedness being Refinanced or, if such Refinancing Indebtedness is a Subordinated Obligation, no earlier than 91 days after the Stated Maturity of the Notes;

(2) such Refinancing Indebtedness has an Average Life at the time such Refinancing Indebtedness is Incurred that is equal to or greater than the Average Life of the Indebtedness being Refinanced or, if such Refinancing Indebtedness is a Subordinated Obligation, equal to or greater than the then remaining Average Life of the Notes;

(3) such Refinancing Indebtedness has an aggregate principal amount (or if Incurred with original issue discount, an aggregate issue price) that is equal to or less than the aggregate principal amount (or if Incurred with original issue discount, the aggregate accreted value) then outstanding (plus fees and expenses, including any premium and defeasance costs) under the Indebtedness being Refinanced; and

(4) if the Indebtedness being Refinanced is subordinated in right of payment to the Notes, such Refinancing Indebtedness (a) is subordinated in right of payment to the Notes at least to the same extent as the Indebtedness being Refinanced, (b) has a Stated Maturity that is at least 91 days after the later of (x) the Stated Maturity of the Notes and (y) the Stated Maturity of the Indebtedness being Refinanced and (c) has an Average Life at the time such Refinancing Indebtedness is Incurred that is greater than (x) the Average Life of the Notes and (y) the Average Life of the Indebtedness being Refinanced;

provided further, however, that Refinancing Indebtedness shall not include (A) Indebtedness of a Subsidiary that Refinances Indebtedness of the Company or (B) Indebtedness of the Company or a Restricted Subsidiary that Refinances Indebtedness of an Unrestricted Subsidiary.

"*Refinancing Transactions*" means (i) the Merger, (ii) the Company having sufficient amounts to fund, having funded or having obtained waivers with respect to, the mandatory offers to repurchase notes triggered by the Merger under the Company's 9.75% Senior Notes due 2014 or 10% Senior Secured Discount Convertible Notes due 2009 (provided that to the extent a mandatory offer has been properly made and the time period for such offer has elapsed, any indebtedness represented by notes that were not properly tendered into such mandatory offer and remain outstanding, shall be deemed to have waived their rights to such mandatory offer for all purposes of this clause (ii)), (iii) the Company having sufficient amounts to fund or having funded the mandatory offers to repurchase notes (or transponders of the XM-4 satellite, in the case of the Existing Sale and Leaseback Transaction) triggered by the Merger under the Company's 9.75% Senior Notes due 2014, Senior Floating Rate Notes due 2013, 10% Senior Secured Discount Convertible Notes due 2009 and the Existing Sale and Leaseback Transaction, (iv) the Company having repaid all borrowings under the GM Facility, (v) with respect to Holdings' 1.75% Convertible Senior Notes due 2009, Holdings having obtained the consent of each holder of such notes to waive a change of control offer, if any, triggered by the Merger or Holdings having a sufficient amount to fund, or funded, such change of control offer with respect to the 1.75% Convertible Senior Notes due 2009 of each holder that has not delivered a consent and (vi) in addition to the amounts raised or available in respect of clauses (ii) through (v) above, the Company having raised at least $150,000,000 of additional funds through any or any combination of the following: (1) a contribution to the Company's equity capital, (2) the issuance and sale of debt securities or borrowings under a loan or similar agreement that, in each case, will be junior in right of payment to the Notes, (3) the issuance and sale of equity securities and (4) the release of funds from the MLB escrow arrangement (to the extent such release does not involve the incurrence of Senior Indebtedness); *provided that,* without limiting the foregoing, the Refinancing Transactions shall be deemed to be consummated for all purposes of this Indenture in the event the Merger has closed and that the Company has raised at least $1,250 million of aggregate gross proceeds, net of original issue discount, as applicable, from the sum of (x) the issuance and sale of the Notes and the other sources set forth in clauses (1)-(4) above and (y) the exchange or current right to exchange new debt securities for debt securities outstanding on the Issue Date*, provided, further,* that not more than $600 million of Indebtedness described in (x) and (y) shall constitute Senior Indebtedness.

"*Related Business*" means any business in which the Company or any of the Restricted Subsidiaries was engaged on the Issue Date and any business related, ancillary or complementary

to such business or that constitutes a reasonable extension or expansion thereof, including in connection with the Company's existing and future technology, trademarks and patents or any business the assets of which, in the good faith determination of the Board of Directors, are useful or may be used in any such business.

"*Related Business Assets*" means assets used or useful in a Related Business.

"*Replacement Satellite Vendor Indebtedness*" means Indebtedness of the Company provided by a satellite or satellite launch vendor, insurer or insurance agent or Affiliate thereof for the (i) construction, launch and insurance of all or part of one or more replacement satellites or satellite launches for such satellites, where "replacement satellite" means a satellite that is used for continuation of the Company's satellite service as a replacement for, or supplement to, a satellite that is retired or relocated (due to a deterioration in operating useful life) within the existing service area or reasonably determined by the Company to no longer meet the requirements for such service or (ii) the replacement of a spare satellite that has been launched or that is no longer capable of being launched or suitable for launch. Replacement Satellite Vendor Indebtedness includes any Refinancing Indebtedness thereof.

"*Responsible Officer*" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of the indenture.

"*Restricted Payment*" with respect to any Person means:

(1) the declaration or payment of any dividends or any other distributions of any sort in respect of its Capital Stock (including any payment in connection with any merger or consolidation involving such Person) or similar payment to the direct or indirect holders of its Capital Stock (other than (A) dividends or distributions payable solely in its Capital Stock (other than Disqualified Stock), (B) dividends or distributions payable solely to the Company or a Restricted Subsidiary and (C) *pro rata* dividends or other distributions made by a Subsidiary that is not a Wholly Owned Subsidiary to minority stockholders (or owners of an equivalent interest in the case of a Subsidiary that is an entity other than a corporation));

(2) the purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of any Capital Stock of the Company or any direct or indirect parent of the Company held by any Person (other than by a Restricted Subsidiary) or of any Capital Stock of a Restricted Subsidiary held by any Affiliate of the Company (other than by a Restricted Subsidiary), including in connection with any merger or consolidation and including the exercise of any option to exchange any Capital Stock (other than into Capital Stock of the Company that is not Disqualified Stock);

(3) (A) the purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of Permitted Subordinated Obligations of the Company or (B) the purchase, repurchase, redemption, defeasance or other acquisition or retirement for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment of any Subordinated Obligations of the Company (other than, in the case of this clause (B), (i) from the Company or a Restricted Subsidiary or (ii) the purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Obligations (other than Permitted Subordinated Obligations), purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such purchase, repurchase, redemption, defeasance or other acquisition or retirement); or

(4) the making of any Investment (other than a Permitted Investment) in any Person.

"*Restricted Subsidiary*" means any Subsidiary of the Company that is not an Unrestricted Subsidiary.

"*Sale/Leaseback Transaction*" means an arrangement relating to property owned by the Company or a Restricted Subsidiary on the Issue Date or thereafter acquired by the Company or a Restricted Subsidiary whereby the Company or a Restricted Subsidiary transfers such property to a Person and the Company or a Restricted Subsidiary leases it from such Person.

"*SEC*" means the U.S. Securities and Exchange Commission.

"*Secured Indebtedness*" means any Indebtedness of the Company secured by a Lien.

"*Securities Act*" means the U.S. Securities Act of 1933, as amended.

"*Senior Indebtedness*" means with respect to any Person:

(1) Indebtedness of such Person, whether outstanding on the Issue Date or thereafter Incurred; and

(2) all other Obligations of such Person (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to such Person whether or not post-filing interest is allowed in such proceeding) in respect of Indebtedness described in clause (1) above unless, in the case of clause (1) and this clause (2), in the instrument creating or evidencing the same or pursuant to which the same is outstanding, it is provided that such Indebtedness or other obligations are subordinate in right of payment to the Notes; *provided, however*, that Senior Indebtedness shall not include:

(b) any obligation of such Person to the Company or any Subsidiary;

(c) any liability for Federal, state, local or other taxes owed or owing by such Person;

(d) any accounts payable or other liability to trade creditors arising in the ordinary course of business;

(e) any Indebtedness or other Obligation of such Person which is subordinate or junior in any respect to any other Indebtedness or other Obligation of such Person;

(f) that portion of any Indebtedness which at the time of Incurrence is Incurred in violation of this Indenture; or

(g) any Capital Stock.

"*Senior Secured Leverage Ratio*" as of any date of determination means the ratio of (x) the aggregate amount of secured Senior Indebtedness of the Company and its Restricted Subsidiaries as of such date of determination to (y) Consolidated Operating Cash Flow for the most recent four consecutive fiscal quarters ending prior to such date of determination for which financial information is available (the "*Reference Period*"); *provided, however*, that:

(1) if the transaction giving rise to the need to calculate the Senior Secured Leverage Ratio is an Incurrence of Indebtedness, the amount of such Indebtedness shall be calculated after giving effect on a *pro forma* basis to such Indebtedness;

(2) if the Company or any Restricted Subsidiary has repaid, repurchased, defeased or otherwise discharged any Indebtedness that was outstanding as of the end of such fiscal quarter or if any Indebtedness is to be repaid, repurchased, defeased or otherwise discharged on the date of the transaction giving rise to the need to calculate the Senior Secured Leverage Ratio (other than, in each case, Indebtedness Incurred under any revolving credit agreement), the aggregate amount of Indebtedness shall be calculated on a *pro forma* basis and Consolidated Operating Cash Flow shall be calculated as if the Company or such Restricted Subsidiary had not earned the interest income, if any, actually earned during the Reference Period in respect of cash or Temporary Cash Investments used to repay, repurchase, defease or otherwise discharge such Indebtedness;

(3) if since the beginning of the Reference Period the Company or any Restricted Subsidiary shall have made any Asset Disposition, the Consolidated Operating Cash Flow for the Reference Period shall be reduced by an amount equal to the Consolidated Operating Cash Flow (if positive) directly attributable to the assets which are the subject of such Asset Disposition for the Reference Period or increased by an amount equal to the Consolidated Operating Cash Flow (if negative) directly attributable thereto for the Reference Period;

(4) if since the beginning of the Reference Period the Company or any Restricted Subsidiary (by merger or otherwise) shall have made an Investment in any Restricted Subsidiary (or any Person which becomes a Restricted Subsidiary) or an acquisition of assets which constitutes all or substantially all of an operating unit of a business, Consolidated Operating Cash Flow for the Reference Period shall be calculated after giving *pro forma* effect thereto (including the Incurrence of any Indebtedness) as if such Investment or acquisition had occurred on the first day of the Reference Period; and

(5) if since the beginning of the Reference Period any Person (that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such Reference Period) shall have made any Asset Disposition, any Investment or acquisition of assets that would have required an adjustment pursuant to clause (3) or (4) above if made by the Company or a Restricted Subsidiary during the Reference Period, Consolidated Operating Cash Flow for the Reference Period shall be calculated after giving *pro forma* effect thereto as if such Asset Disposition, Investment or acquisition had occurred on the first day of the Reference Period.

For purposes of this definition, whenever *pro forma* effect is to be given to an acquisition of assets, the amount of income or earnings relating thereto and the amount of Consolidated Interest Expense associated with any Indebtedness Incurred in connection therewith, the *pro forma* calculations shall be determined in accordance with GAAP in good faith by a responsible financial or accounting Officer of the Company. 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 Interest Rate Agreement applicable to such Indebtedness if such Interest Rate Agreement has a remaining term in excess of 12 months). If any Indebtedness is Incurred under a revolving credit facility and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated based on the average daily balance of such Indebtedness for the four fiscal quarters subject to the *pro forma* calculation to the extent such Indebtedness was Incurred solely for working capital purposes.

"*Senior Unsecured Leverage Ratio*" as of any date of determination means the ratio of (x) the aggregate amount of unsecured Senior Indebtedness of the Company and its Restricted Subsidiaries as of such date of determination to (y) Consolidated Operating Cash Flow for the Reference Period; *provided, however*, that:

(1) if the transaction giving rise to the need to calculate the Senior Unsecured Leverage Ratio is an Incurrence of Indebtedness, the amount of such Indebtedness shall be calculated after giving effect on a *pro forma* basis to such Indebtedness;

(2) if the Company or any Restricted Subsidiary has repaid, repurchased, defeased or otherwise discharged any Indebtedness that was outstanding as of the end of such fiscal quarter or if any Indebtedness is to be repaid, repurchased, defeased or otherwise discharged on the date of the transaction giving rise to the need to calculate the Senior Unsecured Leverage Ratio (other than, in each case, Indebtedness Incurred under any revolving credit agreement), the aggregate amount of Indebtedness shall be calculated on a *pro forma* basis and Consolidated Operating Cash Flow shall be calculated as if the Company or such Restricted Subsidiary had not earned the interest income, if any, actually earned during the Reference Period in respect of cash or Temporary Cash Investments used to repay, repurchase, defease or otherwise discharge such Indebtedness;

(3) if since the beginning of the Reference Period the Company or any Restricted Subsidiary shall have made any Asset Disposition, the Consolidated Operating Cash Flow for the Reference Period shall be reduced by an amount equal to the Consolidated Operating Cash Flow (if positive) directly attributable to the assets which are the subject of such Asset Disposition for the Reference Period or increased by an amount equal to the Consolidated Operating Cash Flow (if negative) directly attributable thereto for the Reference Period;

(4) if since the beginning of the Reference Period the Company or any Restricted Subsidiary (by merger or otherwise) shall have made an Investment in any Restricted Subsidiary (or any Person which becomes a Restricted Subsidiary) or an acquisition of assets which constitutes all or substantially all of an operating unit of a business, Consolidated Operating Cash Flow for the Reference Period shall be calculated after giving *pro forma* effect thereto (including the Incurrence of any Indebtedness) as if such Investment or acquisition had occurred on the first day of the Reference Period; and

(5) if since the beginning of the Reference Period any Person (that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such Reference Period) shall have made any Asset Disposition, any Investment or acquisition of assets that would have required an adjustment pursuant to clause (3) or (4) above if made by the Company or a Restricted Subsidiary during the Reference Period, Consolidated Operating Cash Flow for the Reference Period shall be calculated after giving *pro forma* effect thereto as if such Asset Disposition, Investment or acquisition had occurred on the first day of the Reference Period.

For purposes of this definition, whenever *pro forma* effect is to be given to an acquisition of assets, the amount of income or earnings relating thereto and the amount of Consolidated Interest Expense associated with any Indebtedness Incurred in connection therewith, the *pro forma* calculations shall be determined in accordance with GAAP in good faith by a responsible financial or accounting Officer of the Company. 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 Interest Rate Agreement applicable to such Indebtedness if such Interest Rate Agreement has a remaining term in excess of 12 months). If any Indebtedness is Incurred under a revolving credit facility and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated based on the average daily balance of such Indebtedness for the four fiscal quarters subject to the *pro forma* calculation to the extent such Indebtedness was Incurred solely for working capital purposes.

"*Significant Subsidiary*" means any Restricted Subsidiary that would be a "Significant Subsidiary" of the Company within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC.

"*Special Redemption Date*" means the earlier of the date specified by the Company in an Officers' Certificate delivered in accordance with the Escrow Agreement and October 31, 2008.

"*Special Redemption Price*" means the price equal to the accreted value of the Notes, plus accrued and unpaid interest from and including the Issue Date, but excluding, the Special Redemption Date.

"*Standard & Poor's*" means Standard & Poor's, a division of The McGraw-Hill Companies, Inc., and any successor to its rating agency business.

"*Stated Maturity*" means, with respect to any security, the date specified in such security as the fixed date on which the final payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision (but excluding any provision providing for the repurchase of such security at the option of the holder thereof upon the happening of any contingency unless such contingency has occurred).

"*Subordinated Obligations*" means, with respect to a Person, any Indebtedness of such Person (whether outstanding on the Issue Date or thereafter Incurred) which is subordinate or junior in right of payment to the Notes pursuant to a written agreement to that effect.

"*Subscriber*" means a subscriber in good standing to the XM Radio Service that has paid subscription fees for at least one month of such service and whose subscription payments are not delinquent.

"*Subsidiary*" means, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Voting Stock is at the time owned or controlled, directly or indirectly, by:

(1) such Person;

(2) such Person and one or more Subsidiaries of such Person; or

(3) one or more Subsidiaries of such Person.

"*Subsidiary Guarantee*" means, individually, any Guarantee of payment of the Notes by a Subsidiary Guarantor pursuant to the terms of this Indenture and any supplemental indenture thereto, and, collectively, all such Guarantees. Each such Subsidiary Guarantee will be in the form prescribed by this Indenture.

"*Subsidiary Guarantor*" means the Restricted Subsidiaries of the Company who are party to this Indenture on the date of the Escrow LLC-Company Merger and any other Restricted Subsidiary of the Company that later becomes a Subsidiary Guarantor in accordance with this Indenture.

"*Tangible Assets*" means the Consolidated Total Assets, less goodwill and intangibles, of the Company and its consolidated Restricted Subsidiaries, as shown on the most recent balance sheet of the Company, determined on a consolidated basis in accordance with GAAP.

"*Temporary Cash Investments*" means any of the following:

(1) any investment in direct obligations of the United States of America or any agency thereof or obligations guaranteed by the United States of America or any agency thereof;

(2) investments in demand and time deposit accounts, certificates of deposit and money market deposits maturing within 365 days of the date of acquisition thereof issued by a bank or trust company which is organized under the laws of the United States of America, any State thereof or any foreign country recognized by the United States of America, and which bank or trust company has capital, surplus and undivided profits aggregating in excess of $50.0 million (or the foreign currency equivalent thereof) and has outstanding debt which is rated "A" (or such similar equivalent rating) or higher by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act) or any money-market fund sponsored by a registered broker dealer or mutual fund distributor;

(3) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clause (1) above entered into with a bank meeting the qualifications described in clause (2) above;

(4) investments in commercial paper, maturing not more than 365 days after the date of acquisition, issued by a corporation (other than an Affiliate of the Company) organized and in existence under the laws of the United States of America or any foreign country recognized by the United States of America with a rating at the time as of which any investment therein is made of "P-2" (or higher) according to Moody's or "A-2" (or higher) according to Standard & Poor's;

(5) auction rate preferred stock issued by a corporation and certificates issued by a corporation or municipality or government entity (other than an Affiliate of the Company) organized and in existence under the laws of the United States of America or any foreign country recognized by the United States with a rating at the time of which any Investment therein is made of "A" (or higher) according to Moody's or Standard & Poor's;

(6) investments in securities with maturities of twelve months or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least "A" by Standard & Poor's or "A" by Moody's; and

(7) investments in money market funds that, in the aggregate, have at least $1,000 million in assets.

"*Trustee*" means The Bank of New York Mellon until a successor replaces it and, thereafter, means the successor.

"*Trust Indenture Act*" or "*TIA*" means the Trust Indenture Act of 1939 (15 U.S.C. §§ 77aaa-77bbbb) as in effect on the Issue Date;*provided, however*, that in the event the Trust Indenture Act of 1939 is amended after the Issue Date, "Trust Indenture Act" or "TIA" means, to the extent required by any such amendment, the Trust Indenture Act of 1939 as so amended.

"*Uniform Commercial Code*" means the New York Uniform Commercial Code as in effect from time to time.

"*Unrestricted Subsidiary*" means:

(1) any Subsidiary of the Company that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors in the manner provided below; and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Board of Directors may designate any Subsidiary of the Company (including any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Capital Stock or Indebtedness of, or holds any Lien on any property of, the Company or any other Subsidiary of the Company that is not a Subsidiary of the Subsidiary to be so designated; *provided, however*, that either (A) the Subsidiary to be so designated has total assets of $1,000 or less or (B) if such Subsidiary has assets greater than $1,000, such designation would be permitted under Section 4.04.

The Board of Directors may designate any Unrestricted Subsidiary to be a Restricted Subsidiary;*provided, however*, that immediately after giving effect to such designation (A) the Company could Incur $1.00 of additional Indebtedness under Section 4.03(a) and (B) no Default shall have occurred and be continuing. Any such designation by the Board of Directors shall be evidenced to the Trustee by promptly filing with the Trustee a copy of the resolution of the Board of Directors giving effect to such designation and an Officers' Certificate certifying that such designation complied with the foregoing provisions.

"*U.S. Government Obligations*" means direct obligations (or certificates representing an ownership interest in such obligations) of the United States of America (including any agency or instrumentality thereof) for the payment of which the full faith and credit of the United States of America is pledged and which are not callable at the issuer's option.

"*Voting Stock*" of a Person means all classes of Capital Stock of such Person then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof.

"*Wholly Owned Subsidiary*" means a Restricted Subsidiary all the Capital Stock of which (other than directors' qualifying shares) is owned by the Company or one or more other Wholly Owned Subsidiaries.

SECTION 1.02. Other Definitions.

Term	Defined In Section
"Affiliate Transaction"	4.07(a)
"Appendix"	2.01
"Bankruptcy Law"	6.01
"Change Of Control Offer"	4.10(b)
"Comparable Treasury Issue"	3.07(d)
"Comparable Treasury Price"	3.07(d)
"covenant defeasance option"	8.01(b)
"Custodian"	6.01
"Event Of Default"	6.01
Independent Investment Banker	3.07(d)
"Initial Lien"	4.11
"Initial Purchasers"	Appendix
"legal defeasance option"	8.01(b)
"Notice of Default"	6.01
"Offer"	4.06(b)
"Offer Amount"	4.06(c)(1)
"Offer Period"	4.06(c)(1)
"Paying Agent"	2.03(a)
"Primary Treasury Dealer"	3.07(d)
"protected purchaser"	2.07
"Purchase Date"	4.06(c)
"Redemption Price"	3.07(a)
"Reference Treasury Dealer"	3.07(d)
"Reference Treasury Dealer Quotations"	3.07(d)
"Registrar"	2.03(a)
"Reporting Additional Interest"	6.12
"Special Redemption"	3.08
"Successor Company"	5.01(1)
"Tax Payments"	4.04(b)(11)
"Treasury Rate"	3.07(d)

SECTION 1.03. Rules of Construction. Unless the context otherwise requires:

(1) a term has the meaning assigned to it;

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(3) "or" is not exclusive;

(4) "including" means including without limitation;

(5) words in the singular include the plural and words in the plural include the singular;

(6) unsecured Indebtedness shall not be deemed to be subordinate or junior to secured Indebtedness merely by virtue of its nature as unsecured Indebtedness;

(7) secured Indebtedness shall not be deemed to be subordinate or junior to any other secured Indebtedness merely because it has a junior priority with respect to the same collateral;

(8) the principal amount of any noninterest bearing or other discount security at any date shall be the principal amount thereof that would be shown on a balance sheet of the issuer dated such date prepared in accordance with GAAP;

(9) the principal amount of any Preferred Stock shall be (A) the liquidation preference of such Preferred Stock or (B) the maximum mandatory redemption or mandatory repurchase price (not including any redemption or repurchase premium) with respect to such Preferred Stock, whichever is greater; and

(10) all references to the date the Notes were originally issued shall refer to the Issue Date.

ARTICLE 2

The Notes

SECTION 2.01. Form and Dating. Provisions relating to the Notes are set forth in the Rule 144A/Regulation S/IAI Appendix attached hereto (the "*Appendix*") which is hereby incorporated in, and expressly made part of, this Indenture. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit 1 to the Appendix which is hereby incorporated in, and expressly made a part of, this Indenture. The Notes may have notations, legends or endorsements required by law, stock exchange rule, agreements to which the Company is subject, if any, or usage (provided that any such notation, legend or endorsement is in a form acceptable to the Company). Each Note shall be dated the date of its authentication. The terms of the Notes set forth in the Appendix are part of the terms of this Indenture.

SECTION 2.02. Execution and Authentication. One Officer shall sign the Notes for the Company by manual or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

A Note shall not be valid until an authorized signatory of the Trustee manually signs the certificate of authentication on the Note. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

On the Issue Date, the Trustee shall authenticate and deliver $778,500,000 aggregate principal amount of 13% Senior Notes due 2014 and, at any time and from time to time thereafter, the Trustee shall authenticate and deliver Notes for original issue in an aggregate principal amount specified in such order, in each case upon a written order of the Company signed by two Officers or by an Officer and either an Assistant Treasurer or an Assistant Secretary of the Company. Such order shall specify the amount of the Notes to be authenticated and the date on which the original issue of Notes is to be authenticated and, in the case of an issuance of Additional Notes pursuant to Section 2.13 after the Issue Date, shall certify that such issuance is in compliance with Section 4.03.

The Trustee may appoint an authenticating agent reasonably acceptable to the Company to authenticate the Notes. Any such appointment shall be evidenced by an instrument signed by a Responsible Officer, a copy of which shall be furnished to the Company. Unless limited by the terms of such appointment, an authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as any Registrar, Paying Agent or agent for service of notices and demands.

SECTION 2.03. Registrar and Paying Agent.

(a) The Company shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange (the "*Registrar*") and an office or agency where Notes may be presented for payment (the "*Paying Agent*"). The Registrar shall keep a

register of the Notes and of their transfer and exchange. The Company may have one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrars. The term "Paying Agent" includes any additional paying agent.

(b) The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-registrar not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of any such agent. If the Company fails to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.07. The Company or any Wholly Owned Subsidiary incorporated or organized within The United States of America may act as Paying Agent, Registrar, co-registrar or transfer agent.

(c) The Company may remove any Registrar or Paying Agent upon written notice to such Registrar or Paying Agent and to the Trustee;*provided, however,* that no such removal shall become effective until (i) if applicable, acceptance of an appointment by a successor as evidenced by an appropriate agreement entered into by the Company and such successor Registrar or Paying Agent, as the case may be, and delivered to the Trustee or (ii) notification to the Trustee that the Trustee shall serve as Registrar or Paying Agent until the appointment of a successor in accordance with clause (i) above. The Registrar or Paying Agent may resign at any time upon written notice to the Company and the Trustee; *provided, however,* that the Trustee may resign as Paying Agent or Registrar only if the Trustee also resigns as Trustee in accordance with Section 7.08.

(d) The Company initially appoints the Trustee as Registrar and Paying Agent in connection with the Notes.

SECTION 2.04. Paying Agent To Hold Money in Trust. Prior to each due date of the principal and interest on any Note, the Company shall deposit with the Paying Agent a sum sufficient to pay such principal and interest when so becoming due. The Company shall require each Paying Agent (other than the Trustee) to agree in writing that the Paying Agent shall hold in trust for the benefit of Noteholders or the Trustee all money held by the Paying Agent for the payment of principal of or interest on the Notes and shall notify the Trustee of any default by the Company in making any such payment. If the Company or a Subsidiary acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by the Paying Agent. Upon complying with this Section, the Paying Agent shall have no further liability for the money delivered to the Trustee.

SECTION 2.05. Noteholder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Noteholders. If the Trustee is not the Registrar, the Company shall furnish, or cause the Registrar to furnish, to the Trustee, in writing at least five Business Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Noteholders.

SECTION 2.06. Transfer and Exchange. The Notes shall be issued in registered form and shall be transferable only upon the surrender of a Note for registration of transfer. When a Note is presented to the Registrar or a co-registrar with a request to register a transfer, the Registrar shall register the transfer as requested if the requirements of this Indenture and Section 8-401(1) of the Uniform Commercial Code are met. When Notes are presented to the Registrar or a co-registrar with a request to exchange them for an equal principal amount of Notes of other denominations, the Registrar shall make the exchange as requested if the same requirements are met. The Company may require payment of a sum sufficient to pay all taxes, assessments and other governmental charges in connection with any transfer or exchange pursuant to this Section. The Company shall not be required to make, and the Registrar need not register, transfers or exchanges of Notes selected for redemption (except, in the case of Notes to be redeemed in part, the portion thereof not to be redeemed) or of any Notes for a period of 15 days before a selection of Notes to be redeemed.

Prior to the due presentation of transfer of any Note the Company, the Trustee, the Paying Agent and the Registrar may deem and treat the person in whose name a Note is registered as the absolute owner of such Note for all purposes of receiving payment of principal of and interest, if any, on such Note and for all other purposes whatsoever, whether or not such security is overdue, and none of the Company, the Trustee, a Paying Agent or the Registrar shall be affected by notice to the contrary.

All securities issues upon any transfer or exchange pursuant to the terms of this Indenture shall evidence the same debt and shall be entitled to the same benefits under this Indenture as the Notes surrendered upon such transfer or exchange.

SECTION 2.07. Replacement Notes. If a mutilated Note is surrendered to the Registrar or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Company shall issue and the Trustee shall authenticate a replacement Note if the requirements of Section 8-405 of the Uniform Commercial Code are met and the Holder (a) satisfies the Company or the Trustee within a reasonable time after such Holder has notice of such loss, destruction or wrongful taking and the Registrar does not register a transfer prior to receiving such notification, (b) makes such request to the Company or the Trustee prior to the Note being acquired by a protected purchaser as defined in Section 8-303 of the Uniform Commercial Code (a "*protected purchaser*") and (c) satisfies any other reasonable requirements of the Trustee. If required by the Trustee or the Company, such Holder shall furnish an indemnity bond sufficient in the judgment of the Company and the Trustee to protect the Company, the Trustee, the Paying Agent, the Registrar and any co-registrar from any loss which any of them may suffer if a Note is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Note (including, attorneys' fees and disbursements in replacing such security). In the event any such mutilated, lost, destroyed or wrongfully taken Note has become or is about to become due and payable, the Company in its discretion may pay such Note instead of issuing a new Note in replacement thereof.

Every replacement Note is an additional obligation of the Company.

SECTION 2.08. Outstanding Notes. Notes outstanding at any time are all Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation and those described in this Section as not outstanding. Subject to Section 11.05 a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

If a Note is replaced pursuant to Section 2.07, it ceases to be outstanding unless the Trustee and the Company receive proof satisfactory to them that the replaced Note is held by a protected purchaser (as defined in Section 8-303 of the Uniform Commercial Code).

If the Paying Agent segregates and holds in trust, in accordance with this Indenture, on a redemption date or maturity date money sufficient to pay all principal and interest payable on that date with respect to the Notes (or portions thereof) to be redeemed or maturing, as the case may be, then on and after that date such Notes (or portions thereof) cease to be outstanding and interest on them ceases to accrue.

SECTION 2.09. Temporary Notes. Until Definitive Notes are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of Definitive Notes but may have variations that the Company considers appropriate for temporary Notes. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate Definitive Notes and deliver them in exchange for temporary Notes at the office or agency of the Company.

SECTION 2.10. Cancellation. The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel and dispose of (subject to the record retention requirements of the Exchange Act) all Notes surrendered for registration of transfer, exchange, payment or cancellation in accordance with its customary procedures for the disposition of cancelled securities and deliver a certificate of such disposition to the Company unless the Company directs the Trustee to deliver canceled Notes to the Company. The Company may not issue new Notes to replace Notes it has redeemed, paid or delivered to the Trustee for cancellation.

SECTION 2.11. Defaulted Interest. If the Company defaults in a payment of interest on the Notes, the Company shall pay defaulted interest (plus interest on such defaulted interest to the extent lawful) in any lawful manner. The Company may pay the defaulted interest to the persons who are Noteholders on a subsequent special record date. The Company shall fix or cause to be fixed any such special record date and payment date to the reasonable satisfaction of the Trustee and shall promptly mail to each Noteholder a notice that states the special record date, the payment date and the amount of defaulted interest to be paid.

SECTION 2.12. CUSIP Numbers, ISINs, etc. The Company in issuing the Notes may use "CUSIP" numbers, ISINs and "Common Code" numbers (in each case if then generally in use) and, if so, the Trustee shall use "CUSIP" numbers, ISINs and "Common Code" numbers in notices of redemption as a convenience to Holders; *provided, however,* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be

affected by any defect in or omission of such numbers. The Company shall advise the Trustee in writing of any change in any "CUSIP" numbers, ISINs or "Common Code" numbers applicable to the Notes.

SECTION 2.13. Issuance of Additional Notes. After the Issue Date, the Company shall be entitled, subject to its compliance with Section 4.03, to issue Additional Notes under this Indenture, which Notes shall have identical terms as the Notes issued on the Issue Date, other than with respect to the date of issuance and issue price. All the Notes issued under this Indenture shall be treated as a single class for all purposes of this Indenture including waivers, amendments, redemptions and offers to purchase.

With respect to any Additional Notes, the Company shall set forth in a resolution of the Board of Directors and an Officers' Certificate, a copy of each which shall be delivered to the Trustee, the following information:

(1) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture and the provision of Section 4.03 that the Company is relying on to issue such Additional Notes; and

(2) the issue price, the issue date and the CUSIP number of such Additional Notes; *provided, however*, that no Additional Notes may be issued at a price that would cause such Additional Notes to have "original issue discount" within the meaning of Section 1273 of the Code.

ARTICLE 3

Redemption

SECTION 3.01. Notices to Trustee of Special Redemption. If the Company elects to redeem Notes pursuant to paragraph 5 of the Notes, it shall notify the Trustee in writing of the redemption date, the principal amount of Notes to be redeemed, the redemption price and the paragraph of the Notes pursuant to which the redemption will occur.

The Company shall give each notice to the Trustee provided for in this Section at least 45 days before the redemption date unless the Trustee consents to a shorter period. Such notice shall be accompanied by an Officers' Certificate and an Opinion of Counsel from the Company to the effect that such redemption will comply with the conditions herein.

SECTION 3.02. Selection of Notes to Be Redeemed If fewer than all the Notes are to be redeemed, the Registrar shall select the Notes to be redeemed using any method that it deems fair and appropriate. However, if the Notes are solely registered in the name of Cede & Co. and traded through The Depository Trust Company, or DTC, then DTC shall select the Notes to be redeemed in accordance with its practices. The Trustee shall make the selection from outstanding Notes not previously called for redemption. The Trustee may select for redemption portions of the principal of Notes that have denominations larger than $2,000. Notes and portions of them the Trustee selects shall be in principal amounts of $2,000 or whole multiples of $1,000 in excess of $2,000. Provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption. The Trustee shall notify the Company promptly of the Notes or portions of Notes to be redeemed.

SECTION 3.03. Notice of Redemption. At least 30 days but not more than 60 days before a date for redemption of Notes, or at such time as is required by Section 3.08 in respect of any Special Redemption of the Notes, the Company shall mail or cause to be mailed a notice of redemption by first-class mail to each Holder of Notes to be redeemed at such Holder's registered address.

The notice shall identify the Notes to be redeemed and shall state:

(1) the redemption date;

(2) the redemption price;

(3) the name and address of the Paying Agent;

(4) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price, plus accrued interest;

(5) if fewer than all the outstanding Notes are to be redeemed, the certificate numbers and principal amounts of the particular Notes to be redeemed;

(6) that, unless the Company defaults in making such redemption payment, interest on Notes (or portion thereof) called for redemption ceases to accrue on and after the redemption date;

(7) the "CUSIP" number, ISIN or "Common Code" number, if any, printed on the Notes being redeemed; and

(8) that no representation is made as to the correctness or accuracy of the "CUSIP" number, ISIN, or "Common Code" number, if any, listed in such notice or printed on the Notes.

At the Company's request, delivered at least 15 days before the date such notice is to be given to the Holder (unless a shorter period shall be acceptable to the Trustee or required by Section 3.08), the Trustee shall give the notice of redemption in the Company's name and at the Company's expense. In such event, the Company shall provide the Trustee with the information required by this Section.

SECTION 3.04. Effect of Notice of Redemption. Once notice of redemption is mailed, Notes called for redemption become due and payable on the redemption date and at the redemption price stated in the notice. Upon surrender to the Paying Agent, such Notes shall be paid at the redemption price stated in the notice, plus accrued interest to the redemption date (subject to the right of Holders of record on the relevant record date to receive interest due on the related interest payment date), and such Notes shall be canceled by the Trustee. Failure to give notice or any defect in the notice to any Holder shall not affect the validity of the notice to any other Holder.

SECTION 3.05. Deposit of Redemption Price. Prior to the redemption date, the Company shall deposit with the Paying Agent (or, if the Company or a Subsidiary is the Paying Agent, shall segregate and hold in trust) money sufficient to pay the redemption price of and accrued interest on all Notes to be redeemed on that date other than Notes or portions of Notes called for redemption which have been delivered by the Company to the Trustee for cancellation.

SECTION 3.06. Notes Redeemed in Part. Upon surrender of a Note that is redeemed in part, the Company shall execute and the Trustee shall authenticate for the Holder (at the Company's expense) a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

SECTION 3.07. Optional Redemption.

(a) The Company, at its option, may redeem all, or from time to time, any part of the Notes on not less than 30 days nor more than 60 days notice as provided in paragraph 5 of the Notes (except that, notwithstanding the provisions of Section 3.03 of this Indenture, any notice of redemption for the Notes given pursuant to this Section need not set forth the Redemption Price but only the manner of calculation thereof) at a redemption price ("*Redemption Price*") equal to the greater of the following amounts:

(1) 100% of the principal amount of the Notes then outstanding to be so redeemed; and

(2) the sum of the present values of the principal amount and the remaining scheduled payments of interest on the Notes to be redeemed (not including any portion of payments of interest accrued as of the applicable redemption date), discounted to the applicable redemption date in accordance with customary market practice on a semi-annual basis at a rate equal to the sum of the Treasury Rate plus 0.50%,

(b) *plus,* in each of the above cases (a)(1) and (a)(2), accrued and unpaid interest on the principal amount being redeemed to the applicable redemption date.

(c) The Redemption Price for the Notes will be calculated by the Independent Investment Banker assuming a 360-day year consisting of twelve 30-day months.

(d) For purposes of calculating the Redemption Price pursuant to the foregoing optional redemption provisions, the following terms will have the meanings set forth below:

"*Comparable Treasury Issue*" means the U.S. Treasury security or securities selected by the Independent Investment Banker as having a maturity comparable to the remaining term of the Notes to be redeemed that would be used, at the time of selection and in accordance with customary market practice, in pricing new issues of corporate debt securities of a comparable maturity to the remaining term of such Notes.

"*Comparable Treasury Price*" means, with respect to any redemption date:

(i) the bid-side price for the Comparable Treasury Issue as of the third Business Day preceding the redemption date, as set forth in the daily statistical release (or any successor release) published by *The Wall Street Journal* in the table entitled "Treasury Bonds, Notes, and Bills," as determined by the Independent Investment Banker, or

(ii) if such release (or any successor release) is not published or does not contain such prices on such Business Day:

(x) the average of the Reference Treasury Dealer Quotations for that redemption date, after excluding the highest and lowest of the Reference Treasury Dealer Quotations;

(y) if the Trustee obtains fewer than four Reference Treasury Dealer Quotations, the average of all Reference Treasury Dealer Quotations so received; or

(z) if only one Reference Treasury Dealer Quotation is received, such quotation.

"*Independent Investment Banker*" means one of the Reference Treasury Dealers selected by the Trustee after consultation with the Company.

"*Reference Treasury Dealer*" means each of four primary U.S. Government securities dealers in New York City (each a "*Primary Treasury Dealer*"), consisting of (i) J.P. Morgan Securities Inc. (or its affiliate), (ii) Morgan Stanley & Co. Incorporated (or its affiliate), (iii) UBS Securities LLC and (iv) one other nationally recognized investment banking firm (or its affiliate) that is selected by the Company in connection with the particular redemption, and their respective successors, provided that if any of them ceases to be a Primary Treasury Dealer, the Company will substitute another nationally recognized investment banking firm (or its affiliate) that is a Primary Treasury Dealer.

"*Reference Treasury Dealer Quotations*" means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed as a percentage of its principal amount) quoted in writing to the Trustee by such Reference Treasury Dealer at 3:30 p.m., New York City time, on the third Business Day preceding that redemption date.

"*Treasury Rate*" means, with respect to any redemption date, the rate per year equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, calculated on the third Business Day preceding the applicable redemption date, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for that redemption date.

Unless the Company defaults in the payment of the Redemption Price, on and after the applicable redemption date, interest will cease to accrue on the Notes or portions of the Notes called for redemption.

If the optional redemption date is on or after an interest record date and on or before the related interest payment date, the accrued and unpaid interest, if any, will be paid to the Person in whose name the Note is registered at the close of business, on such record date, and no additional interest shall be payable to Holders whose Notes are subject to redemption by the Company.

SECTION 3.08. Special Redemption. Notwithstanding the foregoing, in the event that (i) the Refinancing Transactions are not consummated on or prior to October 30, 2008, (ii) if, at any time, the Company determines, in its sole judgment, that the Refinancing Transactions will not be consummated by October 29, 2008 or (iii) upon the occurrence of an event that, with notice or lapse of time or both, would constitute a default, in the due performance or observance of any term, covenant or condition contained in this Indenture, the Company shall redeem (the "*Special Redemption*") all of the outstanding Notes on the Special Redemption Date at the Special Redemption Price. At the Company's direction, the Trustee shall deliver to each Holder a written notice prepared by the Company (specifying the information specified in Section 3.03) of the Special Redemption one Business Day prior to the Special Redemption Date.

ARTICLE 4

Covenants

SECTION 4.01. Payment of Notes. The Company shall promptly pay the principal of and interest on the Notes on the dates and in the manner provided in the Notes and in this Indenture. Principal and interest shall be considered paid on the date due if on such date the Trustee or the Paying Agent holds in accordance with this Indenture money sufficient to pay all principal and interest then due.

The Company shall pay interest on overdue principal at the rate specified therefor in the Notes, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

SECTION 4.02. SEC Reports.

(a) So long as any Notes are outstanding, Holdings will furnish to the Trustee and the Holders:

(1) within 90 days after the end of each fiscal year, annual reports of Holdings containing substantially all of the information that would have been required to be contained in an Annual Report on Form 10-K under the Exchange Act if Holdings had been a reporting company under the Exchange Act (but only to the extent similar information was included in the Offering Memorandum), including (A) "Management's Discussion and Analysis of Financial Condition and Results of Operations," (B) audited financial statements prepared in accordance with GAAP and (C) a presentation of EBITDA of Holdings and its Restricted Subsidiaries consistent with the presentation thereof in the Offering Memorandum and derived from such financial statements;

(2) within 45 days after the end of each of the first three fiscal quarters of each fiscal year, quarterly reports of Holdings containing substantially all of the information that would have been required to be contained in a Quarterly Report on Form 10-Q under the Exchange Act if Holdings had been a reporting company under the Exchange Act (but only to the extent similar information was provided in the Offering Memorandum), including (A) "Management's Discussion and Analysis of Financial Condition and Results of Operations," (B) unaudited quarterly financial statements prepared in accordance with GAAP and reviewed pursuant to Statement on Auditing Standards No. 100 (or any successor provision) and (C) a presentation of EBITDA of Holdings and its Restricted Subsidiaries consistent with the presentation thereof in the Offering Memorandum and derived from such financial statements; and

(3) within 5 Business Days after the occurrence of each event that would have been required to be reported in a Current Report on Form 8-K under the Exchange Act if Holdings had been a reporting company under the Exchange Act, current reports containing substantially all of the information that would have been required to be contained in a Current Report on Form 8-K under the Exchange Act if Holdings had been a reporting company under the Exchange Act; *provided*, *however*, that no such current report will be required to be furnished if Holdings determines in its good faith judgment that such event is not material to Holders or the business, assets, operations, financial positions or prospects of Holdings and its Restricted Subsidiaries, taken as a whole;

provided, *however*, that such reports (A) will not be required to comply with Section 302 or Section 404 of the Sarbanes-Oxley Act of 2002, or related Items 307 and 308 of Regulation S-K promulgated by the SEC, or Item 10(e) of Regulation S-K (with respect to any non-GAAP financial measures contained therein) and (B) will not be required to contain the separate financial information for Guarantors contemplated by Rule 3-10 of Regulation S-X promulgated by the SEC. The availability of the foregoing materials on the SEC's Edgar service shall be deemed to satisfy the delivery obligation of Holdings.

(b) If the combined operations of the Parent Guarantor and its subsidiaries, excluding the operations of the Company and its Restricted Subsidiaries and excluding cash and cash equivalents, would, if held by a single Unrestricted Subsidiary of the Company, constitute a Significant Subsidiary of the Company, then the quarterly and annual financial information required by the preceding paragraphs will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and the Company's Restricted Subsidiaries separate from the financial condition and results of operations of the Parent Guarantor and its other Subsidiaries; *provided, however,* that the requirements of this paragraph shall not apply if the Company delivers the reports referred to in paragraph (a) above, and any such report contains the information described in this paragraph.

(c) So long as any Notes are outstanding, Holdings will also:

(1) issue a press release to an internationally recognized wire service no fewer than three Business Days prior to the first public disclosure of the annual and quarterly reports required by Section 4.02(a)(1) and Section 4.02(a)(2) announcing the date on which such reports will become publicly available and directing Noteholders, prospective investors, broker-dealers and securities analysts to contact the investor relations office of Holdings to obtain copies of such reports; and

(2) maintain a website to which Holders, prospective investors approved by Holdings, broker-dealers approved by Holdings and securities analysts are given access and to which all of the reports and press releases required by Section 4.02(a) or Section 4.02(b) are posted.

In addition, Holdings shall furnish to Noteholders, prospective investors approved by Holdings, broker-dealers approved by Holdings and securities analysts, upon their request, any information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act so long as the Notes are not freely transferable under the Securities Act. Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

Following a Holdings-Company Merger, a Holdings-Sirius Merger or a Company-Sirius Merger, the obligations of Holdings under this covenant shall be assumed by the Company or Sirius, as the case may be.

SECTION 4.03. Limitation on Indebtedness.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, Incur, directly or indirectly, any Indebtedness; *provided, however,* that the Company and any Subsidiary Guarantor shall be entitled to Incur Indebtedness if, on the date of such Incurrence and after giving effect thereto on a *pro forma* basis, the Consolidated Leverage Ratio would be less than 6.00 to 1.

(b) Notwithstanding the foregoing paragraph (a), the Company and the Restricted Subsidiaries shall be entitled to Incur any or all of the following Indebtedness:

(1) Indebtedness incurred by the Company or any of its Restricted Subsidiaries under this clause (1) that, after giving effect to any such Incurrence, does not exceed $150 million at any time outstanding;

(2) Indebtedness of the Company in an aggregate principal amount which, when taken together with all other Indebtedness of the Company Incurred pursuant to this clause (2) and then outstanding, does not exceed 175% of the Net Cash Proceeds received by the Company since immediately after the Issue Date from the issue or sale of Capital

Stock of the Company or cash contributed to the capital of the Company, including cash contributions received by the Company following a Holdings-Company Merger, (in each case other than proceeds of Disqualified Stock or sales of Capital Stock to the Company or any of its Subsidiaries); *provided, however,* that (A) any Indebtedness Incurred under this clause (2) after June 1, 2012 shall have a weighted Average Life that is greater than the then remaining weighted Average Life of the Notes and (B) any Indebtedness Incurred under this clause (2) shall consist only of Subordinated Obligations; *provided further, however,* that any Net Cash Proceeds or cash contributions received by the Company pursuant to this clause (2) and used to Incur Indebtedness pursuant to this clause (2), shall be excluded from the calculation of amounts under Section 4.04(a)(3)(B);

(3) Indebtedness owed to and held by the Company or a Restricted Subsidiary;*provided, however,* that (A) any subsequent issuance or transfer of any Capital Stock which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any subsequent transfer of such Indebtedness (other than to the Company or a Restricted Subsidiary) shall be deemed, in each case, to constitute the Incurrence of such Indebtedness by the obligor thereon and (B) if the Company is the obligor on such Indebtedness, such Indebtedness is expressly subordinated to the prior payment in full in cash of all obligations with respect to the Notes;

(4) the Notes (other than any Additional Notes) and the Guarantees;

(5) Indebtedness outstanding on the Issue Date or Incurred in connection with the refinancing transactions described in the Offering Memorandum; provided, that the Indebtedness for borrowed money outstanding immediately prior to the release of escrowed funds on the Escrow Release Date shall not exceed $1.7 billion on a pro forma basis after giving effect to the Refinancing Transactions (exclusive of original issue discount Incurred in connection with the Refinancing Transactions and any additional amount of Indebtedness that may be outstanding as a result of holders of the Company's 9.75% Senior Notes due 2014, Senior Floating Rate Notes due 2013, 10% Senior Secured Discount Convertible Notes due 2009 and the Existing Sale and Leaseback Transaction having declined mandatory offers to repurchase or an exchange offer in respect of such Indebtedness); provided further, that the aggregate principal amount of Senior Indebtedness for borrowed money outstanding immediately prior to the release of escrowed funds on the Escrow Release Date shall not exceed $1.1 billion on a pro forma basis after giving effect to the Refinancing Transactions (exclusive of original issue discount Incurred in connection with the Refinancing Transactions and any additional amount of Indebtedness that may be outstanding as a result of holders of the Company's 9.75% Senior Notes due 2014, Senior Floating Rate Notes due 2013, 10% Senior Secured Discount Convertible Notes due 2009 and the Existing Sale and Leaseback Transaction having declined mandatory offers to repurchase or an exchange offer in respect of such Indebtedness);

(6) Indebtedness of a Restricted Subsidiary Incurred and outstanding on or prior to the date on which such Subsidiary was acquired by the Company (other than

Indebtedness Incurred in connection with, or to provide all or any portion of the funds or credit support utilized to consummate, the transaction or series of related transactions pursuant to which such Subsidiary became a Subsidiary or was acquired by the Company); *provided, however,* that on the date of such acquisition and after giving *pro forma* effect thereto, the Company would have been entitled to Incur at least $1.00 of additional Indebtedness pursuant to Section 4.03(a);

(7) Refinancing Indebtedness in respect of Indebtedness Incurred pursuant to Section 4.03(a) or pursuant to clause (2), (4), (5) or (6) of this Section 4.03(b) or this clause (7); *provided, however,* that to the extent such Refinancing Indebtedness directly or indirectly Refinances Indebtedness of a Subsidiary Incurred pursuant to clause (6), such Refinancing Indebtedness shall be Incurred only by such Subsidiary;

(8) Hedging Obligations directly related to Indebtedness permitted to be Incurred by the Company and its Restricted Subsidiaries pursuant to this Indenture;

(9) obligations in respect of workers' compensation claims, self-insurance obligations, performance, bid and surety bonds and completion guarantees provided by the Company or any Restricted Subsidiary in the ordinary course of business;

(10) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; *provided, however,* that such Indebtedness is extinguished within five Business Days of its Incurrence;

(11) unsecured Subordinated Obligations or Disqualified Stock of the Company in an aggregate principal amount not in excess of $250.0 million outstanding (at any one time) Incurred to finance the construction, expansion, development or acquisition of music libraries and other recorded music programming, furniture, fixtures and equipment (including satellites, ground stations and related equipment) if such Subordinated Obligations or Disqualified Stock, as applicable, has a weighted Average Life longer than the weighted Average Life of the Notes and has a final Stated Maturity of principal later than the Stated Maturity of principal of the Notes;

(12) [Intentionally omitted];

(13) Indebtedness arising from agreements of the Company or any of its Restricted Subsidiaries providing for indemnification, adjustment of purchase price or similar Obligations, in each case, Incurred or assumed in connection with the disposition of any business, assets or Capital Stock of a Restricted Subsidiary; *provided, however,* the maximum aggregate liability in respect of all such Indebtedness shall at no time exceed the gross proceeds actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(14) Any Indebtedness which becomes an Obligation of the Company as a result of a Holdings-Company Merger or a Company-Sirius Merger;

(15) Replacement Satellite Vendor Indebtedness;

(16) unsecured Subordinated Obligations or Disqualified Stock of the Company in an aggregate principal amount (or liquidation preference, as applicable) (including the aggregate principal amount (or liquidation preference, as applicable) of all Refinancing Indebtedness Incurred to refund, Refinance or replace any Indebtedness or Disqualified Stock, as applicable, incurred pursuant to this clause (16)) at any time outstanding not to exceed the product of (a) $100.0 and (b) the number of Subscribers at such time if such subordinated Indebtedness or Disqualified Stock, as applicable, has a weighted Average Life longer than the weighted Average Life of the Notes and has a final maturity date later than the final maturity date of the Notes; and

(17) [Intentionally omitted].

(c) Notwithstanding the foregoing, the Company shall not be entitled to Incur any Indebtedness pursuant to Section 4.03(b) if the proceeds thereof are used, directly or indirectly, to Refinance any Subordinated Obligations of the Company unless such Indebtedness shall be subordinated to the Notes to at least the same extent as such Subordinated Obligations.

(d) For purposes of determining compliance with this Section 4.03:

(1) in the event that an item of Indebtedness (or any portion thereof) meets the criteria of more than one of the types of Indebtedness described in Sections 4.03(a), (b) and (c), the Company, in its sole discretion, shall classify such item of Indebtedness (or any portion thereof) at the time of Incurrence and shall only be required to include the amount and type of such Indebtedness in one of the above clauses;

(2) the Company shall be entitled to divide and classify (and later reclassify) an item of Indebtedness in more than one of the types of Indebtedness described above;

(3) any Indebtedness Incurred under clauses (1) or (2) of Section 4.03(b) shall cease to be deemed Incurred or outstanding for purposes of those clauses, respectively, but instead shall be deemed to be Incurred for purposes of Section 4.03(a) from and after the first date on which the Company could have Incurred such Indebtedness under Section 4.03(a) without reliance on any of such clauses;

(4) Guarantees of, or Obligations in respect of letters of credit relating to, Indebtedness which is otherwise included in the determination of a particular amount of Indebtedness shall not be included;

(5) any Disqualified Stock of the Company or Preferred Stock of a Restricted Subsidiary will be deemed to have a principal amount equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof; and

(6) Increases in the amount of Indebtedness solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an Incurrence of Indebtedness for purposes of this Section 4.03.

SECTION 4.04. Limitation on Restricted Payments.

(a) The Company shall not, and shall not permit any Restricted Subsidiary, directly or indirectly, to make a Restricted Payment if at the time the Company or such Restricted Subsidiary makes such Restricted Payment:

(1) a Default shall have occurred and be continuing (or would result therefrom);

(2) the Company is not entitled to Incur an additional $1.00 of Indebtedness under Section 4.03(a) after giving effect, on a *pro forma* basis, to such Restricted Payment; or

(3) the aggregate amount of such Restricted Payment and all other Restricted Payments since the Issue Date would exceed the sum of (without duplication):

(A) 100% of Consolidated Operating Cash Flow accrued during the period (treated as one accounting period) from the beginning of the first fiscal quarter during which the Company generates positive Consolidated Operating Cash Flow to the end of the most recent fiscal quarter for which internal financial statements are available less 1.4 times the Consolidated Interest Expense for the same period; *plus*

(B) 100% of the aggregate Net Cash Proceeds received by the Company from the issuance or sale of its Capital Stock (other than Disqualified Stock) subsequent to the Issue Date (other than an issuance or sale to a Subsidiary of the Company), 100% of any cash capital contribution received by the Company from its stockholders subsequent to the Issue Date, 100% of the fair market value (as determined by the Board of Directors) of the consideration (if other than cash) from the issue or sale of Capital Stock (other than Disqualified Stock) of the Company and 100% of the fair market value (as determined by the Board of Directors) of the actual or deemed capital contributions to the common equity capital of the Company by Holdings from the issuance of Capital Stock of Holdings in exchange for the retirement of Indebtedness of the Company that ranks equal to the Notes in right of payment; *provided, however,* that any Net Cash Proceeds received by the Company from the issue or sale of its Capital Stock or cash capital contributions received by the Company and used to Incur Indebtedness pursuant Section 4.03(b)(2), shall be excluded from the calculation of Net Cash Proceeds and cash capital contributions under this clause (B) until and to the extent any Indebtedness Incurred pursuant to Section 4.03(b)(2) in respect of such Net Cash Proceeds or cash capital contributions has been treated, pursuant to Section 4.03(d)(3), as Incurred pursuant to Section 4.03(a); *plus*

(C) the amount by which Indebtedness of the Company or any Restricted Subsidiary is reduced on the Company's balance sheet upon the conversion or exchange subsequent to the Issue Date of any Indebtedness convertible or exchangeable for Capital Stock (other than Disqualified Stock) of Holdings or the Company (less the amount of any cash, or the fair value (as determined in good faith by the Board of Directors) of any other property, distributed by Holdings or the Company upon such conversion or exchange); *plus*

(D) an amount equal to the sum of (i) the net reduction in the Investments (other than Permitted Investments) made by the Company or any Restricted Subsidiary in any Person resulting from repurchases, repayments or redemptions of such Investments by such Person, proceeds realized on the sale of such Investment and proceeds representing the return of capital (excluding dividends and distributions to the extent included in Consolidated Operating Cash Flow), in each case received by the Company or any Restricted Subsidiary, and (ii) to the extent such Person is an Unrestricted Subsidiary, the portion (proportionate to the Company's equity interest in such Subsidiary) of the fair market value (as determined in good faith by the Board of Directors) of the net assets of such Unrestricted Subsidiary at the time such Unrestricted Subsidiary is designated a Restricted Subsidiary; *provided, however,* that the foregoing sum shall not exceed, in the case of any such Person or Unrestricted Subsidiary, the amount of Investments (excluding Permitted Investments) previously made (and treated as a Restricted Payment) by the Company or any Restricted Subsidiary in such Person or Unrestricted Subsidiary.

(b) The preceding provisions of Section 4.04(a) shall not prohibit:

(1) any Restricted Payment made within 90 days of the receipt of Net Cash Proceeds from the sale of, or made by exchange for, Capital Stock of the Company (other than Disqualified Stock) or a substantially concurrent cash capital contribution received by the Company; *provided, however,* that (A) such Restricted Payment shall be excluded from subsequent calculations of the amount of Restricted Payments and (B) the Net Cash Proceeds from such sale or such cash capital contribution (to the extent so used for such Restricted Payment) shall be excluded from the calculation of amounts under Section 4.04(a)(3)(B);

(2) any purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of Subordinated Obligations (other than Permitted Subordinated Obligations) of the Company made within 90 days by exchange for, or out of the proceeds of, the Incurrence of Indebtedness of such Person which is permitted to be Incurred pursuant to Section 4.03; *provided, however,* that such purchase, repurchase, redemption, defeasance or other acquisition or retirement for value shall be excluded from subsequent calculations of the amount of Restricted Payments;

(3) any purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of Subordinated Obligations of the Company Incurred pursuant to

Section 4.03(b)(11) made by exchange for, or out of the proceeds of, the substantially concurrent Incurrence of, Subordinated Obligations that have, at the time of Incurrence, a weighted Average Life that is greater than the then remaining weighted Average Life of the Notes and a Stated Maturity that is later than the date that is 91 days after the Stated Maturity of the Notes; *provided, however,* that such purchase, repurchase, redemption, defeasance or other acquisition or retirement for value shall be excluded from subsequent calculations of the amount of Restricted Payments;

(4) dividends paid within 60 days after the date of declaration thereof if at such date of declaration such dividend would have complied with this Section 4.04; *provided, however,* that such dividend shall be included in subsequent calculations of the amount of Restricted Payments;

(5) the declaration or payment of dividends on Disqualified Stock issued pursuant to Section 4.03;*provided, however,* that at the time of declaration of such dividend, no Default shall have occurred and be continuing (or result therefrom); *provided further, however,* that such dividends shall be excluded from subsequent calculations of the amount of Restricted Payments;

(6) repurchases of Capital Stock deemed to occur upon exercise of stock options, warrants or other convertible securities if such Capital Stock represents a portion of the exercise price thereof; *provided, however,* that such Restricted Payments shall be excluded from subsequent calculations of the amount of Restricted Payments;

(7) cash payments in lieu of the issuance of fractional shares in connection with a reverse stock split of the Capital Stock of the Company or the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock of the Company; *provided, however,* that any such cash payment shall not be for the purpose of evading the limitation of this Section 4.04 (as determined in good faith by the Board of Directors); *provided further, however,* that such payments shall be excluded in subsequent calculations of the amount of Restricted Payments;

(8) in the event of a Change of Control or to the extent permitted by Section 4.06, and if no Default shall have occurred and be continuing, the payment, purchase, redemption, defeasance or other acquisition or retirement of Subordinated Obligations of the Company, in each case, at a purchase price not greater than 101% of the principal amount of such Subordinated Obligations, plus any accrued and unpaid interest thereon; *provided, however,* that prior to such payment, purchase, redemption, defeasance or other acquisition or retirement, the Company (or a third party to the extent permitted by this Indenture) has made a Change of Control Offer or Offer with respect to the Notes and has repurchased all Notes validly tendered and not withdrawn in connection with such Change of Control Offer or Offer; *provided further, however,* that such payments, purchases, redemptions, defeasances or other acquisitions or retirements shall be excluded from subsequent calculations of the amount of Restricted Payments;

(9) payments of intercompany subordinated Indebtedness, the Incurrence of which was permitted under Section 4.03(b)(3);*provided, however,* that no Default has

occurred and is continuing or would otherwise result therefrom; *provided further, however,* that such payments shall be excluded from subsequent calculations of the amount of Restricted Payments;

(10) the repurchase, redemption or other acquisition or retirement for value of any equity interests of the Company or any Restricted Subsidiary (other than Disqualified Stock) held by any employee of the Company made in lieu of withholding taxes resulting from the exercise, exchange or conversion of stock options, warrants or other similar rights; *provided, however,* that no Default has occurred and is continuing or would otherwise result therefrom;*provided further, however,* that such payments shall be excluded from subsequent calculations of the amount of Restricted Payments;

(11) cash dividends, distributions, loans or other transfers to Holdings in amounts equal to:

(A) for so long as the Company is a member of a group filing a consolidated or combined tax return with Sirius Satellite Radio Inc., payments to Holdings or Sirius Satellite Radio Inc. in respect of an allocable portion of the tax liabilities of such group that is attributable to Holdings and its Subsidiaries ("*Tax Payments*"). The Tax Payments shall not exceed the lesser of (i) the amount of the relevant tax (including any penalties and interest) that Holdings would owe if Holdings were filing a separate tax return (or a separate consolidated or combined return with its Subsidiaries that are members of the consolidated or combined group), taking into account any carryovers and carrybacks of tax attributes (such as net operating losses) of Holdings and such Subsidiaries from other taxable years and (ii) the net amount of the relevant tax that Sirius Satellite Radio Inc. actually owes to the appropriate taxing authority. Any Tax Payments received from the Company shall be paid over to the appropriate taxing authority within 30 days of the receipt by Holdings or Sirius Satellite Radio Inc. of such Tax Payments or refunded to the Company;

(B) the amounts required for Holdings to pay franchise taxes and other fees required to maintain its legal existence; and

(C) an amount not to exceed $3.0 million in any fiscal year to permit Holdings to pay their corporate overhead expenses Incurred in the ordinary course of business, and to pay salaries or other compensation of employees who perform services for both (1) Sirius Satellite Radio Inc. or Holdings, on the one hand, and (2) the Company, on the other hand; and

(D) any fees and expenses related to any equity offering or other financing of any direct or indirect parent of the Company to the extent the proceeds of such offering or financing are contributed to the Company.

(12) any Restricted Payment to an Affiliate for the provision of administrative, management, content or other business services, in each case to the extent permitted by Section 4.07; and

(13) any purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of Obligations of the Company under the Existing Sale Leaseback Transaction that are triggered by the Merger; provided, however, that such payments shall be excluded from subsequent calculations of the amount of Restricted Payments;

(14) other Restricted Payments in an amount not to exceed $40.0 million per calendar year (with unused amounts in any calendar year being permitted to be carried over for the next succeeding calendar years); provided, however, such Restricted Payments, when taken together with all other Restricted Payments made pursuant to this clause (1314) do not exceed $100.0 million in the aggregate in any calendar year; provided further, however, that no Default has occurred and is continuing or would otherwise result therefrom; provided further, however, that such payments shall be excluded from subsequent calculations of the amount of Restricted Payments.;

(15) any purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of Subordinated Obligations (other than Permitted Subordinated Obligations) of the Company with an aggregate principal amount not exceed $50 million at a purchase price not greater than 100% of the principal amount or accreted value thereof, as the case may be, together with accrued interest, if any; and

(16) any purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of Subordinated Obligations (other than Permitted Subordinated Obligations) of the Company with an aggregate principal amount not exceed $450 million at a purchase price not greater than 100% of the principal amount or accreted value thereof, as the case may be, together with accrued interest, if any; provided, however, that at the time of such purchase, no amounts shall be outstanding under any senior secured credit agreements or senior secured letter of credit facilities to which the Company is party; provided, further, that prior to making any such purchase the Company has made an offer to repurchase Notes at a purchase price not less than 100% of the principal amount or accreted value thereof, as the case may be, together with accrued interest, if any with at least the same aggregate principal amount as the Subordinated Obligations to be repurchased pursuant to this clause.

The amount of all Restricted Payments (other than cash) shall be the fair market value on the date of such Restricted Payment of the asset(s) or securities proposed to be paid, transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to such Restricted Payment. The fair market value of any cash Restricted Payment shall be its face amount and any non-cash Restricted Payment shall be determined conclusively by the Board of Directors of the Company acting in good faith.

SECTION 4.05. Limitation on Restrictions on Distributions from Restricted Subsidiaries. The Company shall not, and shall not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to (a) pay dividends or make any other distributions on its Capital Stock to the Company or a Restricted Subsidiary or pay any Indebtedness owed to the Company or any Restricted Subsidiary, (b) make any loans or advances to the Company or any Restricted Subsidiary or (c) transfer any of its property or assets to the Company or any Restricted Subsidiary, except:

(1) with respect to clauses (a), (b) and (c),

(A) any encumbrance or restriction pursuant to an agreement in effect at or entered into on the Issue Date;

(B) any encumbrance or restriction with respect to a Restricted Subsidiary pursuant to an agreement relating to any Capital Stock or Indebtedness Incurred by such Restricted Subsidiary on or prior to the date on which such Restricted Subsidiary was acquired by the Company (other than Indebtedness Incurred as consideration in, or to provide all or any portion of the funds or credit support utilized to consummate, the transaction or series of related transactions pursuant to which such Restricted Subsidiary became a Restricted Subsidiary or was acquired by the Company) and outstanding on such date;

(C) any encumbrance or restriction pursuant to an agreement effecting a Refinancing of Indebtedness Incurred pursuant to an agreement referred to in Section 4.05(1)(A) or (B) or this clause (C) or contained in any amendments, modifications, restatements, renewals, increases, supplements, refundings or replacements to an agreement referred to in Section 4.05(1)(A) or (B) or this clause (C); *provided, however,* that the encumbrances and restrictions with respect to such Restricted Subsidiary contained in any such refinancing agreement or amendment are no less favorable in any material respect to the Noteholders than encumbrances and restrictions with respect to such Restricted Subsidiary contained in such predecessor agreements on the Issue Date or the date such Restricted Subsidiary became a Restricted Subsidiary, whichever is applicable;

(D) any encumbrance or restriction with respect to a Restricted Subsidiary (or any of its property or assets) imposed pursuant to an agreement entered into for the sale or disposition of all or substantially all the Capital Stock or assets of such Restricted Subsidiary (or the property or assets that are subject to such restriction) pending the closing of such sale or disposition;

(E) any encumbrance or restriction consisting of net worth provisions or restrictions on cash or other deposits in leases and other agreements entered into by the Company or any Restricted Subsidiary in the ordinary course of business;

(F) any encumbrance or restriction consisting of customary provisions in joint venture agreements relating to joint ventures that are not Restricted Subsidiaries and other similar agreements entered into in the ordinary course of business; and

(G) customary non-assignment provisions in contracts, licenses and leases entered into in the ordinary course of business; and

(2) with respect to clause (c) only,

(A) any encumbrance or restriction consisting of customary nonassignment provisions in leases governing leasehold interests to the extent such provisions restrict the assignment or transfer of the lease or the property leased thereunder;

(B) any encumbrance or restriction contained in security agreements, pledges or mortgages securing Indebtedness of a Restricted Subsidiary to the extent such encumbrance or restriction restricts the transfer of the property subject to such security agreements, pledges or mortgages;

(C) any encumbrance or restriction consisting of (i) Purchase Money Indebtedness for property acquired in the ordinary course of business and (ii) Capitalized Lease Obligations permitted under this Indenture, in each case, that impose encumbrances or restrictions of the nature described in Section 4.05(c) on the property so acquired; and

(D) any encumbrance or restriction pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Company or any Restricted Subsidiary;

(E) applicable law; and

(F) Liens securing Indebtedness that limit the right of the debtor to dispose of the assets subject to such Lien.

SECTION 4.06. Limitation on Sales of Assets and Subsidiary Stock.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, consummate any Asset Disposition unless:

(1) the Company or such Restricted Subsidiary receives consideration at the time of such Asset Disposition at least equal to the fair market value (including as to the value of all non-cash consideration), as determined in good faith by the Board of Directors of the Company, of the shares and assets subject to such Asset Disposition;

(2) at least 75% of the consideration thereof received by the Company or such Restricted Subsidiary is in the form of cash or cash equivalents;

(3) an amount equal to 100% of the Net Available Cash from such Asset Disposition is applied by the Company or such Restricted Subsidiary, as the case may be

(A) first, to the extent the Company or such Restricted Subsidiary elects (or is required by the terms of any Indebtedness), to prepay, repay, redeem or purchase Senior Indebtedness of the Company (including the Notes) or Indebtedness (other than any Disqualified Stock) of any Wholly Owned

Subsidiary (in each case other than Indebtedness owed to the Company or an Affiliate of the Company) within one year from the later of the date of such Asset Disposition or the receipt of such Net Available Cash;

(B) second, to the extent of the balance of such Net Available Cash after application in accordance with clause (A), to the extent the Company or such Restricted Subsidiary elects, to acquire Additional Assets within one year from the later of the date of such Asset Disposition or the receipt of such Net Available Cash; *provided, however,* that the Company shall have an additional six months to apply such Net Available Cash pursuant to this clause (B) if it shall have entered into a binding acquisition or purchase contract in respect of Additional Assets prior to the expiration of such one-year period; and

(C) third, to the extent of the balance of such Net Available Cash after application in accordance with clauses (A) and (B), to make an offer to the holders of the Notes (and to holders of other Senior Indebtedness of the Company designated by the Company) to purchase Notes (and such other Senior Indebtedness of the Company) pursuant to and subject to the conditions contained in this Indenture;

provided, however, that in connection with any prepayment, repayment or purchase of Indebtedness pursuant to clause (A) or (C) above, the Company or such Restricted Subsidiary shall permanently retire such Indebtedness and shall cause the related loan commitment (if any) to be permanently reduced in an amount equal to the principal amount so prepaid, repaid or purchased; *provided, further,* that the prior proviso shall not affect the ability of the Company or such Restricted Subsidiary to Incur Indebtedness under Section 4.03(b).

Notwithstanding the foregoing provisions of this Section 4.06, the Company and the Restricted Subsidiaries shall not be required to apply any Net Available Cash in accordance with this Section 4.06(a) except to the extent that the aggregate Net Available Cash from all Asset Dispositions which is not applied in accordance with this Section 4.06(a) exceeds $10 million. Pending application of Net Available Cash pursuant to this Section 4.06(a), such Net Available Cash shall be invested in Temporary Cash Investments or applied to temporarily reduce revolving credit indebtedness.

For the purposes of this Section 4.06(a), the following are deemed to be cash or cash equivalents:

(1) the assumption or discharge of Indebtedness of the Company (other than Obligations in respect of Disqualified Stock of the Company) or any Restricted Subsidiary or other liabilities (as shown on the most recent balance sheet (or notes thereto) of the Company or the Restricted Subsidiary) and the release of the Company or such Restricted Subsidiary from all liability on such Indebtedness or from such other liabilities in connection with such Asset Disposition (in which case the Company shall, without further action, be deemed to have applied such deemed cash to Indebtedness in accordance with clause (3)(A) above); and

(2) securities received by the Company or any Restricted Subsidiary from the transferee that are converted within 30 days by the Company or such Restricted Subsidiary into cash, to the extent of cash received in that conversion.

(b) In the event of an Asset Disposition that requires the purchase of Notes (and other Senior Indebtedness of the Company) pursuant to Section 4.06(a)(3)(C), the Company shall purchase Notes tendered pursuant to an offer by the Company for the Notes (and such other Senior Indebtedness) (the "Offer") at a purchase price of 100% of their principal amount (or, in the event the Notes or such other Senior Indebtedness of the Company was issued with significant original issue discount, 100% of the accreted value thereof) without premium, plus accrued but unpaid interest (or, in respect of such other Senior Indebtedness of the Company, such lesser price, if any, as may be provided for by the terms of such Senior Indebtedness) in accordance with the procedures (including prorating in the event of oversubscription) set forth in Section 4.06(c). If the aggregate purchase price of the Notes tendered exceeds the Net Available Cash allotted to their purchase, the Company shall select the Notes to be purchased on a pro rata basis but in round denominations, which in the case of the Notes will be denominations of $2,000 principal amount or multiples of $1,000 in excess of $2,000. The Company shall not be required to make such an offer to purchase Notes (and other Senior Indebtedness of the Company) pursuant to Section 4.06(a)(3)(C) if the Net Available Cash available therefor is less than $5 million (which lesser amount shall be carried forward for purposes of determining whether such an offer is required with respect to the Net Available Cash from any subsequent Asset Disposition). Upon completion of such an offer to purchase, Net Available Cash shall be deemed to be reduced by the aggregate amount of such offer.

(c) Promptly, and in any event within 10 days after the Company becomes obligated to make an Offer, the Company shall deliver to the Trustee and send, by first-class mail to each Holder, a written notice stating that the Holder may elect to have his Notes purchased by the Company either in whole or in part (subject to prorating as described in Section 4.06(b) in the event the Offer is oversubscribed) in integral multiples of $2,000 of principal amount, at the applicable purchase price. The notice shall specify a purchase date not less than 30 days nor more than 60 days after the date of such notice (the "Purchase Date") and shall contain such information concerning the business of the Company which the Company in good faith believes will enable such Holders to make an informed decision (which at a minimum will include (A) the most recent annual report, quarterly report and any current report delivered to the Trustee in the prior 90 days pursuant to Section 4.02(a), other than current reports describing Asset Dispositions otherwise described in the offering materials (or corresponding successor reports), (B) a description of material developments in the Company's business subsequent to the date of the latest of such reports and (C) if material, appropriate *pro forma* financial information) and all instructions and materials necessary to tender Notes pursuant to the Offer, together with the information contained in clause (3) below.

(1) Not later than the date upon which written notice of an Offer is delivered to the Trustee as provided below, the Company shall deliver to the Trustee an Officers' Certificate as to (A) the amount of the Offer (the "Offer Amount"), including information as to any other Senior Indebtedness included in the Offer, (B) the allocation of the Net Available Cash from the Asset Dispositions pursuant to which such Offer is being made

and (C) the compliance of such allocation with the provisions of Section 4.06(a) and (b). On such date, the Company shall also irrevocably deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust) in Temporary Cash Investments, maturing on the last day prior to the Purchase Date or on the Purchase Date if funds are immediately available by open of business, an amount equal to the Offer Amount to be held for payment in accordance with the provisions of this Section. If the Offer includes other Senior Indebtedness, the deposit described in the preceding sentence may be made with any other paying agent pursuant to arrangements satisfactory to the Trustee. Upon the expiration of the period for which the Offer remains open (the "Offer Period"), the Company shall deliver to the Trustee for cancellation the Notes or portions thereof which have been properly tendered to and are to be accepted by the Company. The Trustee shall, on the Purchase Date, mail or deliver payment (or cause the delivery of payment) to each tendering Holder in the amount of the purchase price. In the event that the aggregate purchase price of the Notes delivered by the Company to the Trustee is less than the Offer Amount applicable to the Notes, the Trustee shall deliver the excess to the Company promptly after the expiration of the Offer Period for application in accordance with this Section 4.06.

(2) Holders electing to have a Note purchased shall be required to surrender the Note, with an appropriate form duly completed, to the Company at the address specified in the notice at least three Business Days prior to the Purchase Date. Holders shall be entitled to withdraw their election if the Trustee or the Company receives not later than one Business Day prior to the Purchase Date, a facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note which was delivered for purchase by the Holder and a statement that such Holder is withdrawing his election to have such Note purchased. Holders whose Notes are purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered.

(3) At the time the Company delivers Notes to the Trustee which are to be accepted for purchase, the Company shall also deliver an Officers' Certificate stating that such Notes are to be accepted by the Company pursuant to and in accordance with the terms of this Section. A Note shall be deemed to have been accepted for purchase at the time the Trustee, directly or through an agent, mails or delivers payment therefor to the surrendering Holder.

(d) The Company shall not, and shall not permit any Restricted Subsidiary to, engage in any Asset Swaps, unless:

(1) at the time of entering into such Asset Swap and immediately after giving effect to such Asset Swap, no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof;

(2) in the event such Asset Swap involves the transfer by the Company or any Restricted Subsidiary of assets having an aggregate fair market value, as determined by the Board of Directors of the Company in good faith, in excess of $5 million, the terms of such Asset Swap have been approved by a majority of the members of the Board of Directors of the Company; and

(3) in the event such Asset Swap involves the transfer by the Company or any Restricted Subsidiary of assets having an aggregate fair market value, as determined by the Board of Directors of the Company in good faith, in excess of $20 million, the Company has received a written opinion from an Independent Qualified Party that such Asset Swap is fair to the Company or such Restricted Subsidiary, as the case may be, from a financial point of view.

(e) The Company shall comply, to the extent applicable, with the requirements of Section 14(e) of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Notes pursuant to this Section 4.06. To the extent that the provisions of any securities laws or regulations conflict with provisions of this Section 4.06, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Indenture and this Section 4.06 by virtue of its compliance with such securities laws or regulations.

SECTION 4.07. Limitation on Affiliate Transactions.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property, employee compensation arrangements or the rendering of any service) with, or for the benefit of, any Affiliate of the Company (an "Affiliate Transaction") unless:

(1) the terms of the Affiliate Transaction are no less favorable to the Company or such Restricted Subsidiary than those that could be obtained at the time of the Affiliate Transaction in arm's-length dealings with a Person who is not an Affiliate;

(2) if such Affiliate Transaction involves an amount in excess of $5 million, the terms of the Affiliate Transaction are set forth in writing and a majority of the directors of the Company who have no direct financial interest with respect to such Affiliate Transaction (other than as a stockholder of the Company, Holdings or Sirius Satellite Radio Inc.) have determined in good faith that the criteria set forth in clause (1) are satisfied and have approved the relevant Affiliate Transaction as evidenced by a resolution of the Board of Directors; and

(3) if such Affiliate Transaction involves an amount in excess of $20 million, the Board of Directors of the Company shall also have received a written opinion from an Independent Qualified Party to the effect that such Affiliate Transaction is fair, from a financial standpoint, to the Company and its Restricted Subsidiaries or is not less favorable to the Company and its Restricted Subsidiaries than could reasonably be expected to be obtained at the time in an arm's-length transaction with a Person who was not an Affiliate or is fair from a financial point of view.

(b) The provisions of the preceding paragraph (a) shall not prohibit:

(1) any Investment (other than a Permitted Investment) or other Restricted Payment, in each case permitted to be made pursuant to (but only to the extent included in the calculation of the amount of Restricted Payments made pursuant to) Section 4.04(a)(3);

(2) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, stock options and stock ownership or other employee benefit plans approved by the Board of Directors of the Company or Sirius Satellite Radio Inc. or entered into in the ordinary course of business;

(3) to the extent permitted by applicable law, loans or advances to employees in the ordinary course of business in accordance with the past practices of the Company or its Restricted Subsidiaries, but in any event not to exceed $2 million in the aggregate outstanding at any one time;

(4) the payment of reasonable and customary fees to, and indemnity provided on behalf of, directors of the Company and its Restricted Subsidiaries who are not employees of the Company or its Restricted Subsidiaries;

(5) any transaction with the Company, a Restricted Subsidiary or joint venture or similar entity which would constitute an Affiliate Transaction solely because the Company or a Restricted Subsidiary owns an equity interest in or otherwise controls such Restricted Subsidiary, joint venture or similar entity;

(6) the issuance or sale of any Capital Stock (other than Disqualified Stock) of the Company to Affiliates of the Company and the granting of registration and other customary rights in connection therewith;

(7) any agreement as in effect on the Issue Date and described in the Offering Memorandum, as these agreements may be amended, modified, supplemented, extended or renewed from time to time (so long as any amendment, modification, supplement, extension or renewal is not less favorable in any material respect to the Company or the Restricted Subsidiaries) and the transactions evidenced thereby;

(8) any transaction by the Company or any Restricted Subsidiary with an Affiliate related to the purchase, sale or distribution of XM radios, subscription to XM services or other products or services in the ordinary course of business including any such transaction with an automotive manufacturer or similar business partner, which has been approved by a majority of the members of the Board of Directors of the Company who have no direct financial interest with respect to such Affiliate Transaction (other than as a stockholder of the Company, Holdings or Sirius Satellite Radio Inc.);

(9) a Holdings-Company Merger or a Company-Sirius Merger; and

(10) any transaction between the Company and a Restricted Subsidiary or between Restricted Subsidiaries.

SECTION 4.08. Limitation on Line of Business. The Company shall not, and shall not permit any Restricted Subsidiary, to engage in any business other than a Related Business.

SECTION 4.09. Limitation on the Sale or Issuance of Capital Stock of Restricted Subsidiaries. The Company:

(1) shall not, and shall not permit any Restricted Subsidiary to, sell, lease, transfer or otherwise dispose of any Capital Stock of any Restricted Subsidiary to any Person (other than the Company or a Wholly Owned Subsidiary), and

(2) shall not permit any Restricted Subsidiary to issue any of its Capital Stock (other than, if necessary, shares of its Capital Stock constituting directors' or other legally required qualifying shares) to any Person (other than to the Company or a Wholly Owned Subsidiary), unless

(A) immediately after giving effect to such issuance, sale or other disposition, neither the Company nor any of its Subsidiaries own any Capital Stock of such Restricted Subsidiary;

(B) such issuance, sale or other disposition is treated as an Asset Disposition and immediately after giving effect to such issuance, sale or other disposition, such Restricted Subsidiary would continue to be a Restricted Subsidiary; or

(C) immediately after giving effect to such issuance, sale or other disposition, such Restricted Subsidiary would no longer constitute a Restricted Subsidiary and any Investment in such Person remaining after giving effect thereto is treated as a new Investment by the Company and such Investment would be permitted to be made under Section 4.04 if made on the date of such issuance, sale or other disposition.

For purposes of this Section 4.09, the creation of a Lien on any Capital Stock of a Restricted Subsidiary to secure Indebtedness of the Company or any of its Restricted Subsidiaries will not be deemed to be a violation of this Section 4.09; *provided, however,* that any sale or other disposition by the secured party of such Capital Stock following foreclosure of its Lien will be subject to this Section 4.09.

SECTION 4.10. Change of Control.

(a) Upon the occurrence of a Change of Control, each Holder shall have the right to require that the Company repurchase such Holder's Notes at a purchase price in cash equal to 101% of the principal amount thereof on the date of purchase plus accrued and unpaid interest, if any, to the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date), in accordance with the terms contemplated in Section 4.10(b).

(b) Within 30 days following any Change of Control, the Company shall mail a notice to each Holder with a copy to the Trustee (the "Change of Control Offer") stating:

(1) that a Change of Control has occurred and that such Holder has the right to require the Company to purchase such Holder's Notes at a purchase price in cash equal to 101% of the principal amount thereof on the date of purchase, plus accrued and unpaid interest, if any, to the date of purchase (subject to the right of Holders of record on the relevant record date to receive interest on the relevant interest payment date);

(2) the circumstances and relevant facts regarding such Change of Control (including information with respect to*pro forma* historical income, cash flow and capitalization, in each case after giving effect to such Change of Control);

(3) the purchase date (which shall be no earlier than 30 days nor later than 60 days from the date such notice is mailed); and

(4) the instructions, as determined by the Company, consistent with this Section 4.10, that a Holder must follow in order to have its Notes repurchased.

(c) Holders electing to have a Note repurchased under this Section 4.10 will be required to surrender the Note, with an appropriate form duly completed, to the Company at the address specified in the notice at least three Business Days prior to the purchase date. Holders will be entitled to withdraw their election if the Trustee or the Company receives not later than one Business Day prior to the purchase date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note which was delivered for purchase by the Holder and a statement that such Holder is withdrawing his election to have such Note purchased.

(d) On the purchase date, all Notes purchased by the Company under this Section 4.10 shall be delivered by the Company to the Trustee for cancellation, and in accordance with Section 4.10(a), the Company shall pay the purchase price plus accrued and unpaid interest, if any, to the Holders entitled thereto.

(e) Notwithstanding the foregoing provisions of this Section 4.10, the Company shall not be required to make a Change of Control Offer following a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4.10 applicable to a Change of Control Offer made by the Company and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer.

(f) The Company shall comply, to the extent applicable, with the requirements of Section 14(e) of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with provisions of this Section, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 4.10 by virtue of its compliance with such securities laws or regulations.

SECTION 4.11. Limitation on Liens. The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, Incur or permit to exist any Lien (the "Initial Lien") of any nature whatsoever on any of its properties (including Capital Stock of a Restricted Subsidiary), whether owned at the Issue Date or thereafter acquired, securing any Indebtedness, other than Permitted Liens, without effectively providing that the Notes shall be secured equally and ratably with (or prior to) the Obligations so secured for so long as such Obligations are so secured.

Any Lien created for the benefit of the Holders of the Notes pursuant to the preceding sentence shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Initial Lien.

SECTION 4.12. Limitation on Sale/Leaseback Transactions. The Company shall not, and shall not permit any Restricted Subsidiary to, enter into any Sale/Leaseback Transaction with respect to any property unless:

(1) the Company or such Restricted Subsidiary would be entitled to (A) Incur Indebtedness in an amount equal to the Attributable Debt with respect to such Sale/Leaseback Transaction pursuant to Section 4.03, and (B) create a Lien on such property securing such Attributable Debt without equally and ratably securing the Notes pursuant to Section 4.11;

(2) the net proceeds received by the Company or any Restricted Subsidiary in connection with such Sale/Leaseback Transaction are at least equal to the fair market value (as determined by the Board of Directors of the Company) of such property; and

(3) the Company applies the proceeds of such transaction in compliance with Section 4.06.

SECTION 4.13. Compliance Certificate. The Company shall deliver to the Trustee within 120 days after the end of each fiscal year of the Company an Officers' Certificate stating that in the course of the performance by the signers of their duties as Officers of the Company they would normally have knowledge of any Default and whether or not the signers know of any Default that occurred during such period. If they do, the certificate shall describe the Default, its status and what action the Company is taking or proposes to take with respect thereto.

The Company shall deliver to the Trustee, as soon as possible and in any event within five Business Days after the Company becomes aware of the occurrence of any Event of Default or an event which, with notice or the lapse of time or both, would constitute an Event of Default, an Officers' Certificate setting forth the details of such Event of Default or default and the action which the Company proposes to take with respect thereto.

SECTION 4.14. Further Instruments and Acts. Upon request of the Trustee, the Company shall execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this Indenture.

SECTION 4.15. Changes in Covenants When Notes Rated Investment Grade.

If on any date following the date of this Indenture:

(a) The Notes are rated Baa3 or better by Moody's and BBB- or better by Standard & Poors (or, if either such entity ceases to rate the Notes for reasons outside of the control of the Company, the equivalent investment grade credit rating from any other "nationally recognized statistical rating organization" within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act selected by the Company as a replacement agency); and

(b) no Default or Event of Default will have occurred and be continuing under this Indenture, then, beginning on that day, the following Sections in this Indenture will no longer be applicable to the Notes: 4.03, 4.04, 4.05, 4.06, 4.07, 4.12(1)(A), 4.12(3) and 5.01(3).

The Company will promptly deliver to the Trustee an Officers' Certificate certifying that the conditions set forth in paragraphs (a) and (b) to the inapplicability of such covenants to the Notes have been complied with.

ARTICLE 5

Successor Company

SECTION 5.01. When Company May Merge or Transfer Assets. The Company shall not consolidate with or merge with or into, or convey, transfer, lease, assign or otherwise dispose of, in one transaction or a series of transactions, directly or indirectly, all or substantially all its assets to, any Person, unless:

(1) the resulting, surviving or transferee Person (the "Successor Company") shall be a Person organized and existing under the laws of the United States of America, any State thereof or the District of Columbia and the Successor Company (if not the Company) shall expressly assume, by an indenture supplemental thereto, executed and delivered to the Trustee, in form satisfactory to the Trustee, all the obligations of the Company under the Notes and this Indenture;

(2) immediately after giving *pro forma* effect to such transaction (and treating any Indebtedness which becomes an obligation of the Successor Company or any Subsidiary as a result of such transaction as having been Incurred by such Successor Company or such Subsidiary at the time of such transaction), no Default shall have occurred and be continuing;

(3) immediately after giving *pro forma* effect to such transaction, the Successor Company would have a Consolidated Leverage Ratio equal to or better than the Company's Consolidated Leverage Ratio immediately prior to the transaction; and

(4) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indenture (if any) comply with this Indenture.

provided, however, that clause (3) will not be applicable to (A) a Restricted Subsidiary consolidating with, merging into or transferring all or part of its properties and assets to the Company (so long as no Capital Stock of the Company is distributed to any Person) or (B) the Company merging with an Affiliate of the Company solely for the purpose and with the sole effect of reincorporating the Company in another jurisdiction. In addition, the Company will not, directly or indirectly, lease all or substantially all of the properties and assets of it and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to any other Person.

This Section 5.01 will not apply to a consolidation, merger, sale, assignment, transfer, conveyance or other disposition of properties or assets between or among the Company and any of its Restricted Subsidiaries or pursuant to the Merger or the Escrow LLC-Company Merger; *provided* that, in the case of the Escrow LLC-Company Merger, the Company, Escrow LLC and the Trustee shall execute a supplemental indenture substantially in the form of Exhibit 3 to this Indenture.

This Section 5.01 will apply to a Holdings-Company Merger or a Company-Sirius Merger, except that for purposes of compliance with the first paragraph of this Section 5.01, clause (3) shall be replaced with the following: (3) immediately after giving *pro forma* effect to such transaction, either (A) the Successor Company would have a Senior Secured Leverage Ratio and a Senior Unsecured Leverage Ratio equal to or better than the Company's Senior Secured Leverage Ratio and Senior Unsecured Leverage Ratio, respectively, immediately prior to the transaction or (B) the Successor Company would be permitted to Incur at least $1.00 of additional Indebtedness pursuant to Section 4.03(a).

For purposes of this Section 5.01, the sale, lease, conveyance, assignment, transfer or other disposition of all or substantially all of the properties and assets of one or more Subsidiaries of the Company, which properties and assets, if held by the Company instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Company on a consolidated basis, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company.

The Successor Company shall be the successor to the Company and shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture, and the predecessor Company, except in the case of a lease, shall be released from the obligation to pay the principal of and interest on the Notes.

ARTICLE 6

Defaults and Remedies

SECTION 6.01. Events of Default. Each of the following is an "Event of Default":

(1) default in any payment of interest on any Note when the same becomes due and payable, and such default continues for a period of 30 days;

(2) (A) a default in the payment of the principal of any Note when the same becomes due and payable at its Stated Maturity, upon optional redemption, upon declaration of acceleration or otherwise, or (B) the failure by the Company to purchase Notes when required pursuant to this Indenture or the Notes;

(3) the failure by the Company to comply with Section 5.01;

(4) the failure by the Company to comply with Section 4.02, 4.03, 4.04, 4.05, 4.06, 4.07, 4.09, 4.10 or 4.11 (other than a failure to purchase Notes when required under Section 4.06 or 4.10) and such failure continues for 30 days after the notice specified in the second to last paragraph of this Section 6.01 below;

(5) the failure by the Company to comply with any of its agreements contained in the Notes or this Indenture (other than those referred to in clause (1), (2), (3) or (4) above (or a failure to give notice described in clause (4) above)) and such failure continues for 60 days after the notice specified in the second to last paragraph of this Section 6.01 below;

(6) Indebtedness of the Company or any Significant Subsidiary (other than with respect to the Notes) is not paid within any applicable grace period after final maturity or is accelerated by the holders thereof because of a default and the total amount of such Indebtedness unpaid or accelerated exceeds $25 million, or its foreign currency equivalent at the time;

(7) the Company or any Significant Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case;

(B) consents to the entry of an order for relief against it in an involuntary case;

(C) consents to the appointment of a Custodian of it or for any substantial part of its property; or

(D) makes a general assignment for the benefit of its creditors;

or takes any comparable action under any foreign laws relating to insolvency;

(8) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company or any Significant Subsidiary in an involuntary case;

(B) appoints a Custodian of the Company or any Significant Subsidiary or for any substantial part of its property; or

(C) orders the winding up or liquidation of the Company or any Significant Subsidiary;

or any similar relief is granted under any foreign laws and the order or decree remains unstayed and in effect for 60 days;

(9) any final, nonappealable judgment or decree for the payment of money which, when taken together with all other final, nonappealable judgments or decrees for the payment of money, causes the aggregate amount of such judgments or decrees entered against the Company or any Significant Subsidiary to exceed $25 million (net of any amounts with respect to which a reputable and creditworthy insurance company has acknowledged liability in writing), remains outstanding for a period of 60 consecutive days following such judgment and is not discharged, waived or stayed; or

(10) any Subsidiary Guarantee of a Significant Subsidiary ceases to be in full force and effect (except as contemplated by the terms of this Indenture) or is declared null and void in a judicial proceeding or any Subsidiary Guarantor that is a Significant Subsidiary denies or disaffirms its obligations under this Indenture or its Subsidiary Guarantee.

The foregoing will constitute Events of Default whatever the reason for any such Event of Default and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

The term "Bankruptcy Law" means Title 11, United States Code, or any similar Federal or state law for the relief of debtors. The term "Custodian" means any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

A Default under clauses (4) or (5) is not an Event of Default until the Trustee or the holders of at least 25% in principal amount of the outstanding Notes notify the Company of the Default and the Company does not cure such Default within the time specified after receipt of such notice. Such notice must specify the Default, demand that it be remedied and state that such notice is a "Notice of Default".

The Company shall deliver to the Trustee, within 30 days after the occurrence thereof, written notice in the form of an Officers' Certificate of any Event of Default under clause (6) and any event which with the giving of notice or the lapse of time would become an Event of Default under clause (4), (5) or (9), its status and what action the Company is taking or proposes to take with respect thereto.

SECTION 6.02. Acceleration. If an Event of Default (other than an Event of Default specified in Section 6.01(7) or (8) with respect to the Company) occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in principal amount of the outstanding Notes by notice to the Company and the Trustee, may declare the principal of and accrued but unpaid interest on all the Notes to be due and payable. Upon such a declaration, such principal and interest shall be due and payable immediately. In the event of a

declaration of acceleration of the Notes because an Event of Default described in Section 6.01(6) with respect to other Senior Indebtedness has occurred and is continuing, the declaration of acceleration of the Notes shall be automatically annulled if the Event of Default or payment default triggering such Event of Default pursuant to Section 6.01(6) shall be remedied or cured by the Company or a Restricted Subsidiary of the Company or waived by the holders of the relevant Indebtedness within 20 days after the declaration of acceleration with respect thereto and if (1) the annulment of the acceleration of the Notes would not conflict with any judgment or decree of a court of competent jurisdiction and (2) all existing Defaults or Events of Default, except nonpayment of principal, premium or interest on the Notes that became due solely because of the acceleration of the Notes, have been cured or waived. If an Event of Default specified in Section 6.01(7) or (8) with respect to the Company occurs, the principal of and interest on all the Notes shall *ipso facto* become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Noteholders. The Holders of a majority in principal amount of the outstanding Notes by notice to the Trustee may rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default have been cured or waived except nonpayment of principal or interest that has become due solely because of acceleration. No such rescission shall affect any subsequent Default or impair any right consequent thereto.

SECTION 6.03. Other Remedies. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of or interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Noteholder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative.

SECTION 6.04. Waiver of Past Defaults. The Holders of a majority in principal amount of the Notes by notice to the Trustee may waive an existing Default and its consequences except (a) a Default in the payment of the principal of or interest on a Note (b) a Default arising from the failure to redeem or purchase any Note when required pursuant to this Indenture or (c) a Default in respect of a provision that under Section 9.02 cannot be amended without the consent of each Noteholder affected. When a Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other Default or impair any consequent right.

SECTION 6.05. Control by Majority. The Holders of a majority in principal amount of the Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or, subject to Section 7.01, that the Trustee determines is unduly prejudicial to the rights of other Noteholders or would involve the Trustee in personal liability; *provided, however,* that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Prior to taking any action hereunder, the Trustee shall be entitled to indemnification satisfactory to it in its sole discretion against all losses and expenses caused by taking or not taking such action.

SECTION 6.06. Limitation on Suits. Except to enforce the right to receive payment of principal, premium (if any) or interest when due, no Noteholder may pursue any remedy with respect to this Indenture or the Notes unless:

(1) the Holder gives to the Trustee written notice stating that an Event of Default is continuing;

(2) the Holders of at least 25% in principal amount of the Notes make a written request to the Trustee to pursue the remedy;

(3) such Holder or Holders offer to the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense;

(4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of security or indemnity; and

(5) the Holders of a majority in principal amount of the Notes do not give the Trustee a direction inconsistent with the request during such 60-day period.

A Noteholder may not use this Indenture to prejudice the rights of another Noteholder or to obtain a preference or priority over another Noteholder. In the event that the Definitive Notes are not issued to any beneficial owner promptly after the Registrar has received a request from the Holder of a Global Note to issue such Definitive Notes to such beneficial owner of its nominee, the Company expressly agrees and acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to this Indenture, the right of such beneficial holder of Notes to pursue such remedy with respect to the portion of the Global Note that represents such beneficial holder's Notes as if such Definitive Notes had been issued.

SECTION 6.07. Rights of Holders to Receive Payment. Notwithstanding any other provision of this Indenture, the right of any Holder to receive payment of principal of and interest on the Notes held by such Holder, on or after the respective due dates expressed in the Notes, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

SECTION 6.08. Collection Suit by Trustee. If an Event of Default specified in Section 6.01(1) or (2) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount then due and owing (together with interest on any unpaid interest to the extent lawful) and the amounts provided for in Section 7.07.

SECTION 6.09. Trustee May File Proofs of Claim. The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Noteholders allowed in any judicial proceedings relative to the Company, its creditors or its property and, unless prohibited by law or applicable regulations,

may vote on behalf of the Holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.07.

Priorities. If the Trustee collects any money or property pursuant to this Article 6, it shall pay out the money or property in the following order:

FIRST: to the Trustee for amounts due under Section 7.07;

SECOND: to Noteholders for amounts due and unpaid on the Notes for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal and interest, respectively; and

THIRD: to the Company.

The Trustee may fix a record date and payment date for any payment to Noteholders pursuant to this Section. At least 15 days before such record date, the Company shall mail to each Noteholder and the Trustee a notice that states the record date, the payment date and amount to be paid.

SECTION 6.10. Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07 or a suit by Holders of more than 10% in aggregate principal amount of the Notes.

SECTION 6.11. Waiver of Stay or Extension Laws. The Company (to the extent it may lawfully do so) shall not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law had been enacted.

SECTION 6.12. Sole Remedy for Failure to Report. Notwithstanding any other provision of this Indenture, the sole remedy for an Event of Default relating to the failure of the Company to comply with its agreements under Section 4.02(a) of this Indenture will for the 180 calendar days after the occurrence of such an Event of Default consist exclusively of the right to receive additional interest ("*Reporting Additional Interest*") on the principal amount of the Notes at a rate equal to 0.50% per annum. This Reporting Additional Interest will be payable in the

same manner and on the same Interest Payment Dates and subject to the same terms as other interest payable under this Indenture. Reporting Additional Interest will accrue on all outstanding Notes from and including the date on which such Event of Default relating to a failure to comply with Section 4.02(a) first occurs to but not including the 180th calendar day thereafter (or such earlier date on which the Event of Default relating to a failure to comply with Section 4.02(a) shall have been cured or waived). On such 180th calendar day (or such earlier date on which the Event of Default relating to a failure to comply with Section 4.02(a) shall have been cured or waived), such Reporting Additional Interest will cease to accrue and on such 180th calendar day the Notes will be subject to acceleration and other remedies as provided in this Article 6 if the Event of Default is continuing. For the avoidance of doubt, the provisions of this Section 6.12 will not affect the rights of Holders in the event of the occurrence of any other Event of Default. For the further avoidance of doubt, the Reporting Additional Interest shall not begin accruing until the Company fails to comply with Section 4.02(a) for a period of 60 calendar days after written notice of such failure is given to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of outstanding Notes.

ARTICLE 7

Trustee

SECTION 7.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent Person would exercise or use under the circumstances in the conduct of such Person's own affairs.

(b) Except during the continuance of an Event of Default:

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(1) this paragraph does not limit the effect of paragraph (a) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05.

(d) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section.

(e) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company.

(f) Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

(g) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds to believe that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(h) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

SECTION 7.02. Rights of Trustee.

(a) The Trustee may conclusively rely on any document believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on the Officers' Certificate or Opinion of Counsel.

(c) The Trustee may act through agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers*provided, however,* that the Trustee's conduct does not constitute willful misconduct or negligence.

(e) The Trustee may consult with counsel, and the advice or opinion of counsel with respect to legal matters relating to this Indenture and the Notes shall be full and complete authorization and protection from liability in respect to any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) Any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution.

(g) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee security or indemnity satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(h) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(i) In no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(j) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(k) the rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder; and

(l) The Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture.

SECTION 7.03. Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar, co-registrar or co-paying agent may do the same with like rights. However, the Trustee must comply with Section 7.10.

SECTION 7.04. Trustee's Disclaimer. The recitals contained herein and in the Notes, except the Trustee's certificates of authentication, shall be taken as the statements of the Company, and the Trustee or any Authenticating Agent assumes no responsibility for their correctness. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes, and it shall not be responsible for any statement of the Company in this Indenture or in any document issued in connection with the sale of the Notes or in the Notes other than the Trustee's certificate of authentication.

SECTION 7.05. Notice of Defaults. If a Default occurs, is continuing and is known to the Trustee, the Trustee shall mail to each Noteholder notice of the Default within 90 days after it occurs. Except in the case of a Default in the payment of principal of or interest on any Note (including payments pursuant to the mandatory redemption provisions of such Note, if any), the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is not opposed to the interest of the Noteholder.

SECTION 7.06. Reports by Trustee to Holders. As promptly as practicable after each May 15 beginning with the May 15 following the date of this Indenture, and in any event prior to July 15 in each year, the Trustee shall mail to each Noteholder a brief report dated as of May 15.

A copy of each report at the time of its mailing to Noteholders shall be filed with the SEC and each stock exchange (if any) on which the Notes are listed. The Company agrees to notify promptly the Trustee whenever the Notes become listed on any stock exchange and of any delisting thereof.

SECTION 7.07. Compensation and Indemnity. The Company shall pay to the Trustee from time to time such compensation for its services as the Company and the Trustee shall from time to time agree in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred or made by it, including costs of collection, in addition to the compensation for its services. Such expenses shall include the reasonable compensation and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts. The Company shall indemnify the Trustee or any predecessor Trustee and their agents against any and all loss, liability or expense (including reasonable attorneys' fees and taxes (other than taxes based upon, measured by or determined by the income of the Trustee)) incurred by it in connection with the administration of this trust and the performance of its duties hereunder including the costs and expenses of defending itself against any claim (whether asserted by the Company, or any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, or in connection with enforcing the provisions of this Section, except to the extent that such loss, damage, claim, liability or expense is due to its own negligence or bad faith. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. The Company shall defend the claim and the Trustee may have separate counsel and the Company

shall pay the fees and expenses of such counsel; *provided, however,* that the Company shall not be required to pay such fees and expenses if it assumes such indemnified parties' defense and, in such indemnified parties' reasonable judgment, there is no conflict of interest between the Company and such parties in connection with such defense. The Company need not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through the Trustee's own willful misconduct, negligence or bad faith.

To secure the Company's payment obligations in this Section, the Trustee shall have a lien prior to the Notes on all money or property held or collected by the Trustee other than money or property held in trust to pay principal of and interest on particular Notes.

The Company's payment obligations pursuant to this Section shall survive the discharge of this Indenture. When the Trustee incurs expenses after the occurrence of a Default specified in Section 6.01(7) or (8) with respect to the Company, the expenses are intended to constitute expenses of administration under the Bankruptcy Law.

SECTION 7.08. Replacement of Trustee. The Trustee may resign at any time by so notifying the Company. The Holders of a majority in principal amount of the Notes may remove the Trustee by so notifying the Trustee and may appoint a successor Trustee. The Company shall remove the Trustee if:

(1) the Trustee fails to comply with Section 7.10;

(2) the Trustee is adjudged bankrupt or insolvent;

(3) a receiver or other public officer takes charge of the Trustee or its property; or

(4) the Trustee otherwise becomes incapable of acting.

If the Trustee resigns, is removed by the Company or by the Holders of a majority in principal amount of the Notes and such Holders do not reasonably promptly appoint a successor Trustee, or if a vacancy exists in the office of Trustee for any reason (the Trustee in such event being referred to herein as the retiring Trustee), the Company shall promptly appoint a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Noteholders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.07.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, at the Company's expense, or the Holders of 10% in principal amount of the Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee fails to comply with Section 7.10, any Noteholder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Notwithstanding the replacement of the Trustee pursuant to this Section, the Company's obligations under Section 7.07 shall continue for the benefit of the retiring Trustee.

SECTION 7.09. Successor Trustee by Merger. If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or transferee corporation without any further act shall be the successor Trustee.

In case at the time such successor or successors by merger, conversion or consolidation to the Trustee shall succeed to the trusts created by this Indenture any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture provided that the certificate of the Trustee shall have.

SECTION 7.10. Eligibility; Disqualification. The Trustee shall have a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition.

SECTION 7.11. Trustee's Application for Instructions from the Company. Any application by the Trustee for written instructions from the Company may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Indenture and the date on and/or after which such action shall be taken or such omission shall be effective. The Trustee shall not be liable for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than three Business Days after the date any officer of the Company actually receives such application, unless any such officer shall have consented in writing to any earlier date) unless prior to taking any such action (or the effective date in the case of an omission), the Trustee shall have received written instructions in response to such application specifying the action to be taken or omitted.

ARTICLE 8

Discharge of Indenture; Defeasance

SECTION 8.01. Discharge of Liability on Notes; Defeasance.

(a) When (1) the Company delivers to the Trustee all outstanding Notes (other than Notes replaced pursuant to Section 2.07) for cancellation or (2) all outstanding Notes have become due and payable, whether at maturity or on a redemption date as a result of the mailing

of a notice of redemption pursuant to Article 3 hereof and the Company or a Subsidiary Guarantor irrevocably deposits with the Trustee funds sufficient to pay at maturity or upon redemption all outstanding Notes, including interest thereon to maturity or such redemption date (other than Notes replaced pursuant to Section 2.07), and if in either case the Company pays all other sums payable hereunder by the Company, then this Indenture shall, subject to Section 8.01(c), cease to be of further effect. The Trustee shall acknowledge satisfaction and discharge of this Indenture on demand of the Company accompanied by an Officers' Certificate and an Opinion of Counsel and at the cost and expense of the Company.

(b) Subject to Sections 8.01(c) and 8.02, the Company at any time may terminate (1) all its obligations under the Notes and this Indenture ("legal defeasance option") or (2) its obligations under Sections 4.02, 4.03, 4.04, 4.05, 4.06, 4.07, 4.08, 4.09, 4.10, 4.11 and 4.12 and the operation of Sections 6.01(4), 6.01(6), 6.01(7), 6.01(8), 6.01(9) and 6.01(10) (but, in the case of Sections 6.01(7) and (8), with respect only to Significant Subsidiaries) and the limitations contained in Section 5.01(3) ("covenant defeasance option"). The Company may exercise its legal defeasance option notwithstanding its prior exercise of its covenant defeasance option.

If the Company exercises its legal defeasance option, (i) payment of the Notes may not be accelerated because of an Event of Default with respect thereto and (ii) the Guarantees in effect at such time of exercise will terminate. If the Company exercises its covenant defeasance option, payment of the Notes may not be accelerated because of an Event of Default specified in Sections 6.01(4), 6.01(6), 6.01(7), 6.01(8), 6.01(9) and 6.01(10) (but, in the case of Sections 6.01(7) and (8), with respect only to Significant Subsidiaries) or because of the failure of the Company to comply with Section 5.01(3).

Upon satisfaction of the conditions set forth herein and upon request of the Company, the Trustee shall acknowledge in writing the discharge of those obligations that the Company terminates.

(c) Notwithstanding clauses (a) and (b) above, the Company's obligations in Sections 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 7.07 and 7.08 and in this Article 8 shall survive until the Notes have been paid in full. Thereafter, the Company's obligations in Sections 7.07, 8.04 and 8.05 shall survive.

SECTION 8.02. Conditions to Defeasance. The Company may exercise its legal defeasance option or its covenant defeasance option only if:

(1) the Company or a Guarantor irrevocably deposits in trust with the Trustee money or U.S. Government Obligations for the payment of principal of and interest on the Notes to redemption or maturity, as the case may be;

(2) the Company delivers to the Trustee a certificate from a nationally recognized firm of independent accountants expressing their opinion that the payments of principal and interest when due and without reinvestment on the deposited U.S. Government Obligations plus any deposited money without investment will provide cash at such times and in such amounts as will be sufficient to pay principal and interest when due on all the Notes to maturity or redemption, as the case may be;

(3) 123 days pass after the deposit is made and during the 123-day period no Default specified in Sections 6.01(7) or (8) with respect to the Company occurs which is continuing at the end of the period;

(4) the deposit does not constitute a default under any other agreement binding on the Company;

(5) the Company delivers to the Trustee an Opinion of Counsel to the effect that the trust resulting from the deposit does not constitute, or is qualified as, a regulated investment company under the Investment Company Act of 1940;

(6) in the case of the legal defeasance option, the Company shall have delivered to the Trustee an Opinion of Counsel stating that (A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling, or (B) since the date of this Indenture there has been a change in the applicable Federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Noteholders will not recognize income, gain or loss for Federal income tax purposes as a result of such defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such defeasance had not occurred;

(7) in the case of the covenant defeasance option, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Noteholders will not recognize income, gain or loss for Federal income tax purposes as a result of such covenant defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred;

(8) the Company delivers to the Trustee an Opinion of Counsel in the jurisdiction or organization of the Company (if other than the United States) to the effect that (A) Holders will not recognize income, gain or loss income tax purposes of such jurisdiction as a result of such deposit and defeasance, and will be subject to income tax of such jurisdiction on the same amounts, and in the same manner and at the same times as would have been the case if such deposit and defeasance, had not occurred; and

(9) the Company delivers to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent to the defeasance and discharge of the Notes as contemplated by this Article 8 have been complied with.

Before or after a deposit, the Company may make arrangements satisfactory to the Trustee for the redemption of Notes at a future date in accordance with Article 3.

SECTION 8.03. Application of Trust Money. The Trustee shall hold in trust money or U.S. Government Obligations (including proceeds thereof) deposited with it pursuant

to this Article 8. It shall apply the deposited money and the money from U.S. Government Obligations through the Paying Agent and in accordance with this Indenture to the payment of principal of and interest on the Notes.

SECTION 8.04. Repayment to Company. Each of the Trustee and the Paying Agent shall promptly turn over to the Company upon request any excess money U.S. Government Obligations or securities held by them at any time.

Subject to any applicable abandoned property law, the Trustee and the Paying Agent shall pay to the Company upon request any money held by them for the payment of principal or interest that remains unclaimed for two years, and, thereafter, Noteholders entitled to the money must look to the Company for payment as general creditors.

SECTION 8.05. Indemnity for Government Obligations. The Company shall pay and shall indemnify the Trustee against any tax, fee or other charge imposed on or assessed against deposited U.S. Government Obligations or the principal and interest received on such U.S. Government Obligations.

SECTION 8.06. Reinstatement. If the Trustee or Paying Agent is unable to apply any money or U.S. Government Obligations in accordance with this Article 8 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Indenture, and the Notes so discharged or defeased shall be revived and reinstated as though no deposit had occurred pursuant to this Article 8 until such time as the Trustee or Paying Agent is permitted to apply all such money or U.S. Government Obligations in accordance with this Article 8; *provided, however,* that, if the Company has made any payment of interest on or principal of any Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or U.S. Government Obligations held by the Trustee or Paying Agent.

ARTICLE 9

Amendments

SECTION 9.01. Without Consent of Holders. The Company, the Guarantors and the Trustee may amend this Indenture, the Notes and the Guarantees without notice to or consent of any Noteholder:

(1) to cure any ambiguity, omission, defect or inconsistency;

(2) to comply with Article 5;

(3) to provide for uncertificated Notes in addition to or in place of certificated Notes; *provided, however,* that the uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Code or in a manner such that the uncertificated Notes are described in Section 163(f)(2)(B) of the Code;

(4) to add Guarantees with respect to the Notes, including any Subsidiary Guarantees, or to secure the Notes;

(5) to add to the covenants of the Company or any of its Restricted Subsidiaries for the benefit of the Holders or to surrender any right or power herein conferred upon the Company or any of its Restricted Subsidiaries;

(6) to make any change that does not adversely affect the rights of any Noteholder;

(7) to add Guarantees with respect to the Notes or release a Subsidiary Guarantor upon its designation as an Unrestricted Subsidiary*provided, however*, that the designation is in accord with the applicable provisions of this Indenture;

(8) to release a Subsidiary Guarantor from its obligations under its Subsidiary Guarantee or this Indenture in accordance with the applicable provisions of this Indenture;

(9) to conform the text of this Indenture, the Notes or the Subsidiary Guarantees to any provision in the Offering Memorandum under the heading "Description of Notes"; or

(10) to make any amendment to the provisions of this Indenture relating to the transfer and legending of Notes;*provided, however,* that (a) compliance with this Indenture as so amended would not result in Notes being transferred in violation of the Securities Act or any other applicable securities law and (b) such amendment does not materially and adversely affect the rights of Holders to transfer Notes.

After an amendment under this Section becomes effective, the Company shall mail to Noteholders a notice briefly describing such amendment. The failure to give such notice to all Noteholders, or any defect therein, shall not impair or affect the validity of an amendment under this Section.

SECTION 9.02. With Consent of Holders. The Company, the Guarantors and the Trustee may amend this Indenture, the Notes and the Guarantees with the written consent of the Holders of at least a majority in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes) and any past default or compliance with any provisions may also be waived with the consent of the Holders of at least a majority in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes). However, without the consent of each Noteholder affected thereby, an amendment or waiver may not, among other things:

(1) reduce the amount of Notes whose Holders must consent to an amendment;

(2) reduce the rate of or extend the time for payment of interest on any Note;

(3) reduce the principal of or change the Stated Maturity of any Note;

(4) reduce the amount payable upon the redemption of any Note or change the time at which any Note may be redeemed as described in Article 3 hereto or paragraph 5 of the Notes;

(5) make any Note payable in money other than that stated in the Note;

(6) make any changes in the ranking or priority of any Note that would adversely affect the Noteholders;

(7) make any change in Section 6.04 or 6.07 or this second sentence of this Section;

(8) impair the right of any holder of the Notes to receive payment of principal of and interest on such holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such holder's Notes; or

(9) release any Guarantor from its Guarantee under this Indenture except in accordance with this Indenture.

It shall not be necessary for the consent of the Holders under this Section to approve the particular form of any proposed amendment, but it shall be sufficient if such consent approves the substance thereof.

After an amendment under this Section 9.02 becomes effective, the Company shall mail to Noteholders a notice briefly describing such amendment. The failure to give such notice to all Noteholders, or any defect therein, shall not impair or affect the validity of an amendment under this Section 9.02.

SECTION 9.03. Revocation and Effect of Consents and Waivers. A consent to an amendment or a waiver by a Holder of a Note shall bind the Holder and every subsequent Holder of that Note or portion of the Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent or waiver is not made on the Note. However, any such Holder or subsequent Holder may revoke the consent or waiver as to such Holder's Note or portion of the Note if the Trustee receives the notice of revocation before the date the amendment or waiver becomes effective. After an amendment or waiver becomes effective, it shall bind every Noteholder. An amendment or waiver becomes effective upon (i) receipt by the Company or the Trustee of consents by the Holders of the requisite principal amount of securities, (ii) satisfaction of conditions to effectiveness as set forth in this Indenture and any indenture supplemental hereto containing such amendment or waiver and (iii) the execution of such amendment or waiver by the Trustee.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Noteholders entitled to give their consent or take any other action described above or required or permitted to be taken pursuant to this Indenture. If a record date is fixed, then notwithstanding the immediately preceding paragraph, those Persons who were Noteholders

at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date.

SECTION 9.04. Notation on or Exchange of Notes. If an amendment, supplement or waiver changes the terms of a Note, the Trustee or the Company may require the Holder of the Note to deliver it to the Trustee. The Trustee may place an appropriate notation on the Note regarding the changed terms and return it to the Holder. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the Note shall issue and the Trustee shall authenticate a new Note that reflects the changed terms. Failure to make the appropriate notation or to issue a new Note shall not affect the validity of such amendment.

SECTION 9.05. Trustee To Sign Amendments. The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article 9 if the amendment does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may but need not sign it. In signing such amendment the Trustee shall be entitled to receive indemnity reasonably satisfactory to it and to receive, and (subject to Section 7.01) shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that such amendment, supplement or waiver is authorized or permitted by this Indenture.

SECTION 9.06. Payment for Consent. Neither the Company nor any Affiliate of the Company shall, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any Holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless such consideration is offered to all Holders and is paid to all Holders that so consent, waive or agree to amend in the time frame set forth in solicitation documents relating to such consent, waiver or agreement.

ARTICLE 10

Guarantee

SECTION 10.01. Guarantee.

(a) Subject to this Article 10, upon consummation of the Escrow LLC-Company Merger, each of the Guarantors shall, jointly and severally, unconditionally guarantee to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that:

(1) the principal of, premium and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(2) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

(b) The Guarantors hereby agree that their obligations hereunder are unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenant that this Note Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

(c) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or such Holder, this Note Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.

(d) Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (1) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any declaration of acceleration of such obligations as provided in Article 6 hereof, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Note Guarantee. The Guarantors will have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under this Note Guarantee.

SECTION 10.02. Limitation on Guarantor Liability. Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that this Note Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Note Guarantee.

To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the Obligations of such Guarantor will be limited to the maximum amount that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the Obligations of such other Guarantor under this Article 10, result in the Obligations of such Guarantor under its Note Guarantee not constituting a fraudulent transfer or conveyance.

SECTION 10.03. Delivery of Note Guarantee.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, will constitute due delivery of the Note Guarantee set forth in this Indenture or any supplemental indenture on behalf of the Guarantors. Neither the Company nor any Guarantor shall be required to make a notation on the Notes to reflect any Note Guarantee or any such release, termination or discharge thereof.

In the event that the Company or any of its Restricted Subsidiaries creates or acquires any Material Subsidiary after the date of this Indenture, if required by Section 10.06 hereof, the Company will cause such Material Subsidiary to comply with the provisions of Section 10.06 hereof and the other Sections of this Article 10, to the extent applicable.

SECTION 10.04. Guarantors May Consolidate, etc., on Certain Terms.

Except as otherwise provided in Section 10.05 hereof, no Person that becomes a Guarantor may at any time on or after the date of the Escrow LLC-Company Merger sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person, other than the Company or another Guarantor, unless:

(a) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(b) either:

(1) subject to Section 10.05 hereof, the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger unconditionally assumes all the Obligations of that Guarantor under this Indenture and its Note Guarantee on the terms set forth herein, pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee; or

(2) the Net Available Cash of such sale or other disposition is applied in accordance with the applicable provisions of this Indenture, including without limitation, Section 4.06 hereof.

In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor Person pursuant to clause (b)(1) above, by supplemental indenture, executed

and delivered to the Trustee and satisfactory in form to the Trustee, of this Note Guarantee and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor Person shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. All Note Guarantees so issued will in all respects have the same legal rank and benefit under this Indenture as the Note Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Note Guarantees had been issued at the date of the execution hereof.

Except as set forth in Articles 4 and 5 hereof, and notwithstanding clauses (b)(1) and (2) above, nothing contained in this Indenture or in any of the Notes will prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or will prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

The Trustee, subject to the provisions of Section 11.03 hereof, will receive an Officers' Certificate and an Opinion of Counsel as conclusive evidence that any such consolidation, merger, sale or conveyance, and any such assumption of Obligations, comply with the provisions of this Section 10.04 hereof. Such certificate and opinion will comply with the provisions of Section 11.04.

SECTION 10.05. Releases

(a) In the event of any sale or other disposition of all or substantially all of the assets of any Guarantor, by way of merger, consolidation or otherwise, or a sale or other disposition of all of the Capital Stock of any Guarantor, in each case to a Person that is not (either before or after giving effect to such transactions) the Company or a Restricted Subsidiary of the Company, then such Guarantor (in the event of a sale or other disposition, by way of merger, consolidation or otherwise, of all of the Capital Stock of such Guarantor) or the corporation acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such Guarantor) will be released and relieved of any obligations under its Note Guarantee; *provided* that the Net Available Cash of such sale or other disposition is applied in accordance with the applicable provisions of this Indenture, including without limitation Section 4.06 hereof. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of this Indenture, including without limitation Section 4.06 hereof, the Trustee will execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Note Guarantee.

(b) Upon designation of any Guarantor as an Unrestricted Subsidiary in accordance with the terms of this Indenture, such Guarantor will be released and relieved of any obligations under its Note Guarantee.

(c) If the legal defeasance option is exercised or this Indenture is otherwise discharged in accordance with Article 8 hereof, each Guarantor will be released and relieved of any obligations under its Note Guarantee.

Any Guarantor not released from its obligations under its Note Guarantee as provided in this Section 10.05 will remain liable for the full amount of principal of and interest and premium, if any, on the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article 10.

SECTION 10.06. Addition of Subsidiary Guarantors.

(a) The Company shall cause any Person that becomes a Material Subsidiary of the Company at any time on or after the date of the Escrow LLC-Company Merger to reasonably promptly become a Subsidiary Guarantor hereunder; *provided, however,* that if the Material Subsidiary is the FCC License Subsidiary, it shall become a Subsidiary Guarantor hereunder only to the extent permitted under applicable law, rules or regulations, including rules and regulations of the Federal Communications Commission.

(b) If the Company is required to cause a Subsidiary to become a Subsidiary Guarantor pursuant to paragraph (a) of this Section 10.06, the Company will cause such Subsidiary to (1) execute and deliver to the Trustee a supplemental indenture substantially in the form of Exhibit 2 hereto pursuant to which such Subsidiary will unconditionally Guarantee all of the Company's Obligations under the Notes on the terms set forth in this Indenture and (2) deliver to the Trustee an Opinion of Counsel reasonably satisfactory to the Trustee that such supplemental indenture has been duly executed and delivered by such Subsidiary; *provided however,* that if the Material Subsidiary is the FCC License Subsidiary, the supplemental indenture shall state that the FCC License Subsidiary shall Guarantee all of the Company's Obligations under the Notes on the terms set forth in this Indenture only to the extent permitted under applicable law, rules or regulations, including rules and regulations of the Federal Communications Commission.

ARTICLE 11

Miscellaneous

SECTION 11.01. Notices. Any notice or communication shall be in writing (which may be by facsimile) and delivered in person or mailed by first-class mail addressed as follows:

if to the Company:

XM Escrow LLC, c/o
XM Satellite Radio Inc.
1500 Eckington Place, NE
Washington, DC 20002-2194
Attention: General Counsel

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
4 Times Square
New York, NY 10036
Attention: David J. Goldschmidt, Esq.

and

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, NY 10017
Attention: Gary Sellers, Esq.

if to the Trustee:

The Bank of New York Mellon
101 Barclay Street, Floor 8 West
New York, NY 10286
Attention: Corporate Trust Administration

The Company or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

Any notice or communication mailed to a Noteholder shall be mailed to the Noteholder at the Noteholder's address as it appears on the registration books of the Registrar and shall be sufficiently given if so mailed within the time prescribed.

Failure to mail a notice or communication to a Noteholder or any defect in it shall not affect its sufficiency with respect to other Noteholders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

SECTION 11.02. Communication by Holders with Other Holders. Noteholders may communicate with other Noteholders with respect to their rights under this Indenture or the Notes.

SECTION 11.03. Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take or refrain from taking any action under this Indenture, the Company shall furnish to the Trustee:

(1) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

SECTION 11.04. Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a covenant or condition provided for in this Indenture shall include:

(1) a statement that the individual making such certificate or opinion has read such covenant or condition;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether or not, in the opinion of such individual, such covenant or condition has been complied with;*provided, however,* that with respect to matters of fact, an Opinion of Counsel may rely on an Officers' Certificate or certificates of public officials.

SECTION 11.05. When Notes Disregarded. In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company shall be disregarded and deemed not to be outstanding, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which a Responsible Officer of the Trustee actually knows are so owned shall be so disregarded. Also, subject to the foregoing, only Notes outstanding at the time shall be considered in any such determination.

SECTION 11.06. Rules by Trustee, Paying Agent and Registrar. The Trustee may make reasonable rules for action by or a meeting of Noteholders. The Registrar and the Paying Agent may make reasonable rules for their functions.

SECTION 11.07. Legal Holidays. If a payment date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on any amount that would have been otherwise payable on such payment date if it were not a legal holiday for the intervening period. If a regular record date is a Legal Holiday, the record date shall not be affected.

SECTION 11.08. Governing Law. This Indenture and the Notes shall be governed by, and construed in accordance with, the laws of the State of New York.

SECTION 11.09. No Recourse Against Others. No director, officer, employee or stockholder, as such, of the Company, any of its Restricted Subsidiaries or any Guarantor shall have any liability for any obligations of the Company, any of its Restricted Subsidiaries or any Guarantor under the Notes or this Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Noteholder shall waive and release all such liability. The waiver and release shall be part of the consideration for the issue of the Notes.

SECTION 11.10. Successors. All agreements of the Company in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

SECTION 11.11. Multiple Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Indenture.

SECTION 11.12. Table of Contents; Headings. The table of contents, cross-reference sheet and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

SECTION 11.13. Waiver of Jury Trial. EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY.

SECTION 11.14. Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SECTION 11.15. Concerning the Escrow Agreement. Each Holder of a Note, by accepting a Note, shall be deemed to have authorized and directed the Trustee to execute and deliver the Escrow Agreement.

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

XM ESCROW LLC

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

THE BANK OF NEW YORK MELLON

By /s/ Remo J. Reale
Name: Remo J. Reale
Title: Vice President

RULE 144A/REGULATION S/IAI APPENDIX

PROVISIONS RELATING TO THE NOTES,

1. Definitions.

1.1. Definitions.

For the purposes of this Appendix the following terms shall have the meanings indicated below:

"Definitive Note" means a certificated Note bearing, if required, the appropriate restricted securities legend set forth in Section 2.3(d).

"Depository" means The Depository Trust Company, its nominees and their respective successors.

"Distribution Compliance Period", with respect to any Notes, means the period of 40 consecutive days beginning on and including the later of (i) the day on which such Notes are first offered to Persons other than distributors (as defined in Regulation S under the Securities Act) in reliance on Regulation S and (ii) the issue date with respect to such Notes.

"IAI" means an institutional "accredited investor", as defined in Rule 501(a)(1), (2), (3) and (7) of Regulation D under the Securities Act.

"Initial Purchasers" means (1) with respect to the Notes issued on the Issue Date, J.P. Morgan Securities Inc., Morgan Stanley & Co. Incorporated and UBS Securities LLC and (2) with respect to each issuance of Additional Notes, the Persons purchasing such Additional Notes under the related Purchase Agreement.

"Notes" means the 13% Senior Notes due 2014.

"Notes Custodian" means the custodian with respect to a Global Note (as appointed by the Depository), or any successor Person thereto and shall initially be the Trustee.

"Purchase Agreement" means (1) with respect to the Notes issued on the Issue Date, the Purchase Agreement dated July 31, 2008, among the Company and the Initial Purchasers, and (2) with respect to each issuance of Additional Notes, the purchase agreement or underwriting agreement among the Company and the Persons purchasing such Additional Notes.

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Rule 144A Notes" means all Notes offered and sold to QIBs in reliance on Rule 144A.

"Securities Act" means the Securities Act of 1933.

"Transfer Restricted Notes" means Notes that bear or are required to bear the legend relating to restrictions on transfer relating to the Securities Act set forth in Section 2.3(d) hereto.

1.2. Other Definitions

Term	Defined In Section:
"Agent Members"	2.1(b)
"Global Notes"	2.1(a)
"IAI Global Note"	2.1(a)
"Regulation S"	2.1(a)
"Regulation S Global Note"	2.1(a)
"Rule 144A"	2.1(a)
"Rule 144A Global Note"	2.1(a)

2. The Notes.

2.1. (a) Form and Dating. The Notes will be offered and sold by the Company pursuant to a Purchase Agreement. The Notes will be resold initially only to (i) QIBs in reliance on Rule 144A under the Securities Act ("Rule 144A") and (ii) Persons other than U.S. Persons (as defined in Regulation S) in reliance on Regulation S under the Securities Act ("Regulation S"). The Notes may thereafter be transferred to, among others, QIBs, IAIs and purchasers in reliance on Regulation S, subject to the restrictions on transfer set forth herein. The (A) Notes initially resold pursuant to Rule 144A shall be issued initially in the form of one or more permanent global Notes in definitive, fully registered form (collectively, the "Rule 144A Global Note"); (B) Notes initially resold to IAIs shall be issued initially in the form of one or more permanent global Notes in definitive, fully registered form (collectively, the "IAI Global Note"); and (C) Notes initially resold pursuant to Regulation S shall be issued initially in the form of one or more temporary global notes in fully registered form (collectively, the "Temporary Regulation S Global Note"), and, after completion of the global note exchange described below for permanent Regulation S global notes in registered, global form (collectively, the "Regulation S Global Note"), and in each of cases (A), (B) and (C) without interest coupons and with the global securities legend and the applicable restricted securities legends set forth in Exhibit 1 hereto, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Notes Custodian and registered in the name of the Depository or a nominee of the Depository, duly executed by the Company and authenticated by the Trustee as provided in this Indenture. Except as set forth in this Section 2.1(a), beneficial ownership interests in the Regulation S Global Note will not be exchangeable for interests in the Rule 144A Global Note, the IAI Global Note, or any other Note prior to the expiration of the Distribution Compliance Period and then, after the expiration of the Distribution Compliance Period, may be exchanged for interests in a Rule 144A Global Note or an IAI Global Note only upon certification in form reasonably satisfactory to the Trustee that (i) beneficial ownership interests in such Regulation S Global Note are owned either by non-U.S. persons or U.S. persons who purchased such interests in a transaction that did not require registration under the Securities Act and (ii) in the case of an exchange for an IAI Global Note, certification that the interest in the Regulation S Global Note is

being transferred to an institutional "accredited investor" under the Securities Act that is an institutional accredited investor acquiring the securities for its own account or for the account of an institutional accredited investor.

Beneficial interests in Regulation S Global Notes or IAI Global Notes may be exchanged for interests in Rule 144A Global Notes if (1) such exchange occurs in connection with a transfer of Notes in compliance with Rule 144A and (2) the transferor of the beneficial interest in the Regulation S Global Note or the IAI Global Note, as applicable, first delivers to the Trustee a written certificate (in a form satisfactory to the Trustee) to the effect that the beneficial interest in the Regulation S Global Note or the IAI Global Note, as applicable, is being transferred to a Person (a) who the transferor reasonably believes to be a QIB, (b) purchasing for its own account or the account of a QIB in a transaction meeting the requirements of Rule 144A, and (c) in accordance with all applicable securities laws of the States of the United States and other jurisdictions.

Beneficial interests in Regulation S Global Notes and Rule 144A Global Notes may be exchanged for an interest in IAI Global Notes if (1) such exchange occurs in connection with a transfer of the securities in compliance with an exemption under the Securities Act and (2) the transferor of the Regulation S Global Note or Rule 144A Global Note, as applicable, first delivers to the Trustee a written certificate (substantially in the form of Exhibit 2) to the effect that (A) the Regulation S Global Note or Rule 144A Global Note, as applicable, is being transferred (a) to an "accredited investor" within the meaning of 501(a)(1), (2), (3) and (7) under the Securities Act that is an institutional investor acquiring the securities for its own account or for the account of such an institutional accredited investor, in each case in a minimum principal amount of the securities of $250,000, for investment purposes and not with a view to or for offer or sale in connection with any distribution in violation of the Securities Act and (B) in accordance with all applicable securities laws of the States of the United States and other jurisdictions.

Beneficial interests in a Rule 144A Global Note or an IAI Global Note may be transferred to a Person who takes delivery in the form of an interest in a Temporary Regulation S Global Note or a Regulation S Global Note (as the case may be), whether before or after the expiration of the Distribution Compliance Period, only if the transferor first delivers to the Trustee a written certificate (in the form provided in this Indenture) to the effect that such transfer is being made in accordance with Rule 903 or 904 of Regulation S or Rule 144 (as applicable).

The Rule 144A Global Note, the IAI Global Note, the Temporary Regulation S Global Note or and the Regulation S Global Note are collectively referred to herein as "Global Notes". The aggregate principal amount of the Global Notes may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee as hereinafter provided.

(b) Book-Entry Provisions. This Section 2.1(b) shall apply only to a Global Note deposited with or on behalf of the Depository.

The Company shall execute and the Trustee shall, in accordance with this Section 2.1(b) and Section 2.2, authenticate and deliver initially one or more Global Notes that (a) shall be registered in the name of the Depository for such Global Note or Global Notes or the nominee of such Depository and (b) shall be delivered by the Trustee to such Depository or pursuant to such Depository's instructions or held by the Trustee as custodian for the Depository.

Members of, or participants in, the Depository ("Agent Members") shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depository or by the Trustee as the custodian of the Depository or under such Global Note, and the Company, the Trustee and any agent of the Company or the Trustee shall be entitled to treat the Depository as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices of such Depository governing the exercise of the rights of a holder of a beneficial interest in any Global Note.

(c) Definitive Notes. Except as provided in this Section 2.1 or Section 2.3 or 2.4, owners of beneficial interests in Global Notes shall not be entitled to receive physical delivery of Definitive Notes.

2.2. Authentication. The Trustee shall authenticate and deliver: (1) on the Issue Date, 13% Senior Notes due 2014 with an aggregate principal amount of $778,500,000 and (2) any Additional Notes for an original issue in an aggregate principal amount specified in the written order of the Company pursuant to Section 2.02 of this Indenture, in each case upon a written order of the Company signed by two Officers or by an Officer and either an Assistant Treasurer or an Assistant Secretary of the Company. Such order shall specify the amount of the Notes to be authenticated and the date on which the original issue of Notes is to be authenticated.

2.3. Transfer and Exchange. (a) Transfer and Exchange of Definitive Notes. When Definitive Notes are presented to the Registrar with a request:

(i) to register the transfer of such Definitive Notes; or

(ii) to exchange such Definitive Notes for an equal principal amount of Definitive Notes of other authorized denominations,

the Registrar shall register the transfer or make the exchange as requested if its reasonable requirements for such transaction are met;*provided, however,* that the Definitive Notes surrendered for transfer or exchange:

(1) shall be duly endorsed or accompanied by a written instrument of transfer in form reasonably satisfactory to the Company and the Registrar, duly executed by the Holder thereof or its attorney duly authorized in writing; and

(2) if such Definitive Notes are required to bear a restricted securities legend, they are being transferred or exchanged pursuant to an effective

registration statement under the Securities Act, pursuant to Section 2.3(b) or pursuant to clause (A), (B) or (C) below, and are accompanied by the following additional information and documents, as applicable:

(A) if such Definitive Notes are being delivered to the Registrar by a Holder for registration in the name of such Holder, without transfer, a certification from such Holder to that effect; or

(B) if such Definitive Notes are being transferred to the Company, a certification to that effect; or

(C) if such Definitive Notes are being transferred (x) pursuant to an exemption from registration in accordance with Rule 144A, Regulation S or Rule 144 under the Securities Act; or (y) in reliance upon another exemption from the requirements of the Securities Act: (i) a certification to that effect (in the form set forth on the reverse of the Note) and (ii) if the Company so requests, an opinion of counsel or other evidence reasonably satisfactory to it as to the compliance with the restrictions set forth in the legend set forth in Section 2.3(d)(i).

(b) Restrictions on Transfer of a Definitive Note for a Beneficial Interest in a Global Note A Definitive Note may not be exchanged for a beneficial interest in a Rule 144A Global Note, an IAI Global Note or a Regulation S Global Note except upon satisfaction of the requirements set forth below. Upon receipt by the Trustee of a Definitive Note, duly endorsed or accompanied by appropriate instruments of transfer, in form satisfactory to the Trustee, together with:

(i) certification, in the form set forth on the reverse of the Note, that such Definitive Note is either (A) being transferred to a QIB in accordance with Rule 144A, (B) being transferred to an IAI or (C) being transferred after expiration of the Distribution Compliance Period by a Person who initially purchased such Note in reliance on Regulation S to a buyer who elects to hold its interest in such Note in the form of a beneficial interest in the Regulation S Global Note; and

(ii) written instructions directing the Trustee to make, or to direct the Notes Custodian to make, an adjustment on its books and records with respect to such Rule 144A Global Note (in the case of a transfer pursuant to clause (b)(i)(A)), IAI Global Note (in the case of a transfer pursuant to clause (b)(1)(B)) or Regulation S Global Note (in the case of a transfer pursuant to clause (b)(i)(C)) to reflect an increase in the aggregate principal amount of the Notes represented by the Rule 144A Global Note, IAI Global Note or Regulation S Global Note, as applicable, such instructions to contain information regarding the Depository account to be credited with such increase,

(iii) then the Trustee shall cancel such Definitive Note and cause, or direct the Notes Custodian to cause, in accordance with the standing instructions and procedures existing between the Depository and the Notes Custodian, the

aggregate principal amount of Notes represented by the Rule 144A Global Note, IAI Global Note or Regulation S Global Note, as applicable, to be increased by the aggregate principal amount of the Definitive Note to be exchanged and shall credit or cause to be credited to the account of the Person specified in such instructions a beneficial interest in the Rule 144A Global Note, IAI Global Note or Regulation S Global Note, as applicable, equal to the principal amount of the Definitive Note so canceled. If no Rule 144A Global Notes, IAI Global Notes or Regulation S Global Notes, as applicable, are then outstanding, the Company shall issue and the Trustee shall authenticate, upon written order of the Company in the form of an Officers' Certificate of the Company, a new Rule 144A Global Note, IAI Global Note or Regulation S Global Note, as applicable, in the appropriate principal amount.

(c) Transfer and Exchange of Global Notes. (i) The transfer and exchange of Global Notes or beneficial interests therein shall be effected through the Depository, in accordance with this Indenture (including applicable restrictions on transfer set forth herein, if any) and the procedures of the Depository therefor. A transferor of a beneficial interest in a Global Note shall deliver to the Registrar a written order given in accordance with the Depository's procedures containing information regarding the participant account of the Depository to be credited with a beneficial interest in the Global Note. The Registrar shall, in accordance with such instructions instruct the Depository to credit to the account of the Person specified in such instructions a beneficial interest in the Global Note and to debit the account of the Person making the transfer the beneficial interest in the Global Note being transferred.

(ii) If the proposed transfer is a transfer of a beneficial interest in one Global Note to a beneficial interest in another Global Note, the Registrar shall reflect on its books and records the date and an increase in the principal amount of the Global Note to which such interest is being transferred in an amount equal to the principal amount of the interest to be so transferred, and the Registrar shall reflect on its books and records the date and a corresponding decrease in the principal amount of the Global Note from which such interest is being transferred.

(iii) Notwithstanding any other provisions of this Appendix (other than the provisions set forth in Section 2.4), a Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository.

(iv) In the event that a Global Note is exchanged for Definitive Notes pursuant to Section 2.4 of this Appendix, such Notes may be exchanged only in accordance with such procedures as are substantially consistent with the provisions of this Section 2.3 (including the certification requirements set forth on the reverse of the Notes intended to ensure that such transfers comply with Rule 144A, Regulation S or another applicable exemption under the Securities Act, as the case may be) and such other procedures as may from time to time be adopted by the Company.

(d) Legend. (i) Except as permitted by the following paragraphs (ii), (iii) and (iv), each Note certificate evidencing the Global Notes (and all Notes issued in exchange therefor or in substitution thereof), in the case of Notes offered otherwise than in reliance on Regulation S shall bear a legend in substantially the following form:

THE SECURITY (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THE SECURITY EVIDENCED HEREBY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE SECURITY EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT. THE HOLDER OF THE SECURITY EVIDENCED HEREBY AGREES FOR THE BENEFIT OF THE ISSUER THAT (A) SUCH SECURITY MAY BE RESOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY (1) (a) IN THE UNITED STATES TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (b) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 904 UNDER THE SECURITIES ACT, (c) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT, (d) TO AN INSTITUTIONAL "ACCREDITED INVESTOR" (AS DEFINED IN RULE 501 (a) (1), (2), (3) OR (7) OF THE SECURITIES ACT (AN "INSTITUTIONAL ACCREDITED INVESTOR")) THAT, PRIOR TO SUCH TRANSFER, FURNISHES THE TRUSTEE A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS (THE FORM OF WHICH CAN BE OBTAINED FROM THE TRUSTEE) AND, IF SUCH TRANSFER IS IN RESPECT OF AN AGGREGATE PRINCIPAL AMOUNT OF NOTES LESS THAN $250,000, AN OPINION OF COUNSEL ACCEPTABLE TO XM SATELLITE RADIO INC. THAT SUCH TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT OR (e) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF XM SATELLITE RADIO INC. SO REQUESTS), (2) TO XM SATELLITE RADIO INC. OR (3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER FROM IT OF THE SECURITY EVIDENCED HEREBY OF THE RESALE RESTRICTIONS SET FORTH IN (A) ABOVE.

Each Definitive Note shall also bear the following additional legend:

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER

INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

(ii) Upon any sale or transfer of a Transfer Restricted Note (including any Transfer Restricted Note represented by a Global Note) pursuant to Rule 144 under the Securities Act, the Registrar shall permit the transferee thereof to exchange such Transfer Restricted Note for a certificated Note that does not bear the legend set forth above and rescind any restriction on the transfer of such Transfer Restricted Note, if the transferor thereof certifies in writing to the Registrar that such sale or transfer was made in reliance on Rule 144 (such certification to be in the form set forth on the reverse of the Note), *provided, however,* that prior to the expiration of the Distribution Compliance Period, transfers of beneficial interests in the Temporary Regulation S Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser or a "distributor" (as defined in Rule 902(d) of Regulation S)).

(e) Cancellation or Adjustment of Global Note. At such time as all beneficial interests in a Global Note have either been exchanged for Definitive Notes, redeemed, purchased or canceled, such Global Note shall be returned to the Depository for cancellation or retained and canceled by the Trustee. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for certificated Notes, redeemed, purchased or canceled, the principal amount of Notes represented by such Global Note shall be reduced and an adjustment shall be made on the books and records of the Trustee (if it is then the Notes Custodian for such Global Note) with respect to such Global Note, by the Trustee or the Notes Custodian, to reflect such reduction.

(f) No Obligation of the Trustee.

(i) The Trustee shall have no responsibility or obligation to any beneficial owner of a Global Note, a member of, or a participant in the Depository or other Person with respect to the accuracy of the records of the Depository or its nominee or of any participant or member thereof, with respect to any ownership interest in the Notes or with respect to the delivery to any participant, member, beneficial owner or other Person (other than the Depository) of any notice (including any notice of redemption) or the payment of any amount, under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders under the Notes shall be given or made only to or upon the order of the registered Holders (which shall be the Depository or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through the Depository subject to the applicable rules and procedures of the Depository. The Trustee may conclusively rely and shall be fully protected in relying upon information furnished by the Depository with respect to its members, participants and any beneficial owners.

(ii) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depository participants, members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

2.4. Definitive Notes.

(a) A Global Note deposited with the Depository or with the Trustee as Notes Custodian for the Depository pursuant to Section 2.1 shall be transferred to the beneficial owners thereof in the form of Definitive Notes in an aggregate principal amount equal to the principal amount of such Global Note, in exchange for such Global Note, only if such transfer complies with Section 2.3 hereof and (i) the Depository notifies the Company that it is unwilling or unable to continue as Depository for such Global Note and the Depository fails to appoint a successor depository or if at any time such Depository ceases to be a "clearing agency" registered under the Exchange Act, in either case, and a successor depository is not appointed by the Company within 90 days of such notice, or (ii) an Event of Default has occurred and is continuing or (iii) the Company, in its sole discretion, notifies the Trustee in writing that it elects to cause the issuance of Definitive Notes under this Indenture.

(b) Any Global Note that is transferable to the beneficial owners thereof pursuant to this Section 2.4 shall be surrendered by the Depository to the Trustee located at its principal corporate trust office in the Borough of Manhattan, The City of New York, to be so transferred, in whole or from time to time in part, without charge, and the Trustee shall authenticate and deliver, upon such transfer of each portion of such Global Note, an equal aggregate principal amount of Definitive Notes of authorized denominations. Any portion of a Global Note transferred pursuant to this Section 2.4 shall be executed, authenticated and delivered only in denominations of $2,000 principal amount and any integral multiple of $1,000 in excess of $2,000 and registered in such names as the Depository shall direct. Any Definitive Note delivered in exchange for an interest in the Transfer Restricted Note shall, except as otherwise provided by Section 2.3(e) hereof, bear the applicable restricted securities legend and definitive securities legend set forth in Exhibit 1 hereto.

(c) Subject to the provisions of Section 2.4(b) hereof, the registered Holder of a Global Note shall be entitled to grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Notes.

(d) In the event of the occurrence of one of the events specified in Section 2.4(a) hereof, the Company shall promptly make available to the Trustee a reasonable supply of Definitive Notes in definitive, fully registered form without interest coupons. In the event that such Definitive Notes are not issued, the Company expressly acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to Section 6.06 of this Indenture, the right of any beneficial owner of Notes to pursue such remedy with respect to the portion of the Global Note that represents such beneficial owner's Notes as if such Definitive Notes had been issued.

EXHIBIT 1
to
RULE 144A/REGULATION S/IAI APPENDIX

[FORM OF FACE OF NOTE]

[Global Notes Legend]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), NEW YORK, NEW YORK, TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO., OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC) ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

[Regulation S Temporary Global Note Legend]

THE RIGHTS ATTACHING TO THIS REGULATION S TEMPORARY GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR CERTIFICATED NOTES, ARE AS SPECIFIED IN THE INDENTURE (AS DEFINED HEREIN). NEITHER THE HOLDER NOR THE BENEFICIAL OWNERS OF THIS REGULATION S TEMPORARY GLOBAL NOTE SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON.

[Restricted Notes Legend]

THE SECURITY (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THE SECURITY EVIDENCED HEREBY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE SECURITY EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT. THE HOLDER OF THE SECURITY EVIDENCED HEREBY AGREES FOR THE BENEFIT OF THE ISSUER THAT (A) SUCH SECURITY MAY BE RESOLD, PLEDGED

OR OTHERWISE TRANSFERRED ONLY (1) (a) IN THE UNITED STATES TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (b) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 904 UNDER THE SECURITIES ACT, (c) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT, (d) TO AN INSTITUTIONAL "ACCREDITED INVESTOR" (AS DEFINED IN RULE 501 (a) (1), (2), (3) OR (7) OF THE SECURITIES ACT (AN "INSTITUTIONAL ACCREDITED INVESTOR")) THAT, PRIOR TO SUCH TRANSFER, FURNISHES THE TRUSTEE A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS (THE FORM OF WHICH CAN BE OBTAINED FROM THE TRUSTEE) AND, IF SUCH TRANSFER IS IN RESPECT OF AN AGGREGATE PRINCIPAL AMOUNT OF NOTES LESS THAN $250,000, AN OPINION OF COUNSEL ACCEPTABLE TO XM SATELLITE RADIO INC. THAT SUCH TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT OR (e) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF XM SATELLITE RADIO INC. SO REQUESTS), (2) TO XM SATELLITE RADIO INC. OR (3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER FROM IT OF THE SECURITY EVIDENCED HEREBY OF THE RESALE RESTRICTIONS SET FORTH IN (A) ABOVE.

[Definitive Notes Legend]

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

[Original Issue Discount Legend]

THIS NOTE HAS BEEN ISSUED WITH "ORIGINAL ISSUE DISCOUNT" (WITHIN THE MEANING OF SECTION 1272 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED). UPON WRITTEN REQUEST, THE ISSUER WILL PROMPTLY MAKE AVAILABLE TO ANY HOLDER OF THIS NOTE THE FOLLOWING INFORMATION: (1) THE ISSUE PRICE AND DATE OF THE NOTE, (2) THE AMOUNT OF ORIGINAL ISSUE DISCOUNT ON THE NOTE AND (3) THE YIELD TO MATURITY OF THE NOTE.

CUSIP No. (144A) 98375NAA8; (Reg S) U98407AA4
ISIN No. USU98407AA46

No._____ $_____

13% Senior Notes due 2014

XM Escrow LLC, a Delaware limited liability company and wholly-owned subsidiary of XM Satellite Radio Holdings Inc., a Delaware corporation, promises to pay to _____, or registered assigns, the principal sum of _____ Dollars on August 1, 2014 (which maturity may occur on August 1, 2013 in certain circumstances as provided on the reverse hereof).

Interest Payment Dates: February 1 and August 1.

Record Dates: [May 15 and November 15]* [the last Business Day prior to the applicable interest payment date]**.

Additional provisions of this Note are set forth on the other side of this Note.

Dated: July 31, 2008

XM ESCROW LLC

By _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF
AUTHENTICATION

THE BANK OF NEW YORK MELLON

as Trustee, certifies that this is one of the
Notes referred to in the Indenture

Dated:

By _____
Authorized Signatory

* Include for Definitive Notes.
** Include for Global Notes.

1. Interest

XM Escrow LLC, a Delaware limited liability company and wholly-owned subsidiary of XM Satellite Radio Holdings Inc., a Delaware corporation (such limited liability company and its successors and assigns under the Indenture hereinafter referred to, being herein called the "*Company*"), promises to pay interest on the principal amount of this Note at the rate per annum shown above. The Company will pay interest semiannually on February 1 and August 1 of each year, commencing February 1, 2009. Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from July 31, 2008. Interest will be computed on the basis of a 360-day year of twelve 30-day months. The Company will pay interest on overdue principal at the rate borne by this Note plus 1.0% per annum, and it will pay interest on overdue installments of interest at the same rate to the extent lawful.

2. Maturity

So long as the Company is subject to the indebtedness incurrence covenants under any of (i) the Existing Sale and Leaseback Transaction, (ii) the indenture governing the Company's 9.75% Notes due 2014 or (iii) the indenture governing the Company's Senior Floating Rate Notes due 2013, the Notes will mature on August 1, 2014. If at any time prior to August 1, 2013, the Company ceases to be subject to the debt incurrence covenants under each of (A) the Existing Sale and Leaseback Transaction, (B) the indenture governing the Company's 9.75% Senior Notes due 2014 and (C) the indenture governing the Company's Senior Floating Rate Notes due 2013, the Notes will mature on August 1, 2013.

3. Method of Payment

The Company will pay interest on the Notes (except defaulted interest) to the Persons who are registered holders of Notes at the close of business on the January 15 or July 15 next preceding the interest payment date even if Notes are canceled after the record date and on or before the interest payment date. Holders must surrender Notes to a Paying Agent to collect principal payments. The Company will pay principal and interest in money of the United States that at the time of payment is legal tender for payment of public and private debts. Payments in respect of the Notes represented by a Global Note (including principal, premium and interest) will be made by wire transfer of immediately available funds to the accounts specified by The Depository Trust Company. The Company will make all payments in respect of a certificated Note (including principal, premium and interest) at the office of the Paying Agent, except that, at the option of the Company, payment of interest may be made by mailing a check to the registered address of each Holder thereof; *provided, however,* that payments on a certificated Note will be made by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 30 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

4. Paying Agent and Registrar

Initially, The Bank of New York Mellon, a New York banking corporation (the "Trustee"), will act as Paying Agent and Registrar. The Company may appoint and change any Paying Agent, Registrar or co-registrar without notice. The Company or any of its domestically incorporated Wholly Owned Subsidiaries may act as Paying Agent, Registrar or co-registrar.

5. Indenture

The Company issued the Notes under an Indenture dated as of July 31, 2008 ("*Indenture*"), between the Company and the Trustee. The terms of the Notes include those stated in the Indenture. Terms defined in the Indenture and not defined herein have the meanings ascribed thereto in the Indenture. The Notes are subject to all such terms, and Noteholders are referred to the Indenture for a statement of those terms.

The Notes are general unsecured senior obligations of the Company. The Company shall be entitled, subject to its compliance with Section 4.03 of the Indenture, to issue Additional Notes pursuant to Section 2.13 of the Indenture. The Notes issued on the Issue Date and any Additional Notes will be treated as a single class for all purposes under the Indenture. The Indenture contains covenants that limit the ability of the Company and its subsidiaries to incur additional indebtedness; pay dividends or distributions on, or redeem or repurchase capital stock; make investments; issue or sell capital stock of subsidiaries; engage in transactions with affiliates; create liens on assets; transfer or sell assets; guarantee indebtedness; restrict dividends or other payments of subsidiaries; consolidate, merge or transfer all or substantially all of its assets and the assets of its subsidiaries; change its business; and engage in sale/leaseback transactions. These covenants are subject to important exceptions and qualifications.

6. Optional Redemption

The Company, at its option, may redeem all, or from time to time, any part of the Notes on not less than 30 days nor more than 60 days notice as provided in the Indenture (except that, notwithstanding the provisions of Section 3.03 of the Indenture, any notice of redemption for the Notes given pursuant to said Section need not set forth the Redemption Price but only the manner of calculation thereof) at a Redemption Price equal to the greater of the following amounts:

(i) 100% of the principal amount of the Notes then outstanding to be so redeemed; and

(ii) the sum of the present values of the principal amount and the remaining scheduled payments of interest on the Notes to be redeemed (not including any portion of payments of interest accrued as of the applicable redemption date), discounted to the applicable redemption date in accordance with customary market practice on a semi-annual basis at a rate equal to the sum of the Treasury Rate plus 0.50%,

plus, in either of the above cases, accrued and unpaid interest on the principal amount being redeemed to the applicable redemption date.

The Redemption Price for the Notes will be calculated by the Independent Investment Banker assuming a 360-day year consisting of twelve 30-day months.

For purposes of calculating the Redemption Price pursuant to the foregoing optional redemption provisions, the following terms will have the meanings set forth below.

"*Comparable Treasury Issue*" means the U.S. Treasury security or securities selected by the Independent Investment Banker as having a maturity comparable to the remaining term of the Notes to be redeemed that would be used, at the time of selection and in accordance with customary market practice, in pricing new issues of corporate debt securities of a comparable maturity to the remaining term of such Notes.

"*Comparable Treasury Price*" means, with respect to any redemption date:

(i) the bid-side price for the Comparable Treasury Issue as of the third Business Day preceding the redemption date, as set forth in the daily statistical release (or any successor release) published by *The Wall Street Journal* in the table entitled "Treasury Bonds, Notes, and Bills," as determined by the Independent Investment Banker, or

(ii) if such release (or any successor release) is not published or does not contain such prices on such Business Day:

(x) the average of the Reference Treasury Dealer Quotations for that redemption date, after excluding the highest and lowest of the Reference Treasury Dealer Quotations;

(y) if the Trustee obtains fewer than four Reference Treasury Dealer Quotations, the average of all Reference Treasury Dealer Quotations so received; or

(z) if only one Reference Treasury Dealer Quotation is received, such quotation.

"*Independent Investment Banker*" means one of the Reference Treasury Dealers selected by the Trustee after consultation with the Company.

"*Reference Treasury Dealer*" means each of four primary U.S. Government securities dealers in New York City (each a "*Primary Treasury Dealer*"), consisting of (i) J.P. Morgan Securities Inc. (or its affiliate), (ii) Morgan Stanley & Co. Incorporated (or its affiliate), (iii) UBS Securities LLC (or its affiliate) and (iv) one other nationally recognized investment banking firm (or its affiliate) that is selected by the Company in connection with the particular redemption, and their respective successors, provided that if any of them ceases to be a Primary Treasury Dealer, the Company will substitute another nationally recognized investment banking firm (or its affiliate) that is a Primary Treasury Dealer.

"*Reference Treasury Dealer Quotations*" means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed as a percentage of its principal amount) quoted in writing to the Trustee by such Reference Treasury Dealer at 3:30 p.m., New York City time, on the third Business Day preceding that redemption date.

"*Treasury Rate*" means, with respect to any redemption date, the rate per year equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, calculated on the third Business Day preceding the applicable redemption date, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for that redemption date.

Unless the Company defaults in the payment of the Redemption Price, on or after the applicable redemption date, interest will cease to accrue on the Notes or portions of the Notes called for redemption.

If the optional redemption date is on or after an interest record date and on or before the related interest payment date, the accrued and unpaid interest, if any, will be paid to the person in whose name the Note is registered at the close of business, on such record date.

7. Notice of Redemption

Notice of redemption will be mailed by first-class mail at least 30 days but not more than 60 days before the redemption date to each Holder of Notes to be redeemed at his registered address. Notes in denominations larger than $2,000 principal amount may be redeemed in part but only in whole multiples of $1,000 in excess of $2,000. If money sufficient to pay the redemption price of and accrued interest on all Notes (or portions thereof) to be redeemed on the redemption date is deposited with the Paying Agent on or before the redemption date and certain other conditions are satisfied, on and after such date interest ceases to accrue on such Notes (or such portions thereof) called for redemption.

8. Special Redemption

In the event that (i) the Refinancing Transactions are not consummated on or prior to October 30, 2008, (ii) if, at any time, the Company determines, in its sole judgment, that the Refinancing Transactions will not be consummated by October 29, 2008 or (iii) upon the occurrence of an event that, with notice or lapse of time or both, would constitute a Default, in the due performance or observance of any term, covenant or condition contained in the Indenture, the Company shall redeem (the "*Special Redemption*") all of the outstanding Notes on the Special Redemption Date at the Special Redemption Price. Notwithstanding anything contained in paragraph 6 to the contrary, at the Company's direction, the Trustee shall deliver to each Holder a written notice prepared by the Company (specifying the information specified in Section 3.03 of the Indenture) of the Special Redemption one Business Day prior to the Special Redemption Date.

9. Put Provisions

Upon a Change of Control, any Holder of Notes will have the right to cause the Company to repurchase all or any part of the Notes of such Holder at a repurchase price equal to 101% of the principal amount of the Notes to be repurchased plus accrued and unpaid, if any,

interest to the date of repurchase (subject to the right of Holders of record on the relevant record date to receive interest due on the related interest payment date) as provided in, and subject to the terms of, the Indenture.

10. Denominations; Transfer; Exchange

The Notes are in registered form without coupons in denominations of $2,000 principal amount and any integral multiple of $1,000 in excess of $2,000. A Holder may transfer or exchange Notes in accordance with the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements or transfer documents and to pay any taxes and fees required by law or permitted by the Indenture. The Registrar need not register the transfer of or exchange any Notes selected for redemption (except, in the case of a Note to be redeemed in part, the portion of the Note not to be redeemed) or any Notes for a period of 15 days before a selection of Notes to be redeemed or 15 days before an interest payment date.

11. Persons Deemed Owners

The registered Holder of this Note may be treated as the owner of it for all purposes.

12. Unclaimed Money

If money for the payment of principal or interest remains unclaimed for two years, the Trustee or Paying Agent shall pay the money back to the Company at its request unless an abandoned property law designates another Person. After any such payment, Holders entitled to the money must look only to the Company and not to the Trustee for payment.

13. Discharge and Defeasance

Subject to certain conditions, the Company at any time shall be entitled to terminate some or all of its obligations under the Notes and the Indenture if the Company deposits with the Trustee money or U.S. Government Obligations for the payment of principal and interest on the Notes to redemption or maturity, as the case may be.

14. Amendment; Waiver

Subject to certain exceptions set forth in the Indenture, (a) the Indenture and the Notes may be amended with the written consent of the Holders of at least a majority in principal amount outstanding of the Notes (including consents obtained in connection with a tender offer or exchange offer for the Notes) and (b) any past default or noncompliance with any provision may be waived with the written consent of the Holders of a majority in principal amount outstanding of the Notes (including consents obtained in connection with a tender offer or exchange offer for the Notes). Subject to certain exceptions set forth in the Indenture, without the consent of any Noteholder, the Company, and the Trustee shall be entitled to amend the Indenture or the Notes to cure any ambiguity, omission, defect or inconsistency, or to comply with Article 5 of the Indenture, or to provide for uncertificated Notes in addition to or in place of

certificated Notes, or to add guarantees with respect to the Notes, or to secure the Notes or to add additional covenants or surrender rights and powers conferred on the Company, or to comply with any requirement of the SEC in connection with qualifying the Indenture under the Act, or to make any change that does not adversely affect the rights of any Noteholder, or to make amendments to provisions of the Indenture relating to the transfer and legending of the Notes.

15. Defaults and Remedies

Under the Indenture, Events of Default include (a) default for 30 days in payment of interest on the Notes; (b) default in payment of principal on the Notes at maturity, upon redemption pursuant to paragraph 5 of the Notes, upon acceleration or otherwise, or failure by the Company to redeem or purchase Notes when required; (c) failure by the Company to comply with other agreements in the Indenture or the Notes, in certain cases subject to notice and lapse of time; (d) certain accelerations (including failure to pay within any grace period after final maturity) of other Indebtedness of the Company if the amount accelerated (or so unpaid) exceeds $25 million; (e) certain events of bankruptcy or insolvency with respect to the Company and the Significant Subsidiaries; and (f) certain judgments or decrees for the payment of money in excess of $25 million. If an Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the Notes may declare all the Notes to be due and payable immediately. Certain events of bankruptcy or insolvency are Events of Default which will result in the Notes being due and payable immediately upon the occurrence of such Events of Default.

Noteholders may not enforce the Indenture or the Notes except as provided in the Indenture. The Trustee may refuse to enforce the Indenture or the Notes unless it receives indemnity or security satisfactory to it. Subject to certain limitations, Holders of a majority in principal amount of the Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Noteholders notice of any continuing Default (except a Default in payment of principal or interest) if it determines that withholding notice is in the interest of the Holders.

16. Trustee Dealings with the Company

Subject to certain limitations imposed by the Act, the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee.

17. No Recourse Against Others

A director, officer, employee, incorporator or stockholder, as such, of the Company or any of its Restricted Subsidiaries or the Trustee shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Noteholder waives and releases all such liability. The waiver and release are part of the consideration for the issue of the Notes.

18. Authentication

This Note shall not be valid until an authorized signatory of the Trustee (or an authenticating agent) manually signs the certificate of authentication on the other side of this Note.

19. Abbreviations

Customary abbreviations may be used in the name of a Noteholder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the entireties), JT TEN (=joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

20. CUSIP Numbers

Pursuant to a recommendation promulgated by the Committee on Uniform Note Identification Procedures the Company has caused CUSIP numbers to be printed on the Notes and has directed the Trustee to use CUSIP numbers in notices of redemption as a convenience to Noteholders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

21. Governing Law

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

The Company will furnish to any Noteholder upon written request and without charge to the Note holder a copy of the Indenture which has in it the text of this Note in larger type. Requests may be made to:

XM Escrow LLC, c/o
XM Satellite Radio Inc.
1500 Eckington Place, NE
Washington, DC 20002-2194
Attn: General Counsel

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to:

_____

(Print or type assignee's name, address and zip code)

_____

(Print or type assignee's name, address and zip code)

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint agent to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: _____ Your Signature: _____

Sign exactly as your name appears on the other side of this Note.

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.06 (Asset Sale) or 4.10 (Change of Control) of the Indenture, check the box:

Asset Sale ☐ Change of Control ☐

If you want to elect to have only part of this Note purchased by the Company pursuant to Section 4.06 or 4.10 of the Indenture, state the amount in principal amount: $_____

Date: _____ Your Signature: _____

(Sign exactly as your name appears on the other side of this Note.)

Signature Guarantee: _____

(Signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Note Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Notes Exchange Act of 1934, as amended.

EXHIBIT 2 to Rule 144A/REGULATION S/IAI APPENDIX

Form of
Transferee Letter of Representation

XM Escrow LLC, c/o
XM Satellite Radio Inc.
1500 Eckington Place, NE
Washington, DC 20002-2194

In care of
The Bank of New York Mellon
101 Barclay Street, Floor 8 West
New York, NY 10286

Ladies and Gentlemen:

This certificate is delivered to request a transfer of $[ ] principal amount of the 13% Senior Notes due 2014 (the "Notes") of XM Escrow LLC (the "Company").

Upon transfer, the Notes would be registered in the name of the new beneficial owner as follows:

Name: _____
Address: _____
Taxpayer ID Number: _____

The undersigned represents and warrants to you that:

1. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act of 1933, as amended (the "Securities Act")), purchasing for our own account or for the account of such an institutional "accredited investor" at least $250,000 principal amount of the Notes, and we are acquiring the Notes not with a view to, or for offer or sale in connection with, any distribution in violation of the Securities Act. We have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we invest in or purchase securities similar to the Notes in the normal course of our business. We, and any accounts for which we are acting, are each able to bear the economic risk of our or its investment.

2. We understand that the Notes have not been registered under the Securities Act and, unless so registered, may not be sold except as permitted in the following sentence. We agree on our own behalf and on behalf of any investor account for which we are purchasing Notes to offer, sell or otherwise transfer such Notes prior to the date that is one year after the later of the date of original issue and the last date on which the Company or any affiliate of the Company was the owner of such Notes (or any predecessor thereto) (the "Resale Restriction Termination Date") only (i) to the Company, (ii) in the United States to a person whom the seller reasonably believes is a qualified institutional buyer in a transaction meeting the requirements of Rule 144A, (iii) to an institutional "accredited investor" within the meaning of Rule 501(a)(1),

(2), (3) or (7) under the Securities Act that is an institutional accredited investor purchasing for its own account or for the account of an institutional accredited investor, in each case in a minimum principal amount of the Notes of $250,000, (iv) outside the United States in a transaction complying with the provisions of Rule 904 under the Securities Act, (v) pursuant to an exemption from registration under the Securities Act provided by Rule 144 (if available) or (vi) pursuant to an effective registration statement under the Securities Act, in each of cases (i) through (vi) subject to any requirement of law that the disposition of our property or the property of such investor account or accounts be at all times within our or their control and in compliance with any applicable state securities laws. The foregoing restrictions on resale will not apply subsequent to the Resale Restriction Termination Date. If any resale or other transfer of the Notes is proposed to be made pursuant to clause (iii) above prior to the Resale Restriction Termination Date, the transferor shall deliver a letter from the transferee substantially in the form of this letter to the Company and the Trustee, which shall provide, among other things, that the transferee is an institutional "accredited investor" within the meaning of Rule 501(a)(1), (2), (3) or (7) under the Securities Act and that it is acquiring such Notes for investment purposes and not for distribution in violation of the Securities Act. Each purchaser acknowledges that the Company and the Trustee reserve the right prior to the offer, sale or other transfer prior to the Resale Restriction Termination Date of the Notes pursuant to clause (iii), (iv) or (v) above to require the delivery of an opinion of counsel, certifications or other information satisfactory to the Company and the Trustee.

TRANSFEREE _____

By: _____

EXHIBIT 2

FORM OF SUPPLEMENTAL INDENTURE
TO BE DELIVERED BY SUBSEQUENT GUARANTORS

SUPPLEMENTAL INDENTURE (this "*Supplemental Indenture*"), dated as of_____, 200__, among _____(the "*Guarantor*"), [a subsidiary of] [the parent company of] XM Satellite Radio Inc. (or its permitted successor), a Delaware corporation (the "*Company*"), the Company, the other Guarantors (as defined in the Indenture referred to herein) and The Bank of New York Mellon, as trustee under the Indenture referred to below (the "*Trustee*").

WITNESSETH

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the "*Indenture*"), dated as of July 31, 2008 providing for the issuance of 13% Senior Notes due 2014 (the "*Notes*");

WHEREAS, the Indenture provides that under certain circumstances the Guarantor will execute and deliver to the Trustee a supplemental indenture pursuant to which the Guarantor will unconditionally guarantee all of the Company's Obligations under the Notes and the Indenture on the terms and conditions set forth herein (the "*Note Guarantee*"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guarantor and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition will have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guarantor hereby agrees to provide an unconditional Guarantee on the terms and subject to the conditions set forth in this Note Guarantee and in the Indenture including but not limited to Article 10 thereof [*Add the following if the Material Subsidiary is the FCC License Subsidiary*: ; *provided, however,* that the Guarantor is providing such Guarantee only to the extent permitted under applicable law, rules or regulations, including rules and regulations of the Federal Communications Commission].

4. NO RECOURSE AGAINST OTHERS. No past, present or future director, officer, employee, incorporator, stockholder or agent of the Guarantor, as such, will have any liability for any obligations of the Company or any Guarantor under the Notes, any Note Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

5. GOVERNING LAW. This Indenture and the Notes shall be governed by, and construed in accordance with, the laws of the State of New York.

6. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy will be an original, but all of them together represent the same agreement.

7. EFFECT OF HEADINGS. The Section headings herein are for convenience only and will not affect the construction hereof.

8. THE TRUSTEE. The Trustee will not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guarantor and the Company.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed all as of the date first above written.

Dated:_____, 20__

[GUARANTOR]

By:
Name:
Title:

[COMPANY]

By:
Name:
Title:

[EXISTING GUARANTORS]

By:
Name:
Title:

THE BANK OF NEW YORK MELLON,
as Trustee

By:
Name:
Title:

Exhibit 3

XM SATELLITE RADIO INC.,

XM ESCROW LLC

AND

THE BANK OF NEW YORK MELLON,
as Trustee,

SUPPLEMENTAL INDENTURE

Dated as of [ ], 2008

to

INDENTURE

Dated as of July 31, 2008

13% SENIOR NOTES DUE 2014

SUPPLEMENTAL INDENTURE, dated as of _____, 2008, among XM SATELLITE RADIO INC., a Delaware corporation ("Successor"), XM ESCROW LLC, a Delaware limited liability company (the "Company"), and THE BANK OF NEW YORK MELLON, a New York banking corporation, as trustee (the "Trustee").

WHEREAS, the Company and the Trustee have heretofore executed and delivered a certain Indenture, dated as of July 31, 2008 (referred to herein as, the "Indenture"; capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture), providing for the issuance from time to time of the Notes;

WHEREAS, the Company and Successor have entered into an Agreement and Plan of Merger, dated as of_____, 2008 (the "Merger Agreement"), which contemplates the execution and filing of a Certificate of Merger on _____, 2008 (the "Certificate of Merger") providing for the merger (effective_____, 2008) of the Company with and into Successor (the "Merger"), with Successor continuing its corporate existence under Delaware law;

WHEREAS, Section 5.01 of the Indenture provides, among other things, that the Company shall not be prevented from merging with or into any other Person, provided that, among other things, such Person into which the Company shall have merged shall expressly assume, by an indenture supplemental thereto, executed and delivered to the Trustee, in a form satisfactory to the Trustee, upon any such merger, all of the obligations of the Company under the Notes and the Indenture;

WHEREAS, Section 9.01 of the Indenture provides, among other things, that the Company, the Guarantors and the Trustee may from time to time and at any time amend the Indenture, the Notes and the Guarantees, without notice to or consent of any Noteholder, for one or more of the following purposes: (i) to evidence the succession of another Person to the Company, or successive successions, and the assumption by the successor Person of the covenants, agreements and obligations of the Company pursuant to Article 5 of the Indenture; and (ii) to make provisions in regard to matters or questions arising under the Indenture, provided that such action shall not adversely affect the interests of the Noteholders;

WHEREAS, the execution and delivery of this Supplemental Indenture has been authorized by resolutions of the board of managers of the Company and the board of directors of Successor and have been duly authorized by all necessary action on the part of the Trustee; and

WHEREAS, all conditions precedent and requirements necessary to make this Supplemental Indenture a valid and legally binding instrument in accordance with its terms have been complied with, performed and fulfilled and the execution and delivery hereof have been in all respects duly authorized;

NOW, THEREFORE, THIS SUPPLEMENTAL INDENTURE WITNESSETH:

For and in consideration of the premises and intending to be legally bound hereby, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Noteholders as follows:

ARTICLE I

REPRESENTATIONS OF ESCROW LLC AND SUCCESSOR

Each of the Company and Successor represents and warrants to the Trustee as of the date hereof follows:

1.1. It is a corporation or, in the case of the Company, a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware.

1.2. The execution, delivery and performance by it of this Supplemental Indenture have been authorized and approved by all necessary corporate or, in the case of the Company, limited liability company action on the part of it.

1.3. Upon the filing of the Certificate of Merger with the Secretary of State of the State of Delaware or at such other time thereafter as is provided in the Certificate of Merger (the "Effective Time"), the Merger will be effective in accordance with the terms of the Merger Agreement and Delaware law.

1.4. Immediately after giving effect to the Merger, no Default or Event of Default shall have occurred and be continuing.

ARTICLE II

ASSUMPTION AND AGREEMENTS

2.1. Successor hereby expressly assumes all of the obligations of the Company under the Notes and the Indenture.

2.2. The Notes may bear a notation concerning the assumption of the Indenture and the Notes by Successor.

2.3. Successor shall succeed to and be substituted for the Company, with the same effect as if it had been named as the Company in the Indenture.

ARTICLE III

AMENDMENTS

3.1. The reference in the preamble to the Indenture to "XM ESCROW LLC, a Delaware limited liability company" is hereby amended to read "XM SATELLITE RADIO INC., a Delaware corporation" and each other reference in the Indenture to "XM Escrow LLC" or "Escrow LLC" shall be amended and deemed to be a reference to "XM Satellite Radio Inc.".

3.2. Except as amended hereby, the Indenture and the Notes are in all respects ratified and confirmed and all the terms thereof shall remain in full force and effect and the Indenture, as so amended, shall be read, taken and construed as one and the same instrument.

ARTICLE IV

MISCELLANEOUS

4.1. The Trustee accepts the modification of the Indenture effected by this Supplemental Indenture, but only upon the terms and conditions set forth in the Indenture. Without limiting the generality of the foregoing, the Trustee assumes no responsibility for the correctness of the recitals herein contained, which shall be taken as the statements of the Company and Successor. The Trustee does not make any representation nor shall the Trustee have any responsibility as to the validity and sufficiency of this Supplemental Indenture.

4.2. If and to the extent that any provision of this Supplemental Indenture limits, qualifies or conflicts with another provision included in this Supplemental Indenture or in the Indenture, in either case that is required to be included in this Supplemental Indenture or in the Indenture by any of the provisions of Sections 310 to 317, inclusive, of the Trust Indenture Act of 1939, such required provision shall control.

4.3. Nothing in this Supplemental Indenture is intended to or shall provide any rights to any parties other than those expressly contemplated by this Supplemental Indenture.

4.4. This Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of New York.

4.5. This Supplemental Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all of which counterparts together shall constitute but one and the same instrument.

4.6. This Supplemental Indenture shall become effective as of the Effective Time.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

XM ESCROW LLC

By _____
Name:
Title:

XM SATELLITE RADIO INC.

By _____
Name:
Title:

THE BANK OF NEW YORK MELLON, as Trustee

By _____
Name:
Title:

Exhibit 4.78

SUPPLEMENTAL INDENTURE

SUPPLEMENTAL INDENTURE (this "*Supplemental Indenture*"), dated as of July 31, 2008, among XM Satellite Radio Holdings Inc. (the "*Parent Guarantor*"), the parent company of XM Satellite Radio Inc. (or its permitted successor), a Delaware corporation (the "*Company*"), the Company, XM Equipment Leasing LLC, a subsidiary of the Company ("*Leasing LLC*") and XM Radio Inc., a subsidiary of the Company ("*Radio Inc.*" and together with Leasing LLC, the "*Subsidiary Guarantors*") and The Bank of New York Mellon, as trustee under the Indenture referred to below (the "*Trustee*"). The Parent Guarantor and the Subsidiary Guarantors are collectively referred to herein as the "*Guarantors*."

W I T N E S S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee a supplemental indenture pursuant to which the Company will assume, upon the consummation of the Escrow LLC – Company Merger, the obligations of XM Escrow LLC under the Indenture (the "*Indenture*"), dated as of July 31, 2008 relating to 13% Senior Notes due 2014 with an initial aggregate principal amount of $778,500,000 (the "*Notes*");

WHEREAS, the Indenture provides that upon the consummation of the Escrow LLC – Company Merger, the Obligations of the Company under the Notes and the Indenture will be unconditionally guaranteed by the Guarantors on the terms and conditions set forth herein (the "*Note Guarantees*"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guarantors and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition will have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guarantors hereby agree to provide an unconditional Guarantee on the terms and subject to the conditions set forth in this Note Guarantee and in the Indenture including but not limited to Article 10 thereof; *provided, however,* that XM Radio Inc. is providing such Guarantee only to the extent permitted under applicable law, rules or regulations, including rules and regulations of the Federal Communications Commission.

3. EFFECTIVE TIME. This Supplemental Indenture shall become effective upon the consummation of the Escrow LLC – Company Merger and the assumption of the Obligations of XM Escrow LLC by the Company pursuant to a supplemental indenture on even date herewith.

4. NO RECOURSE AGAINST OTHERS. No past, present or future director, officer, employee, incorporator, stockholder or agent of the Guarantors, as such, will have any liability for any obligations of the Company or any Guarantors under the Notes, any Note Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason

of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

5. GOVERNING LAW. This Supplemental Indenture and the Notes shall be governed by, and construed in accordance with, the laws of the State of New York.

6. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy will be an original, but all of them together represent the same agreement.

7. EFFECT OF HEADINGS. The Section headings herein are for convenience only and will not affect the construction hereof.

8. THE TRUSTEE. The Trustee will not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guarantors and the Company.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed all as of the date first above written.

Dated: July 31, 2008

XM SATELLITE RADIO INC.

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

XM SATELLITE RADIO HOLDINGS INC.

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

XM EQUIPMENT LEASING LLC

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

XM RADIO INC.

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

THE BANK OF NEW YORK MELLON,

By /s/ Remo J. Reale
Name: Remo J. Reale
Title: Vice President

Exhibit 4.79

XM SATELLITE RADIO INC.,

XM ESCROW LLC

AND

THE BANK OF NEW YORK MELLON,

as Trustee,

SUPPLEMENTAL INDENTURE

Dated as of July 31, 2008

to

INDENTURE

Dated as of July 31, 2008

13% SENIOR NOTES DUE 2014

SUPPLEMENTAL INDENTURE, dated as of July 31, 2008, among XM SATELLITE RADIO INC., a Delaware corporation (the "Successor"), XM ESCROW LLC, a Delaware limited liability company (the "Company"), and THE BANK OF NEW YORK MELLON, a New York banking corporation, as trustee (the "Trustee").

WHEREAS, the Company and the Trustee have heretofore executed and delivered a certain Indenture, dated as of July 31, 2008 (referred to herein as, the "Indenture"; capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture), providing for the issuance from time to time of the Notes;

WHEREAS, the Company and Successor have entered into an Agreement and Plan of Merger, dated as of July 31, 2008 (the "Merger Agreement"), which contemplates the execution and filing of a Certificate of Merger (the "Certificate of Merger") as promptly as practicable following the Escrow Release (as defined in the Merger Agreement) providing for the merger of the Company with and into the Successor (the "Merger"), with the Successor continuing its corporate existence under Delaware law;

WHEREAS, Section 5.01 of the Indenture provides, among other things, that the Company shall not be prevented from merging with or into any other Person, provided that, among other things, such Person into which the Company shall have merged shall expressly assume, by an indenture supplemental thereto, executed and delivered to the Trustee, in a form satisfactory to the Trustee, upon any such merger, all of the obligations of the Company under the Notes and the Indenture;

WHEREAS, Section 9.01 of the Indenture provides, among other things, that the Company, the Guarantors and the Trustee may from time to time and at any time amend the Indenture, the Notes and the Guarantees, without notice to or consent of any Noteholder, for one or more of the following purposes: (i) to evidence the succession of another Person to the Company, or successive successions, and the assumption by the successor Person of the covenants, agreements and obligations of the Company pursuant to Article 5 of the Indenture; and (ii) to make provisions in regard to matters or questions arising under the Indenture, provided that such action shall not adversely affect the interests of the Noteholders;

WHEREAS, the execution and delivery of this Supplemental Indenture has been authorized by resolutions of the board of managers of the Company and the board of directors of Successor and have been duly authorized by all necessary action on the part of the Trustee; and

WHEREAS, all conditions precedent and requirements necessary to make this Supplemental Indenture a valid and legally binding instrument in accordance with its terms have been complied with, performed and fulfilled and the execution and delivery hereof have been in all respects duly authorized;

NOW, THEREFORE, THIS SUPPLEMENTAL INDENTURE WITNESSETH:

For and in consideration of the premises and intending to be legally bound hereby, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Noteholders as follows:

ARTICLE I

REPRESENTATIONS OF ESCROW LLC AND SUCCESSOR

Each of the Company and Successor represents and warrants to the Trustee as of the date hereof follows:

1.1. It is a corporation or, in the case of the Company, a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware.

1.2. The execution, delivery and performance by it of this Supplemental Indenture have been authorized and approved by all necessary corporate or, in the case of the Company, limited liability company action on the part of it.

1.3. Upon the filing of the Certificate of Merger with the Secretary of State of the State of Delaware or at such other time thereafter as is provided in the Certificate of Merger (the "Effective Time"), the Merger will be effective in accordance with the terms of the Merger Agreement and Delaware law.

1.4. Immediately after giving effect to the Merger, no Default or Event of Default shall have occurred and be continuing.

ARTICLE II

ASSUMPTION AND AGREEMENTS

2.1. Successor hereby expressly assumes all of the obligations of the Company under the Notes and the Indenture.

2.2. The Notes may bear a notation concerning the assumption of the Indenture and the Notes by Successor.

2.3. Successor shall succeed to and be substituted for the Company, with the same effect as if it had been named as the Company in the Indenture.

ARTICLE III

AMENDMENTS

3.1. The reference in the preamble to the Indenture to "XM ESCROW LLC, a Delaware limited liability company" is hereby amended to read "XM SATELLITE RADIO INC., a Delaware corporation" and each other reference in the Indenture to "XM Escrow LLC" or "Escrow LLC" shall be amended and deemed to be a reference to "XM Satellite Radio Inc.".

3.2. Except as amended hereby, the Indenture and the Notes are in all respects ratified and confirmed and all the terms thereof shall remain in full force and effect and the Indenture, as so amended, shall be read, taken and construed as one and the same instrument.

ARTICLE IV

MISCELLANEOUS

4.1. The Trustee accepts the modification of the Indenture effected by this Supplemental Indenture, but only upon the terms and conditions set forth in the Indenture. Without limiting the generality of the foregoing, the Trustee assumes no responsibility for the correctness of the recitals herein contained, which shall be taken as the statements of the Company and Successor. The Trustee does not make any representation nor shall the Trustee have any responsibility as to the validity and sufficiency of this Supplemental Indenture.

4.2. If and to the extent that any provision of this Supplemental Indenture limits, qualifies or conflicts with another provision included in this Supplemental Indenture or in the Indenture, in either case that is required to be included in this Supplemental Indenture or in the Indenture by any of the provisions of Sections 310 to 317, inclusive, of the Trust Indenture Act of 1939, such required provision shall control.

4.3. Nothing in this Supplemental Indenture is intended to or shall provide any rights to any parties other than those expressly contemplated by this Supplemental Indenture.

4.4. This Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of New York.

4.5. This Supplemental Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all of which counterparts together shall constitute but one and the same instrument.

4.6. This Supplemental Indenture shall become effective as of the Effective Time.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

XM ESCROW LLC

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

XM SATELLITE RADIO INC.

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

THE BANK OF NEW YORK MELLON, as Trustee

By /s/ Remo J. Reale
Name: Remo J. Reale
Title: Vice President

Exhibit 4.80

EXECUTION COPY

XM SATELLITE RADIO INC.

XM SATELLITE RADIO HOLDINGS INC.

XM EQUIPMENT LEASING LLC

XM RADIO INC.

SIRIUS SATELLITE RADIO INC.

7% Exchangeable Senior Subordinated Notes due 2014

(Exchangeable for Shares of Common Stock of Sirius Satellite Radio Inc.)

INDENTURE

Dated as of August 1, 2008

THE BANK OF NEW YORK MELLON

Trustee

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INDENTURE dated as of August 1, 2008 between XM SATELLITE RADIO INC., a Delaware corporation (the "*Company*"), which is a wholly-owned subsidiary of XM SATELLITE RADIO HOLDINGS INC., a Delaware corporation (alternately, "*Holdings*" and the "*Parent Guarantor*"), XM EQUIPMENT LEASING LLC and XM RADIO INC., the initial subsidiary guarantors, and SIRIUS SATELLITE RADIO INC., a Delaware corporation ("*Sirius*") and THE BANK OF NEW YORK MELLON, a New York banking corporation (the "*Trustee*" and "*Exchange Agent*").

Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders of 7% Exchangeable Senior Subordinated Notes due 2014 (the "*Notes*"):

ARTICLE 1

Definitions and Incorporation by Reference

SECTION 1.01. Definitions.

"*Additional Interest*" means Additional Interest as defined in the Registration Rights Agreement. Unless otherwise expressly noted, throughout this Indenture, references herein to "interest" include Additional Interest, if any.

"*Affiliate*" of any specified Person means any other Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing. For purposes of Section 3.03 and the definitions related thereto, "Affiliate" shall also mean any beneficial owner of Capital Stock representing 10% or more of the total voting power of the Voting Stock (on a fully diluted basis) of the Company (excluding any Person permitted to report such ownership on Schedule 13G under the Exchange Act) or of rights or warrants to purchase such Capital Stock (whether or not currently exercisable) and any Person who would be an Affiliate of any such beneficial owner pursuant to the first sentence hereof.

"*Attributable Debt*" in respect of a Sale/Leaseback Transaction means, as at the time of determination, the present value (discounted at the interest rate borne by the Notes, compounded annually) of the total obligations of the lessee for rental payments during the remaining term of the lease included in such Sale/Leaseback Transaction (including any period for which such lease has been extended); *provided, however*, that if such Sale/Leaseback Transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of "Capital Lease Obligation".

"*Average Life*" means, as of the date of determination, with respect to any Indebtedness, the quotient obtained by dividing:

(1) the sum of the products of the numbers of years from the date of determination to the dates of each successive scheduled principal payment of or redemption or similar payment with respect to such Indebtedness multiplied by the amount of such payment by

(2) the sum of all such payments.

"*Bankruptcy Code*" means the United States Bankruptcy Code of 1978 or any similar U.S. federal or state law for the relief of debtors.

"*Bankruptcy Law*" means the Bankruptcy Code, or any similar Federal or state law for the relief of debtors.

"*Board of Directors*" means the Board of Directors of the Company or Sirius, as applicable, or any committee thereof duly authorized to act on behalf of such Board.

"*Business Day*" means each day which is not a Legal Holiday.

"*Capital Lease Obligation*" means an obligation that is required to be classified and accounted for as a capital lease for financial reporting purposes in accordance with GAAP, and the amount of Indebtedness represented by such obligation shall be the capitalized amount of such obligation determined in accordance with GAAP; and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be terminated by the lessee without payment of a penalty.

"*Capital Stock*" of any Person means any and all shares, interests (including partnership interests), rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into such equity.

"*Code*" means the Internal Revenue Code of 1986, as amended.

"*Common Stock*" means the common stock, par value $0.001 per share, of Sirius or any such class or classes resulting from any reclassification or reclassifications thereof and which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding-up of Sirius and which are not subject to redemption by Sirius; *provided* that if at any time there shall be more than one such resulting class, the shares of each such class then so issuable shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

"*Company*" means the party named as such in this Indenture until a successor replaces it and, thereafter, means the successor and, for purposes of any provision contained herein, each other obligor on the Notes.

"*Company-Holdings Merger*" means (a) a merger or consolidation of the Company with or into Holdings or a merger or consolidation of Holdings with or into the Company or (b) any assignment, transfer, conveyance or other disposition of all or substantially all of the properties or assets of XM Satellite Radio Inc. to Holdings or of Holdings to XM Satellite Radio Inc.

"*Company-Sirius Merger*" means (a) a merger or consolidation of the Company with or into Sirius or a merger or consolidation of Sirius with or into the Company or (b) any assignment, transfer, conveyance or other disposition of all or substantially all of the properties or assets of the Company to Sirius or of Sirius to the Company.

"*Continuing Directors*" means, as of any date of determination, any member of the Board of Directors of Sirius who:

(1) was a member of such Board of Directors on the Issue Date; or

(2) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such board at the time of such nomination or election.

"*Corporate Trust Office*" means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at 101 Barclay Street, Floor 8 West, New York, New York 10286, Attention: Corporate Trust Administration, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

"*Credit Agreement*" means the Credit Agreement, dated as of May 5, 2006, among the Company, Holdings, the lenders party thereto and JPMorgan Chase Bank N.A., as administrative agent, as the same may be amended, supplemented or otherwise modified from time to time, and any successor credit agreement thereto (whether by renewal, replacement, refinancing or otherwise) that the Company in good faith designates to be its principal credit agreement (taking into account the maximum principal amount of the credit facility provided thereunder, the recourse nature of the agreement and such other factors as the Company deems reasonable in light of the circumstances), such designation to be made by an Officers' Certificate delivered to the Trustee.

"*Custodian*" means any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

"*Default*" means any event which is, or after notice or passage of time or both would be, an Event of Default.

"*Designated Senior Indebtedness*" means the Indebtedness under the Credit Agreement and the Senior Notes and any other Senior Indebtedness of the Company in which the instrument creating or evidencing the Indebtedness, or any related agreements or documents to which the Company is a party, expressly provides that such Indebtedness is "Designated Senior Indebtedness" for purposes of this Indenture (provided that the instrument, agreement or other document may place limitations and conditions on the right of the Senior Indebtedness to exercise the rights of Designated Senior Indebtedness).

"*Disqualified Stock*" means, with respect to any Person, any Capital Stock which by its terms (or by the terms of any security into which it is exchangeable or for which it is convertible at the option of the holder) or upon the happening of any event:

(1) matures or is mandatorily redeemable (other than redeemable only for Capital Stock of such Person which is not itself Disqualified Stock) pursuant to a sinking fund obligation or otherwise;

(2) is convertible or exchangeable at the option of the holder for Indebtedness or Disqualified Stock; or

(3) is mandatorily redeemable or must be purchased upon the occurrence of certain events or otherwise, in whole or in part;

in each case on or prior to the date that is 91 days after the Stated Maturity of the Notes; *provided, however*, that any Capital Stock that would not constitute Disqualified Stock but for provisions thereof giving holders thereof the right to require such Person to purchase or redeem such Capital Stock upon the occurrence of an "asset sale" or "change of control" shall not constitute Disqualified Stock if:

(A) the "asset sale" or "change of control" provisions applicable to such Capital Stock are not more favorable to the holders of such Capital Stock than the covenants in a customary indenture for "high yield" debt securities, including the "Limitation on sales of assets and subsidiary stock" and "Change of control" covenants in Section 4.06 and Section 4.10, respectively, in the indenture governing the Senior Notes as in effect from time to time; and

(B) any such requirement only becomes operative after compliance with such terms applicable to the Notes, including the purchase of any Notes tendered pursuant thereto.

The amount of any Disqualified Stock that does not have a fixed redemption, repayment or repurchase price will be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were redeemed, repaid or repurchased on any date on which the amount of such Disqualified Stock is to be determined pursuant to this Indenture; *provided, however*, that if such Disqualified Stock could not be required to be redeemed, repaid or repurchased at the time of such determination, the redemption, repayment or repurchase price will be the book value of such Disqualified Stock as reflected in the most recent financial statements of such Person.

"*Ex-Date*" means, the first date on which the shares of the Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance or distribution in question.

"*Exchange Act*" means the U.S. Securities Exchange Act of 1934, as amended.

"*Exchange Rate*" means initially 533.3333 shares of Common Stock, subject to adjustment as set forth herein.

"*FCC License Subsidiary*" means XM Radio Inc., a wholly owned subsidiary of the Company, which owns all of the FCC Licenses of the Company used to provide satellite digital radio service in the United States.

"*Fundamental Change*" means the occurrence of any of the following events at any time after the Notes are originally issued:

(1) a "person" or "group" (as such terms are used in Section 13(d) of the Exchange Act) other than Sirius, its subsidiaries or its or their employee benefit plans, files a Schedule TO or any schedule, form or report under the Exchange Act disclosing that such person or group has become the direct or indirect "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of Sirius's common equity representing more than 50% of the voting power of the Sirius common equity;

(2) consummation of any share exchange, consolidation or merger of Sirius (excluding a merger solely for the purpose of changing the Company's jurisdiction of incorporation or any share exchange, consolidation or merger between Sirius and any of its subsidiaries) pursuant to which the Sirius common stock will be converted into cash, securities or other property or any sale, conveyance, transfer, lease or other disposition, in one transaction or a series of transactions of all or substantially all of the consolidated assets of Sirius and its subsidiaries, taken as a whole, to any person other than one of its subsidiaries; *provided, however,* that a transaction where the holders of more than 50% of all classes of the Sirius common equity immediately prior to such transaction own, directly or indirectly, more than 50% of all classes of common equity of the continuing or surviving corporation or transferee or the parent thereof immediately after such event shall not be a fundamental change;

(3) Sirius's stockholders approve any plan or proposal for the liquidation or dissolution of Sirius;

(4) the Company ceases to be wholly-owned, directly or indirectly, by Sirius; provided that no Fundamental Change shall be deemed to have occurred if the Company and Sirius, or Holdings and Sirius, merge;

(5) the first day on which a majority of the members of the Board of Directors of Sirius does not consist of Continuing Directors; or

(6) the Common Stock (or other than common stock or depository shares into which the Notes are then exchangeable) ceases to be listed on a U.S. national securities exchange;

A Fundamental Change as a result of clauses (1) or (2) above will not be deemed to have occurred, however, if at least 90% of the consideration received or to be received by Sirius common stockholders, excluding cash payments for fractional shares, in connection with the transaction or transactions otherwise constituting the Fundamental Change consists of shares of common stock (or depositary shares representing shares of common stock) traded on a U.S. national securities exchange or which will be so traded or quoted when issued or exchanged in connection with a Fundamental Change (these securities being referred to as "Publicly Traded

Securities") and as a result of this transaction or transactions the Notes become convertible or exchangeable into such Publicly Traded Securities, excluding cash payments for fractional shares.

"*GAAP*" means generally accepted accounting principles in the United States of America as in effect as of the Issue Date, including those set forth in:

(1) the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants;

(2) statements and pronouncements of the Financial Accounting Standards Board;

(3) such other statements by such other entity as approved by a significant segment of the accounting profession; and

(4) the rules and regulations of the SEC governing the inclusion of financial statements (including*pro forma* financial statements) in periodic reports required to be filed pursuant to Section 13 of the Exchange Act, including opinions and pronouncements in staff accounting bulletins and similar written statements from the accounting staff of the SEC.

"*Guarantee*" means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any Person and any obligation, direct or indirect, contingent or otherwise, of such Person:

(1) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay or to maintain financial statement conditions or otherwise); or

(2) entered into for the purpose of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part);

provided, however, that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" used as a verb has a corresponding meaning.

"Guarantor" means the Parent Guarantor and each Subsidiary Guarantor.

"*Hedging Obligations*" of any Person means the obligations of such Person under:

(1) currency exchange or interest rate swap agreements, currency exchange or interest rate cap agreements or currency exchange or interest rate collar agreements; or

(2) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange or interest rate prices.

"*Holder*" or "*Noteholder*" means the Person in whose name a Note is registered on the Registrar's books.

"*Holdings*" means XM Satellite Radio Holdings Inc. until a successor replaces it and, thereafter, means the successor.

"Holdings-Sirius Merger" means (a) a merger or consolidation of Holdings with or into Sirius or a merger or consolidation of Sirius with or into Holdings or (b) any assignment, transfer, conveyance or other disposition of all or substantially all of the properties or assets of Holdings to Sirius or of Sirius to Holdings.

"*Incur*" means issue, assume, Guarantee, incur or otherwise become liable for;*provided, however*, that any Indebtedness of a Person existing at the time such Person becomes a Restricted Subsidiary (whether by merger, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Person at the time it becomes a Restricted Subsidiary. The term "Incurrence" when used as a noun shall have a correlative meaning.

"*Indebtedness*" means, with respect to any Person on any date of determination (without duplication):

(1) the principal in respect of (A) Indebtedness of such Person for money borrowed and (B) Indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable, including, in each case, any premium on such Indebtedness to the extent such premium has become due and payable;

(2) all Capital Lease Obligations of such Person and all Attributable Debt in respect of Sale/Leaseback Transactions entered into by such Person;

(3) all obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations of such Person and all obligations of such Person under any title retention agreement (but excluding any accounts payable or other liability to trade creditors arising in the ordinary course of business), in each case only if and to the extent due more than 12 months after the delivery of property;

(4) the principal component of all obligations of such Person for the reimbursement of any obligor on any letter of credit or bankers' acceptance (other than obligations with respect to letters of credit securing obligations (other than obligations described in clauses (1) through (3) above) entered into in the ordinary course of business of such Person), including obligations relating to the Letter Agreement and Binding Term Sheet, dated as of October 15, 2004 between the Company and the Office of the Commissioner of Baseball, as agent for Major League Baseball Clubs, to the extent such letters of credit are not drawn upon or, if and to the extent drawn upon, such drawing is reimbursed no later than the tenth Business Day following payment on the letter of credit;

(5) the principal component of the amount of all obligations of such Person with respect to the redemption, repayment or other repurchase of any Disqualified Stock of such Person or, with respect to any Preferred Stock of any Restricted Subsidiary of such Person, the principal amount attributable to such Preferred Stock to be determined in accordance with this Indenture (but excluding, in each case, any accrued dividends);

(6) all obligations of the type referred to in clauses (1) through (5) of other Persons and all dividends of other Persons for the payment of which, in either case, such Person is responsible or liable, directly or indirectly, as obligor, Guarantor or otherwise, including by means of any Guarantee;

(7) all obligations of the type referred to in clauses (1) through (6) of other Persons secured by any Lien on any property or asset of such Person (whether or not such obligation is assumed by such Person), the amount of such obligation being deemed to be the lesser of the fair market value of such property or assets and the amount of the obligation so secured; and

(8) to the extent not otherwise included in this definition, Hedging Obligations of such Person.

Notwithstanding the foregoing, in connection with the purchase by the Company or any Restricted Subsidiary of any business, the term "Indebtedness" will exclude post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; *provided, however*, that, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid within 30 days thereafter. Furthermore, in no event shall the Company's obligations to pay amounts under any programming or content acquisition arrangements, in each case, consistent with past practice, be considered Indebtedness.

The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all obligations as described above;*provided, however*, that in the case of Indebtedness sold at a discount, the amount of such Indebtedness at any time will be the accreted value thereof at such time.

"*Indenture*" means this Indenture as amended or supplemented from time to time.

"*Independent Qualified Party*" means an investment banking firm, accounting firm, appraisal firm, economic consulting firm or management consulting firm, each of national standing; *provided, however,* that such firm is not an Affiliate of the Company.

"*Initial Purchasers*" means (1) with respect to the Notes issued on the Issue Date, J.P. Morgan Securities Inc., Morgan Stanley & Co. Incorporated and UBS Securities LLC and (2) with respect to each issuance of Additional Notes, the Persons purchasing such Additional Notes under the related purchase agreement.

"*Investment*" in any Person means any direct or indirect advance, loan (other than advances to customers in the ordinary course of business that are recorded as accounts receivable on the balance sheet of the lender) or other extensions of credit (including by way of Guarantee or similar arrangement) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or

any purchase or acquisition of Capital Stock, Indebtedness or other similar instruments issued by such Person. If the Company or any Restricted Subsidiary issues, sells or otherwise disposes of any Capital Stock of a Person that is a Restricted Subsidiary such that, after giving effect thereto, such Person is no longer a Restricted Subsidiary, any Investment by the Company or any Restricted Subsidiary in such Person remaining after giving effect thereto will be deemed to be a new Investment at such time. Except as otherwise provided for herein, the amount of an Investment shall be its fair market value at the time the Investment is made and without giving effect to subsequent changes in value; *provided* that none of the following will be deemed to be an Investment:

(1) Hedging Obligations entered into in the ordinary course of business and in compliance with this Indenture;

(2) endorsements of negotiable instruments and documents in the ordinary course of business;

(3) an acquisition of assets by the Company or a Subsidiary for consideration to the extent such consideration consists of Capital Stock of the Company; and

(4) advances, deposits, escrows or similar arrangements in respect of retail or automotive distribution arrangements, programming or content acquisitions or extensions.

For purposes of the definition of "Unrestricted Subsidiary", "Investment" shall include:

(1) the portion (proportionate to the Company's equity interest in such Subsidiary) of the fair market value of the net assets of any Subsidiary of the Company at the time that such Subsidiary is designated an Unrestricted Subsidiary; *provided, however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company shall be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary equal to an amount (if positive) equal to (A) the Company's "Investment" in such Subsidiary at the time of such redesignation less (B) the portion (proportionate to the Company's equity interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its fair market value at the time of such transfer, in each case as determined in good faith by the Board of Directors of the Company.

"*Issue Date*" means August 1, 2008.

"*Last Reported Sale Price*" means, on any date, the closing sale price per share of the Common Stock (or, if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on such date as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock is traded. If the Common Stock is not listed for trading on a U.S. national or regional securities exchange on the relevant date, the "Last Reported Sale Price" shall mean the last quoted bid price for the Common Stock in the over-the-counter market

on such date as reported by the Pink Sheets LLC or any similar organization. If the Common Stock is not so quoted, the "Last Reported Sale Price" shall mean the average of the mid-point of the last bid and ask prices for the Common Stock on such date from each of at least three nationally recognized independent investment banking firms selected by the Company for such purpose.

"*Legal Holiday*" means a Saturday, a Sunday or a day on which banking institutions are not required to be open in the State of New York.

"*Lien*" means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof).

"Material Subsidiary" means any domestic Subsidiary (including the FCC License Subsidiary but only to the extent permitted under applicable law, rules or regulations, including rules and regulations of the Federal Communications Commission) that has Guaranteed any Indebtedness or other obligation of the Company or any Restricted Subsidiary in excess of $2.0 million.

"*Note Guarantees*" means the Guarantees of the Parent Guarantor and of the Subsidiary Guarantors pursuant to the terms of this Indenture, and "Note Guarantee" means any of them.

"*Obligations*" means, with respect to any Indebtedness, all obligations for principal, premium, interest, penalties, fees, indemnifications, reimbursements and other amounts payable pursuant to the documentation governing such Indebtedness.

"*Offering Memorandum*" means the final offering memorandum of the Company dated July 28, 2008 pursuant to which the Notes were offered to investors.

"*Officer*" means the Chairman of the Board, the President, any Vice President, the Treasurer or the Secretary of the Company.

"*Officers' Certificate*" means a certificate signed by two Officers.

"*Opinion of Counsel*" means a written opinion from legal counsel who is acceptable to the Trustee. The counsel may be an employee of or counsel to the Company.

"Parent Guarantor" means Holdings, in its capacity as a Guarantor of the Notes pursuant to this Indenture.

"*Permitted Investment*" means an Investment permitted to be made by the agreements governing Indebtedness (with an aggregate principal amount in excess of $100.0 million) of the Company or any Guarantor.

"*Permitted Restricted Payment*" means a restricted payment permitted to be made by the agreements governing Indebtedness (with an aggregate principal amount in excess of $100.0 million) of the Company or any Guarantor.

"*Permitted Subordinated Obligations*" means subordinated obligations of the Company that at the time of Incurrence have a weighted Average Life of not less than the lesser of five years and the remaining weighted Average Life of the Notes and that are convertible at the option of the holders thereof into Capital Stock (other than Disqualified Stock) of the Company or Sirius.

"*Person*" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"*Preferred Stock*", as applied to the Capital Stock of any Person, means Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends or distributions, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

"*principal*" of a Note means the principal of the Note payable on the Note which is due or overdue or is to become due at the relevant time.

"*QIB*" means a "qualified institutional buyer" as such term is defined in Rule 144A under the Securities Act.

"*Record Date*" means, with respect to the payment of interest on the Notes, including Additional Interest, if any, the May 15 (whether or not a Business Day) immediately preceding an Interest Payment Date on June 1 and November 15 (whether or not a Business Day) immediately preceding an Interest Payment Date on December 1.

"*Registration Rights Agreement*" means the registration rights agreement among the Company, Sirius and the Initial Purchasers, dated August 1, 2008.

"*Responsible Officer*" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"*Restricted Payment*" with respect to any Person means:

(1) the declaration or payment of any dividends or any other distributions of any sort in respect of its Capital Stock (including any payment in connection with any merger or consolidation involving such Person) or similar payment to the direct or indirect holders of its Capital Stock (other than (A) dividends or distributions payable solely in its Capital Stock (other than Disqualified Stock), (B) dividends or distributions payable solely to the Company or a Restricted Subsidiary and (C) *pro rata* dividends or other distributions made by a Subsidiary that is not a Wholly Owned Subsidiary to minority stockholders (or owners of an equivalent interest in the case of a Subsidiary that is an entity other than a corporation));

(2) the purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of any Capital Stock of the Company or any direct or indirect parent of the Company held by any Person (other than by a Restricted Subsidiary) or of any Capital Stock of a Restricted Subsidiary held by any Affiliate of the Company (other than by a Restricted Subsidiary), including in connection with any merger or consolidation and including the exercise of any option to exchange any Capital Stock (other than into Capital Stock of the Company that is not Disqualified Stock);

(3) (A) the purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of Permitted Subordinated Obligations of the Company or (B) the purchase, repurchase, redemption, defeasance or other acquisition or retirement for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment of any Subordinated Obligations of the Company (other than, in the case of this clause (B), (x) from the Company or a Restricted Subsidiary or (y) the purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Obligations (other than Permitted Subordinated Obligations), purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such purchase, repurchase, redemption, defeasance or other acquisition or retirement); or

(4) the making of any Investment (other than a Permitted Investment) in any Person.

"*Restricted Subsidiary*" means any Subsidiary of the Company that is not an Unrestricted Subsidiary.

"*Sale/Leaseback Transaction*" means an arrangement relating to property owned by the Company or a Restricted Subsidiary on the Issue Date or thereafter acquired by the Company or a Restricted Subsidiary whereby the Company or a Restricted Subsidiary transfers such property to a Person and the Company or a Restricted Subsidiary leases it from such Person.

"*SEC*" means the U.S. Securities and Exchange Commission.

"*Securities Act*" means the U.S. Securities Act of 1933, as amended.

"*Senior Indebtedness*" means Indebtedness of the Company, whether secured or unsecured, absolute or contingent, due or to become due, outstanding on the date of this Indenture or thereafter created, Incurred, assumed, Guaranteed or in effect Guaranteed by the Company, including all deferrals, renewals, extensions or refundings of, or amendments, modifications or supplements to, the foregoing. Senior Indebtedness does not include:

(1) Indebtedness that expressly provides that such Indebtedness (a) shall not be senior in right of payment to the Notes, (b) shall be equal or junior in right of payment to the Notes, or (c) shall be junior in right of payment to any of the Company's other Indebtedness;

(2) any Indebtedness to any of the Company's Subsidiaries, other than Indebtedness to the Company's Subsidiaries arising by reason of Guarantees by the Company of Indebtedness of such Subsidiary to a person that is not the Company's Subsidiary;

(3) Indebtedness for trade payables or the deferred purchase price of assets or services incurred in the ordinary course of business;

(4) any liability for federal, state, local or other taxes owed or owing by the Company; and

(5) Indebtedness which is classified as non-recourse in accordance with GAAP or any unsecured claim arising in respect thereof by reason of the application of section 1111(b)(1) of the Bankruptcy Code.

"*Senior Notes*" means the Company's 13.0% Senior Notes due 2014.

"*Senior Subordinated Indebtedness*" means, with respect to the Company, the Notes and any other Indebtedness of the Company that specifically provides that such Indebtedness is to have the same rank as the Notes in right of payment and is not subordinated by its terms in right of payment to any Indebtedness or other obligations of the Company that is not Senior Indebtedness.

"*Significant Subsidiary*" means any Restricted Subsidiary that would be a "Significant Subsidiary" of the Company within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC.

"*Sirius*" means Sirius Satellite Radio Inc. until a successor replaces it and, thereafter, means the successor.

"*Stated Maturity*" means, with respect to any security, the date specified in such security as the fixed date on which the final payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision (but excluding any provision providing for the repurchase of such security at the option of the holder thereof upon the happening of any contingency unless such contingency has occurred).

"*Subordinated Indebtedness*" means, with respect to the Company, any Indebtedness of the Company that specifically provides that such Indebtedness is subordinated to the Notes.

"*Subordinated Obligations*" means, with respect to a Person, any Indebtedness of such Person (whether outstanding on the Issue Date or thereafter Incurred) which is subordinate or junior in right of payment to the Notes pursuant to a written agreement to that effect.

"*Subsidiary*" means, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Voting Stock is at the time owned or controlled, directly or indirectly, by:

(1) such Person;

(2) such Person and one or more Subsidiaries of such Person; or

(3) one or more Subsidiaries of such Person.

"*Subsidiary Guarantee*" means, individually, any Guarantee of payment of the Notes by a Subsidiary Guarantor pursuant to the terms of this Indenture and any supplemental indenture thereto, and, collectively, all such Guarantees.

"*Subsidiary Guarantor*" means the Restricted Subsidiaries of the Company who are party to this Indenture on the Issue Date and any other Subsidiary of the Company that later becomes a Subsidiary Guarantor in accordance with this Indenture.

"*Trading Day*" means a day on which (i) trading in securities generally occurs on the Nasdaq Global Select Market or, if the Common Stock is not then listed on the Nasdaq Global Select Market, on the principal other U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, in the principal other market on which the Common Stock is then traded and (ii) a Last Reported Sale Price for the Common Stock is available on such securities exchange or market. If the Common Stock (or other security for which a closing sale price must be determined) is not so listed or quoted, "Trading Day" means a Business Day.

"*Trustee*" means The Bank of New York Mellon until a successor replaces it and, thereafter, means the successor.

"*Trust Indenture Act*" or "*TIA*" means the Trust Indenture Act of 1939 (15 U.S.C. §§ 77aaa-77bbbb) as in effect on the Issue Date;*provided, however,* that in the even the Trust Indenture Act of 1939 is amended after the Issue Date, "Trust Indenture Act" or "TIA" means, to the extent required by any such amendment, the Trust Indenture Act of 1939 so amended.

"*Uniform Commercial Code*" means the New York Uniform Commercial Code as in effect from time to time.

"*Unrestricted Subsidiary*" means:

(1) any Subsidiary of the Company that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors (or any committee thereof) in the manner provided below; and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Board of Directors of the Company (or any committee thereof) may designate any Subsidiary of the Company (including any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries (A) is a "Restricted Subsidiary" (or any similar definition) under agreements relating to any other Indebtedness of the Company with an aggregate principal amount of $2.0 million or more or (B) owns any Capital Stock or Indebtedness of, or holds any Lien on any property of, the Company or any other subsidiary of the Company that is not a Subsidiary of the Subsidiary to be so designated.

"*Voting Stock*" of a Person means all classes of Capital Stock of such Person then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof.

"*Wholly Owned Subsidiary*" means a Restricted Subsidiary all the Capital Stock of which (other than directors' qualifying shares) is owned by the Company or one or more other Wholly Owned Subsidiaries.

SECTION 1.02. Other Definitions.

Term	Defined In Section
"Additional Notes"	2.13
"Additional Shares"	11.08
"Affiliate Transaction"	3.03(a)
"Appendix"	2.01
"covenant defeasance option"	7.01(b)
"Definitive Note"	2.01
"Depositary"	10.01
"Effective Date"	11.06(b)
"Event of Default"	5.01
"Exchange Agent"	2.01(a)
"Exchange Notice"	11.02
"Fundamental Change Company Notice"	10.01(b)
"Fundamental Change Purchase Date"	10.01(a)
"Fundamental Change Purchase Price"	10.01(a)
"Fundamental Change Purchase Notice"	10.01(a)
"Interest Payment Date"	Exhibit 2
"Paying Agent"	2.03(a)
"Payment Blockage Notice"	12.02

Term	Defined In Section
"protected purchaser"	2.07
"Reference Property"	11.07
"Registrar"	2.03(a)
"Reporting Additional Interest"	5.12
"Stock Price"	11.06(b)
"Successor Company"	4.01(1)
"Trigger Event"	11.04(b)

SECTION 1.03. Rules of Construction. Unless the context otherwise requires:

(1) a term has the meaning assigned to it;

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(3) "or" is not exclusive;

(4) "including" means including without limitation;

(5) words in the singular include the plural and words in the plural include the singular;

(6) unsecured Indebtedness shall not be deemed to be subordinate or junior to secured Indebtedness merely by virtue of its nature as unsecured Indebtedness;

(7) secured Indebtedness shall not be deemed to be subordinate or junior to any other secured Indebtedness merely because it has a junior priority with respect to the same collateral;

(8) the principal amount of any noninterest bearing or other discount security at any date shall be the principal amount thereof that would be shown on a balance sheet of the issuer dated such date prepared in accordance with GAAP;

(9) the principal amount of any Preferred Stock shall be (A) the liquidation preference of such Preferred Stock or (B) the maximum mandatory redemption or mandatory repurchase price (not including any redemption or repurchase premium) with respect to such Preferred Stock, whichever is greater; and

(10) all references to the date the Notes (other than any Additional Notes) were originally issued shall refer to the Issue Date.

ARTICLE 2

The Notes

SECTION 2.01. Form and Dating. Provisions relating to the Notes are set forth in the Rule 144A/Appendix attached hereto (the "*Appendix*") which is hereby incorporated in, and expressly made part of, this Indenture. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit 1 to the Appendix which is hereby incorporated in, and expressly made a part of, this Indenture. The Notes may have notations, legends or endorsements required by law, stock exchange rule, agreements to which the Company is subject, if any, or usage (provided that any such notation, legend or endorsement is in a form acceptable to the Company). Each Note shall be dated the date of its authentication. The terms of the Notes set forth in the Appendix are part of the terms of this Indenture. Each Global Note shall be dated the date of its issuance. Each definitive certificated note (a "*Definitive Note*") shall be dated the date of its authentication.

SECTION 2.02. Execution and Authentication. One Officer shall sign the Notes for the Company by manual or facsimile signature.

If the Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

A Note shall not be valid until an authorized signatory of the Trustee manually signs the certificate of authentication on the Note. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

On the Issue Date, the Trustee shall authenticate and deliver $550 million of 7% Exchangeable Senior Subordinated Notes due 2014 and, at any time and from time to time thereafter, the Trustee shall authenticate and deliver Notes for original issue in an aggregate principal amount specified in such order, in each case upon a written order of the Company signed by two Officers or by an Officer and either an Assistant Treasurer or an Assistant Secretary of the Company. Such order shall specify the amount of the Notes to be authenticated and the date on which the original issue of Notes is to be authenticated.

The Trustee may appoint an authenticating agent reasonably acceptable to the Company to authenticate the Notes. Any such appointment shall be evidenced by an instrument signed by a Responsible Officer, a copy of which shall be furnished to the Company. Unless limited by the terms of such appointment, an authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as any Registrar, Paying Agent or agent for service of notices and demands.

SECTION 2.03. Registrar, Paying Agent and Exchange Agent.

(a) The Company shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange (the "*Registrar*"), an office or agency where Notes may be presented for payment (the "*Paying Agent*") and an office or agency where Notes may be presented for exchange (the "*Exchange Agent*"). The Registrar shall keep a register of the

Notes and of their transfer and exchange. The Company may have one or more co-registrars and one or more additional paying agents. The term "*Registrar*" includes any co-registrars. The term "*Paying Agent*" includes any additional paying agent. The term "*Exchange Agent*" includes any additional exchange agent.

(b) The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent, Exchange Agent or co-registrar not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of any such agent. If the Company fails to maintain a Registrar, Exchange Agent or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 6.07. The Company or any Wholly Owned Subsidiary incorporated or organized within The United States of America may act as Paying Agent, Registrar, co-registrar or transfer agent.

(c) The Company may remove any Registrar, Paying Agent or Exchange Agent upon written notice to such Registrar, Paying Agent or Exchange Agent and to the Trustee; *provided, however,* that no such removal shall become effective until (i) if applicable, acceptance of an appointment by a successor as evidenced by an appropriate agreement entered into by the Company and such successor Registrar, Paying Agent or Exchange Agent as the case may be, and delivered to the Trustee or (ii) notification to the Trustee that the Trustee shall serve as Registrar, Paying Agent or Exchange Agent until the appointment of a successor in accordance with clause (i) above. The Registrar, Paying Agent or Exchange Agent may resign at any time upon written notice to the Company and the Trustee; *provided, however,* that the Trustee may resign as Paying Agent or Registrar only if the Trustee also resigns as Trustee in accordance with Section 6.08.

(d) The Company initially appoints the Trustee as Registrar, Paying Agent and Exchange Agent in connection with the Notes.

SECTION 2.04. Paying Agent To Hold Money in Trust. Prior to each due date of the principal and interest on any Note, the Company shall deposit with the Paying Agent a sum sufficient to pay such principal and interest when so becoming due. The Company shall require each Paying Agent (other than the Trustee) to agree in writing that the Paying Agent shall hold in trust for the benefit of Noteholders or the Trustee all money held by the Paying Agent for the payment of principal of or interest on the Notes and shall notify the Trustee of any default by the Company in making any such payment. If the Company or a Subsidiary acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by the Paying Agent. Upon complying with this Section, the Paying Agent shall have no further liability for the money delivered to the Trustee.

SECTION 2.05. Noteholder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Noteholders. If the Trustee is not the Registrar, the Company shall furnish, or cause the Registrar to furnish, to the Trustee, in writing at least five Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Noteholders.

SECTION 2.06. Transfer and Exchange. The Notes shall be issued in registered form and shall be transferable only upon the surrender of a Note for registration of transfer. When a Note is presented to the Registrar or a co-registrar with a request to register a transfer, the Registrar shall register the transfer as requested if the requirements of this Indenture and Section 8-401(1) of the Uniform Commercial Code are met. When Notes are presented to the Registrar or a co-registrar with a request to exchange them for an equal principal amount of Notes of other denominations, the Registrar shall make the exchange as requested if the same requirements are met. The Company may require payment of a sum sufficient to pay all taxes, assessments and other governmental charges in connection with any transfer or exchange pursuant to this Section.

Prior to the due presentation of transfer of any Note the Company, the Trustee, the Paying Agent and the Registrar may deem and treat the person in whose name a Note is registered as the absolute owner of such Note for all purposes of receiving payment of principal of and interest, if any, on such Note and for all other purposes whatsoever, whether or not such security is overdue, and none of the Company, the Trustee, a Paying Agent, the Exchange Agent or the Registrar shall be affected by notice to the contrary.

All Notes issued upon any transfer or exchange pursuant to the terms of this Indenture shall evidence the same debt and shall be entitled to the same benefits under this Indenture as the Notes surrendered upon such transfer or exchange.

SECTION 2.07. Replacement Notes. If a mutilated Note is surrendered to the Registrar or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Company shall issue and the Trustee shall authenticate a replacement Note if the requirements of Section 8-405 of the Uniform Commercial Code are met and the Holder (a) satisfies the Company or the Trustee within a reasonable time after such Holder has notice of such loss, destruction or wrongful taking and the Registrar does not register a transfer prior to receiving such notification, (b) makes such request to the Company or the Trustee prior to the Note being acquired by a protected purchaser as defined in Section 8-303 of the Uniform Commercial Code (a "*protected purchaser*") and (c) satisfies any other reasonable requirements of the Trustee. If required by the Trustee or the Company, such Holder shall furnish an indemnity bond sufficient in the judgment of the Company and the Trustee to protect the Company, the Trustee, the Paying Agent, the Registrar and any co-registrar from any loss which any of them may suffer if a Note is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Note (including, attorneys' fees and disbursements in replacing such security). In the event any such mutilated, lost, destroyed or wrongfully taken Note has become or is about to become due and payable, the Company in its discretion may pay such Note instead of issuing a new Note in replacement thereof.

In case any Note which has matured or is about to mature or has been properly tendered for repurchase on a Fundamental Change Repurchase Date (and not withdrawn), as the case may be, or is to be exchanged into Common Stock, has been lost, destroyed or wrongfully taken, the Company may, instead of issuing a substitute Note, pay or authorize the payment of or exchange or authorize the exchange of the same (without surrender thereof except in the case of a mutilated Note), as the case may be, if the applicant for such payment or exchange shall furnish to the Company, to the Trustee and, if applicable, to such authenticating agent such security or

indemnity as may be required by them to save each of them harmless for any loss, liability, cost or expense caused by or in connection with such substitution, and, in every case of destruction, loss or wrongful taking, the applicant shall also furnish to the Company, the Trustee and, if applicable, any Paying Agent or Exchange Agent evidence to their satisfaction of the destruction, loss or wrongful taking of such Notes and of the ownership thereof.

Every replacement Note is an additional obligation of the Company.

SECTION 2.08. Outstanding Notes. Notes outstanding at any time are all Notes authenticated by the Trustee except for those exchanged for Common Stock, canceled by the Trustee, those delivered to the Trustee for cancellation and those described in this Section as not outstanding. Subject to Section 13.05, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

If a Note is replaced pursuant to Section 2.07, it ceases to be outstanding unless the Trustee and the Company receive proof satisfactory to them that the replaced Note is held by a protected purchaser (as defined in Section 8-303 of the Uniform Commercial Code).

If the Paying Agent segregates and holds in trust, in accordance with this Indenture, on a Fundamental Change Repurchase Date or on the Stated Maturity money sufficient to pay all principal and interest payable on that date with respect to the Notes to be repurchased or maturing, as the case may be, then on and after that date such Notes cease to be outstanding and interest on them shall cease to accrue.

SECTION 2.09. Temporary Notes. Until Definitive Notes are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of Definitive Notes but may have variations that the Company considers appropriate for temporary Notes. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate Definitive Notes and deliver them in exchange for temporary Notes at the office or agency of the Company.

SECTION 2.10. Cancellation. The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel and dispose of (subject to the record retention requirements of the Exchange Act) all Notes surrendered for registration of transfer, exchange, payment or cancellation in accordance with its customary procedures for the disposition of cancelled securities and deliver a certificate of such disposition to the Company unless the Company directs the Trustee to deliver canceled Notes to the Company. The Company may not issue new Notes to replace Notes it has redeemed, paid or delivered to the Trustee for cancellation.

SECTION 2.11. Defaulted Interest. If the Company defaults in a payment of interest on the Notes, the Company shall pay defaulted interest (plus interest on such defaulted interest to the extent lawful) in any lawful manner. The Company may pay the defaulted interest to the persons who are Noteholders on a subsequent special record date. The Company shall fix or cause to be fixed any such special record date and payment date to the reasonable satisfaction of the Trustee and shall promptly mail to each Noteholder a notice that states the special record date, the payment date and the amount of defaulted interest to be paid.

SECTION 2.12. CUSIP Numbers, ISINs, etc. The Company in issuing the Notes may use "CUSIP" numbers, ISINs and "Common Code" numbers (in each case if then generally in use) and, if so, the Trustee shall use "CUSIP" numbers, ISINs and "Common Code" numbers in notices of redemption as a convenience to Holders; *provided, however,* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company shall advise the Trustee in writing of any change in any "CUSIP" numbers, ISINs or "Common Code" numbers applicable to the Notes.

SECTION 2.13. Issuance of Additional Notes. After the Issue Date, the Company shall be entitled, subject to the limitations set forth below, to issue additional Notes ("*Additional Notes*") under this Indenture, which Notes shall have identical terms as the Notes issued on the Issue Date, other than with respect to the date of issuance and issue price. All the Notes issued under this Indenture shall be treated as a single class for all purposes of this Indenture including waivers and amendments.

With respect to any Additional Notes, the Company shall set forth in a resolution of the Board of Directors and an Officers' Certificate, a copy of each which shall be delivered to the Trustee, the following information:

(1) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture that the Company is relying on to issue such Additional Notes; and

(2) the issue price, the issue date and the CUSIP number of such Additional Notes; *provided, however*, that no Additional Notes may be issued at a price that would cause such Additional Notes to have "original issue discount" within the meaning of Section 1273 of the Code;

ARTICLE 3

Covenants

SECTION 3.01. Payment of Notes. The Company shall promptly pay the principal of and interest on the Notes on the dates and in the manner provided in the Notes and in this Indenture. Principal and interest shall be considered paid on the date due if on such date the Trustee or the Paying Agent holds in accordance with this Indenture money sufficient to pay all principal and interest then due.

The Company shall pay interest on overdue principal at the rate specified therefor in the Notes, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

SECTION 3.02. SEC Reports. So long as any Notes are outstanding, Holdings and Sirius will furnish to the Trustee:

(1) within 90 days after the end of each fiscal year, annual reports of each of Holdings and Sirius containing substantially all of the information that would have been required to be contained in an Annual Report on Form 10-K under the Exchange Act if each of Holdings and Sirius had been a reporting company under the Exchange Act (but only to the extent similar information was included in the Offering Memorandum), including (A) "Management's Discussion and Analysis of Financial Condition and Results of Operations" and (B) audited financial statements prepared in accordance with GAAP and (C) a presentation of EBITDA of Holdings and its Restricted Subsidiaries consistent with the presentation thereof in the Offering Memorandum and derived from such financial statements;

(2) within 45 days after the end of each of the first three fiscal quarters of each fiscal year, quarterly reports of each of Holdings and Sirius containing substantially all of the information that would have been required to be contained in a Quarterly Report on Form 10-Q under the Exchange Act if each of Holdings and Sirius had been a reporting company under the Exchange Act (but only to the extent similar information is provided in the Offering Memorandum), including (A) "Management's Discussion and Analysis of Financial Condition and Results of Operations," (B) unaudited quarterly financial statements prepared in accordance with GAAP and reviewed pursuant to Statement on Auditing Standards No. 100 (or any successor provision) and (C) a presentation of EBITDA of Holdings and its Subsidiaries consistent with the presentation thereof in the Offering Memorandum and derived from such financial statements; and

(3) within 5 Business Days after the occurrence of each event that would have been required to be reported in a Current Report on Form 8-K under the Exchange Act if each of Holdings and Sirius had been a reporting company under the Exchange Act, current reports containing substantially all of the information that would have been required to be contained in a Current Report on Form 8-K under the Exchange Act if each of Holdings and Sirius had been a reporting company under the Exchange Act; *provided*, *however*, that no such current report will be required to be furnished if Holdings or Sirius, as the case may be, determines in its good faith judgment that such event is not material to Noteholders or the business, assets, operations, financial positions or prospects of Holdings and its Restricted Subsidiaries, taken as a whole, or Sirius and its restricted subsidiaries, taken as a whole, as the case may be;

provided, *however*, that such reports (A) will not be required to comply with Section 302 or Section 404 of the Sarbanes-Oxley Act of 2002, or related Items 307 and 308 of Regulation S-K promulgated by the SEC, or Item 10(e) of Regulation S-K (with respect to any non-GAAP financial measures contained therein) and (B) will not be required to contain the separate financial information for Guarantors contemplated by Rule 3-10 of Regulation S-X promulgated by the SEC. The availability of the foregoing materials on the SEC's EDGAR service shall be deemed to satisfy the delivery obligations of Holdings and Sirius.

In addition, Holdings shall furnish to Noteholders, prospective investors, broker-dealers and securities analysts, upon their request, any information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act so long as the Notes are not freely transferable under the Securities Act. Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

Following a Company-Holdings Merger, a Holdings-Sirius Merger or a Company-Sirius Merger, the obligations of Holdings under this covenant shall be assumed by the Company or Sirius, as the case may be. In addition, notwithstanding the foregoing, in the event that Sirius Guarantees the Notes, all of Holdings' reporting obligations under this Section 3.02 shall terminate.

SECTION 3.03. Limitation on Affiliate Transactions.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property, employee compensation arrangements or the rendering of any service) with, or for the benefit of, any Affiliate of the Company (an "*Affiliate Transaction*") unless:

(1) the terms of the Affiliate Transaction are no less favorable to the Company or such Restricted Subsidiary than those that could be obtained at the time of the Affiliate Transaction in arm's-length dealings with a Person who is not an Affiliate;

(2) if such Affiliate Transaction involves an amount in excess of $5 million, the terms of the Affiliate Transaction are set forth in writing and a majority of the directors of the Company who have no direct financial interest with respect to such Affiliate Transaction (other than as a stockholder of the Company, Holdings or Sirius) have determined in good faith that the criteria set forth in clause (1) are satisfied and have approved the relevant Affiliate Transaction as evidenced by a resolution of the Board of Directors of the Company; and

(3) if such Affiliate Transaction involves an amount in excess of $20 million, the Board of Directors of the Company shall also have received a written opinion from an Independent Qualified Party to the effect that such Affiliate Transaction is fair, from a financial standpoint, to the Company and its Restricted Subsidiaries or is not less favorable to the Company and its Restricted Subsidiaries than could reasonably be expected to be obtained at the time in an arm's-length transaction with a Person who was not an Affiliate or is fair from a financial point of view.

(b) The provisions of the preceding paragraph (a) shall not prohibit:

(1) any Permitted Investment or Permitted Restricted Payment; *provided*, that so long as the Company and the Guarantors do not have any other agreements governing indebtedness which prohibit any Restricted Payments or Investments, no Restricted Payments or Investments will be prohibited by the preceding paragraph (a);

(2) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, stock options and stock ownership or other employee benefit plans approved by the Board of Directors of the Company or Sirius or entered into in the ordinary course of business;

(3) to the extent permitted by applicable law, loans or advances to employees in the ordinary course of business in accordance with the past practices of the Company or its Restricted Subsidiaries, but in any event not to exceed $2 million in the aggregate outstanding at any one time;

(4) the payment of reasonable and customary fees to, and indemnity provided on behalf of, directors of the Company and its Restricted Subsidiaries who are not employees of the Company or its Restricted Subsidiaries;

(5) any transaction with the Company, a Restricted Subsidiary or joint venture or similar entity which would constitute an Affiliate Transaction solely because the Company or a Restricted Subsidiary owns an equity interest in or otherwise controls such Restricted Subsidiary, joint venture or similar entity;

(6) the issuance or sale of any Capital Stock (other than Disqualified Stock) of the Company to Affiliates of the Company and the granting of registration and other customary rights in connection therewith;

(7) any agreement as in effect on the Issue Date and described in the Offering Memorandum, as these agreements may be amended, modified, supplemented, extended or renewed from time to time (so long as any amendment, modification, supplement, extension or renewal is not less favorable in any material respect to the Company or the Restricted Subsidiaries) and the transactions evidenced thereby;

(8) any transaction by the Company or any Restricted Subsidiary with an Affiliate related to the purchase, sale or distribution of XM radios, subscription to XM services or other products or services in the ordinary course of business including any such transaction with an automotive manufacturer or similar business partner, which has been approved by a majority of the members of the Board of Directors of the Company who have no direct financial interest with respect to such Affiliate Transaction (other than as a stockholder of the Company, Holdings or Sirius);

(9) a Company-Holdings Merger or a Company-Sirius Merger; and

(10) any transaction between the Company and a Restricted Subsidiary or between Restricted Subsidiaries.

SECTION 3.04. Compliance Certificate. The Company shall deliver to the Trustee within 120 days after the end of each fiscal year of the Company an Officers' Certificate stating that in the course of the performance by the signers of their duties as Officers of the Company they would normally have knowledge of any Default and whether or not the signers know of any Default that occurred during such period. If they do, the Officers' Certificate shall describe the Default, its status and what action the Company is taking or proposes to take with respect thereto.

The Company shall deliver to the Trustee, as soon as possible and in any event within five Business Days after the Company becomes aware of the occurrence of any Event of Default or an event which, with notice or the lapse of time or both, would constitute an Event of Default, an Officers' Certificate setting forth the details of such Event of Default or Default and the action which the Company proposes to take with respect thereto.

SECTION 3.05. Additional Interest Notice. In the event that the Company is required to pay Additional Interest to Holders of Notes pursuant to the Registration Rights Agreement, the Company will provide written notice ("*Additional Interest Notice*") to the Trustee of its obligation to pay Additional Interest no later than fifteen days prior to the proposed payment date for the Additional Interest, and the Additional Interest Notice shall set forth the amount of Additional Interest to be paid by the Company on such payment date. The Trustee shall not at any time be under any duty or responsibility to any Holder of Notes to determine the Additional Interest, or with respect to the nature, extent, or calculation of the amount of Additional Interest owed, or with respect to the method employed in such calculation of the Additional Interest.

SECTION 3.06. Further Instruments and Acts. Upon request of the Trustee, the Company shall execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this Indenture.

ARTICLE 4

Successor Company

SECTION 4.01. When Company May Merge or Transfer Assets. Neither the Company nor Sirius shall consolidate with or merge with or into, or convey, transfer or lease, in one transaction or a series of transactions, directly or indirectly, all or substantially all its assets to, any Person, unless:

(1) the resulting, surviving or transferee Person (the "*Successor Company*") shall be a Person organized and existing under the laws of the United States of America, any State thereof or the District of Columbia and the Successor Company (if not the Company or Sirius, as the case may be) shall expressly assume, by an indenture supplemental thereto, executed and delivered to the Trustee, in form satisfactory to the Trustee, all the obligations of the Company or Sirius, as the case may be, under the Notes and this Indenture and, in the case of Sirius and to the extent then still operative, the Registration Rights Agreement;

(2) immediately after giving *pro forma* effect to such transaction (and treating any Indebtedness which becomes an obligation of the Successor Company or any Subsidiary as a result of such transaction as having been Incurred by such Successor Company or such Subsidiary at the time of such transaction), no Default shall have occurred and be continuing; and

(3) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indenture (if any) comply with this Indenture.

In addition, the Company shall not, directly or indirectly, lease all or substantially all of the properties and assets of it and its Restricted Subsidiaries taken as a whole, in one or more related transactions to any other Person.

For purposes of this Section 4.01, the sale, lease, conveyance, assignment, transfer or other disposition of all or substantially all of the properties and assets of one or more Subsidiaries of the Company or Sirius, as the case may be, which properties and assets, if held by the Company or Sirius, as the case may be, instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Company or Sirius, as the case may be, on a consolidated basis, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company or Sirius, as the case may be.

The Successor Company shall be the successor to the Company or Sirius, as the case may be, and shall succeed to, and be substituted for, and may exercise every right and power of, the Company or Sirius, as the case may be, under this Indenture, and the predecessor Company or Sirius, except in the case of a lease, shall be released from its obligation with respect to the Notes and the Indenture and, in the case of Sirius and to the extent then still operative, the Registration Rights Agreement.

ARTICLE 5

Defaults and Remedies

SECTION 5.01. Events of Default. Each of the following is an "Event of Default":

(1) a default in any payment of interest on any Note when due and payable, continued for a period of 30 days;

(2) a default in the payment of the principal of any Note when due at its Stated Maturity, upon required purchase, upon declaration of acceleration or otherwise;

(3) the failure by the Company to comply with its obligation to exchange the Notes in accordance with Article 11 of this Indenture upon exercise of a Holder's exchange right;

(4) the failure by the Company to give a Fundamental Change Company Notice or notice of specified corporate transaction pursuant to Article 10, in each case when due;

(5) the failure by the Company or Sirius to comply with Section 4.01;

(6) the failure by the Company or Sirius to comply for 60 days after notice with their other agreements contained in this Indenture (other than a failure to give the notices described in clause (4) above);

(7) Indebtedness of the Company or any Significant Subsidiary (other than with respect to the Notes) is not paid within any applicable grace period after final maturity or is accelerated by the holders thereof because of a default and the total amount of such Indebtedness unpaid or accelerated exceeds $25 million;

(8) the Company or any Significant Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case;

(B) consents to the entry of an order for relief against it in an involuntary case;

(C) consents to the appointment of a Custodian of it or for any substantial part of its property; or

(D) makes a general assignment for the benefit of its creditors;

or takes any comparable action under any foreign laws relating to insolvency;

(9) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company or any Significant Subsidiary in an involuntary case;

(B) appoints a Custodian of the Company or any Significant Subsidiary or for any substantial part of its property; or

(C) orders the winding up or liquidation of the Company or any Significant Subsidiary;

or any similar relief is granted under any foreign laws and the order or decree remains unstayed and in effect for 60 days;

(10) any final, non-appealable judgment or decree for the payment of money which, when taken together with all other final, non-appealable judgments or decrees for the payment of money, causes the aggregate amount of such judgments or decrees entered against the Company or any Significant Subsidiary to exceed $25 million (net of any amounts with respect to which a reputable and creditworthy insurance company has acknowledged liability in writing), remains outstanding for a period of 60 days following such judgment and is not discharged, waived or stayed; or

(11) the Guarantee of a Significant Subsidiary ceases to be in full force and effect (except as contemplated by the terms of this Indenture) or is declared null and void in a judicial proceeding or any Subsidiary Guarantor that is a Significant Subsidiary denies or disaffirms its obligations under this Indenture or its Guarantee.

The foregoing will constitute Events of Default whatever the reason for any such Event of Default and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

A Default under clauses (4) or (5) is not an Event of Default until the Trustee or the Holders of at least 25% in principal amount of the outstanding Notes notify the Company of the Default and the Company does not cure such Default within the time specified after receipt of such notice. Such notice must specify the Default, demand that it be remedied and state that such notice is a "Notice of Default".

The Company shall deliver to the Trustee, within 30 days after the occurrence thereof, written notice in the form of an Officers' Certificate of any Event of Default under clause (6) and any event which with the giving of notice or the lapse of time would become an Event of Default under clauses (4), (5), (7), (8) or (9), its status and what action the Company is taking or proposes to take with respect thereto.

If a Default occurs, is continuing and is actually known by a Responsible Officer of the Trustee, the Trustee shall mail to each Holder notice of Default within 90 days after it occurs; *provided*, that except in the case of a Default in the payment of principal of or interest on any Note, the Trustee may withhold notice if and so long as a committee of its Responsible Officers in good faith determines that withholding notice is not opposed to the interest of the Holders.

SECTION 5.02. Acceleration. If an Event of Default (other than an Event of Default specified in Section 5.01(8) or (9) with respect to the Company) occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in principal amount of the outstanding Notes by notice to the Company and the Trustee, may declare the principal of and accrued but unpaid interest, if any, on all the Notes to be due and payable. Upon such a declaration, such principal and interest shall be due and payable immediately. In the event of a declaration of acceleration of the Notes because an Event of Default described in Section 5.01(7) with respect to Senior Indebtedness has occurred and is continuing, the declaration of acceleration of the Notes shall be automatically annulled if the event of default or payment default triggering such Event of Default pursuant to Section 5.01(7) shall be remedied or cured by the Company or a Subsidiary of the Company or waived by the holders of the relevant Indebtedness within 20 days after the declaration of acceleration with respect thereto and if (1) the annulment of the acceleration of the Notes would not conflict with any judgment or decree of a court of competent jurisdiction and (2) all existing Defaults or Events of Default, except nonpayment of principal or interest on the Notes that became due solely because of the acceleration of the Notes, have been cured or waived. If an Event of Default specified in Section 5.01(8) or (9) with respect to the Company occurs and is continuing, the principal of and interest on all the Notes shall *ipso facto* become and be immediately due and payable without any

declaration or other act on the part of the Trustee or any Noteholders. Under certain circumstances, the Holders of a majority in principal amount of the outstanding Notes may waive all past defaults and rescind any such acceleration with respect to the Notes and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default have been cured or waived except nonpayment of principal or interest that has become due solely because of acceleration. No such rescission shall affect any subsequent Default or impair any right consequent thereto.

SECTION 5.03. Other Remedies. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of or interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Noteholder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative.

SECTION 5.04. Waiver of Past Defaults. The Holders of a majority in principal amount of the Notes by notice to the Trustee may waive an existing Default and its consequences except (a) a Default in the payment of the principal of or interest on a Note (b) a Default arising from the failure to redeem or purchase any Note when required pursuant to this Indenture or (c) a Default in respect of a provision that under Section 8.02 cannot be amended without the consent of each Noteholder affected. When a Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other Default or impair any consequent right.

SECTION 5.05. Control by Majority. The Holders of a majority in principal amount of the Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or, subject to Section 6.01, that the Trustee determines is unduly prejudicial to the rights of other Noteholders or would involve the Trustee in personal liability; *provided, however,* that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Prior to taking any action hereunder, the Trustee shall be entitled to indemnification satisfactory to it in its sole discretion against all losses and expenses caused by taking or not taking such action.

SECTION 5.06. Limitation on Suits. Except to enforce the right to receive payment of principal or interest when due or shares of Common Stock upon exchange, no Noteholder may pursue any remedy with respect to this Indenture or the Notes unless:

(1) the Holder gives to the Trustee written notice stating that an Event of Default is continuing;

(2) the Holders of at least 25% in principal amount of the Notes make a written request to the Trustee to pursue the remedy;

(3) such Holder or Holders offer to the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense;

(4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of security or indemnity; and

(5) the Holders of a majority in principal amount of the Notes do not give the Trustee a direction inconsistent with the request during such 60-day period.

A Noteholder may not use this Indenture to prejudice the rights of another Noteholder or to obtain a preference or priority over another Noteholder. In the event that the Definitive Notes are not issued to any beneficial owner promptly after the Registrar has received a request from the Holder of a Global Note to issue such Definitive Notes to such beneficial owner of its nominee, the Company expressly agrees and acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to this Indenture, the right of such beneficial Holder of Notes to pursue such remedy with respect to the portion of the Global Note that represents such beneficial Holder's Notes as if such Definitive Notes had been issued.

SECTION 5.07. Rights of Holders to Receive Payment. Notwithstanding any other provision of this Indenture, the right of any Holder to receive payment of principal of and interest on the Notes held by such Holder, on or after the respective due dates expressed in the Notes, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

SECTION 5.08. Collection Suit by Trustee. If an Event of Default specified in Section 5.01(1) or (2) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount then due and owing (together with interest on any unpaid interest to the extent lawful) and the amounts provided for in Section 6.07.

SECTION 5.09. Trustee May File Proofs of Claim. The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Noteholders allowed in any judicial proceedings relative to the Company, its creditors or its property and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 6.07.

Priorities. If the Trustee collects any money or property pursuant to this Article 5, it shall pay out the money or property in the following order:

FIRST: to the Trustee for amounts due under Section 6.07;

SECOND: to Noteholders for amounts due and unpaid on the Notes for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal and interest, respectively; and

THIRD: to the Company.

The Trustee may fix a record date and payment date for any payment to Noteholders pursuant to this Section. At least 15 days before such record date, the Company shall mail to each Noteholder and the Trustee a notice that states the record date, the payment date and amount to be paid.

SECTION 5.10. Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 5.07 or a suit by Holders of more than 10% in aggregate principal amount of the Notes.

SECTION 5.11. Waiver of Stay or Extension Laws. The Company (to the extent it may lawfully do so) shall not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law had been enacted.

SECTION 5.12. Sole Remedy for Failure to Report. Notwithstanding any other provision of this Indenture, the sole remedy for an Event of Default relating to the failure of the Company to comply with its agreements under Section 3.02 of this Indenture will, solely at the Company's election (exercised by notice to the Trustee on or before the applicable Event of Default), for the 180 days after the occurrence of such an Event of Default consist exclusively of the right to receive additional interest ("*Reporting Additional Interest*") on the principal amount of the Notes at a rate equal to 0.50% per annum. This Reporting Additional Interest will be in addition to any Additional Interest that may accrue as a result of a registration default under the Registration Rights Agreement and will be payable in the same manner and on the same Interest Payment Dates and subject to the same terms as other interest payable under this Indenture. Reporting Additional Interest will accrue on all outstanding Notes from and including the date on which such Event of Default relating to a failure to comply with Section 3.02 first occurs to but not including the 180th calendar day thereafter (or such earlier date on which the Event of Default relating to a failure to comply with Section 3.02 shall have been cured or waived). On such 180th day (or such earlier date on which the Event of Default relating to a failure to comply with Section 3.02 shall have been cured or waived), such Reporting Additional Interest will cease to accrue and on such 180th day the Notes will be subject to acceleration and other remedies as provided in this Article 5 if the Event of Default is continuing. For the avoidance of

doubt, the provisions of this Section 5.12 will not affect the rights of Holders in the event of the occurrence of any other Event of Default. For the further avoidance of doubt, the Reporting Additional Interest shall not begin accruing until the Company fails to comply with Section 3.02 for a period of 60 calendar days after written notice of such failure is given to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of outstanding Notes. Unless otherwise expressly noted, throughout this Indenture, all references herein to "interest" include any Reporting Additional Interest.

ARTICLE 6

Trustee

SECTION 6.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent Person would exercise or use under the circumstances in the conduct of such Person's own affairs.

(b) Except during the continuance of an Event of Default:

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(1) this paragraph does not limit the effect of paragraph (b) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 5.05.

(d) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section.

(e) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company.

(f) Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

(g) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds to believe that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(h) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

SECTION 6.02. Rights of Trustee.

(a) The Trustee may conclusively rely on any document believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting in response to any request for action under this Indenture, it may require an Officers' Certificate or an Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on the Officers' Certificate or Opinion of Counsel.

(c) The Trustee may act through agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers*provided, however,* that the Trustee's conduct does not constitute willful misconduct or negligence.

(e) The Trustee may consult with counsel, and the advice or opinion of counsel with respect to legal matters relating to this Indenture and the Notes shall be full and complete authorization and protection from liability in respect to any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) Any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution.

(g) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee security or indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(h) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(i) In no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(j) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(k) the rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder; and

(l) The Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture.

SECTION 6.03. Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar, Exchange Agent, co-registrar or co-paying agent may do the same with like rights. However, the Trustee must comply with Section 6.10.

SECTION 6.04. Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes, and it shall not be responsible for any statement of the Company in this Indenture or in any document issued in connection with the sale of the Notes or in the Notes other than the Trustee's certificate of authentication.

SECTION 6.05. Notice of Defaults. If a Default occurs, is continuing and is known to the Trustee, the Trustee shall mail to each Noteholder notice of the Default within 90 days after it occurs. Except in the case of a Default in the payment of principal of or interest on any Note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is not opposed to the interests of the Noteholders.

SECTION 6.06. Reports by Trustee to Holders. As promptly as practicable after each May 15 beginning with the May 15 following the date of this Indenture, and in any event prior to July 15 in each year, the Trustee shall mail to each Noteholder a brief report dated as of May 15.

A copy of each report at the time of its mailing to Noteholders shall be filed with the SEC and each stock exchange (if any) on which the Notes are listed. The Company agrees to notify promptly the Trustee whenever the Notes become listed on any stock exchange and of any delisting thereof.

SECTION 6.07. Compensation and Indemnity. The Company shall pay to the Trustee from time to time such compensation for its services as the Company and the Trustee shall from time to time agree in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred or made by it, including costs of collection, in addition to the compensation for its services. Such expenses shall include the reasonable compensation and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts. The Company shall indemnify the Trustee or any predecessor Trustee and their agents against any and all loss, liability or expense (including reasonable attorneys' fees and taxes (other than taxes based upon, measured by or determined by the income of the Trustee)) incurred by it in connection with the administration of this trust and the performance of its duties hereunder including the costs and expenses of defending itself against any claim (whether asserted by the Company, or any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, or in connection with enforcing the provisions of this Section, except to the extent that such loss, damage, claim, liability or expense is due to its own negligence or bad faith. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. The Company shall defend the claim and the Trustee may have separate counsel and the Company shall pay the fees and expenses of such counsel; *provided, however,* that the Company shall not be required to pay such fees and expenses if it assumes such indemnified parties' defense and, in such indemnified parties' reasonable judgment, there is no conflict of interest between the Company and such parties in connection with such defense. The Company need not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through the Trustee's own willful misconduct, negligence or bad faith.

To secure the Company's payment obligations in this Section, the Trustee shall have a lien prior to the Notes on all money or property held or collected by the Trustee other than money or property held in trust to pay principal of and interest on particular Notes.

The Company's payment obligations pursuant to this Section shall survive the discharge of this Indenture. When the Trustee incurs expenses after the occurrence of a Default specified in Section 5.01(8) or (9) with respect to the Company, the expenses are intended to constitute expenses of administration under the Bankruptcy Law.

SECTION 6.08. Replacement of Trustee. The Trustee may resign at any time by so notifying the Company. The Holders of a majority in principal amount of the Notes may remove the Trustee by so notifying the Trustee and may appoint a successor Trustee. The Company shall remove the Trustee if:

(1) the Trustee fails to comply with Section 6.10;

(2) the Trustee is adjudged bankrupt or insolvent;

(3) a receiver or other public officer takes charge of the Trustee or its property; or

(4) the Trustee otherwise becomes incapable of acting.

If the Trustee resigns, is removed by the Company or by the Holders of a majority in principal amount of the Notes and such Holders do not reasonably promptly appoint a successor Trustee, or if a vacancy exists in the office of Trustee for any reason (the Trustee in such event being referred to herein as the retiring Trustee), the Company shall promptly appoint a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Noteholders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 6.07.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, at the Company's expense, or the Holders of 10% in principal amount of the Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee fails to comply with Section 6.10, any Noteholder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Notwithstanding the replacement of the Trustee pursuant to this Section, the Company's obligations under Section 6.07 shall continue for the benefit of the retiring Trustee.

SECTION 6.09. Successor Trustee by Merger. If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or transferee corporation without any further act shall be the successor Trustee.

In case at the time such successor or successors by merger, conversion or consolidation to the Trustee shall succeed to the trusts created by this Indenture any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Notes so authenticated;

and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture provided that the certificate of the Trustee shall have.

SECTION 6.10. Eligibility; Disqualification. The Trustee shall have a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition.

SECTION 6.11. Trustee's Application for Instructions from the Company. Any application by the Trustee for written instructions from the Company may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Indenture and the date on and/or after which such action shall be taken or such omission shall be effective. The Trustee shall not be liable for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than three Business Days after the date any officer of the Company actually receives such application, unless any such officer shall have consented in writing to any earlier date) unless prior to taking any such action (or the effective date in the case of an omission), the Trustee shall have received written instructions in response to such application specifying the action to be taken or omitted.

ARTICLE 7

Discharge of Indenture

SECTION 7.01. Discharge of Liability on Notes.

(a) When (1) the Company delivers to the Trustee all outstanding Notes (other than Notes replaced pursuant to Section 2.07) for cancellation or (2) all outstanding Notes have become due and payable, whether at maturity or and the Company or a Subsidiary Guarantor irrevocably deposits with the Trustee cash or shares of Common Stock sufficient to pay at maturity or any repurchase date or upon exchange or otherwise all outstanding Notes, including interest thereon to maturity or such repurchase date (other than Notes replaced pursuant to Section 2.07), and if in either case the Company pays all other sums payable hereunder by the Company, then this Indenture shall, subject to Section 7.01(c), cease to be of further effect. The Trustee shall acknowledge satisfaction and discharge of this Indenture on demand of the Company accompanied by an Officers' Certificate and an Opinion of Counsel and at the cost and expense of the Company.

(b) Notwithstanding clause (a) above, the Company's obligations in Sections 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 6.07 and 6.08 and in this Article 7 shall survive until the Notes have been paid in full. Thereafter, the Company's obligations in Sections 6.07, 7.04 and 7.05 shall survive.

SECTION 7.02. Application of Trust Money. The Trustee shall hold in trust money and/or shares of Common Stock deposited with it pursuant to this Article 7. It shall apply the deposited money and/or shares of Common Stock through the Paying Agent and in accordance with this Indenture to the payment of principal of and interest on the Notes.

SECTION 7.03. Repayment to Company. Each of the Trustee and the Paying Agent shall promptly turn over to the Company upon request any excess money and/or shares of Common Stock or securities held by them at any time.

Subject to any applicable abandoned property law, the Trustee and the Paying Agent shall pay to the Company upon request any money held by them for the payment of principal or interest that remains unclaimed for two years, and, thereafter, Noteholders entitled to the money must look to the Company for payment as general creditors.

SECTION 7.04. Reinstatement. If the Trustee or Paying Agent is unable to apply any money and/or shares of Common Stock in accordance with this Article 7 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Indenture, and the Notes so discharged shall be revived and reinstated as though no deposit had occurred pursuant to this Article 7 until such time as the Trustee or Paying Agent is permitted to apply all such money and/or shares of Common Stock in accordance with this Article 7; *provided, however,* that, if the Company has made any payment of interest on or principal of any Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money and/or shares of Common Stock held by the Trustee or Paying Agent.

ARTICLE 8

Amendments

SECTION 8.01. Without Consent of Holders. The Company, the Guarantors and the Trustee may amend this Indenture, the Notes and the Guarantees without notice to or consent of any Noteholder:

(1) to cure any ambiguity, omission, defect or inconsistency;

(2) to provide for the assumption by a successor corporation of the obligations of the Company or Sirius under this Indenture;

(3) to provide for uncertificated Notes in addition to or in place of certificated Notes (*provided*, that the uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Code or in a manner such that the uncertificated Notes are described in Section 163(f)(2)(B) of the Code);

(4) to add Guarantees with respect to the Notes, including any Subsidiary Guarantees;

(5) to secure the Notes;

(6) to add to the covenants of the Company, Sirius or any of their Subsidiaries for the benefit of the Holders or to surrender any right or power conferred upon the Company, Sirius or any of their Subsidiaries;

(7) to provide for a successor Trustee in accordance with the terms of this Indenture or to otherwise comply with any requirement of this Indenture;

(8) to make any change that does not adversely affect the rights of any Holder;

(9) to comply with any requirement of the SEC in connection with the qualification of the Indenture under the Trust Indenture Act;

(10) to release a Guarantor from its obligations under its Guarantee or this Indenture in accordance with the applicable provisions of this Indenture;

(11) to increase the Exchange Rate;

(12) to provide for the exchange of the Notes in accordance with the terms of this Indenture (including into Reference Property);

(13) to conform the provisions of this Indenture to the "Description of Notes" section of the Offering Memorandum; or

(14) to make any amendment to the provisions of this Indenture relating to the transfer and legending of Notes;*provided, however,* that (a) compliance with this Indenture as so amended would not result in Notes being transferred in violation of the Securities Act or any other applicable securities law and (b) such amendment does not materially and adversely affect the rights of Holders to transfer Notes.

After an amendment under this Section becomes effective, the Company shall mail to Noteholders a notice briefly describing such amendment. However, the failure to give such notice to all Noteholders, or any defect therein, shall not impair or affect the validity of an amendment.

SECTION 8.02. With Consent of Holders. Subject to certain exceptions, this Indenture, the Notes and the Guarantees may be amended with the consent of the Holders of a majority in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange for the Notes) and any past default or compliance with any provisions may also be waived with the consent of the Holders of a majority in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange for the Notes). However, without the consent of each Noteholder affected thereby, an amendment or waiver may not, among other things:

(1) reduce the amount of Notes whose Holders must consent to an amendment;

(2) reduce the rate of or extend the time for payment of interest on any Note;

(3) reduce the principal of or change the Stated Maturity of any Note;

(4) make any change that adversely affects the exchange rights of any Notes;

(5) reduce the Fundamental Change Purchase Price of any Note or amend or modify in any manner adverse to the Noteholders the Company's obligation to make such payments, whether through an amendment or waiver or provisions in the covenants, definitions or otherwise;

(6) make any Note payable in money other than that stated in the Note or change the place of payment of principal or interest in respect of any Note;

(7) impair the right of any Holder of the Notes to receive payment of principal of and interest (including additional interest, if any) on such Holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such Holder's Notes;

(8) make any change in Section 5.04 or this Section 8.02; or

(9) make any change in the ranking or priority of any Note that would adversely affect the Noteholders.

It shall not be necessary for the consent of the Holders under this Section to approve the particular form of any proposed amendment, but it shall be sufficient if such consent approves the substance thereof.

After an amendment under this Section 8.02 becomes effective, the Company shall mail to Noteholders a notice briefly describing such amendment. The failure to give such notice to all Noteholders, or any defect therein, shall not impair or affect the validity of an amendment under this Section 8.02.

SECTION 8.03. Revocation and Effect of Consents and Waivers. A consent to an amendment or a waiver by a Holder of a Note shall bind the Holder and every subsequent Holder of that Note or portion of the Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent or waiver is not made on the Note. However, any such Holder or subsequent Holder may revoke the consent or waiver as to such Holder's Note or portion of the Note if the Trustee receives the notice of revocation before the date the amendment or waiver becomes effective, unless a Holder has otherwise agreed in writing to limit its revocation rights in relation to a particular consent or waiver. After an amendment or waiver becomes effective, it shall bind every Noteholder. An amendment or waiver becomes effective upon (i) receipt by the Company or the Trustee of consents by the Holders of the requisite principal amount of Notes, (ii) satisfaction of conditions to effectiveness as set forth in this Indenture and any indenture supplemental hereto containing such amendment or waiver and (iii) the execution of such amendment or waiver by the Trustee.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Noteholders entitled to give their consent or take any other action described above or required or permitted to be taken pursuant to this Indenture. If a record date is fixed,

then notwithstanding the immediately preceding paragraph, those Persons who were Noteholders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date.

SECTION 8.04. Notation on or Exchange of Notes. If an amendment, supplement or waiver changes the terms of a Note, the Trustee or the Company may require the Holder of the Note to deliver it to the Trustee. The Trustee may place an appropriate notation on the Note regarding the changed terms and return it to the Holder. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the Note shall issue and the Trustee shall authenticate a new Note that reflects the changed terms. Failure to make the appropriate notation or to issue a new Note shall not affect the validity of such amendment.

SECTION 8.05. Trustee To Sign Amendments. The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article 8 if the amendment does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may but need not sign it. In signing such amendment the Trustee shall be entitled to receive indemnity reasonably satisfactory to it and to receive, and (subject to Section 6.01) shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that such amendment, supplement or waiver is authorized or permitted by this Indenture.

ARTICLE 9

Guarantee

SECTION 9.01. Guarantee.

(a) Subject to this Article 9, each of the Guarantors shall, jointly and severally, unconditionally guarantee to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, solely that:

(1) the principal of, and interest on, the Notes will be promptly paid in full when due, whether at maturity, by acceleration or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(2) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

(b) The Guarantors hereby agree that their obligations hereunder are joint and several and unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a Guarantor. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenant that this Note Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

(c) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or such Holder, this Note Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.

(d) Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (1) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 5 hereof for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any declaration of acceleration of such obligations as provided in Article 5 hereof, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Note Guarantee. The Guarantors will have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under this Note Guarantee.

SECTION 9.02. Limitation on Guarantor Liability. Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that this Note Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Note Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will be limited to the maximum amount that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 9, result in the obligations of such Guarantor under its Note Guarantee not constituting a fraudulent transfer or conveyance.

SECTION 9.03. Delivery of Note Guarantee.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, will constitute due delivery of the Note Guarantee set forth in this Indenture or any supplemental indenture on behalf of the Guarantors. Neither the Company nor any Guarantor shall be required to make a notation on the Notes to reflect any Note Guarantee or any such release, termination or discharge thereof.

In the event that the Company or any of its Subsidiaries creates or acquires any Material Subsidiary after the date of this Indenture, if required by Section 9.06 hereof, the Company will cause such Material Subsidiary to comply with the provisions of Section 9.06 hereof and the other Sections of this Article 9, to the extent applicable.

SECTION 9.04. Guarantors May Consolidate, etc., on Certain Terms.

Except as otherwise provided in Section 9.05 hereof, no Guarantor may sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person, other than the Company or another Guarantor, unless:

(a) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(b) subject to Section 9.05 hereof, the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger unconditionally assumes all the obligations of that Guarantor under this Indenture and its Note Guarantee on the terms set forth herein, pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee.

In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor Person pursuant to clause (b) above, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of this Note Guarantee and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor Person will succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. All Note Guarantees so issued will in all respects have the same legal rank and benefit under this Indenture as the Note Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Note Guarantees had been issued at the date of the execution hereof.

Except as set forth in Articles 3 and 4 hereof, and notwithstanding clause (b) above, nothing contained in this Indenture or in any of the Notes will prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or will prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

The Trustee, subject to the provisions of Section 10.03 hereof, will receive an Officers' Certificate and an Opinion of Counsel as conclusive evidence that any such consolidation,

merger, sale or conveyance, and any such assumption of Obligations, comply with the provisions of this Section 9.04 hereof. Such Officers' Certificate and Opinion of Counsel will comply with the provisions of Section 13.04.

SECTION 9.05. Releases.

(a) In the event of any sale or other disposition of all or substantially all of the assets of any Guarantor (including by way of merger or consolidation), or a sale or other disposition of all of the Capital Stock of any Guarantor, in each case to a Person that is not (either before or after giving effect to such transactions) the Company or a Subsidiary of the Company, then such Guarantor (in the event of a sale or other disposition, including by way of merger, consolidation or otherwise, of all of the Capital Stock of such Guarantor) or the corporation acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such Guarantor) will be released and relieved of any obligations under its Note Guarantee. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of this Indenture, the Trustee will execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Note Guarantee.

(b) If a Guarantor ceases to be a Material Subsidiary, such Guarantor will be released and relieved of any obligations under its Note Guarantee.

(c) If this Indenture is discharged in accordance with Article 7 hereof, each Guarantor will be released and relieved of any obligations under its Note Guarantee.

Any Guarantor not released from its obligations under its Note Guarantee as provided in this Section 9.05 will remain liable for the full amount of principal of and interest on the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article 9, subject to the limitation set forth in Section 9.02.

SECTION 9.06. Addition of Subsidiary Guarantors.

(a) The Company shall, in a reasonably prompt manner, cause any Person that becomes a Material Subsidiary of the Company at any time on or after the Issue Date to execute and deliver a supplemental indenture to the Trustee to become a Subsidiary Guarantor hereunder; *provided, however,* that if the Material Subsidiary is the FCC License Subsidiary, it shall become a Subsidiary Guarantor hereunder only to the extent permitted under applicable law, rules or regulations, including rules and regulations of the Federal Communications Commission.

(b) If the Company is required to cause a Subsidiary to become a Subsidiary Guarantor pursuant to clause (a) of this Section 9.06, the Company will cause such Subsidiary to (1) execute and deliver to the Trustee a supplemental indenture substantially in the form of Exhibit 3 to the Rule 144A Appendix attached hereto and pursuant to which such Subsidiary will unconditionally Guarantee all of the Company's Obligations under the Notes on the terms set forth in this Indenture and (2) deliver to the Trustee an Opinion of Counsel reasonably satisfactory to the Trustee that such supplemental indenture has been duly executed and delivered by such Subsidiary; *provided however,* that if the Material Subsidiary is the FCC

License Subsidiary, the supplemental indenture shall state that the FCC License Subsidiary shall Guarantee all of the Company's Obligations under the Notes on the terms set forth in this Indenture only to the extent permitted under applicable law, rules or regulations, including rules and regulations of the Federal Communications Commission.

ARTICLE 10

Fundamental Changes and Purchases Thereupon

SECTION 10.01. Purchase at Option of Holders Upon a Fundamental Change.

(a) *Generally*. If a Fundamental Change occurs at any time, then each Holder shall have the right, at such Holder's option, to require the Company to purchase for cash any or all of such Holder's Notes, or any portion of the principal amount thereof, that is equal to $1,000 or integral multiples of $1,000 in excess thereof, on a date specified by the Company that is no later than the 30th calendar day following the date of the Fundamental Change Company Notice (the "*Fundamental Change Purchase Date*"), at a purchase price equal to 100% of the principal amount of the Notes to be purchased, together with accrued and unpaid interest to, but excluding, the Fundamental Change Purchase Date (the "*Fundamental Change Purchase Price*"); *provided*, *however*, that if a Fundamental Change Purchase Date is between a Record Date and the Interest Payment Date related thereto, interest, including Additional Interest, if any, for the full interest period to such Interest Payment Date and payable in respect of such Interest Payment Date (irrespective of the actual Fundamental Change Purchase Date) shall be payable to the Holders of record as of the corresponding Record Date.

Purchases of Notes under this Section 10.01 shall be made, at the option of the Holder thereof, upon:

(1) delivery to the Paying Agent by a Holder, prior to 10:00 a.m., New York City time, on or before the Business Day immediately preceding the Fundamental Change Purchase Date, of the Notes to be purchased and a duly completed notice (the "*Fundamental Change Purchase Notice*") in the form set forth as Exhibit 4 to the Rule 144A Appendix specifying:

(A) if Notes are certificated, the certificate numbers of Notes to be delivered for purchase;

(B) the portion of the principal amount of Notes to be purchased, which must be $1,000 or an integral multiple thereof *provided* that the remaining principal amount of Notes is an authorized denomination; and

(C) that the Notes are to be purchased by the Company pursuant to the applicable provisions of the Notes and the Indenture; and

(2) delivery or book-entry transfer of the Notes to the Trustee (or other Paying Agent appointed by the Company) (together with all necessary endorsements) at any time prior to 10:00 a.m., New York City time, on or before the Business Day immediately preceding the Fundamental Change Purchase Date, at the applicable Corporate Trust

Office of the Trustee (or other Paying Agent appointed by the Company), such delivery being a condition to receipt by the Holder of the Fundamental Change Purchase Price therefor; *provided* that such Fundamental Change Purchase Price shall be so paid pursuant to this Section 10.01 only if the Notes so delivered to the Trustee (or other Paying Agent appointed by the Company) shall conform in all respects to the description thereof in the related Fundamental Change Purchase Notice.

If the Holder has a beneficial interest in a global note, the Holder must comply with the procedures The Depository Trust Company (the "*Depositary*") for delivery. If the Holder holds a certificated Note, the Holder must deliver such Note, duly endorsed for transfer, together with a written notice of the Holder's intent to exercise its repurchase right, to the Trustee (or other Paying Agent appointed by the Company).

Any purchase by the Company contemplated pursuant to the provisions of this Section 10.01 shall be consummated by the delivery of the consideration to be received by the Holder promptly following the later of the Fundamental Change Purchase Date and the time of the book-entry transfer or delivery of the Notes.

Notwithstanding anything herein to the contrary, any Holder delivering to the Trustee (or other Paying Agent appointed by the Company) the Fundamental Change Purchase Notice contemplated by this Section 10.01 shall have the right to withdraw such Fundamental Change Purchase Notice at any time prior to 10:00 a.m., New York City time, on the Business Day immediately preceding the Fundamental Change Purchase Date by delivery of a written notice of withdrawal to the Trustee (or other Paying Agent appointed by the Company) in accordance with Section 10.03 below.

The Company will not be required to make an offer to purchase the Notes upon a Fundamental Change if a third party makes the offer in the manner, at the times, and otherwise in compliance with the requirements set forth in this Indenture applicable to an offer by the Company to purchase the Notes upon a Fundamental Change and such third party purchases all Notes validly tendered and not withdrawn upon such offer.

The Trustee (or other Paying Agent appointed by the Company) shall promptly notify the Company of the receipt by it of any Fundamental Change Purchase Notice or written notice of withdrawal thereof.

(b) *Fundamental Change Company Notice.* On or before the 15th day after the occurrence of a Fundamental Change, the Company shall provide to all Holders of the Notes and the Trustee and Paying Agent a notice (the "*Fundamental Change Company Notice*") of the occurrence of such Fundamental Change and of the resulting purchase right. Such mailing shall be by first class mail. Simultaneously with providing such Fundamental Change Company Notice, the Company shall publish a notice containing the information included therein once in a newspaper of general circulation in The City of New York or publish such information on the Company's website or through such other public medium as the Company may use at such time.

Each Fundamental Change Company Notice shall specify, among other things:

(1) the events causing a Fundamental Change;

(2) the date of the Fundamental Change;

(3) the last date on which a Holder may exercise the purchase right;

(4) the Fundamental Change Purchase Price;

(5) the Fundamental Change Purchase Date (which shall be no earlier than 15 days and no later than 30 days after the date of the Fundamental Change Company Notice);

(6) the name and address of the Paying Agent and the Exchange Agent, if applicable;

(7) if applicable, the applicable Exchange Rate and any adjustments to the applicable Exchange Rate;

(8) if applicable, that the Notes with respect to which a Fundamental Change Purchase Notice has been delivered by a Holder may be exchanged only if the Holder withdraws the Fundamental Change Purchase Notice in accordance with Section 10.03; and

(9) the procedures that Holders must follow to require the Company to purchase their Notes.

No failure of the Company to give the foregoing notices and no defect therein shall limit the Holders' purchase rights or affect the validity of the proceedings for the purchase of the Notes pursuant to this Section 10.01.

(c) *No Payment During Events of Default.* There shall be no purchase of any Notes pursuant to this Section 10.01 if there has occurred (prior to, on or after, as the case may be, the giving, by the Holders of such Notes, of the required Fundamental Change Purchase Notice) and is continuing an Event of Default (other than a default that is cured by the payment of the Fundamental Change Purchase Price of the Notes). The Paying Agent will promptly return to the respective Holders thereof any Notes (i) with respect to which a Fundamental Change Purchase Notice has been withdrawn in compliance with this Indenture, or (ii) held by it during the continuance of an Event of Default (other than a default that is cured by the payment of the Fundamental Change Purchase Price with respect to such Notes) in which case, upon such return, the Fundamental Change Purchase Notice with respect thereto shall be deemed to have been withdrawn.

SECTION 10.02. Effect of Fundamental Change Purchase Notice. Upon receipt by the Paying Agent of the Fundamental Change Purchase Notice specified in Section 10.01(a), the Holder of the Note in respect of which such Fundamental Change Purchase Notice was given shall (unless such Fundamental Change Purchase Notice is withdrawn as specified in Section 10.03) thereafter be entitled to receive solely the Fundamental Change Purchase Price with respect to such Note. Such Fundamental Change Purchase Price shall be paid to such Holder, subject to receipt of funds by the Paying Agent, promptly following the later of (x) the Fundamental Change Purchase Date with respect to such Note (provided the conditions in Section 10.01(a) have been satisfied) and (y) the time of book-entry transfer or the delivery of such Note to the Paying Agent by the Holder thereof in the manner required by Section 10.01(b).

SECTION 10.03. Withdrawal of Fundamental Change Purchase Notice.

(a) A Fundamental Change Purchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the Paying Agent in accordance with the Fundamental Change Company Notice at any time prior to 10:00 a.m., New York City time, on the Business Day immediately preceding the Fundamental Change Purchase Date, specifying:

(1) the name of the Holder;

(2) the principal amount of the Notes with respect to which such notice of withdrawal is being submitted, which must be an integral multiple of $1,000;

(3) if Definitive Notes have been issued, the certificate numbers of the withdrawn Notes; and

(4) the principal amount of such Notes that remains subject to the original Fundamental Change Purchase Notice, which portion must be an integral multiple of $1,000;

provided, *however*, that if certificated Notes have not been issued, the notice must comply with appropriate procedures of the Depositary.

SECTION 10.04. Deposit of Fundamental Change Purchase Price. Prior to 10:00 a.m. (local time in The City of New York) on the Fundamental Change Purchase Date, subject to extension to comply with applicable law, the Company shall deposit with the Trustee or with the Paying Agent (or, if the Company or a Subsidiary or an Affiliate of either of them is acting as the Paying Agent, shall segregate and hold in trust as provided herein) an amount of money (in immediately available funds if deposited on such Business Day) sufficient to pay the Fundamental Change Purchase Price, of all the Notes or portions thereof that are to be purchased as of the Fundamental Change Purchase Date. The Company shall promptly notify the Trustee in writing of the amount of any deposits of cash made pursuant to this Section 10.04. If the Paying Agent holds cash sufficient to pay the Fundamental Change Purchase Price of any Note for which a Fundamental Change Purchase Notice has been tendered and not withdrawn in accordance with this Indenture as of the Business Day following the Fundamental Change Purchase Date, then effective on the Fundamental Change Purchase Date, (a) such Note shall cease to be outstanding and interest, including Additional Interest, if any, will cease to accrue thereon (whether or not book-entry transfer of such Note is made or such Note is delivered to the Paying Agent) and (b) all other rights of the Holder in respect thereof will terminate (other than the right to receive the Fundamental Change Purchase Price and previously accrued and unpaid interest, including Additional Interest, if any, upon delivery or book-entry transfer of such Note, or interest payable on the related Interest Payment Date, if the Fundamental Change Purchase Date occurs between the Record Date and such Interest Payment Date, as applicable).

SECTION 10.05. Notes Purchased in Whole or in Part. Any Note that is to be purchased, whether in whole or in part, shall be surrendered at the office of the Paying Agent (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing) and the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Note, without service charge, a new Note or Notes, of any authorized denomination as requested by such Holder in aggregate principal amount equal to, and in exchange for, the portion of the principal amount of the Note so surrendered which is not purchased.

SECTION 10.06. Covenant to Comply With Securities Laws Upon Purchase of Notes. In connection with any offer to purchase Notes under Section 10.01 (provided that such offer or purchase constitutes an "issuer tender offer" for purposes of Rule 13e-4 (which term, as used herein, includes any successor provision thereto) under the Exchange Act at the time of such offer or purchase), the Company shall (i) comply with Rule 13e-4 and Rule 14e-1 under the Exchange Act, (ii) file the related Schedule TO (or any successor schedule, form or report) under the Exchange Act, and (iii) otherwise comply with all federal and state securities laws so as to permit the rights and obligations under Section 10.01 to be exercised in the time and in the manner specified in Section 10.01.

SECTION 10.07. Repayment to the Company. The Trustee and the Paying Agent shall return to the Company any cash that remains unclaimed, together with interest, including Additional Interest, if any, or dividends, if any, thereon, held by them for the payment of the Fundamental Change Purchase Price; *provided* that to the extent that the aggregate amount of cash deposited by the Company pursuant to Section 10.04 exceeds the aggregate Fundamental Change Purchase Price of the Notes or portions thereof which the Company is obligated to purchase as of the Fundamental Change Purchase Date, then as soon as practicable following the Fundamental Change Purchase Date, the Trustee or the Paying Agent, as the case may be, shall return any such excess to the Company.

ARTICLE 11

Exchange

SECTION 11.01. Right to Exchange. Subject to and upon compliance with the provisions of this Indenture, each Holder shall have the right, at such Holder's option, to exchange the principal amount of any such Notes, or any portion of such principal amount which is $1,000 or an integral multiple of $1,000 thereof at the Exchange Rate then in effect, at any time prior to the close of business on the third Business Day immediately preceding the Stated Maturity. Each Holder which exchanges Notes for Common Stock will be deemed to have represented to the Company and Sirius that it is a QIB.

SECTION 11.02. Exchange Procedures.

(a) Each Note shall be exchangeable at the office of the Exchange Agent.

(b) In order to exercise the exchange privilege with respect to any beneficial interest in a Global Note, the Holder must complete the appropriate instruction form for exchange pursuant to the Depositary's book-entry exchange program, furnish appropriate endorsements and transfer documents if required by the Company or the Trustee or Exchange Agent, and pay the funds, if any, required by Section 11.03(c) and any transfer taxes if required pursuant to Section 11.07 and the Trustee or Exchange Agent must be informed of the exchange in accordance with customary practice of the Depositary. In order to exercise the exchange privilege with respect to any Notes in certificated form that are not Global Notes, the Holder of any such Notes to be exchanged, in whole or in part, shall:

(1) complete and manually sign the exchange notice set forth as Exhibit 5 to the Rule 144A Appendix attached hereto (the "*Exchange Notice*") or a facsimile of the exchange notice;

(2) deliver the Exchange Notice, which is irrevocable, to the Exchange Agent;

(3) if required, furnish appropriate endorsements and transfer documents;

(4) if required, pay any transfer or similar taxes; and

(5) if required, make any payment required under Section 11.03(c).

The date on which the Holder complies with the requirements set forth above is the "*Exchange Date*." The Trustee will, as promptly as possible, and in any event within two (2) Business Days, provide the Company and Sirius with notice of any exchange exercises by Holders of which a Responsible Officer becomes aware.

(c) Each Exchange Notice shall state the name or names (with address or addresses) in which any certificate or certificates for shares of Common Stock which shall be issuable on such exchange shall be issued. All such Notes surrendered for exchange shall, unless the shares of Common Stock issuable on exchange are to be issued in the same name as the registration of such Notes, be duly endorsed by, or be accompanied by instruments of transfer in form satisfactory to the Company duly executed by, the Holder or his duly authorized attorney.

(d) No later than the third Business Day immediately following the applicable Exchange Date, subject to compliance with any restrictions on transfer if shares of Common Stock issuable on exchange are to be issued in a name other than that of the Holder (as if such transfer were a transfer of the Notes (or portion thereof) so exchanged), the Company shall deliver, or arrange for the delivery, to such Holder at the office of the Exchange Agent, a certificate or certificates for the number of full shares of Common Stock issuable in accordance with the provisions of this Article 11, if applicable, and a check in respect of any fractional share. Alternatively, at the election of the Company, the Company may arrange for delivery of the shares of Common Stock deliverable by credit to the exchanging Holder of an interest representing such shares in a global security representing Common Stock. In case any Notes of a denomination greater than $1,000 shall be surrendered for partial exchange, the Company shall execute and the Trustee shall authenticate and deliver to the Holder of the Notes so surrendered, without charge to him, new Notes in authorized denominations in an aggregate principal amount equal to the unexchanged portion of the surrendered Notes.

Each exchange shall be deemed to have been effected as to any such Notes (or portion thereof) on the date on which the requirements set forth above in this Section 11.02 have been satisfied as to such Notes (or portion thereof), and the person in whose name any certificate or certificates for shares of Common Stock shall be issuable upon such exchange shall be deemed to have become on said date the Holder of record of the shares represented thereby; *provided*, *however*, that in case of any such surrender on any date when the stock transfer books of Sirius shall be closed, the Person or Persons in whose name the certificate or certificates for such shares are to be issued shall be deemed to have become the record Holder thereof for all purposes on the next day on which such stock transfer books are open, but such exchange shall be at the Exchange Price in effect on the date upon which such Notes shall be surrendered.

(e) Upon the exchange of an interest in Global Notes, the Trustee (or other Exchange Agent appointed by the Company or Sirius) shall make a notation on such Global Notes as to the reduction in the principal amount represented thereby. The Company or Sirius shall notify the Trustee in writing of any exchanges of Notes effected through any Exchange Agent other than the Trustee.

(f) Each stock certificate representing Common Stock issued upon exchange of the Notes that are "restricted securities" (as defined in Rule 144 under the Securities Act or any successor thereto) shall bear the legend in substantially the form set forth in Exhibit 1 to the Rule 144A Appendix attached hereto.

SECTION 11.03. Settlement Upon Exchange.

(a) Upon any exchange of any Note, the Company or Sirius shall deliver to exchanging Holders, in respect of each $1,000 principal amount of Notes being exchanged, a number of shares of Common Stock the applicable Exchange Rate on the Exchange Date.

(b) Subject to clauses (c) and (d) below, upon exchange, Holders shall not receive any separate cash payment for accrued and unpaid interest, including Additional Interest, if any, unless such exchange occurs between a Record Date and the Interest Payment Date to which it relates.

(c) If Notes are exchanged after 5:00 p.m., New York City time, on a Record Date for the payment of interest, Holders of such Notes at 5:00 p.m., New York City time, on such Record Date will receive the interest payable on such Notes on the corresponding Interest Payment Date notwithstanding the exchange. Notes surrendered for exchange during the period from 5:00 p.m., New York City time, on any Record Date to 9:00 a.m., New York City time, on the immediately following Interest Payment Date, must be accompanied by funds equal to the amount of interest and Additional Interest, if any, payable on the Notes so exchanged; *provided* that no such payment need be made (i) if the Company has specified a Fundamental Change Purchase Date that is after a Record Date and on or prior to the third Business Day after the corresponding Interest Payment Date; (ii) for exchanges that occur after the Record Date immediately preceding the Stated Maturity of the Notes; or (iii) to the extent of any overdue interest, if any overdue interest exists at the time of exchange with respect to such Note.

(d) If a Holder exchanges some or all of its Notes into Common Stock when there exists a Registration Default with respect to the Common Stock, the Holder will not be entitled to receive Additional Interest on such Common Stock. Such Holder will receive, on the third Business Day immediately following the applicable Exchange Date, all accrued and unpaid Additional Interest to the Exchange Date. If a Registration Default with respect to the Common Stock occurs after a Holder has exchanged its Notes into Common Stock, such Holder will not be entitled to any compensation with respect to such Common Stock.

(e) Neither Sirius nor the Company shall issue fractional shares of Common Stock upon exchange of Notes. If multiple Notes shall be surrendered for exchange at one time by the same Holder, the number of full shares which shall be issuable upon exchange shall be computed on the basis of the aggregate principal amount of the Notes (or specified portions thereof to the extent permitted hereby) so surrendered. If any fractional share of stock would be issuable upon the exchange of any Notes, the Company shall make payment therefor in cash in lieu of fractional shares of Common Stock based on the Last Reported Sale Price of the Common Stock on the second Trading Day following the applicable Exchange Date.

SECTION 11.04. Adjustment of Exchange Rate. The Exchange Rate shall be adjusted as described below, except that the Company will not make any adjustments to the Exchange Rate if Holders of Notes participate, as a result of holding the Notes, in the transactions described below without having to exchange their Notes as if they held, for each $1,000 principal amount of Notes held, a number of shares of Common Stock equal to the Exchange Rate.

(a) If Sirius issues shares of Common Stock as a dividend or distribution on shares of Common Stock, or if Sirius effects a share split or share combination, then the Exchange Rate will be adjusted based on the following formula:

$$ER' = ER_0 \times \frac{OS^1}{OS_0}$$

where,

ER_0 = the Exchange Rate in effect immediately prior to the Ex-Date of such dividend or distribution, or the effective date of such share split or share combination, as applicable;

ER' = the Exchange Rate in effect immediately after such Ex-Date or effective date;

OS_0 = the number of shares of Common Stock outstanding immediately prior to such Ex-Date or effective date; and

OS^1 = the number of shares of Common Stock outstanding immediately after such Ex-Date or effective date after giving effect to such dividend, distribution, share split or combination.

Such adjustment shall become effective immediately after the opening of business on the Ex-Date or effective date for such dividend or distribution, or the date fixed for determination for such share split or share combination. If any dividend or distribution of the type described in this Section 11.04(a) is declared but not so paid or made, the Exchange Rate shall again be adjusted to the Exchange Rate which would then be in effect if such dividend or distribution had not been declared.

(b) If Sirius issues to all or substantially all holders of Common Stock any rights or warrants entitling them for a period of not more than 60 calendar days to subscribe for or purchase shares of Common Stock, at a price per share less than the average of the Last Reported Sale Prices of Common Stock for the 10 consecutive Trading Day period ending on the Business Day immediately preceding the date of announcement of such issuance, the Exchange Rate shall be adjusted based on the following formula (*provided*, that the Exchange Rate will be readjusted to the extent such rights or warrants are not exercised prior to their expiration):

$$ER' = ER_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

ER_0 = the Exchange Rate in effect immediately prior to the Ex-Date for such issuance;

ER´ = the Exchange Rate in effect immediately after such Ex-Date;

OS_0 = the number of shares of Common Stock outstanding immediately after such Ex-Date;

X = the total number of shares of Common Stock issuable pursuant to such rights or warrants; and

Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights divided by the average of the Last Reported Sale Prices of Common Stock over the 10 consecutive Trading Day period ending on the Business Day immediately preceding the date of announcement of the issuance of such rights or warrants.

To the extent such rights or warrants are not exercised prior to their expiration or termination, the Exchange Rate shall be readjusted to the Exchange Rate which would then be in effect had the adjustments made upon the issuance of such rights or warrants been made on the basis of the delivery of only the number of shares of Common Stock actually delivered. In the event that such rights or warrants are not so issued, the Exchange Rate shall again be adjusted to be the Exchange Rate which would then be in effect if the date fixed for the determination of

stockholders entitled to receive such rights or warrants had not been fixed. In determining whether any rights or warrants entitle the holders to subscribe for or purchase shares of Common Stock at less than the average of the Last Reported Sale Prices of Common Stock for the 10 consecutive Trading Day period ending on the Business Day immediately preceding the date of announcement of such issuance, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration received for such rights or warrants and the value of such consideration, if other than cash, as shall be determined in good faith by the Board of Directors of the Company.

For the purposes of this Section 11.04(b), rights or warrants distributed by the Company to all holders of Common Stock entitling them to subscribe for or purchase shares of the Company's Capital Stock (either initially or under certain circumstances), which rights or warrants, until the occurrence of a specified event or events (a "*Trigger Event*"): (1) are deemed to be transferred with such shares of Common Stock; (2) are not exercisable; and (3) are also issued in respect of future issuances of Common Stock, shall be deemed not to have been distributed for purposes of this Section 11.04(b), (and no adjustment to the Exchange Rate under this Section 11.04(b) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights and warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Exchange Rate shall be made under this Section 11.04(b). If any such right or warrant, including any such existing rights or warrants distributed prior to the date of this Indenture, are subject to events, upon the occurrence of which such rights or warrants become exercisable to purchase different securities, evidences of Indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and record date with respect to new rights or warrants with such rights (and a termination or expiration of the existing rights or warrants without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights or warrants, or any Trigger Event or other event (of the type described in the preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Exchange Rate under this Section 11.04(b) was made, (1) in the case of any such rights or warrants which shall all have been redeemed or purchased without exercise by any Holders thereof, the Exchange Rate shall be readjusted upon such final purchase to give effect to such distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or purchase price received by a holder of Common Stock with respect to such rights or warrants (assuming such holder had retained such rights or warrants), made to all applicable holders of Common Stock as of the date of such redemption or purchase, and (2) in the case of such rights or warrants which shall have expired or been terminated without exercise by any holders thereof, the Exchange Rate shall be readjusted as if such rights and warrants had not been issued.

(c) If Sirius distributes shares of Capital Stock of Sirius, evidences of Indebtedness or other assets or property of Sirius to all or substantially all holders of its Common Stock, excluding:

(1) dividends or distributions referred to in Section 11.04(a);

(2) rights or warrants referred to in Section 11.04(b);

(3) dividends or distributions paid exclusively in cash; and

(4) Spin-Offs (as defined below) to which the provisions set forth below in this clause 11.04(c) shall apply;

then the Exchange Rate will be adjusted based on the following formula:

$$ER' = ER_0 \times \frac{SP_0}{SP_0 - FMV}$$

where,

ER_0 = the Exchange Rate in effect immediately prior to the Ex-Date for such distribution;

ER' = the Exchange Rate in effect immediately after such Ex-Date;

SP_0 = the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on the Business Day immediately preceding the Ex-Date for such distribution; and

FMV = the Fair Market Value (as determined by the Board of Directors of Sirius) of the shares of Capital Stock, evidences of Indebtedness, assets or property distributed with respect to each outstanding share of the Common Stock as of the Ex-Date for such distribution.

Such adjustment shall become effective immediately prior to the opening of business on the Ex-Date for such distribution. If the Board of Directors of Sirius determines the Fair Market Value of any distribution for purposes of this Section 11.04(c) by reference to the actual or when issued trading market for any securities, it must in doing so consider the prices in such market over the same period used in computing the average of the Last Reported Sale Prices of the Common Stock.

With respect to an adjustment pursuant to this Section 11.04(c) where there has been a payment of a dividend or other distribution on the Common Stock of shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit (a "*Spin-Off*"), the Exchange Rate in effect immediately before 5:00 p.m., New York City time, on the tenth Trading Day immediately following the effective date of the Spin-Off shall be increased based on the following formula:

$$ER' = ER_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where,

ER_0 = the Exchange Rate in effect immediately prior to 5:00 p.m., New York City time on the 10th Trading Day immediately following the effective date of the Spin-Off;

ER′ = the Exchange Rate in effect immediately after 5:00 p.m., New York City time on the 10th Trading Day immediately following the effective date of the Spin-Off;

FMV_0 = the average of the Last Reported Sale Prices of the Capital Stock or similar equity interest distributed to holders of Common Stock applicable to one share of Common Stock over the first ten consecutive Trading Day period after the effective date of the Spin-Off; and

MP_0 = the average of the Last Reported Sale Prices of Common Stock over the first ten consecutive Trading Day period after the effective date of the Spin-Off.

(d) If any cash dividend or other distribution is made by Sirius to all or substantially all holders of Common Stock, the Exchange Rate shall be adjusted based on the following formula:

$$ER' = ER_0 \times \frac{SP_0}{SP_0 - C}$$

where,

ER_0 = the Exchange Rate in effect immediately prior to the Ex-Date for such distribution;

ER′ = the Exchange Rate in effect immediately after the Ex-Date for such distribution;

SP_0 = the Last Reported Sale Price of a share of Common Stock on the Trading Day immediately preceding the Ex-Date for such distribution; and

C = the amount in cash per share Sirius distributes to holders of Common Stock.

(e) If Sirius or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for Common Stock, to the extent that the cash and value of any other consideration included in the payment per share of Common Stock exceeds the Last Reported Sale Price per share of Common Stock on the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer, the Exchange Rate shall be increased based on the following formula:

$$ER' = ER_0 \times \frac{AC + (SP' \times OS')}{OS_0 \times SP'}$$

where,

ER_0 = the Exchange Rate in effect on the date the tender or exchange offer expires;

ER′ = the Exchange Rate in effect on the day next succeeding the date the tender or exchange offer expires;

AC = the aggregate value of all cash and any other consideration (as determined by the Board of Directors of Sirius) paid or payable for shares purchased in such tender or exchange offer;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the date such tender or exchange offer expires;

OS′ = the number of shares of Common Stock outstanding immediately after the date such tender or exchange offer expires (after giving effect to any purchase of shares of the Common Stock pursuant to such tender offer or exchange offer); and

SP′ = the average of the Last Reported Sale Prices of Common Stock over the 10 consecutive Trading Day period commencing on the Trading Day next succeeding the date such tender or exchange offer expires.

The adjustment to the Exchange Rate under this Section 11.04(e) shall occur on the tenth Trading Day from and including the Trading Day next succeeding the date such tender or exchange offer expires.

If the Company is obligated to purchase shares pursuant to any such tender or exchange offer, but the Company is prevented by applicable law from effecting any such purchases or all such purchases are rescinded, the Exchange Rate shall again be adjusted to be the Exchange Rate that would then be in effect if such tender or exchange had not been made.

(f) No adjustment to the Exchange Rate will be required unless the adjustment would require an increase or decrease of at least 1% of the Exchange Rate. However, the Company will carry forward any adjustments that are less than 1% of the Exchange Rate that the Company elects not to make and take them into account upon each anniversary of the Issue Date and upon the earliest of (i) any exchange of Notes and (ii) such time as all adjustments that have not been made prior thereto would have the effect of adjusting the Exchange Rate by at least 1%. All required calculations will be made to the nearest cent or 1/1000th of a share of Common Stock.

(g) [Intentionally Omitted]

(h) For purposes of this Section 11.04, "*record date*" shall mean, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which the Common Stock (or other applicable security) is exchanged for or exchanged into any combination of cash, securities or other property, the date fixed for determination of stockholders entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or by statute, contract or otherwise).

(i) The Company from time to time may increase the Exchange Rate by any amount for a period of at least 20 days and the Board of Directors of the Company shall have made a determination that such increase would be in the best interests of the Company and if the Board of Directors of Sirius concurs with the adjustment, which determination shall be conclusive. Whenever the Exchange Rate is increased pursuant to this Section 11.04(i), the Company shall mail to Holders of record of the Notes a notice of the increase at least 15 days prior to the date the increased Exchange Rate takes effect, and such notice shall state the increased Exchange Rate and the period during which it will be in effect.

(j) The Company may (but is not required to) make such increases in the Exchange Rate, in addition to any adjustments required by Section 11.04(a), 11.04(b), 11.04(c), 11.04(d), 11.04(e) or 11.04(i), as the Board of Directors considers to be advisable to avoid or diminish income tax to holders of Common Stock or rights to purchase shares of Common Stock in connection with any dividend or distribution of stock (or rights to acquire shares) or from any event treated as such for income tax purposes.

(k) All calculations under this Article 11 shall be made by the Company and Sirius in good faith. No adjustment shall be made for Sirius's issuance of Common Stock or securities exchangeable into or exchangeable for shares of Common Stock or rights to purchase Common Stock or convertible or exchangeable securities, other than as provided in this Section 11.04 and Section 11.06.

(l) Whenever the Exchange Rate is adjusted as herein provided, the Company shall promptly file with the Trustee and any Exchange Agent an Officers' Certificate setting forth the Exchange Rate after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Unless and until a Responsible Officer of the Trustee shall have received such Officers' Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Exchange Rate and may assume without inquiry that the last Exchange Rate of which it has knowledge is still in effect. Promptly after delivery of such certificate, the Company shall prepare a notice of such adjustment of the Exchange Rate setting forth the adjusted Exchange Rate and the date on which each adjustment becomes effective and shall mail such notice of such adjustment of the Exchange Rate to each Noteholder at such Holder's last address appearing on the list of Holders provided for in Section 2.05, within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(m) For purposes of this Section 11.04, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of Sirius so long as Sirius does not pay any dividend or make any distribution on shares of Common Stock held in the treasury of Sirius, but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

(n) [Intentionally Omitted].

(o) Notwithstanding the foregoing, if the application of the foregoing formulas would result in a decrease in the Exchange Rate (other than as a result of a share combination), no adjustment to the Exchange Rate shall be made.

(p) Notwithstanding anything to the contrary in this Article 11, the applicable Exchange Rate will not be adjusted:

(1) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities or securities of Sirius and the investment of additional optional amounts in shares of Common Stock under any plan;

(2) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Company or any Subsidiary of Sirius, including, without limitation, the Company;

(3) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in (2) above outstanding as of the Issue Date;

(4) for a change in the par value of the Common Stock;

(5) for accrued and unpaid interest on the Notes; or

(6) for the avoidance of doubt, for (i) the issuance of Common Stock by Sirius (other than as expressly provided in this Section 11.04), (ii) the issuance of securities convertible or exchangeable into, or exercisable for, Common Stock (other than as expressly provided in this Section 11.04) or (iii) the payment of cash in lieu of fractional shares of Common Stock by the Company upon exchange in respect of fractional shares or the payment of cash by the Company in connection with the repurchase of Notes.

SECTION 11.05. Adjustments of Average Prices. Whenever a provision of this Indenture requires the calculation of an average of Last Reported Sale Prices over a span of multiple days, the Company shall make appropriate adjustments to account for any adjustment to the Exchange Rate that becomes effective, or any event requiring an adjustment to the Exchange Rate that becomes effective, or any event requiring an adjustment to the Exchange Rate where the Ex-Date of the event occurs, at any time during the period from which the average is to be calculated.

SECTION 11.06. Adjustments Upon Certain Fundamental Changes.

(a) If a Holder elects to exchange Notes in connection with a corporate transaction that constitutes a Fundamental Change described in clause (1), (2), (3) or (6) of the definition thereof, the Exchange Rate will be increased by an additional number of shares of Common Stock (the "*Additional Shares*") as described below. Any exchange will be deemed to have occurred in connection with such Fundamental Change only if such Notes are surrendered for exchange on or after the effective date of such Fundamental Change and prior to the close of business on the Business Day immediately prior to the related Fundamental Change purchase date.

(b) The number of Additional Shares by which the Exchange Rate will be increased will be determined by reference to the table attached as Schedule A hereto, based on the date on which the Fundamental Change occurs or becomes effective (the "*Effective Date*") and the price (the "*Stock Price*") paid per share of Common Stock in the Fundamental Change. If the Fundamental Change is a transaction described in clause (2) of the definition thereof, and holders of Common Stock receive only cash in such Fundamental Change, the Stock Price shall be the cash amount paid per share. Otherwise, the Stock Price shall be the average of the Last Reported Sale Prices of Common Stock over the five Trading Day period ending on the Trading Day preceding the Effective Date of the Fundamental Change.

(c) The Stock Prices set forth in the first row of the table in Schedule A hereto shall be adjusted as of any date on which the Exchange Rate of the Notes is otherwise adjusted. The adjusted Stock Prices shall equal the Stock Prices applicable immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the Exchange Rate immediately prior to such adjustment and the denominator of which is the Exchange Rate as so adjusted. The number of Additional Shares set forth in such table will be adjusted in the same manner as the Exchange Rate as set forth in Section 11.04.

(d) The table in Schedule A hereto sets forth the hypothetical Stock Price, the Effective Date and the number of Additional Shares to be added to the Exchange Rate per $1,000 principal amount of Notes.

The exact Stock Prices and Effective Dates may not be set forth in the table in Schedule A, in which case:

(1) If the Stock Price is between two Stock Price amounts in the table or the Effective Date is between two Effective Dates in the table, the number of Additional Shares will be determined by a straight-line interpolation between the number of Additional Shares set forth for the higher and lower Stock Price amounts and the two dates, as applicable, based on a 365-day year.

(2) If the Stock Price is greater than $25.00 per share (subject to adjustment in the same manner as the Exchange Rate as set forth in Section 11.04), no Additional Shares will be added to the Exchange Rate.

(3) If the Stock Price is less than $1.50 per share (subject to adjustments in the same manner as the Exchange Rate as set forth in Section 11.04), no Additional Shares will be added to the Exchange Rate.

Notwithstanding the foregoing, in no event will the total number of shares of Common Stock issuable upon exchange exceed 666.6667 shares of Common Stock per $1,000 principal amount of Notes, subject to adjustments in the same manner as the Exchange Rate as set forth in Section 11.04.

SECTION 11.07. Effect of Recapitalization, Reclassification, Consolidation, Merger or Sale. In the case of any share exchange, recapitalization, reclassification, consolidation or merger of Sirius pursuant to which the Common Stock will be converted into cash, securities or other property or any sale, conveyance, transfer, lease or other disposition, in one transaction or a series of transactions of all or substantially all of the consolidated assets of Sirius and its Subsidiaries, taken as a whole, to any Person other than one of its Subsidiaries, in each case as a result of which Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof), then, at the effective time of the transaction, the right to exchange a Note will be changed into a right to exchange it into the kind and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of shares of Common Stock equal to the Exchange Rate prior to such transaction would have owned or been entitled to receive (the "*Reference Property*") upon such transaction. If the transaction causes Common Stock to be converted into the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), the Reference Property into which the Notes will be exchangeable will be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make such an election. Sirius shall not become a party to any such transaction unless its terms are consistent with this Section 11.07. Such supplemental indenture shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article 11. If, in the case of any such recapitalization, reclassification, change, consolidation, merger, combination, sale, lease or other transfer, the stock, the Reference Property receivable thereupon by a holder of Common Stock includes shares of stock, other securities or other property or assets (including cash or any combination thereof) of a corporation other than the successor or purchasing corporation, as the case may be, in such reclassification, change, consolidation, merger, combination, sale or conveyance, then such supplemental indenture shall also be executed by such other corporation and shall contain such additional provisions to protect the interests of the Holders of the Notes as the Board of Directors of the Company shall reasonably consider necessary by reason of the foregoing.

The Company shall cause notice of the execution of such supplemental indenture to be mailed to each Holder, at the address of such Holder as it appears on the register of the Notes maintained by the Registrar, within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture. The above provisions of this Section shall similarly apply to successive reclassifications, changes, consolidations, mergers, combinations, sales and conveyances. If this Section 11.07 applies to any event or occurrence, Section 11.04 shall not apply.

SECTION 11.08. Taxes on Shares Issued. Any issue of stock certificates on exchanges of Notes shall be made without charge to the exchanging Holder for any documentary, transfer, stamp or any similar tax in respect of the issue thereof, and the Company shall pay any and all documentary, stamp or similar issue or transfer taxes that may be payable in respect of the issue or delivery of shares of Common Stock on exchange of Notes pursuant hereto. The Company shall not, however, be required to pay any such tax which may be payable in respect of any transfer involved in the issue and delivery of stock in any name other than that of the Holder of any Notes exchanged, and the Company shall not be required to issue or deliver any such stock certificate unless and until the person or persons requesting the issue thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid.

SECTION 11.09. Reservation of Shares; Shares to be Fully Paid; Compliance With Governmental Requirements; Listing of Common Stock Sirius shall provide, free from preemptive rights, out of its authorized but unissued shares or shares held in treasury, shares of Common Stock equal to the number of shares of Common Stock deliverable by the Company upon the exchange of the Notes from time to time as such Notes are presented for exchange (assuming that, at the time of the computation of such number of shares or securities, all such Notes would be held by a single Holder).

Before taking any action that would cause an adjustment increasing the Exchange Rate to an amount that would cause the Exchange Price to be reduced below the then par value, if any, of the shares of Common Stock issuable upon exchange of the Notes, Sirius will take all corporate action which may, in the opinion of its counsel, be necessary in order that Sirius may validly and legally issue shares of such Common Stock at such adjusted Exchange Price.

Sirius covenants that all shares of Common Stock that may be issued upon exchange of Notes shall be newly issued shares or treasury shares, shall be duly authorized, validly issued, fully paid and non-assessable and shall be free from preemptive rights and free from any tax, lien or charge (other than those created by the Holder).

Sirius shall use its reasonable efforts to list or cause to have quoted any shares of Common Stock to be issued upon exchange of Notes on each national securities exchange or over-the-counter or other domestic market on which the Common Stock is then listed or quoted.

SECTION 11.10. Responsibility of Trustee. The Trustee and any other Exchange Agent shall not at any time be under any duty or responsibility to any Noteholder to determine the Exchange Rate or whether any facts exist which may require any adjustment of the Exchange Rate, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any other Exchange Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any shares of Common Stock, or of any securities or property, which may at any time be issued or delivered upon the exchange of any Notes; and the Trustee and any other Exchange Agent make no representations with respect thereto. Neither the Trustee nor any Exchange Agent shall be responsible for any failure of the Company to issue, transfer or deliver any shares of Common Stock or stock certificates or other securities or property or cash upon the surrender of any Notes

for the purpose of exchange or to comply with any of the duties, responsibilities or covenants of the Company contained in this Article 11. Without limiting the generality of the foregoing, neither the Trustee nor any Exchange Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to Section 11.07 relating either to the kind or amount of shares of stock or securities or property (including cash or any combination thereof) receivable by Holders upon the exchange of their Notes after any event referred to in such Section 11.07 or to any adjustment to be made with respect thereto, but, subject to the provisions of Section 6.01, may accept as conclusive evidence of the correctness of any such provisions, and shall be fully protected in conclusively relying upon, the Officers' Certificate (which the Company shall be obligated to file with the Trustee prior to the execution of any such supplemental indenture) with respect thereto.

SECTION 11.11. Notice to Holders Prior to Certain Actions In case:

(a) Sirius shall declare a dividend (or any other distribution) on its Common Stock that would require an adjustment in the Exchange Rate pursuant to Section 11.04; or

(b) Sirius shall authorize the granting to the holders of all of its Common Stock of rights or warrants to subscribe for or purchase any share of any class or any other rights or warrants; or

(c) of any reclassification or reorganization of the Common Stock of the Company (other than a subdivision or combination of its outstanding Common Stock, or a change in par value, or from par value to no par value, or from no par value to par value), or of any consolidation or merger to which Sirius is a party and for which approval of any stockholders of Sirius is required, or of the sale, lease or transfer of all or substantially all of the assets of Sirius or any of its Significant Subsidiaries; or

(d) of the voluntary or involuntary dissolution, liquidation or winding up of Sirius or any of its Significant Subsidiaries;

then, in each case, the Company shall cause to be filed with the Trustee and the Exchange Agent and to be mailed to each Noteholder at such Holder's address appearing on the list of Holders provided for in Section 2.05 of this Indenture, as promptly as practicable but in any event at least 15 days prior to the applicable date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution or rights or warrants, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution or rights are to be determined, or (y) the date on which such reclassification, consolidation, merger, sale, lease, transfer, dissolution, liquidation or winding up is expected to become effective or occur, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such dividend, distribution, reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding up.

SECTION 11.12. Stockholder Rights Plan. Each share of Common Stock issued upon exchange of Notes pursuant to this Article 11 shall be entitled to receive the appropriate number of rights, if any, and the certificates representing the Common Stock issued upon such exchange shall bear such legends, if any, in each case as may be provided by the terms of any stockholder rights plan adopted by Sirius, as the same may be amended from time to time. Notwithstanding anything to the contrary contained in this Indenture, if at the time of exchange, however, the rights have separated from the shares of Common Stock in accordance with the provisions of the applicable stockholder rights agreement so that the Holders of the Notes would not be entitled to receive any rights in respect of Common Stock issuable upon exchange of the Notes, the Exchange Rate will be adjusted at the time of separation as if the Company has distributed to all holders of Common Stock, shares of Capital Stock of the Company, evidence of indebtedness or assets as provided in Section 11.04(c), subject to readjustment in the event of the expiration, termination or redemption of such rights.

SECTION 11.13. Company Determination Final. Any determination that the Company or Sirius or their respective Boards of Directors must make pursuant to this Article 11 shall be conclusive if made in good faith and in accordance with the provisions of this Article 11, absent manifest error, and set forth in a Board Resolution.

ARTICLE 12

Subordination of the Securities

SECTION 12.01. Agreement of Subordination. The Company and the Guarantors each covenants and agrees, and each Holder of Notes by its acceptance thereof likewise covenants and agrees, that all Notes and Note Guarantees shall be issued subject to the provisions of this Article 12; and each Person holding any Note, whether upon original issue or upon transfer, assignment or exchange thereof, accepts and agrees to be bound by such provisions.

Payments in respect of the Notes and the Guarantees shall be subordinated to the prior payment in full, in cash or other payment satisfactory to the holders of Senior Indebtedness, of all existing and future Senior Indebtedness of the Company and the Guarantors.

No provision of this Article 12 shall prevent the occurrence of any default or Event of Default hereunder.

SECTION 12.02. Payments to Holders.

No payment shall be made with respect to the principal of, or interest on, the Notes or purchase or otherwise acquire the Notes (including, but not limited to, the payment of the Fundamental Change Purchase Price with respect to the Notes subject to purchase in accordance with Article 10 as provided in this Indenture), except payments and distributions made by the Trustee as permitted by the first or second paragraph of Section 12.05, if:

(1) a default in the payment of any Designated Senior Indebtedness occurs and is continuing beyond any applicable period of grace; or

(2) any other default, other than a payment default, on any Designated Senior Indebtedness occurs and is continuing that permits holders of such Designated Senior Indebtedness to accelerate its maturity and the Trustee receives a notice of the default (a "*Payment Blockage Notice*") from holders of such Designated Senior Indebtedness,

unless and until the earlier of (x) the date on which such default is cured or waived or ceases to exist or (y) 179 days after the date on which the Payment Blockage Notice is received, unless the maturity of such Designated Senior Indebtedness has been accelerated.

No new period of payment blockage may be commenced for a default unless 360 days shall have elapsed since the receipt of the prior Payment Blockage Notice and all scheduled payments of principal and interest on the Notes that have come due have been paid in full in cash. No nonpayment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the Trustee shall be the basis for a subsequent Payment Blockage Notice.

The Company may and shall resume payments on and distributions in respect of the Notes upon the earlier of:

(a) in the case of a default referred to in clause (1) above, the date upon which the default is cured or waived or ceases to exist, or

(b) in the case of a default referred to in clause (2) above, the earlier of the date on which such default is cured or waived or ceases to exist or 179 days after the date on which the applicable Payment Blockage Notice is received, if the maturity of such Designated Senior Indebtedness has not been accelerated, unless this Article 12 otherwise prohibits the payment or distribution at the time of such payment or distribution.

Upon any payment by the Company or any of the Guarantors, or distribution of assets of the Company or any of the Guarantors of any kind or character, whether in cash, property or securities, to creditors upon any dissolution or winding-up or liquidation or reorganization of the Company or any of the Guarantors (whether voluntary or involuntary) or in bankruptcy, insolvency, receivership or similar proceedings, the holders of Senior Indebtedness of the Company and the Guarantors shall be entitled to receive payment in full of all obligations due in respect of Senior Indebtedness (including interest after the commencement of any bankruptcy proceeding at the rate specified in the applicable Senior Indebtedness), in cash or other payment satisfactory to the holders of Senior Indebtedness, before Holders of the Notes will be entitled to receive any payment with respect to the Notes (except payments made pursuant to Article 12 from monies deposited with the Trustee pursuant thereto prior to commencement of proceedings for such dissolution, winding-up, liquidation or reorganization); and upon any such dissolution or winding-up or liquidation or reorganization of the Company or any of the Guarantors or bankruptcy, insolvency, receivership or other proceeding, any payment by the Company or any of the Guarantors, or distribution of assets of the Company or any of the Guarantors of any kind or character, whether in cash, property or securities, to which the Holders of the Notes or the Trustee would be entitled, except for the provision of this Article 7, shall (except as aforesaid) be paid by the Company or by the Guarantors or by any receiver, trustee in bankruptcy, liquidating

trustee, agent or other Person making such payment or distribution, or by the Holders of the Notes or by the Trustee under this Indenture, if received by them or it, directly to the holders of Senior Indebtedness of the Company and the Guarantors (pro rata to such holders on the basis of the respective amounts of Senior Indebtedness held by such holders, or as otherwise required by law or a court order) or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any Senior Indebtedness may have been issued, as their respective interests may appear, to the extent necessary to pay all Senior Indebtedness of the Company and the Guarantors in full, in cash or other payment satisfactory to the holders of Senior Indebtedness, after giving effect to any concurrent payment or distribution to or for the holders of Senior Indebtedness, before any payment or distribution is made to the Holders of the Notes or to the Trustee.

For purposes of this Article 12, the words, "cash, property or securities" shall not be deemed to include shares of stock of the Company or the Guarantors, as reorganized or readjusted, or securities of the Company or the Guarantors or any other corporation provided for by a plan of reorganization or readjustment, the payment of which is subordinated at least to the extent provided in this Article 12 with respect to the Notes or Guarantees to the payment of all Senior Indebtedness which may at the time be outstanding; *provided* that (i) the Senior Indebtedness is assumed by the new corporation, if any, resulting from any reorganization or readjustment and (ii) the rights of the holders of Senior Indebtedness (other than leases which are not assumed by the Company or the Guarantors or the new corporation, as the case may be) are not, without the consent of such holders, altered by such reorganization or readjustment. The consolidation of the Company or any of the Guarantors with, or the merger of the Company or any of the Guarantors into, another corporation or the liquidation or dissolution of the Company or any of the Guarantors following the conveyance, transfer or lease of its property as an entirety, or substantially as an entirety, to another corporation upon the terms and conditions provided for in Article 4 or Article 9, as applicable, shall not be deemed a dissolution, winding-up, liquidation or reorganization for the purposes of this Section 12.02 if such other corporation shall, as a part of such consolidation, merger, conveyance, transfer or lease, comply with the conditions stated in Article 4 or Article 9, as applicable.

In the event of the acceleration of the Notes because of an Event of Default, no payment or distribution shall be made to the Trustee or any Holder of Notes in respect of the Notes or the Guarantees by the Company or any of the Guarantors (including, but not limited to, the Fundamental Change Purchase Price with respect to the Notes subject to purchase in accordance with Article 10 as provided in this Indenture), until all Senior Indebtedness of the Company and the Guarantors has been paid in full in cash or other payment satisfactory to the holders of Senior Indebtedness or such acceleration is rescinded in accordance with the terms of this Indenture. If payment of Notes is accelerated because of an Event of Default, the Company or the Guarantors shall promptly notify holders of Senior Indebtedness of such acceleration.

In the event that, notwithstanding the foregoing provisions, any payment or distribution of assets of the Company or any of the Guarantors of any kind or character, whether in cash, property or securities (including, without limitation, by way of setoff or otherwise), prohibited by the foregoing, shall be received by the Trustee or the Holders of the Notes before all Senior Indebtedness of the Company and the Guarantors is paid in full, in cash or other payment satisfactory to the holders of Senior Indebtedness, or provision is made for such payment thereof

in accordance with its terms in cash or other payment satisfactory to the holders of Senior Indebtedness, such payment or distribution shall be held in trust for the benefit of and shall be paid over or delivered to the holders of Senior Indebtedness or their Representative or Representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any Senior Indebtedness may have been issued, as their respective interests may appear, as calculated by the Company or the Guarantors, for application to the payment of all Senior Indebtedness remaining unpaid to the extent necessary to pay all Senior Indebtedness in full, in cash or other payment satisfactory to the holders of Senior Indebtedness, after giving effect to any concurrent payment or distribution to or for the holders of such Senior Indebtedness.

SECTION 12.03. Subrogation of Notes and Guarantees.

Subject to the payment in full, in cash or other payment satisfactory to the holders of Senior Indebtedness of the Company and the Guarantors, of all Senior Indebtedness, the rights of the Holders of the Notes shall be subrogated to the extent of the payments or distributions made to the holders of such Senior Indebtedness pursuant to the provisions of this Article 12 (equally and ratably with the holders of all indebtedness of the Company and the Guarantors which by its express terms is subordinated to other indebtedness of the Company and the Guarantors to substantially the same extent as the Notes and the Guarantees are subordinated and is entitled to like rights of subrogation) to the rights of the holders of Senior Indebtedness to receive payments or distributions of cash, property or securities of the Company and the Guarantors applicable to the Senior Indebtedness until the principal of, and interest on, the Notes shall be paid in full, in cash or other payment satisfactory to the holders of Senior Indebtedness; and, for the purposes of such subrogation, no payments or distributions to the holders of the Senior Indebtedness of any cash, property or securities to which the Holders of the Notes or the Trustee would be entitled except for the provisions of this Article 12, and no payment over, pursuant to the provisions of this Article 12, to or for the benefit of the holders of Senior Indebtedness by Holders of the Notes or the Trustee shall, as between the Company and the Guarantors, their creditors other than holders of Senior Indebtedness and the Holders of the Notes, be deemed to be a payment by the Company or the Guarantors to or on account of the Senior Indebtedness; and no payments or distributions of cash, property or securities to or for the benefit of the Holders of the Notes pursuant to the subrogation provisions of this Article 12, which would otherwise have been paid to the holders of Senior Indebtedness, shall be deemed to be a payment by the Company and the Guarantors to or for the account of the Notes and the Guarantees. It is understood that the provisions of this Article 12 are and are intended solely for the purposes of defining the relative rights of the Holders of the Notes, on the one hand, and the holders of the Senior Indebtedness, on the other hand.

Nothing contained in this Article 12 or elsewhere in this Indenture or in the Notes is intended to or shall impair, as among the Company and the Guarantors, its creditors other than the holders of Senior Indebtedness and the Holders of the Notes, the obligation of the Company and the Guarantors, which is absolute and unconditional, to pay to the Holders of the Notes the principal of, and any interest on, the Notes as and when the same shall become due and payable in accordance with their terms, or is intended to or shall affect the relative rights of the Holders of the Notes and creditors of the Company and the Guarantors other than the holders of the Senior Indebtedness, nor shall anything herein or therein prevent the Trustee or the Holder of any

Note from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article 12 of the holders of Senior Indebtedness in respect of cash, property or securities of the Company and the Guarantors received upon the exercise of any such remedy.

Upon any payment or distribution of assets of the Company or any of the Guarantors referred to in this Article 12, the Trustee and the Holders of the Notes shall be entitled to rely conclusively upon any order or decree made by any court of competent jurisdiction in which such bankruptcy, dissolution, winding-up, liquidation or reorganization proceedings are pending, or a certificate of the receiver, trustee in bankruptcy, liquidating trustee, agent or other person making such payment or distribution, delivered to the Trustee or to the Holders of the Notes, for the purpose of ascertaining the persons entitled to participate in such distribution, the holders of the Senior Indebtedness and other indebtedness of the Company and the Guarantors, the amount thereof or payable thereon and all other facts pertinent thereto or to this Article 12.

SECTION 12.04. Authorization to Effect Subordination.

Each Holder of a Note by the Holder's acceptance thereof authorizes and directs the Trustee on the Holder's behalf to take such action as may be necessary or appropriate to effectuate the subordination as provided in this Article 12 and appoints the Trustee to act as the Holder's attorney-in-fact for any and all such purposes.

SECTION 12.05. Notice to Trustee.

The Company or the Guarantors shall give prompt written notice in the form of an Officers' Certificate to a Responsible Officer of the Trustee and to any Paying Agent of any fact known to the Company or any of the Guarantors which would prohibit the making of any payment of monies to or by the Trustee or any Paying Agent in respect of the Notes pursuant to the provisions of this Article 12. Notwithstanding the provisions of this Article 12 or any other provision of this Indenture, the Trustee shall not be charged with knowledge of the existence of any facts which would prohibit the making of any payment of monies to or by the Trustee in respect of the Notes pursuant to the provisions of this Article 12, unless and until a Responsible Officer of the Trustee shall have received written notice thereof at the Corporate Trust Office from the Company or the Guarantors (in the form of an Officers' Certificate) or a representative or a holder or holders of Senior Indebtedness or from any trustee thereof; and before the receipt of any such written notice, the Trustee shall be entitled in all respects to assume that no such facts exist; *provided* that, if on a date not less than three Business Days prior to the date upon which by the terms hereof any such monies may become payable for any purpose (including, without limitation, the payment of the principal of, or interest on, any Note) the Trustee shall not have received, with respect to such monies, the notice provided for in this Section 12.05, then, anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such monies and to apply the same to the purpose for which they were received and shall not be affected by any notice to the contrary which may be received by it on or after such prior date. Notwithstanding anything in this Article 12 to the contrary, nothing shall prevent any payment by the Trustee to the Holders of monies deposited with it pursuant to Article 12, and any such payment shall not be subject to the provisions of Article 9.

The Trustee shall be entitled to rely conclusively on the delivery to it of a written notice by a representative or a person representing himself to be a holder of Senior Indebtedness of the Company and the Guarantors (or a trustee on behalf of such holder) to establish that such notice has been given by a Representative or a holder of Senior Indebtedness or a trustee on behalf of any such holder or holders. In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any person as a holder of Senior Indebtedness to participate in any payment or distribution pursuant to this Article 12, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Indebtedness held by such Person, the extent to which such Person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such Person under this Article 12, and if such evidence is not furnished the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment.

SECTION 12.06. Trustee's Relation to Senior Indebtedness.

The Trustee in its individual capacity shall be entitled to all the rights set forth in this Article 12 in respect of any Senior Indebtedness of the Company and the Guarantors at any time held by it, to the same extent as any other holder of Senior Indebtedness, and nothing in this Indenture shall deprive the Trustee of any of its rights as such holder. Nothing in this Article 12 shall apply to claims of, or payments to, the Trustee under or pursuant to Section 6.07.

With respect to the holders of Senior Indebtedness of the Company and the Guarantors, the Trustee undertakes to perform or to observe only such of its covenants and obligations as are specifically set forth in this Article 12, and no implied covenants or obligations with respect to the holders of Senior Indebtedness shall be read into this Indenture against the Trustee. The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Indebtedness, and, except with respect to its express obligations under this Article 12, the Trustee shall not be liable to any holder of Senior Indebtedness if it shall pay over or deliver to Holders of Notes, the Company, any of the Guarantors or any other person money or assets to which any holder of Senior Indebtedness shall be entitled by virtue of this Article 12 or otherwise.

SECTION 12.07. No Impairment of Subordination.

No right of any present or future holder of any Senior Indebtedness of the Company and the Guarantors to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or the Guarantors or by any act or failure to act, in good faith, by any such holder or by any noncompliance by the Company or the Guarantors with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof which any such holder may have or otherwise be charged with.

SECTION 12.08. Certain Exchanges Deemed Payment.

For the purposes of this Article 12 only, (1) the issuance and delivery of junior securities upon exchange of Notes in accordance with Article 12 shall not be deemed to constitute a payment or distribution on account of the principal of, or interest on, Notes or on account of the

purchase or other acquisition of Notes, and (2) the payment, issuance or delivery of cash (except in satisfaction of fractional shares pursuant to Article 11), property or securities (other than junior securities) upon exchange of a Note shall be deemed to constitute payment on account of the principal of such Note. For the purposes of this Section 12.08, the term "junior securities" means (a) shares of any stock of any class of the Company and the Guarantors or (b) securities of the Company and the Guarantors which are subordinated in right of payment to all Senior Indebtedness which may be outstanding at the time of issuance or delivery of such securities to substantially the same extent as, or to a greater extent than, the Notes are so subordinated as provided in this Article. Nothing contained in this Article or elsewhere in this Indenture or in the Notes is intended to or shall impair, as among the Company and the Guarantors, their creditors other than holders of Senior Indebtedness and the Holders, the right, which is absolute and unconditional, of the Holder of any Note to exchange such Note in accordance with Article 11.

SECTION 12.09. Article Applicable to Paying Agents.

If at any time any Paying Agent other than the Trustee shall have been appointed by the Company and be then acting hereunder, the term "*Trustee*" as used in this Article shall (unless the context otherwise requires) be construed as extending to and including such Paying Agent within its meaning as fully for all intents and purposes as if such Paying Agent were named in this Article in addition to or in place of the Trustee; *provided*, *however*, that the first paragraph of Section 12.05 shall not apply to the Company any Affiliate of the Company if it or such Affiliate acts as Paying Agent.

SECTION 12.10. Senior Indebtedness Entitled to Rely.

The holders of Senior Indebtedness of the Company and the Guarantors (including, without limitation, Designated Senior Indebtedness) shall have the right to rely upon this Article 12, and no amendment or modification of the provisions contained herein shall diminish the rights of such holders unless such holders shall have agreed in writing thereto.

SECTION 12.11. Anti-Layering.

The Company shall not issue, Incur, assume, Guarantee, directly or indirectly, or otherwise become liable for any Indebtedness which is subordinated or junior in right or payment to any Senior Indebtedness and senior in right of payment to the Notes, *provided*, *however*, that nothing in this Section 12.11 shall limit the Company's ability to Incur unsecured Senior Indebtedness.

ARTICLE 13

Miscellaneous

SECTION 13.01. Notices. Any notice or communication shall be in writing (which may be facsimile) and delivered in person or mailed by first-class mail addressed as follows:

if to the Company:

XM Satellite Radio Inc.
1500 Eckington Place, NE
Washington, DC 20002-2194
Attention: General Counsel

with a copy to:

Sirius Satellite Radio Inc.
1221 Avenue of the Americas
New York, NY 10020
Attention: General Counsel

if to Sirius:

Sirius Satellite Radio Inc.
1221 Avenue of the Americas
New York, NY 10020
Attention: General Counsel

if to the Trustee:

The Bank of New York Mellon
101 Barclay Street, Floor 8 West
New York, NY 10286
Attention: Corporate Trust Administration

The Company or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

Any notice or communication mailed to a Noteholder shall be mailed to the Noteholder at the Noteholder's address as it appears on the registration books of the Registrar and shall be sufficiently given if so mailed within the time prescribed.

Failure to mail a notice or communication to a Noteholder or any defect in it shall not affect its sufficiency with respect to other Noteholders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

SECTION 13.02. Communication by Holders with Other Holders. Noteholders may communicate with other Noteholders with respect to their rights under this Indenture or the Notes.

SECTION 13.03. Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take or refrain from taking any action under this Indenture, the Company shall furnish to the Trustee:

(1) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

SECTION 13.04. Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a covenant or condition provided for in this Indenture shall include:

(1) a statement that the individual making such certificate or opinion has read such covenant or condition;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether or not, in the opinion of such individual, such covenant or condition has been complied with;*provided, however,* that with respect to matters of fact, an Opinion of Counsel may rely on an Officers' Certificate or certificates of public officials.

SECTION 13.05. When Notes Disregarded. In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company shall be disregarded and deemed not to be outstanding, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which a Responsible Officer of the Trustee actually knows are so owned shall be so disregarded. Also, subject to the foregoing, only Notes outstanding at the time shall be considered in any such determination.

SECTION 13.06. Rules by Trustee, Paying Agent and Registrar. The Trustee may make reasonable rules for action by or a meeting of Noteholders. The Registrar and the Paying Agent may make reasonable rules for their functions.

SECTION 13.07. Legal Holidays. If a payment date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on any amount that would have been otherwise payable on such payment date if it were not a legal holiday for the intervening period. If a regular record date is a Legal Holiday, the record date shall not be affected.

SECTION 13.08. Governing Law This Indenture, the Guarantees and the Notes shall be governed by, and construed in accordance with, the laws of the State of New York.

SECTION 13.09. No Recourse Against Others. No director, officer, employee or stockholder, as such, of the Company, Sirius or any of their Subsidiaries shall have any liability for any obligations of the Company, Sirius or any of their Subsidiaries under the Notes, the Guarantees or this Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Noteholder shall waive and release all such liability. The waiver and release shall be part of the consideration for the issue of the Notes.

SECTION 13.10. Successors. All agreements of the Company in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

SECTION 13.11. Multiple Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Indenture.

SECTION 13.12. Table of Contents; Headings. The table of contents, cross-reference sheet and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

SECTION 13.13. Waiver of Jury Trial. EACH OF THE COMPANY, THE GUARANTORS, SIRIUS AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY.

SECTION 13.14. Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SECTION 13.15. Covenants of Sirius. The covenants and agreements of Sirius contained in this Indenture shall not be deemed to create any direct or indirect payment obligations by Sirius in respect of this Indenture, the Notes or the Guarantees or in any way otherwise constitute this Indenture, the Notes or the Guarantees as Indebtedness of Sirius. By accepting a Note, each Noteholder acknowledges and agrees to be bound by this Section 13.15. This Section 13.15 shall cease to have any effect immediately following any Company-Sirius Merger or any Holdings-Sirius Merger after which the Successor Company shall be obligated under this Indenture and, as applicable, the Notes or the Guarantees, as otherwise provided in Section 4.01.

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

XM SATELLITE RADIO INC.,

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

XM SATELLITE RADIO HOLDINGS INC.,

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

XM EQUIPMENT LEASING LLC,

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

[Indenture for 7% Exchangeable Senior Subordinated Notes due 2014]

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

XM RADIO INC.,

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President and Chief Financial Officer

[Indenture for 7% Exchangeable Senior Subordinated Notes due 2014]

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

SIRIUS SATELLITE RADIO INC.,

By /s/ Patrick Donnelley
Name: Patrick Donnelley
Title: Executive Vice President and General Counsel and Secretary

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

THE BANK OF NEW YORK MELLON,

By /s/ Remo J. Reale
Name: Remo J. Reale
Title: Vice President

SCHEDULE A

The following table sets forth the hypothetical stock price, the effective date and the number of additional shares to be added to the Exchange Rate per $1,000 principal amount of Notes pursuant to Section 11.06 of this Indenture:

Sirius Common Stock Price

Effective date	$1.50	$2.00	$2.50	$3.00	$3.50	$4.00	$5.00	$6.00	$7.00	$8.00	$9.00	$10.00	$12.50	$15.00	$20.00	$25.00	$20.00	$25.00
8/01/2008	133.3334	133.3334	111.0390	86.8511	70.4032	58.5406	42.6852	32.6427	25.7840	20.8319	17.1092	14.2361	9.3207	6.3148	3.0190	1.4487	3.0190	1.4487
12/1/2008	133.3334	133.3334	107.3736	83.6660	67.6397	56.1339	40.8279	31.1749	24.5976	19.8543	16.3010	13.5449	8.8550	5.9782	2.8298	1.3341	2.8298	1.3341
12/1/2009	133.3334	133.3334	99.3176	76.6233	61.5232	50.8131	36.7387	27.9580	22.0184	17.7502	14.5518	12.0789	7.8637	5.2789	2.4544	1.1203	2.4544	1.1203
12/1/2010	133.3334	126.5197	90.1272	68.5050	54.4476	44.6549	32.0511	24.3155	19.1250	15.4117	12.6321	10.4892	6.8160	4.5496	2.0751	0.9052	2.0751	0.9052
12/1/2011	133.3334	114.1055	78.3963	58.1417	45.4909	36.9526	26.2796	19.8937	15.6639	12.6458	10.3845	8.6305	5.6142	3.7396	1.6685	0.6933	1.6685	0.6933
12/1/2012	133.3334	96.5569	62.0035	43.9736	33.5047	26.8308	18.9227	14.3627	11.3760	9.2382	7.6240	6.3600	4.1543	2.7581	1.1926	0.4539	1.1926	0.4539
12/1/2013	133.3334	69.5290	37.6934	24.1532	17.6155	13.9619	9.9978	7.7439	6.2339	5.1212	4.2629	3.5785	2.3569	1.5615	0.6421	0.2035	0.6421	0.2035
12/1/2014	133.3334	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

PROVISIONS RELATING TO THE NOTES

1. Definitions.

1.1. Definitions.

For the purposes of this Appendix the following terms shall have the meanings indicated below:

"Definitive Note" means a certificated Note bearing, if required, the appropriate restricted securities legend set forth in Section 2.3(d) of this Appendix.

"Depository" means The Depository Trust Company, its nominees and their respective successors.

"Initial Purchasers" means (1) with respect to the Notes issued on the Issue Date, J.P. Morgan Securities Inc., Morgan Stanley & Co. Incorporated and UBS Securities LLC and (2) with respect to each issuance of Additional Notes, the Persons purchasing such Additional Notes under the related Purchase Agreement.

"Notes Custodian" means the custodian with respect to a Global Note (as appointed by the Depository), or any successor Person thereto and shall initially be the Trustee.

"Purchase Agreement" means (1) with respect to the Notes issued on the Issue Date, the Purchase Agreement dated July 28, 2008, among the Company, Sirius, the guarantors party thereto and the Initial Purchasers, and (2) with respect to each issuance of Additional Notes, the purchase agreement or underwriting agreement among the Company, Sirius, the guarantors party thereto and the Persons purchasing such Additional Notes.

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Rule 144A Notes" means all Notes offered and sold to QIBs in reliance on Rule 144A. All Notes are Rule 144A Notes.

"Transfer Restricted Notes" means Notes that bear or are required to bear the legend relating to restrictions on transfer relating to the Securities Act set forth in Section 2.3(d) hereto of this Appendix. All Notes are Transfer Restricted Notes.

1.2. Other Definitions

Term	Defined In Section:
"Agent Members"	2.1(b)
"Global Notes"	2.1(a)
"Rule 144A"	2.1(a)
"Rule 144A Global Note"	2.1(a)

2. The Notes

2.1. (a) Form and Dating. The Notes will be resold only to QIBs in reliance on Rule 144A under the Securities Act ("*Rule 144A*"). The Notes may thereafter be transferred only to QIBs. Notes shall be resold pursuant to Rule 144A and shall be issued initially in the form of one or more permanent global Notes in definitive, fully registered form (collectively, the "*Rule 144A Global Note*"); without interest coupons and with the global securities legend and the applicable restricted securities legend set forth in Exhibit 1 hereto, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Notes Custodian and registered in the name of the Depository or a nominee of the Depository, duly executed by the Company and authenticated by the Trustee as provided in this Indenture.

The Rule 144A Global Notes are also referred to herein as "*Global Notes*". The aggregate principal amount of the Global Notes may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee as hereinafter provided.

(b) Book-Entry Provisions. This Section 2.1(b) shall apply only to a Global Note deposited with or on behalf of the Depository.

The Company shall execute and the Trustee shall, in accordance with this Section 2.1(b) and Section 2.2, authenticate and deliver initially one or more Global Notes that (a) shall be registered in the name of the Depository for such Global Note or Global Notes or the nominee of such Depository and (b) shall be delivered by the Trustee to such Depository or pursuant to such Depository's instructions or held by the Trustee as custodian for the Depository.

Members of, or participants in, the Depository ("*Agent Members*") shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depository or by the Trustee as the Notes Custodian or under such Global Note, and the Company, the Trustee and any agent of the Company or the Trustee shall be entitled to treat the Depository as the absolute owner of such Global Note for all purposes. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices of such Depository governing the exercise of the rights of a holder of a beneficial interest in any Global Note.

(c) Definitive Notes. Except as provided in this Section 2.1 or Section 2.3 or 2.4, owners of beneficial interests in Global Notes shall not be entitled to receive physical delivery of Definitive Notes.

2.2. Authentication. The Trustee shall authenticate and deliver: (1) on the Issue Date, an aggregate principal amount of $550 million 7% Exchangeable Senior Subordinated Notes due 2014 and (2) any Additional Notes for an original issue in an aggregate principal amount specified in the written order of the Company pursuant to Section 2.02 of this Indenture, in each case upon a written order of the Company signed by two Officers or by an Officer and either an Assistant Treasurer or an Assistant Secretary of the Company. Such order shall specify the amount of the Notes to be authenticated and the date on which the original issue of Notes is to be authenticated.

2.3. Transfer and Exchange. (a) Transfer and Exchange of Definitive Notes. When Definitive Notes are presented to the Registrar with a request:

(i) to register the transfer of such Definitive Notes; or

(ii) to exchange such Definitive Notes for an equal principal amount of Definitive Notes of other authorized denominations,

the Registrar shall register the transfer or make the exchange as requested if its reasonable requirements for such transaction are met;*provided, however,* that the Definitive Notes surrendered for transfer or exchange:

(1) shall be duly endorsed or accompanied by a written instrument of transfer in form reasonably satisfactory to the Company and the Registrar, duly executed by the Holder thereof or its attorney duly authorized in writing; and

(2) if such Definitive Notes (together with any Common Stock issued upon exchange of the Definitive Notes) are required to bear a restricted securities legend, they are being transferred or exchanged pursuant to Section 2.3(b) or pursuant to clause (A), (B) or (C) below, and are accompanied by the following additional information and documents, as applicable:

(A) if such Definitive Notes are being delivered to the Registrar by a Holder for registration in the name of such Holder, without transfer, a certification from such Holder to that effect; or

(B) if such Definitive Notes are being transferred to Holdings or Sirius or one of their Subsidiaries, a certification to that effect; or

(C) if such Definitive Notes are being transferred (x) pursuant to an exemption from registration in accordance with Rule 144A under the Securities Act; a certification to that effect (in the form set forth as Exhibit 5 to the Rule 144A Appendix to the Indenture).

(b) Restrictions on Transfer of a Definitive Note for a Beneficial Interest in a Global Note A Definitive Note may not be exchanged for a beneficial interest in a Rule 144A Global Note, except upon satisfaction of the requirements set forth below. Upon receipt by the Trustee of a Definitive Note, duly endorsed or accompanied by appropriate instruments of transfer, in form satisfactory to the Trustee, together with:

(i) certification, in the form set forth as Exhibit 5 to the Rule 144A Appendix to the Indenture that such Holder is a QIB and such Definitive Note is being transferred to a QIB in accordance with Rule 144A;

(ii) written instructions directing the Trustee to make, or to direct the Notes Custodian to make, an adjustment on its books and records with respect to such Rule 144A Global Note (in the case of a transfer pursuant to clause (b)(i)(A)) to reflect an increase in the aggregate principal amount of the Notes represented by the Rule 144A Global Note, such instructions to contain information regarding the Depository account to be credited with such increase; and

(iii) then the Trustee shall cancel such Definitive Note and cause, or direct the Notes Custodian to cause, in accordance with the standing instructions and procedures existing between the Depository and the Notes Custodian, the aggregate principal amount of Notes represented by the Rule 144A Global Note to be increased by the aggregate principal amount of the Definitive Note to be exchanged and shall credit or cause to be credited to the account of the Person specified in such instructions a beneficial interest in the Rule 144A Global Note equal to the principal amount of the Definitive Note so canceled. If no Rule 144A Global Notes are then outstanding, the Company shall issue and the Trustee shall authenticate, upon written order of the Company in the form of an Officers' Certificate of the Company, a new Rule 144A Global Note in the appropriate principal amount.

(c) Transfer and Exchange of Global Notes (i) The transfer and exchange of Global Notes or beneficial interests therein shall be effected through the Depository, in accordance with this Indenture (including applicable restrictions on transfer set forth herein, if any) and the procedures of the Depository therefor. A transferor of a beneficial interest in a Global Note shall deliver to the Registrar a written order given in accordance with the Depository's procedures containing information regarding the participant account of the Depository to be credited with a beneficial interest in the Global Note. The Registrar shall, in accordance with such instructions instruct the Depository to credit to the account of the Person specified in such instructions a beneficial interest in the Global Note and to debit the account of the Person making the transfer the beneficial interest in the Global Note being transferred.

(ii) Notwithstanding any other provisions of this Appendix (other than the provisions set forth in Section 2.4), a Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository.

(iii) In the event that a Global Note is exchanged for Definitive Notes pursuant to Section 2.4 of this Appendix, such Notes may be exchanged only in accordance with such procedures as are substantially consistent with the provisions of this Section 2.3 (including the certification requirements set forth on the reverse of the Notes intended to ensure that such transfers comply with Rule 144A) and such other procedures as may from time to time be adopted by the Company.

(d) Legend. (i) Except as permitted by the following paragraphs (ii) and (iii), each Note certificate evidencing the Global Notes (and all Notes issued in exchange therefor or in substitution thereof) shall bear a legend in substantially the following form:

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT AS SET FORTH IN THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF, THE HOLDER AGREES (1) THAT IT WILL NOT RESELL OR OTHERWISE TRANSFER THE SECURITY EVIDENCED HEREBY, EXCEPT (A) TO XM SATELLITE RADIO HOLDINGS INC. ("HOLDINGS") OR ONE OF ITS SUBSIDIARIES OR SIRIUS SATELLITE RADIO INC. OR ONE OF ITS SUBSIDIARIES; OR (B) TO A PERSON THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A ADOPTED UNDER THE SECURITIES ACT) THAT IS PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ANOTHER QUALIFIED INSTITUTIONAL BUYER AND TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, ALL IN COMPLIANCE WITH RULE 144A (IF AVAILABLE).

(ii) Each Definitive Note shall also bear the following additional legend:

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

(iii) The Common Stock issuable upon exchange of the Notes bearing the legend set forth above will bear a legend substantially to the following effect, unless otherwise agreed by Sirius and the holder thereof:

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT AS SET FORTH IN THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF, THE HOLDER AGREES (1) THAT IT WILL NOT RESELL OR OTHERWISE TRANSFER THE

SECURITY EVIDENCED HEREBY, EXCEPT (A) TO THE ISSUER OR A SUBSIDIARY OF THE ISSUER; (B) UNDER A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT; (C) TO A PERSON THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A ADOPTED UNDER THE SECURITIES ACT) THAT IS PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ANOTHER QUALIFIED INSTITUTIONAL BUYER AND TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, ALL IN COMPLIANCE WITH RULE 144A (IF AVAILABLE); OR (D) UNDER ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT; AND (2) THAT IT WILL, PRIOR TO ANY TRANSFER OF THIS SECURITY, FURNISH TO THE TRANSFER AGENT AND THE ISSUER SUCH CERTIFICATIONS, LEGAL OPINIONS OR OTHER INFORMATION AS MAY BE REQUIRED TO CONFIRM THAT SUCH TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

(e) Cancellation or Adjustment of Global Note. At such time as all beneficial interests in a Global Note have either been exchanged for Definitive Notes, redeemed, purchased or canceled, such Global Note shall be returned to the Depository for cancellation or retained and canceled by the Trustee. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for certificated Notes, redeemed, purchased or canceled, the principal amount of Notes represented by such Global Note shall be reduced and an adjustment shall be made on the books and records of the Trustee (if it is then the Notes Custodian for such Global Note) with respect to such Global Note, by the Trustee or the Notes Custodian, to reflect such reduction.

(f) No Obligation of the Trustee.

(i) The Trustee shall have no responsibility or obligation to any beneficial owner of a Global Note, a member of, or a participant in the Depository or other Person with respect to the accuracy of the records of the Depository or its nominee or of any participant or member thereof, with respect to any ownership interest in the Notes or with respect to the delivery to any participant, member, beneficial owner or other Person (other than the Depository) of any notice or the payment of any amount, under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders under the Notes shall be given or made only to or upon the order of the registered Holders (which shall be the Depository or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through the Depository subject to the applicable rules and procedures of the Depository. The Trustee may conclusively rely and shall be fully protected in relying upon information furnished by the Depository with respect to its members, participants and any beneficial owners.

(ii) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depository participants, members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

2.4. Definitive Notes.

(a) A Global Note deposited with the Depository or with the Trustee as Notes Custodian for the Depository pursuant to Section 2.1 shall be transferred to the beneficial owners thereof in the form of Definitive Notes in an aggregate principal amount equal to the principal amount of such Global Note, in exchange for such Global Note, only if such transfer complies with Section 2.3 hereof and (i) the Depository notifies the Company that it is unwilling or unable to continue as Depository for such Global Note and the Depository fails to appoint a successor depository or if at any time such Depository ceases to be a "clearing agency" registered under the Exchange Act, in either case, and a successor depository is not appointed by the Company within 90 days of such notice, or (ii) an Event of Default has occurred and is continuing or (iii) the Company, in its sole discretion, notifies the Trustee in writing that it elects to cause the issuance of Definitive Notes under this Indenture.

(b) Any Global Note that is transferable to the beneficial owners thereof pursuant to this Section 2.4 shall be surrendered by the Depository to the Trustee located at its principal corporate trust office in the Borough of Manhattan, The City of New York, to be so transferred, in whole or from time to time in part, without charge, and the Trustee shall authenticate and deliver, upon such transfer of each portion of such Global Note, an equal aggregate principal amount of Definitive Notes of authorized denominations. Any portion of a Global Note transferred pursuant to this Section 2.4 shall be executed, authenticated and delivered only in denominations of $1,000 principal amount and any integral multiple of $1,000 in excess of $1,000 and registered in such names as the Depository shall direct. Any Definitive Note delivered in exchange for an interest in the Transfer Restricted Note shall, except as otherwise provided by Section 2.3(e) hereof, bear the applicable restricted securities legend and definitive securities legend set forth in Exhibit 1 hereto.

(c) Subject to the provisions of Section 2.4(b) hereof, the registered Holder of a Global Note shall be entitled to grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Notes.

(d) In the event of the occurrence of one of the events specified in Section 2.4(a) hereof, the Company shall promptly make available to the Trustee a reasonable supply of Definitive Notes in definitive, fully registered form without interest coupons. In the event that such Definitive Notes are not issued, the Company expressly acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to Section 5.06 of this Indenture, the right of any beneficial owner of Notes to pursue such remedy with respect to the portion of the Global Note that represents such beneficial owner's Notes as if such Definitive Notes had been issued.

EXHIBIT 1
to
RULE 144A APPENDIX

[FORM OF FACE OF NOTE]

[Global Notes Legend]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), NEW YORK, NEW YORK, TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO., OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC) ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

[Restricted Security Legend]

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT AS SET FORTH IN THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF, THE HOLDER AGREES (1) THAT IT WILL NOT RESELL OR OTHERWISE TRANSFER THE SECURITY EVIDENCED HEREBY, EXCEPT (A) TO XM SATELLITE RADIO HOLDINGS INC. ("HOLDINGS") OR ONE OF ITS SUBSIDIARIES OR SIRIUS SATELLITE RADIO INC. OR ONE OF ITS SUBSIDIARIES; OR (B) TO A PERSON THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A ADOPTED UNDER THE SECURITIES ACT) THAT IS PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ANOTHER QUALIFIED INSTITUTIONAL BUYER AND TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, ALL IN COMPLIANCE WITH RULE 144A (IF AVAILABLE).

[Definitive Notes Legend]

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

CUSIP No. 98375Y AU0
ISIN No. US98375YAU01

No._____ $_____

7% Exchangeable Senior Subordinated Notes due 2014

XM Satellite Radio Inc., a Delaware corporation and wholly-owned subsidiary of XM Satellite Radio Holdings Inc., a Delaware corporation, promises to pay to _____, or registered assigns, the principal sum of _____ Dollars on December 1, 2014.

Interest Payment Dates: June 1 and December 1 beginning December 1, 2008.

Record Dates: May 15 and November 15.

Additional provisions of this Note are set forth on the other side of this Note.

Dated:

XM SATELLITE RADIO INC.

By _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF
AUTHENTICATION

THE BANK OF NEW YORK MELLON

as Trustee, certifies that this is one of the
Notes referred to in the Indenture

By _____
Authorized Signatory

[FORM OF REVERSE SIDE OF NOTE]

7% Exchangeable Senior Subordinated Note due 2014

1. Interest

XM Satellite Radio Inc., a Delaware corporation (the "*Company*"), promises to pay interest on the principal amount of this Note at the rate per annum shown above. The Company will pay interest semiannually on June 1 and December 1 of each year (each, an "*Interest Payment Date*"), commencing December 1, 2008. Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from August 1, 2008. Interest will be computed on the basis of a 360-day year of twelve 30-day months. The Company will pay interest on overdue principal at the rate borne by this Note plus 1.0% per annum, and it will pay interest on overdue installments of interest at the same rate to the extent lawful. The Company shall pay Additional Interest or Reporting Additional Interest if, as and when required pursuant to the terms of the Indenture.

2. Method of Payment

The Company will pay interest on the Notes (except defaulted interest) to the Persons who are registered holders of Notes at the close of business on the May 15 or November 15 next preceding the Interest Payment Date even if Notes are canceled after the Record Date and on or before the Interest Payment Date. Holders must surrender Notes to a Paying Agent to collect principal payments. The Company will pay principal and interest in money of the United States that at the time of payment is legal tender for payment of public and private debts. Payments in respect of the Notes represented by a Global Note (including principal and interest) will be made by wire transfer of immediately available funds to the accounts specified by The Depository Trust Company. The Company will make all payments in respect of a certificated Note (including principal and interest) at the office of the Paying Agent, except that, at the option of the Company, payment of interest may be made by mailing a check to the registered address of each Holder thereof; *provided, however,* that payments on a certificated Note will be made by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 30 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

3. Paying Agent, Registrar and Exchange Agent

Initially, The Bank of New York Mellon, a New York banking corporation (the "*Trustee*"), will act as Paying Agent, Registrar and Exchange Agent. The Company may appoint and change any Paying Agent, Registrar, Exchange Agent or co-registrar without notice. The Company or any of its domestically incorporated Wholly Owned Subsidiaries may act as Paying Agent, Registrar or co-registrar.

4. Indenture

The Company issued the Notes under an Indenture dated as of August 1, 2008 ("*Indenture*"), among the Company, the Guarantors named therein, Sirius Satellite Radio Inc. ("Sirius") and the Trustee. The terms of the Notes include those stated in the Indenture. Terms defined in the Indenture and not defined herein have the meanings ascribed thereto in the Indenture. The Notes are subject to all such terms, and Noteholders are referred to the Indenture for a statement of those terms.

The Notes are general, unsecured, senior subordinated obligations of the Company. The Company shall be entitled to issue Additional Notes pursuant to Section 2.13 of the Indenture. The Notes issued on the Issue Date and any Additional Notes will be treated as a single class for all purposes under the Indenture.

5. Guarantees

This Note is jointly and severally unconditionally guaranteed on a senior subordinated basis by each of XM Satellite Radio Holdings Inc., XM Equipment Leasing LLC, XM Radio Inc. and any other Material Subsidiary of the Company that later becomes a Subsidiary Guarantor in accordance with the Indenture. Notwithstanding the subordination provisions of the indenture, the obligations of each guarantor will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such guarantor and after giving effect to any collections from or payments made by or on behalf of any other guarantor in respect of the obligations of such other guarantor under its guarantee or pursuant to its contribution obligations under the indenture, result in the obligations of such subsidiary guarantor under its subsidiary guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law.

6. Redemption

The Notes will not be redeemable at the option of the Company prior to the maturity.

7. Repurchase at the Option of Noteholders Upon a Fundamental Change

If a Fundamental Change occurs at any time, then each Holder shall have the right, at such Holder's option, to require the Company to purchase for cash any or all of such Holder's Notes, or any portion of the principal amount thereof, that is equal to $1,000 or integral multiples of $1,000 in excess thereof, on a date specified by the Company that is no later than the 30th calendar day following the date of the Fundamental Change Company Notice, at a purchase price equal to 100% of the principal amount of the Notes to be purchased, together with accrued and unpaid interest to, but excluding, the Fundamental Change Purchase Date; *provided, however*, that if a Fundamental Change Purchase Date is between a Record Date and the Interest Payment Date related thereto, interest, including Additional Interest, if any, for the full interest period to such Interest Payment Date and payable in respect of such Interest Payment Date (irrespective of the actual Fundamental Change Purchase Date) shall be payable to the Holders of record as of the corresponding Record Date.

For Notes to be so repurchased at the option of the Holder, the Holder must deliver to the Paying Agent in accordance with the terms of the Indenture, the Repurchase Notice containing the information specified by the Indenture, together with such Notes, duly endorsed for transfer, or (if the Notes are Global Notes) book-entry transfer of the Notes, prior to 10:00 a.m., New York City time, on the Business Day immediately preceding the Fundamental Change Repurchase Date.

Holders have the right to withdraw any Repurchase Notice by delivering to the Paying Agent a written notice of withdrawal at any time prior to 10:00 a.m., New York City time, on the Business Day immediately preceding the Fundamental Change Repurchase Date, all as provided in the Indenture.

8. Exchange

Subject to and upon compliance with the provisions of the Indenture, each Holder shall have the right, at such Holder's option, to exchange the principal amount of any Notes, or any portion of such principal amount which is $1,000 or an integral multiple of $1,000 thereof at the Exchange Rate then in effect, at any time prior to the close of business on the third Business Day immediately preceding the Stated Maturity. Each Holder which exchanges Notes for Common Stock will be deemed to have represented to the Company and Sirius that it is a QIB. The Notes may be exchanged into shares of the Company's common stock, initially at an exchange rate of 533.3333 shares of the Company's common stock per $1,000 principal amount of Notes. The Exchange Rate is subject to adjustment if certain events occur. Upon exchange of a Note, the Holder shall receive the required number of shares of the Common Stock plus cash in lieu of any fraction of a share otherwise deliverable as described below. The Holder will not receive any separate cash payment for accrued and unpaid interest to the Exchange Date except under the limited circumstances described in Section 11.03(c) of the Indenture.

9. Denominations; Transfer; Exchange

The Notes are in registered form without coupons in denominations of $1,000 principal amount and whole multiples of $1,000 in excess of $1,000. A Holder may transfer or exchange Notes in accordance with the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements or transfer documents and to pay any taxes and fees required by law or permitted by the Indenture.

10. Persons Deemed Owners

The registered Holder of this Note may be treated as the owner of it for all purposes.

11. Unclaimed Money

If money for the payment of principal or interest remains unclaimed for two years, the Trustee or Paying Agent shall pay the money back to the Company at its request unless an abandoned property law designates another Person. After any such payment, Holders entitled to the money must look only to the Company and not to the Trustee for payment.

12. Discharge

When (1) the Company delivers to the Trustee all outstanding Notes (other than Notes replaced pursuant to the terms of the Indenture) for cancellation or (2) all outstanding Notes have become due and payable, whether at Stated Maturity or and the Company or a Subsidiary Guarantor irrevocably deposits with the Trustee cash or shares of Common Stock sufficient to pay at maturity or any repurchase date or upon exchange or otherwise all outstanding Notes, including interest thereon to maturity or such repurchase date (other than Notes replaced pursuant to terms of the Indenture), and if in either case the Company pays all other sums payable hereunder by the Company, then the Indenture shall, subject to certain limitations set forth in the Indenture, cease to be of further effect.

13. Amendment; Waiver

Subject to certain exceptions set forth in the Indenture, (a) the Indenture, the Notes and the Guarantees may be amended with the written consent of the Holders of a majority in principal amount outstanding of the Notes (including consents obtained in connection with a tender offer or exchange offer for the Notes) and (b) any past default or noncompliance with any provision may be waived with the written consent of the Holders of a majority in principal amount outstanding of the Notes (including consents obtained in connection with a tender offer or exchange offer for the Notes). In addition, without the consent of any Noteholder, the Company and the Trustee shall be entitled to amend the Indenture, the Notes and the Guarantees under certain circumstances set forth in Section 8.01 of the Indenture.

14. Defaults and Remedies

Each of the following is an Event of Default: (1) a default in any payment of interest on any Note when due and payable, continued for a period of 30 days; (2) a default in the payment of principal of any Note when due at its Stated Maturity, upon required purchase, upon declaration of acceleration or otherwise; (3) the failure by the Company to comply with its obligation to exchange the Notes in accordance with the indenture upon exercise of a Holder's Exchange Right; (4) the failure by the Company to give a Fundamental Change notice or notice of a specified corporate transaction as described in the Indenture, in each case when due; (5) the failure by the Company or Sirius to comply with its obligations under Section 4.01 of the Indenture; (6) the failure by the Company or Sirius to comply for 60 days after notice with their other agreements contained in the Indenture (other than a failure to give the notices described in clause (4) above); (7) Indebtedness of the Company or any Significant Subsidiary (other than with respect to the Notes) is not paid within any applicable grace period after final maturity or is accelerated by the holders thereof because of a default and the total amount of such indebtedness unpaid or accelerated exceeds $25 million; (8) certain events of bankruptcy, insolvency or reorganization of the Company or any Significant Subsidiary; (9) any final, non-appealable judgment or decree for the payment of money which, when taken together with all other final non-appealable judgments or decrees for the payment of money, causes the aggregate amount of such judgments or decrees entered against the Company or any Significant Subsidiary to exceed $25 million (net of any amounts with respect to which a reputable and creditworthy insurance company has acknowledged liability in writing), remains outstanding for a period of 60 days following such judgment and is not discharged, waived or stayed; or (10) the guarantee of a

Significant Subsidiary ceases to be in full force and effect (except as contemplated by the terms of the Indenture) or is declared null and void in a judicial proceeding or any Subsidiary Guarantor that is a Significant Subsidiary denies or disaffirms its obligations under the Indenture or its guarantee.

Noteholders may not enforce the Indenture or the Notes except as provided in the Indenture. The Trustee may refuse to enforce the Indenture or the Notes unless it receives indemnity or security satisfactory to it. Subject to certain limitations, Holders of a majority in principal amount of the Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Noteholders notice of any continuing Default (except a Default in payment of principal or interest) if it determines that withholding notice is in the interest of the Holders.

15. Trustee Dealings with the Company

The Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee.

16. No Recourse Against Others

A director, officer, employee, incorporator or stockholder, as such, of the Company or any of its Restricted Subsidiaries or the Trustee shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Noteholder waives and releases all such liability. The waiver and release are part of the consideration for the issue of the Notes.

17. Authentication

This Note shall not be valid until an authorized signatory of the Trustee (or an authenticating agent) manually signs the certificate of authentication on the other side of this Note.

18. Abbreviations

Customary abbreviations may be used in the name of a Noteholder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the entireties), JT TEN (=joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

19. CUSIP Numbers

Pursuant to a recommendation promulgated by the Committee on Uniform Note Identification Procedures the Company has caused CUSIP numbers to be printed on the Notes and has directed the Trustee to use CUSIP numbers in all notices as a convenience to

Noteholders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice and reliance may be placed only on the other identification numbers placed thereon.

20. Governing Law

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

The Company will furnish to any Noteholder upon written request and without charge to the Note holder a copy of the Indenture which has in it the text of this Note in larger type. Requests may be made to:

XM Satellite Radio Inc.
1500 Eckington Place, NE
Washington, DC 20002-2194
Attn: General Counsel

ASSIGNMENT

For value received _____ hereby sell(s) assign(s) and transfer(s) unto _____ (Please insert social security or other Taxpayer Identification Number of assignee) the within Notes, and hereby irrevocably constitutes and appoints _____ attorney to transfer said Notes on the books of the Company, with full power of substitution in the premises.

The undersigned confirms that such Notes are being transferred:

☐ To XM Satellite Radio Holdings Inc., Sirius Satellite Radio Inc. or one of their subsidiaries; or

☐ To a "qualified institutional buyer" in compliance with Rule 144A under the Securities Act of 1933, as amended.

Unless one of the boxes is checked, the Trustee will refuse to register any of the Notes evidenced by this certificate in the name of any person other than the registered Holder thereof.

Form of
Transferee Letter of Representation

XM Satellite Radio Inc.
1500 Eckington Place, NE
Washington, DC 20002-2194

In care of
The Bank of New York Mellon
101 Barclay Street, Floor 8 West
New York, NY 10286

Ladies and Gentlemen:

This certificate is delivered to request a transfer of $[ ] principal amount of the 7% Exchangeable Senior Subordinated Notes due 2014 (the "*Notes*") of XM Satellite Radio Inc. (the "*Company*").

Upon transfer, the Notes would be registered in the name of the new beneficial owner as follows:

Name: _____
Address: _____
Taxpayer ID Number: _____

The undersigned represents and warrants to you that:

1. We are a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act of 1933, as amended (the "Securities Act")), purchasing for our own account, and we are acquiring the Notes not with a view to, or for offer or sale in connection with, any distribution in violation of the Securities Act. We have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we invest in or purchase securities similar to the Notes in the normal course of our business. We, and any accounts for which we are acting, are each able to bear the economic risk of our or its investment.

2. We understand that the Notes have not been registered under the Securities Act and, unless so registered, may not be sold except as permitted in the following sentence. We agree on our own behalf and on behalf of any investor account for which we are purchasing Notes to offer, sell or otherwise transfer such Notes only (i) to XM Satellite Radio Holdings Inc., Sirius Satellite Radio Holdings Inc. or one of their Subsidiaries or (ii) to a person whom the seller reasonably believes is a qualified institutional buyer in a transaction meeting the requirements of Rule 144A. Each purchaser acknowledges that the Company and the Trustee reserve the right prior to the offer, sale or other transfer of the Notes to require the delivery of an opinion of counsel, certifications or other information satisfactory to the Company and the Trustee.

TRANSFEREE _____
By: _____

FORM OF SUPPLEMENTAL INDENTURE
TO BE DELIVERED BY SUBSEQUENT GUARANTORS

SUPPLEMENTAL INDENTURE (this "*Supplemental Indenture*"), dated as of _____, 200__, among _____(the "*Guarantor*"), a subsidiary of XM Satellite Radio Inc. (or its permitted successor), a Delaware corporation (the "*Company*"), the Company, the other Guarantors (as defined in the Indenture referred to herein), Sirius Satellite Radio Inc. ("*Sirius*") and The Bank of New York Mellon, as trustee under the Indenture referred to below (the "*Trustee*").

W I T N E S S E T H

WHEREAS, the Company, the Guarantors and Sirius have heretofore executed and delivered to the Trustee an indenture (the "*Indenture*"), dated as of August 1, 2008 providing for the issuance of 7% Exchangeable Senior Subordinated Notes due 2014 (the "*Notes*");

WHEREAS, the Indenture provides that under certain circumstances the Guarantor will execute and deliver to the Trustee a supplemental indenture pursuant to which the Guarantor will unconditionally guarantee all of the Company's Obligations under the Notes and the Indenture on the terms and conditions set forth herein (the "*Note Guarantee*"); and

WHEREAS, pursuant to Section 8.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guarantor and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition will have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guarantor hereby agrees to provide an unconditional Guarantee on the terms and subject to the conditions set forth in this Note Guarantee and in the Indenture including but not limited to Article 9 thereof [*Add the following if the Material Subsidiary is the FCC License Subsidiary. provided, however,* that the Guarantor is providing such Guarantee only to the extent permitted under applicable law, rules or regulations, including rules and regulations of the Federal Communications Commission].

4. NO RECOURSE AGAINST OTHERS. No past, present or future director, officer, employee, incorporator, stockholder or agent of the Guarantor, as such, will have any liability for any obligations of the Company or any Guarantor under the Notes, any Note Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

5. GOVERNING LAW. This Supplemental Indenture and the Guarantee shall be governed by, and construed in accordance with, the laws of the State of New York.

6. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy will be an original, but all of them together represent the same agreement.

7. EFFECT OF HEADINGS. The Section headings herein are for convenience only and will not affect the construction hereof.

8. THE TRUSTEE. The Trustee will not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guarantor and the Company.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed all as of the date first above written.

Dated: _____, 20__

[GUARANTOR]

By: _____
Name:
Title:

XM SATELLITE RADIO INC.

By: _____
Name:
Title:

XM EQUIPMENT LEASING LLC

By: _____
Name:
Title:

XM RADIO INC.

By: _____
Name:
Title:

SIRIUS SATELLITE RADIO INC.

By: _____
Name:
Title:

THE BANK OF NEW YORK MELLON,
as Trustee

By: _____
Name:
Title:

EXHIBIT 4 TO RULE 144A APPENDIX

REPURCHASE NOTICE

TO: XM SATELLITE RADIO INC, SIRIUS SATELLITE RADIO INC. and THE BANK OF NEW YORK MELLON, as Trustee

The undersigned registered owner of this Note hereby irrevocably acknowledges receipt of a notice from XM Satellite Radio Inc. (the "*Company*") regarding the right of Holders to elect to require the Company to repurchase the Notes and requests and instructs the Company to repay the entire principal amount of this Note, or the portion thereof (which is $1,000 or an integral multiple thereof) below designated, in accordance with the terms of the Indenture at the price of 100% of such entire principal amount or portion thereof, together with, except as provided in the Indenture, accrued and unpaid interest up to, but excluding, the Fundamental Change Repurchase Date to the registered Holder of this Note. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture. The Notes shall be repurchased by the Company as of the Fundamental Change Repurchase Date pursuant to the terms and conditions specified in the Indenture.

Dated: _____

_____

_____

Signature(s)

NOTICE: The above signatures of the Holder(s) hereof must correspond with the name as written upon the face of the Notes in every particular without alteration or enlargement or any change whatever.

Notes Certificate Number (if applicable): _____

Principal amount to be repurchased

(if less than all, must be $1,000 or whole multiples thereof): _____

Social Security or Other Taxpayer Identification Number: _____

EXHIBIT 5 to Rule 144A APPENDIX

EXCHANGE NOTICE

TO: XM SATELLITE RADIO INC, SIRIUS SATELLITE RADIO INC. and THE BANK OF NEW YORK MELLON, as Trustee

The undersigned registered owner of this Note issued by XM Satellite Radio Inc. (the "*Company*") hereby irrevocably exercises the option to exchange this Note, or the portion thereof (which is $1,000 or a multiple thereof) below designated, in accordance with the terms of the Indenture referred to in this Note and directs that (A) the shares of Common Stock of Sirius Satellite Radio Inc. and cash for fractional shares and (B) any Notes representing any unexchanged principal amount hereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture. If shares of Common Stock or any portion of this Note not exchanged are to be issued in the name of a person other than the undersigned, the undersigned will provide the appropriate information below and pay all taxes or duties payable with respect thereto. Any amount required to be paid by the undersigned on account of interest accompanies this Note. The undersigned represents to the Company and Sirius that it is a "qualified institutional buyer" as defined in Rule 144A under the Securities Act of 1933, as amended.

Dated: _____

_____

_____

Signature(s)

Signature(s) must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

_____

Signature Guarantee

Fill in the registration of shares of Common Stock, if any, if to be issued, and Notes if to be delivered, and the person to whom cash, if any, and payment for fractional shares is to be made, if to be made, other than to and in the name of the registered Holder:

Please print name and address

(Name) _____

_____

_____

(Street Address)

_____

(City, State and Zip Code)

_____

Principal amount to be exchanged
(if less than all):

_____

$ _____

Social Security or Other Taxpayer
Identification Number: _____

NOTICE: The signature on this Exchange Notice must correspond with the name as written upon the face of the Notes in every particular without alteration or enlargement or any change whatever

Exhibit 4.81

REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT (the "Agreement"), dated as of August 1, 2008, is entered into by and between SIRIUS SATELLITE RADIO INC., a Delaware corporation (the "Company"), XM SATELLITE RADIO INC., a Delaware corporation ("XM Inc."), and J.P. MORGAN SECURITIES INC., MORGAN STANLEY & CO. INCORPORATED and UBS SECURITIES LLC (together, the "Initial Purchasers").

This Agreement is made pursuant to the Purchase Agreement, dated as of July 28, 2008, among the Company, XM Inc., the guarantors listed on the signature pages thereto and the Initial Purchasers (the "Purchase Agreement"), which provides for the sale by XM Inc. to the Initial Purchasers of $550,000,000 aggregate principal amount of 7.00% Exchangeable Senior Subordinated Notes due 2014 of XM Inc. (the "Securities"). The Securities will be issued pursuant to the Indenture, dated as of the date hereof (the "Indenture"), between XM Inc., the Company, the guarantors listed on the signature pages thereto and The Bank of New York Mellon, as trustee (the "Trustee") and will be exchangeable into shares of common stock, par value $0.001 per share, of the Company (the "Common Stock") at the exchange rates set forth in the Indenture.

In order to induce the Initial Purchasers to enter into the Purchase Agreement, the Company has agreed to provide to the Initial Purchasers and their direct and indirect transferees the registration rights set forth in this Agreement. The execution of this Agreement is a condition to the closing under the Purchase Agreement.

In consideration of the foregoing, the parties hereto agree as follows:

1. Definitions.

As used in this Agreement, the following capitalized defined terms shall have the following meanings:

"1933 Act" shall mean the Securities Act of 1933, as amended from time to time.

"1934 Act" shall mean the Securities Exchange Act of 1934, as amended from time to time.

"Closing Date" shall mean the Issue Date, as defined in the Indenture.

"Company" shall have the meaning set forth in the preamble and shall also include the Company's successors.

"Holder" shall mean the Initial Purchasers, for so long as they own any Registrable Securities, and each of their successors, assigns and direct and indirect transferees who become record owners of Registrable Securities under the Indenture.

"Majority Holders" shall mean the Holders of a majority of the aggregate principal amount of outstanding Registrable Securities; provided that whenever the consent or

approval of Holders of a specified percentage of Registrable Securities is required hereunder, Registrable Securities held by XM Inc., the Company or any of their respective affiliates (as such term is defined in Rule 405 under the 1933 Act) (other than the Initial Purchasers or subsequent Holders of Registrable Securities if such subsequent holders are deemed to be such affiliates solely by reason of their holding of such Registrable Securities) shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage or amount.

"Person" shall mean an individual, partnership, limited liability company, corporation, trust or unincorporated organization, or a government or agency or political subdivision thereof.

"Prospectus" shall mean the prospectus included in a Shelf Registration Statement, including any preliminary prospectus, and any such prospectus as amended or supplemented by any prospectus supplement, including a prospectus supplement with respect to the terms of the offering of any portion of the Registrable Securities covered by such Shelf Registration Statement, and by all other amendments and supplements to such prospectus, and in each case including all material incorporated by reference therein and all documents filed after the date of such prospectus by the Company under the 1934 Act and incorporated by reference therein.

"Registrable Securities" shall mean all or any portion of the shares of Common Stock issuable in exchange for the Securities except any such shares of Common Stock which cease to be outstanding or (i) have been sold or otherwise transferred pursuant to an effective registration statement, (ii) have been sold pursuant to Rule 144 under the 1933 Act under circumstances in which any legend born by the Common Stock relating to restrictions on transferability thereof is removed or (iii) are eligible to be sold pursuant to Rule 144 under the 1933 Act or any successor provision without any volume or manner of sale restriction by a person who has not been an affiliate of the Company during the 90 day period preceding such sale.

"Registration Expenses" shall mean any and all expenses incident to performance of or compliance by XM Inc. or the Company with this Agreement, including without limitation: (i) all SEC, stock exchange or Financial Industry Regulatory Authority, Inc. registration and filing fees, (ii) all fees and expenses incurred in connection with compliance with state securities or blue sky laws (including reasonable fees and disbursements of counsel for any underwriters or Holders in connection with blue sky qualification of any of the Registrable Securities), (iii) all expenses of any Persons in preparing or assisting in preparing, word processing, printing and distributing any Shelf Registration Statement, any Prospectus, any amendments or supplements thereto, any underwriting agreements, securities sales agreements and other documents relating to the performance of and compliance with this Agreement, (iv) all rating agency fees, (v) all fees and disbursements relating to the qualification of the Indenture under applicable securities laws, (vi) the fees and disbursements of the Trustee and its counsel, (vii) the fees and disbursements of counsel for the Company and the reasonable fees and disbursements of one counsel for the Holders (which counsel shall be selected by the Majority Holders and which counsel may also be counsel for the Initial Purchasers) and (viii) the fees and disbursements of the independent public accountants of the Company, including the expenses of any special audits

or "comfort" letters required by or incident to such performance and compliance, but excluding fees and expenses of counsel to the underwriters (other than fees and expenses set forth in clause (ii) above) or the Holders and underwriting discounts and commissions and transfer taxes, if any, relating to the sale or disposition of Registrable Securities by a Holder.

"SEC" shall mean the Securities and Exchange Commission.

"Shelf Registration" shall mean a registration effected pursuant to Section 2(a) hereof.

"Shelf Registration Statement" shall mean a "shelf" registration statement of the Company filed under the 1933 Act pursuant to the provisions of Section 2(a) of this Agreement which covers the registration of, and the sale on a continuous or delayed basis by the Holders of, all of the Registrable Securities on an appropriate form under Rule 415 under the 1933 Act, or any similar rule that may be adopted by the SEC, and all amendments and supplements to such registration statement, including post-effective amendments, in each case including the Prospectus contained therein, all exhibits thereto and all exhibits and all material incorporated by reference therein. For the avoidance of doubt, "Shelf Registration Statement" shall include any previously filed registration statement of the Company that is amended so as to satisfy the foregoing.

"Trustee" shall mean the trustee with respect to the Securities under the Indenture.

"Underwritten Registration" or "Underwritten Offering" shall mean a registration in which Registrable Securities are sold to an Underwriter for reoffering to the public.

2. Registration Under the 1933 Act.

(a) The Company shall cause to be filed as soon as practicable, but in no event later than 90 days after the Closing Date, a Shelf Registration Statement (which shall be an "automatic" Shelf Registration Statement if the Company is qualified to use an "automatic shelf registration statement," as such term is defined under Rule 405 of the 1933 Act, at the time of filing or an amendment to a previously filed registration statement that causes such previously filed registration statement to qualify as a Shelf Registration Statement) or a prospectus supplement in relation to an existing Shelf Registration Statement providing for the resale by the Holders of the Registrable Securities and, unless such Shelf Registration Statement or amendment becomes effective automatically, use commercially reasonable efforts to cause such Shelf Registration Statement or amendment to be declared effective by the SEC as soon as practicable, but in any event no later than 180 days after the Closing Date; provided, however, that no Holder shall be entitled to be named as a selling securityholder in the Prospectus forming a part of a Shelf Registration Statement for resales of Registrable Securities unless such Holder has returned a signed Notice and Questionnaire to the Company, together with any additional information the Company may request, in accordance with Section 3 of this Agreement. Subject to the provisions of Section 4 of this Agreement, the Company agrees to use commercially reasonable efforts to keep the Shelf Registration Statement continuously effective until such time as there are no Registrable Securities outstanding. The Company further agrees to supplement or amend the Shelf Registration Statement if required by the rules, regulations or instructions

applicable to the registration form used by the Company for such Shelf Registration Statement or by the 1933 Act or by any other rules and regulations thereunder for shelf registration and shall cause any such amendment to become effective and such Shelf Registration Statement to become usable as soon as thereafter practicable. As promptly as practicable but in any event within 20 business days after receipt of a completed Notice and Questionnaire in the form attached as Exhibit A to the offering memorandum dated July 28, 2008, with respect to the Securities (the "Notice and Questionnaire") from any Holder, together with any other information as may be reasonably requested by the Company from such Holder, the Company shall file such amendments to the Shelf Registration Statement or supplements to the related Prospectus as are necessary to permit the Holder to deliver the Prospectus to purchasers of Registrable Securities (subject to the Company's right to suspend the use of the Shelf Registration Statement or the Prospectus, as set forth in Section 4 of this Agreement), provided that the Company shall not be obligated to make more than one filing, be it an amendment or supplement, in any three-month period. The Company agrees to furnish to the Holders of Registrable Securities copies of any such supplement or amendment promptly after its being used or filed with the SEC.

(b) XM Inc. shall pay all Registration Expenses in connection with the registration pursuant to Section 2(a). Each Holder shall pay all underwriting discounts or commissions or agents' commissions as well as transfer taxes, if any, relating to the sale or disposition of such Holder's Registrable Securities pursuant to the Shelf Registration Statement.

(c) A Shelf Registration Statement pursuant to Section 2(a) hereof will not be deemed to have become effective unless it has been declared effective by the SEC or it becomes automatically effective; provided, however, that if, after a Shelf Registration Statement has been declared effective or becomes automatically effective, the offering of Registrable Securities pursuant to a Shelf Registration Statement is interfered with by any stop order, injunction or other order or requirement of the SEC or any other governmental agency or court, such Registration Statement will be deemed not to have become effective during the period of such interference until the offering of Registrable Securities pursuant to such Shelf Registration Statement may legally resume.

(d) In the event (x) the Shelf Registration Statement is not filed on or prior to the 90th day following the Closing Date, (y) the Shelf Registration Statement is not declared effective by the SEC or does not become automatically effective on or prior to the 180th day following the Issue Date, or (z) subject to Section 4 hereof, if the Shelf Registration Statement is not continuously effective for the period required by Section 2(a) hereof (each, a "Registration Default"), XM Inc. agrees to pay additional interest ("Additional Interest") to the holders of the outstanding Securities, from and including the day such Registration Default occurs until, but not including, the day such Registration Default is cured, at a rate per annum equal to an additional one-quarter of one percent (0.25%) of the principal amount of the Securities then outstanding, from the day of such Registration Default to and including the 90th day following such Registration Default and one-half of one percent (0.50%) of the principal amount thereof from and after the 91st day following such Registration Default until such Registration Default is cured. Notwithstanding the foregoing, no Additional Interest shall accrue during the period in which the Company is entitled to suspend the use of the Shelf Registration as set forth in Section 4 of this Agreement. In no event shall XM Inc. or the Company be required to pay Additional Interest in excess of one-half of one percent (0.50%) in the aggregate, regardless of whether one or multiple Registration Defaults exist.

(e) Any amounts to be paid as the Additional Interest pursuant to this Agreement shall be paid in cash semi-annually in arrears, with the first semi-annual payment due on the first Interest Payment Date (as defined in the Indenture), as applicable, following the date of such Registration Default.

(f) Without limiting the remedies available to the Initial Purchasers and the Holders, the Company and XM Inc. acknowledge that any failure by the Company or XM Inc. to comply with their respective obligations under Section 2 hereof may result in material irreparable injury to the Initial Purchasers or the Holders for which there is no adequate remedy at law, that it will not be possible to measure damages for such injuries precisely and that, in the event of any such failure, the Initial Purchasers or any Holder may obtain such relief as may be required to specifically enforce the Company's obligations under Section 2 hereof.

(g) The Company shall be deemed not to have used its commercially reasonable efforts to keep the Shelf Registration Statement effective during the requisite period if the Company or XM Inc. voluntarily takes any action that would result in Holders of Registrable Securities covered thereby not being able to offer and sell any of such Registrable Securities during that period, unless such action is (A) required by applicable law and the Company thereafter promptly complies with the requirements of Section 3 below or (B) permitted pursuant to Section 4 below.

3. Registration Procedures.

In connection with the Shelf Registration Statement, the Company shall:

(a)(i) to the extent that it does not have on file an effective shelf registration statement that may be used for resales of the Company's Common Stock, prepare and file with the SEC the Shelf Registration Statement on the appropriate form under the 1933 Act, which form shall be selected by the Company, shall be available for the sale of the Registrable Securities by the selling Holders thereof and shall comply as to form in all material respects with the requirements of the applicable form and include all financial statements required by the SEC to be filed therewith, and (ii) cause such Registration Statement to become effective and remain effective in accordance with Section 2 hereof;

(b) prepare and file with the SEC such amendments and post-effective amendments to the Shelf Registration Statement as may be necessary to keep such Registration Statement effective (subject to the provisions of Section 4 of this Agreement) for the applicable period and cause each Prospectus to be supplemented by any required prospectus supplement and, as so supplemented, to be filed pursuant to Rule 424 under the 1933 Act;

(c) unless such document is available on the Electronic Data Gathering Analysis and Retrieval system of the SEC ("EDGAR"), furnish to each Holder of Registrable Securities, to counsel for the Initial Purchasers, to counsel for the Holders and to each Underwriter of an Underwritten Offering of Registrable Securities, if any, without charge, as many copies of a copy of the Shelf Registration Statement initially filed with the SEC, and, prior

to the filing thereof with the SEC, copies of each amendment thereto and each amendment or supplement, if any, to the Prospectus included therein, and such other documents as such Holder or Underwriter may reasonably request, in order to facilitate the public sale or other disposition of the Registrable Securities; and the Company consents to the use of such Prospectus and any amendment or supplement thereto in accordance with applicable law by each of the selling Holders of Registrable Securities and any such Underwriters in connection with the offering and sale of the Registrable Securities covered by and in the manner described in such Prospectus or any amendment or supplement thereto in accordance with applicable law;

(d) use commercially reasonable efforts to register or qualify the Registrable Securities under all applicable state securities or "blue sky" laws of such jurisdictions as any Holder of Registrable Securities covered by a Shelf Registration Statement shall reasonably request in writing by the time the applicable Shelf Registration Statement is declared effective by the SEC, to cooperate with such Holders in connection with any filings required to be made with the Financial Industry Regulatory Authority, Inc. and do any and all other acts and things which may be reasonably necessary or advisable to enable such Holder to consummate the disposition in each such jurisdiction of such Registrable Securities owned by such Holder; provided, however, that the Company shall not be required to (i) qualify as a foreign corporation or as a dealer in securities in any jurisdiction where it would not otherwise be required to qualify but for this Section 3(d), (ii) file any general consent to service of process or (iii) subject itself to taxation in any such jurisdiction if it is not so subject;

(e) notify each Holder of Notes or any Registrable Securities, counsel for the Majority Holders (if any has been selected and if the Company has been notified of such selection in writing) and counsel for the Initial Purchasers promptly and, if requested by any such Holder or counsel, confirm such advice in writing (i) when a Shelf Registration Statement has been filed with the SEC and become effective and when any post-effective amendment thereto has been filed and becomes effective, (ii) of any request by the SEC or any state securities authority for amendments and supplements to a Shelf Registration Statement or for additional information after the Shelf Registration Statement has become effective, (iii) of the issuance by the SEC or any state securities authority of any stop order suspending the effectiveness of a Shelf Registration Statement or the initiation of any proceedings for that purpose, (iv) of the happening of any event during the period the Shelf Registration Statement is effective which makes any statement made in such Shelf Registration Statement or the related Prospectus untrue in any material respect or which requires the making of any changes in such Shelf Registration Statement or Prospectus in order to make the statements therein not misleading and (v) of any determination by the Company that a post-effective amendment to the Shelf Registration Statement would be appropriate;

(f) make every reasonable effort to obtain the withdrawal of any order suspending the effectiveness of a Registration Statement at the earliest possible moment and provide prompt notice to each Holder of the withdrawal of any such order;

(g) if such Holder so requests in writing, furnish to each Holder of Registrable Securities, without charge, at least one conformed copy of each Shelf Registration Statement and any post-effective amendment thereto (without documents incorporated therein by reference or exhibits thereto, unless reasonably requested);

(h) prior to the 10th business day before the effectiveness of the Shelf Registration Statement, or, if an existing shelf registration statement is being used, the 10th business day prior to the filing of the initial prospectus supplement relating to the Sirius common stock underlying the Notes, deliver the Notice and Questionnaire to the Holders of Registrable Securities, it being understood and agreed that no Holder shall be entitled to be named as a selling securityholder in the Shelf Registration Statement, and no Holder shall be entitled to use the Prospectus forming a part thereof for resales of Registrable Securities at any time, unless such Holder has returned a completed and signed Notice and Questionnaire to the Company by the deadline for response set forth therein and provided any other information reasonably requested by the Company;

(i) unless the Registrable Securities are in book-entry or global certificate only form, cooperate with the selling Holders of Registrable Securities to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any restrictive legends and enable such Registrable Securities to be in such denominations (consistent with the provisions of the Indenture) and registered in such names as the selling Holders may reasonably request at least one business day prior to the closing of any sale of Registrable Securities;

(j) upon the occurrence of any event contemplated by Section 3(e)(v) hereof, use its commercially reasonable efforts to prepare and file with the SEC a supplement or post-effective amendment to a Registration Statement or the related Prospectus or any document incorporated therein by reference or file any other required document so that, as thereafter delivered to the purchasers of the Registrable Securities, such Prospectus will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and to notify (it being understood and agreed that no such notice or any notice under Section 3(e)(v) shall include any material non-public information with respect to the relevant event) the Holders to suspend use of the Prospectus as promptly as practicable after the occurrence of such an event, and the Holders hereby agree to suspend use of the Prospectus until the Company has amended or supplemented the Prospectus to correct such misstatement or omission and the Company shall promptly provide notice of any such amendment or supplement; provided, however, that the Company shall not be required to take any action pursuant to this Section 3(j) during any existing Suspension Period pursuant to Section 4 below;

(k) a reasonable time prior to the filing of any Shelf Registration Statement, any Prospectus, any amendment to a Shelf Registration Statement or any amendment or supplement to a Prospectus, provide copies of such document to the Initial Purchasers and their counsel and shall not at any time file or make any amendment to the Registration Statement, any Prospectus or any amendment of or supplement to a Registration Statement or a Prospectus, of which the Initial Purchasers and their counsel shall not have previously been advised and furnished a copy or to which the Initial Purchasers or their counsel or the Holders or their counsel shall reasonably object;

(l) make available for inspection by a representative of the Majority Holders of the Registrable Securities, any Underwriter participating in any disposition pursuant to such Shelf Registration Statement, and attorneys and accountants designated by the Majority Holders,

at reasonable times during normal business hours and in a reasonable manner, all financial and other records, pertinent documents and properties of the Company, and cause the respective officers, directors and employees of the Company to supply all information reasonably requested by any such representative, Underwriter, attorneys or accountants in connection with a Shelf Registration Statement;

(m) cause the Common Stock issuable upon exchange of the Securities to be listed on the The NASDAQ Global Select Market or other stock exchange or trading system on which the Common Stock primarily trades;

(n) to make generally available to its securityholders as soon as practicable, but in any event not later than eighteen months after (i) the effective date (as defined in Rule 158(c) under the 1933 Act) of the Shelf Registration Statement, (ii) the effective date of each post-effective amendment to the Shelf Registration Statement, and (iii) the date of each filing by the Company with the SEC of an Annual Report on Form 10-K that is incorporated by reference in the Shelf Registration Statement, an earnings statement of the Company and its subsidiaries complying with Section 11(a) of the 1933 Act and the rules and regulations of the SEC thereunder (including, at the option of the Company, Rule 158);

(o) subject to Section 4 of this Agreement, if reasonably requested by any Holder of Registrable Securities covered by a Registration Statement, provided, that such Holder has completed a Notice and Questionnaire and provided such additional information as may be reasonably requested by the Company, (i) as promptly as practicable, but no later than 20 business days, incorporate in a Prospectus supplement or post-effective amendment such information with respect to such Holder as such Holder reasonably requests to be included therein; and (ii) make all required filings of such Prospectus supplement or such post-effective amendment as soon as the Company has received notification of the matters to be incorporated in such filing; provided that the Company shall not be obligated to make more than one filing, be it as amendment or supplement, during any three-month period; and

(p) enter into such customary agreements and take all such other actions in connection therewith (including those requested by the Holders of a majority of the Registrable Securities being sold) in order to expedite or facilitate the disposition of such Registrable Securities including, but not limited to, an Underwritten Offering and in such connection, (i) to the extent possible, make such representations and warranties to the Holders and any Underwriters of such Registrable Securities with respect to the business of the Company, XM Inc. and their respective subsidiaries, the Registration Statement, Prospectus and documents incorporated by reference or deemed incorporated by reference, if any, in each case, in form, substance and scope as are customarily made by issuers to underwriters in underwritten offerings and confirm the same if and when requested, (ii) obtain customary opinions of counsel to the Company (which counsel and opinions, in form, scope and substance, shall be reasonably satisfactory to the Holders and such Underwriters and their respective counsel) addressed to each selling Holder and Underwriter of Registrable Securities, covering the matters customarily covered in opinions requested in underwritten offerings, (iii) obtain customary "comfort" letters from the independent certified public accountants of the Company (and, if necessary, any other certified public accountant of any subsidiary of the Company including, but not limited to, XM Inc., or of any business acquired by the Company for which financial statements and financial

data are or are required to be included in the Registration Statement) addressed to each selling Holder and Underwriter of Registrable Securities, such letters to be in customary form and covering matters of the type customarily covered in "comfort" letters in connection with underwritten offerings, and (iv) deliver customary documents and certificates as may be reasonably requested by the Holders of a majority in principal amount of the Registrable Securities being sold or the Underwriters, and which are customarily delivered in underwritten offerings, to evidence the continued validity of the representations and warranties of the Company made pursuant to clause (i) above and to evidence compliance with any customary conditions contained in an underwriting agreement.

The Holders of Registrable Securities covered by a Shelf Registration Statement who desire to do so may sell such Registrable Securities in an Underwritten Offering, subject to the prior written approval of the Company. In any such Underwritten Offering, the investment banker or investment bankers and manager or managers (the "Underwriters") that will administer the offering will be selected by the Majority Holders of the Registrable Securities included in such offering and approved by the Company.

4. Suspension of Shelf Registration Statement. The Company may suspend the effectiveness of the Shelf Registration Statement or the use of the Prospectus without incurring any obligation to pay Additional Interest for a period not to exceed 60 consecutive days or 120 days in the aggregate in any 12 month period if the Company shall have determined in good faith that because of valid business reasons (not including avoidance of the Company's obligations hereunder), including the acquisition or divestiture of assets, pending corporate developments and similar events, public filings with the SEC and similar events, it is in the best interests of the Company to suspend such effectiveness or use, as applicable, and prior to suspending such use the Company provides the Holders with written notice of such suspension, which notice need not specify the nature of the event giving rise to such suspension and shall not include any material non-public information; provided, however, that no such suspension of the effectiveness of the Shelf Registration Statement or use of the Prospectus shall be permitted during the six month period preceding or after the stated maturity date of the Securities.

5. Indemnification and Contribution.

(a) XM Inc. and the Company, jointly and severally, agree to indemnify and hold harmless the Initial Purchasers, each Holder and each Person, if any, who controls any Initial Purchaser or any Holder within the meaning of either Section 15 of the 1933 Act or Section 20 of the 1934 Act, or is under common control with, or is controlled by, any Initial Purchaser or any Holder, from and against all losses, claims, damages and liabilities (including, without limitation, any legal or other expenses reasonably incurred by the Initial Purchasers, any Holder or any such controlling or affiliated Person in connection with defending or investigating any such action or claim) caused by any untrue statement or alleged untrue statement of a material fact contained in any Shelf Registration Statement (or any amendment thereto) pursuant to which Registrable Securities were registered under the 1933 Act, including all documents incorporated therein by reference, or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or caused by any untrue statement or alleged untrue statement of a material fact contained in any Prospectus (as amended or supplemented if the Company shall have furnished

any amendments or supplements thereto), or caused by any omission or alleged omission to state therein a material fact necessary to make the statements therein in light of the circumstances under which they were made not misleading, except insofar as such losses, claims, damages or liabilities are caused by any such untrue statement or omission or alleged untrue statement or omission based upon information relating to the Initial Purchasers or any Holder furnished to the Company in writing through the Initial Purchasers or any selling Holder expressly for use therein.

(b) Each Holder agrees, severally and not jointly, to indemnify and hold harmless the Company, XM Inc., the Initial Purchasers and the other selling Holders, and each of their respective directors, officers who sign the Registration Statement and each Person, if any, who controls the Company, XM Inc., any Initial Purchasers and any other selling Holder within the meaning of either Section 15 of the 1933 Act or Section 20 of the 1934 Act to the same extent as the foregoing indemnity from the Company and XM Inc., to the Initial Purchasers and the Holders, but only with reference to information relating to such Holder furnished to the Company in writing by such Holder expressly for use in any Shelf Registration Statement (or any amendment thereto) or any Prospectus (or any amendment or supplement thereto).

(c) In case any proceeding (including any governmental investigation) shall be instituted involving any Person in respect of which indemnity may be sought pursuant to either paragraph (a) or paragraph (b) above, such Person (the "indemnified party") shall promptly notify the Person against whom such indemnity may be sought (the "indemnifying party") in writing and the indemnifying party, upon request of the indemnified party, shall retain counsel reasonably satisfactory to the indemnified party to represent the indemnified party and any others the indemnifying party may designate in such proceeding and shall pay the fees and disbursements of such counsel related to such proceeding. In any such proceeding, any indemnified party shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such indemnified party unless (i) the indemnifying party and the indemnified party shall have mutually agreed to the retention of such counsel or (ii) the named parties to any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood that the indemnifying party shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for (a) the fees and expenses of more than one separate firm (in addition to any local counsel) for the Initial Purchasers and all Persons, if any, who control any Initial Purchasers within the meaning of either Section 15 of the 1933 Act or Section 20 of the 1934 Act, (b) the fees and expenses of more than one separate firm (in addition to any local counsel) for the Company, its directors, its officers who sign the Registration Statement and each Person, if any, who controls the Company or XM Inc. within the meaning of either such Section and (c) the fees and expenses of more than one separate firm (in addition to any local counsel) for all Holders and all Persons, if any, who control any Holders within the meaning of either such Section, and that all such fees and expenses shall be reimbursed as they are incurred. In such case involving the Initial Purchasers and Persons who control the Initial Purchasers, such firm shall be designated in writing by the Initial Purchasers. In such case involving the Holders and such Persons who control Holders, such firm shall be designated in writing by the Majority Holders. In all other cases, such firm shall be designated by the Company. The indemnifying party shall not be liable for any settlement of any proceeding

effected without its written consent but, if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any loss or liability by reason of such settlement or judgment. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding in respect of which such indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding.

(d) If the indemnification provided for in paragraph (a) or paragraph (b) of this Section 5 is unavailable to an indemnified party or insufficient in respect of any losses, claims, damages or liabilities, then each indemnifying party under such paragraph, in lieu of indemnifying such indemnified party thereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities in such proportion as is appropriate to reflect the relative fault of the indemnifying party or parties on the one hand and of the indemnified party or parties on the other hand in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative fault of the Company and XM Inc. on one hand and the Holders on the other hand shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or XM Inc. or by the Holders and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Holders' respective obligations to contribute pursuant to this Section 5(d) are several in proportion to the respective principal amount of Registrable Securities of such Holder that were registered pursuant to a Registration Statement.

(e) The Company, XM Inc. and each Holder agree that it would not be just or equitable if contribution pursuant to this Section 5 were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (d) above. The amount paid or payable by an indemnified party as a result of the losses, claims, damages and liabilities referred to in paragraph (d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 5, no Holder shall be required to indemnify or contribute any amount in excess of the amount by which the total price at which Registrable Securities were sold by such Holder exceeds the amount of any damages that such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. The remedies provided for in this Section 5 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity.

The indemnity and contribution provisions contained in this Section 5 shall remain operative and in full force and effect regardless of (i) any termination of this Agreement, (ii) any investigation made by or on behalf of the Initial Purchasers, any Holder or any Person

controlling any Initial Purchaser or any Holder, or by or on behalf of the Company, its officers or directors or any Person controlling the Company and (iii) any sale of Registrable Securities pursuant to a Shelf Registration Statement.

6. Miscellaneous.

(a) No Inconsistent Agreements. Neither the Company nor XM Inc. has entered into, and on or after the date of this Agreement neither of them will enter into, any agreement which is inconsistent with the rights granted to the Holders of Registrable Securities in this Agreement or otherwise conflicts with the provisions hereof. The rights granted to the Holders hereunder do not in any way conflict with and are not inconsistent with the rights granted to the holders of the Company's or XM Inc.'s other issued and outstanding securities under any such agreements.

(b) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given unless the Company has obtained the written consent of Holders of at least a majority in aggregate principal amount of the outstanding Registrable Securities affected by such amendment, modification, supplement, waiver or consent; provided, however, that no amendment, modification, supplement, waiver or consent to any departure from the provisions of Section 5 hereof shall be effective as against any Holder of Registrable Securities unless consented to in writing by such Holder.

(c) Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand-delivery, registered first-class mail, telex, telecopier, or any courier guaranteeing overnight delivery (i) if to a Holder, at the most current address given by such Holder to the Company by means of a notice given in accordance with the provisions of this Section 6(c), which address initially is, with respect to the Initial Purchasers, the address set forth in the Purchase Agreement; and (ii) if to the Company or XM Inc., initially at the Company's address set forth in the Purchase Agreement and thereafter at such other address, notice of which is given in accordance with the provisions of this Section 6(c).

All such notices and communications shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five business days after being deposited in the mail, postage prepaid, if mailed; when receipt is acknowledged, if by facsimile; and on the next business day if timely delivered to an air courier guaranteeing overnight delivery.

Copies of all such notices, demands, or other communications shall be concurrently delivered by the Person giving the same to the Trustee, at the address specified in the Indenture.

(d) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors, assigns and transferees of each of the parties, including, without limitation and without the need for an express assignment, subsequent Holders; provided that nothing herein shall be deemed to permit any assignment, transfer or other disposition of Registrable Securities in violation of the terms of the Purchase Agreement. If any transferee of any Holder shall acquire Registrable Securities, in any manner, whether by operation of law or

otherwise, such Registrable Securities shall be held subject to all of the terms of this Agreement, and by taking and holding such Registrable Securities such Person shall be conclusively deemed to have agreed to be bound by and to perform all of the terms and provisions of this Agreement and such Person shall be entitled to receive the benefits hereof. The Initial Purchasers (in their capacity as Initial Purchasers) shall have no liability or obligation to the Company or XM Inc. with respect to any failure by a Holder to comply with, or any breach by any Holder of, any of the obligations of such Holder under this Agreement.

(e) Removal of Legends, etc. The Company agrees to effectuate the removal of any legends restricting transfer of the Common Stock issued upon exchange of the Securities when such Common Stock is transferable pursuant to Rule 144 (or any equivalent or successor provision) under the 1933 Act by a person who has not been an affiliate (as such term is defined under Rule 405 of the 1933 Act) of the Company for the preceding 90 days.

(f) Third Party Beneficiary. The Holders shall be third party beneficiaries to the agreements made hereunder between the Company and XM Inc., on the one hand, and the Initial Purchasers, on the other hand, and shall have the right to enforce such agreements directly to the extent it deems such enforcement necessary or advisable to protect its rights or the rights of Holders hereunder.

(g) Counterparts. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

(h) Headings. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(i) Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

(j) Severability. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein shall not be affected or impaired thereby.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SIRIUS SATELLITE RADIO INC.

By /s/ Patrick Donnelley
Name: Patrick Donnelley
Title: Executive Vice President and
General Counsel and Secretary

XM SATELLITE RADIO INC.

By /s/ Joseph J. Euteneuer
Name: Joseph J. Euteneuer
Title: Executive Vice President
and Chief Financial Officer

Confirmed and accepted as of the date first above written:

J.P. MORGAN SECURITIES INC.

By /s/ Michael O'Donovan
Name: Michael O'Donovan
Title: Managing Director

MORGAN STANLEY & CO. INCORPORATED

By /s/ John Tyree
Name: John Tyree
Title: Managing Director

UBS SECURITIES LLC

By: /s/ Omar Jaffrey
Name: Omar Jaffrey
Title: Managing Director

By: /s/ Yuri Brodsky
Name: Yuri Brodsky
Title: Executive Director

Exhibit 4.82

EXECUTION

BILL OF SALE AND TERMINATION AGREEMENT

This BILL OF SALE AND TERMINATION AGREEMENT (the "Agreement") is hereby made and entered into as of September 15, 2008, between XM Satellite Radio Inc., a Delaware corporation ("XM"); XM Satellite Radio Holdings Inc., a Delaware corporation ("Holdings"); Satellite Leasing (702-4), LLC, a Delaware limited liability company (the "Owner Participant"); Wells Fargo Bank Northwest, National Association, a national banking association, not in its individual capacity, but solely in its capacity as Owner Trustee (the "Owner Trustee") under the Trust Agreement; Satellite Leasing Trust (702-4), LLT (the "Trust"); and The Bank of New York Mellon, a New York banking corporation, not in its individual capacity but solely in its capacity as Indenture Trustee (the "Indenture Trustee") for and on behalf of parties who are Noteholders. XM Equipment Leasing LLC, a Delaware limited liability company ("XM Leasing"); XM Radio Inc., a Delaware corporation ("XM License"), XM 1500 Eckington LLC, a Delaware limited liability company ("XM 1500 Eckington"), and XM Investment LLC, a Delaware limited liability company ("XM Investment"), are signing this Agreement solely for the purposes of Section 3 hereof as applied to those XM-4 Transaction Agreements to which they are parties.

RECITALS

WHEREAS, XM, Holdings, the Owner Participant, the Owner Trustee, the Indenture Trustee and Noteholders are parties to the Participation Agreement dated February 13, 2007 (the "Participation Agreement"), and in connection with the transactions provided for in the Participation Agreement, XM, Holdings, the Owner Participant and the Owner Trustee, among other parties, entered into the other agreements set forth on Annex 1 attached hereto (the "XM-4 Transaction Agreements");

WHEREAS, pursuant to Section 11.07 of the Participation Agreement, XM made an offer to purchase for cash the Buyer's Transponders upon the terms and subject to the conditions set forth in an offer made as of August 7, 2008 (the "Offer"), and the Owner Trustee accepted the Offer on behalf of the Owner Participant and the Indenture Trustee, who acted at the direction of the Majority Interest of Noteholders;

WHEREAS, concurrently with the execution and delivery of this Agreement, the parties hereto are closing the purchase of Buyer's Transponders by XM and XM is paying the purchase price to the Owner Trustee, and the parties wish to effect the conveyance of Buyer's Transponders to XM, the termination of the XM-4 Transaction Agreements that can be terminated by the parties hereto and, in the case of the XM-4 Transaction Agreements that cannot be terminated by the sole action of the parties hereto, the release of all rights of the parties hereto under such agreements that would have terminated in connection with a termination of such Agreements; and

WHEREAS, capitalized terms used but not defined herein shall have the meanings assigned to them in Appendix A to the Participation Agreement (and the rules as to construction contained in such Appendix A shall also be applicable herein).

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Purchase of Buyer's Transponders; Bill of Sale

(a) Owner Trustee hereby acknowledges receipt from XM of an aggregate amount of $316,598,419.13, representing the purchase price for Buyer's Transponders (the "Purchase Price"), which XM represents has been determined in accordance with the Participation Agreement. XM also represents that, following such payment, no amounts related to XM's purchase on the date hereof of Buyer's Transponders are outstanding under the Participation Agreement or under any of the other XM-4 Transaction Agreements and no other payments from XM to the Owner Participant or the Owner Trustee are due in connection with XM's purchase on the date hereof of Buyer's Transponders pursuant to the terms thereof.

(b) The Owner Trustee and the Trust (collectively, the "Sellers") do hereby grant, bargain, sell, assign, transfer and set over unto XM all right, title and interest of Sellers in and to Buyer's Transponders.

(c) Sellers hereby warrant to XM, that immediately prior to the delivery of this Agreement, Sellers were the owners of whatever legal and beneficial title to Buyer's Transponders Holdings granted and conveyed to the Sellers on the Closing Date, that Sellers had the good and lawful right to sell the same and that good and marketable title to the same is hereby vested in XM free and clear of Lessor Liens and Owner Participant Liens, as provided in Section 11.07(g) of the Participation Agreement.

(d) XM represents, warrants and agrees that it is purchasing Buyer's Transponders as is and where is, without warranty of any kind (except as expressly provided in Section 1(c)). NEITHER SELLER MAKES ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, VALUE, COMPLIANCE WITH SPECIFICATIONS, CONDITION, MERCHANTABILITY, DESIGN, QUALITY, DURABILITY, OPERATION OR FITNESS FOR USE OR PURPOSE OF THE SATELLITE, ANY OF BUYER'S TRANSPONDERS OR ANY PART THEREOF, OR (EXCEPT AS EXPRESSLY PROVIDED IN SECTION 1(C)) ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE SATELLITE, ANY OF BUYER'S TRANSPONDERS OR ANY PART THEREOF OR OTHERWISE. In addition, the Sellers make no representation regarding any loss or damage to Buyer's Transponders prior to the date hereof.

2. Additional Transfer and Release Matters.

(a) Indenture Trustee hereby acknowledges receipt from the Owner Trustee of an aggregate amount of $239,798,222.64 for the redemption of the outstanding Notes. Indenture Trustee hereby confirms that such amount is being applied to redemption of the outstanding Notes in accordance with Section 2.5(a)(v) of the Indenture.

(b) The Indenture Trustee hereby further acknowledges, agrees and confirms that the Lien of the Indenture and any other security interests assigned to the Indenture Estate pursuant to the transactions contemplated by the Participation Agreement and associated documents have been released and/or are hereby released, and that any other property or rights subject to the Indenture have been released and/or are hereby released. The Indenture Trustee will execute and deliver to XM, each Guarantor and/or Owner Trustee any instruments and documents that any of them may reasonably request to evidence such release of liens and security interests, and hereby authorizes XM, each Guarantor and Owner Trustee, or any of them, to file UCC financing statement terminations with respect to all financing statements filed in connection with the Indenture. The Indenture Trustee hereby certifies that, to its knowledge, without independent investigation or verification, no further action needs to be taken, other than the filing of such UCC financing statement terminations, to effect the release of the Lien of the Indenture. Indenture Trustee hereby reassigns, or acknowledges that it has reassigned, its estate, right, title and interest in and to the Lease, Guarantee Agreement, Bill of Sale, Consent and Agreement, Purchase Agreement, Service Agreement and Telesat Agreement to the Owner Trustee, as provided for in Section 9.3 of the Indenture.

(c) Owner Participant hereby acknowledges receipt from the Owner Trustee of an aggregate amount of $76,800,196.49 as remittance of the Equity Repurchase Amount, the Base Rent due and the accrued and unpaid Supplemental Rent due to the Owner Participant.

(d) The Owner Trustee hereby acknowledges, agrees and confirms that all liens and security interests in favor of the Owner Trustee created pursuant to the XM Transaction Agreements have been released and/or are hereby released. The Owner Trustee will execute and deliver to XM and each Guarantor any instruments and documents that XM may reasonably request to evidence such release of liens and security interests, and hereby authorizes XM and each Guarantor to file UCC financing statement terminations with respect to all financing statements filed in connection with the XM-4 Transaction Agreements that name the Owner Trustee as secured party. The Owner Trustee hereby certifies that no further action needs to be taken, other than the filing of such UCC financing statement terminations, to effect the release of any such lien. In addition, the Owner Trustee authorizes XM and each Guarantor to file any required termination documents for filings made by the Owner Trustee with the United States Patent and Trademark Office or the United States Copyright Office.

(e) The Owner Participant hereby acknowledges, agrees and confirms that all liens and security interests in favor of the Owner Participant created pursuant to the XM-4 Transaction Agreements have been released and/or are hereby released. The Owner Participant will execute and deliver to XM any instruments and documents that XM may reasonably request to evidence such release of liens and security interests, including (i) Certificates of Termination, in the form reasonably requested by XM, releasing the liens evidenced by the Deeds of Trust, Security Agreements and Fixture Filings and Assignment of Leases and Rents with respect to real property located at 1500 Eckington Place, N.E, Washington, D.C. and 60 Florida Ave., N.E., Washington, D.C. and (ii) letters to Wells Fargo Bank, National Association ("Wells Fargo Bank"), in the form reasonably requested by XM, terminating the restricted account agreements with respect to Account Nos. 4121486377 and 4121486393. The Owner Participant hereby authorizes XM to file UCC financing statement terminations with respect to all financing statements filed in connection with the XM-4 Transaction Agreements that name the Owner

Participant as secured party. The Owner Participant certifies that no further action needs to be taken, other than the documents referred to in this paragraph, to effect the release of any such lien.

3. Termination of XM-4 Transaction Agreements and/or Rights Thereunder.

(a) The parties hereto hereby terminate all XM-4 Transaction Agreements that are described on Annex 1 under the caption "Agreements that can be terminated by the parties hereto." To the extent a party hereto is not a party to each of such agreement, such party is only acting hereby with respect to those agreements to which it is a party or with respect to which its consent is required for termination. Notwithstanding anything to the contrary in this Agreement or in any release, termination, discharge or other document executed in connection herewith, indemnification and confidentiality obligations contained in the XM-4 Transaction Agreements and those provisions and rights that survive termination in accordance with their terms shall continue and survive termination. The parties acknowledge and agree that (i) the payment described in Section 2(a) constitutes payment in full of the principal of, interest and all other amounts payable with respect to the Notes, (ii) all amounts owed to the Indenture Trustee under the Indenture, under the Notes and under the Participation Agreement have been paid, all as required by the termination provisions of Section 10 of the Indenture, and (iii) upon Indenture Trustee's receipt of the payment described in Section 2(a), the Indenture terminates automatically, in accordance with its terms, pursuant to Section 10 of the Indenture.

(b) The parties hereto hereby consent to the termination of (and hereby terminate, in the event that the parties hereto, acting directly or as attorney in fact, constitute or have the right to act on behalf of all of the parties to such agreements), and release all of the respective rights held by them (or, in the case of the Indenture Trustee, by the Appointing Noteholders (as defined below)) under, the Participation Agreement and the other agreements set forth on Annex 1 attached hereto that are described under the caption "Agreements that may not be able to be terminated by the sole action of the parties hereto." To the extent a party hereto is not a party to each of such agreements, such party is only acting hereby with respect to those agreements to which it is a party or with respect to which its consent is required for termination. Notwithstanding anything to the contrary in this Agreement or in any release, termination, discharge or other document executed in connection herewith, indemnification and confidentiality obligations contained in the XM-4 Transaction Agreements and those provisions and rights that survive termination in accordance with their terms shall continue and survive termination.

(c) The termination of the XM-4 Transaction Agreements in this Section 3 shall not constitute a waiver of any right to indemnification under, or breach of any provision of, the XM-4 Transaction Agreements that may have occurred on or prior to the date hereof.

4. Further Assurances. The Owner Trustee will execute and deliver to XM, at XM's expense, any additional instruments, documents and opinions that XM may reasonably request to evidence the valid consummation of the transfer of the Owner Participant's, the Owner Trustee's or the Trust's right, title or interest in or to the Buyer's Transponders to XM, pursuant to Section 11.07 of the Participation Agreement. If at any time after the date hereof, any further action is legally necessary or reasonably desirable to carry out the purposes of this Agreement, each of the

parties hereto will take such further action, at XM's expense, including the execution and delivery of such further instruments and documents, as any other party hereto reasonably may request.

5. Flow of Funds. All payments being made hereunder are being made as set forth in the flow of funds memorandum dated as the date hereof. For the avoidance of doubt, to the extent that XM deposits the funds referred to in Section 2(a) directly with the Indenture Trustee, instead of paying the funds to the Owner Trustee under Section 1(a), such amount will be deemed to have been paid to Owner Trustee and then deposited by Owner Trustee with Indenture Trustee. Similarly, for the avoidance of doubt, to the extent that XM deposits the funds referred to in Section 2(c) directly with the Owner Participant, instead of paying the funds to the Owner Trustee under Section 1(a), such amount will be deemed to have been paid to Owner Trustee and then remitted by Owner Trustee to the Owner Participant.

6. Costs and Expenses. In accordance with Article VI of the Participation Agreement, XM shall pay the reasonable fees, costs and expenses (including attorneys' fees) of the other parties hereto and of the Noteholders incurred in connection with the Offer, the negotiation, preparation, execution and delivery of this Agreement and the documents and instruments incidental hereto, including those referred to in Section 2(e) and Section 4, and the transactions contemplated hereby.

7. Confidentiality and Export Control Laws; Intellectual Property. The parties hereto confirm that all provisions of the XM-4 Transaction Agreements regarding confidentiality and compliance with applicable Export Control Laws, including the International Traffic in Arms Regulations (22 C.F.R. Parts 120-130), survive the termination of the XM-4 Transaction Agreements, notwithstanding Section 3. XM is hereby making written request, pursuant to Section 13.01(d) of the Participation Agreement, that the Owner Participant and each of its representatives, consultants and agents reasonably promptly return to XM all Proprietary Information of XM in their possession (subject to any retention requirements pursuant to Applicable Law and the other provisions of Section 13.01(d)).

8. Direction of Owner Trustee; Action as Assignee. The parties hereto acknowledge that pursuant to Section 4.02 of the Trust Agreement the Owner Participant has directed, and the Owner Participant hereby directs, the Owner Trustee to execute, deliver and perform this Agreement, including both the actions being taken on or about the date hereof and the actions (including those referred to in Section 4) to be taken after the date hereof. The parties hereto acknowledge that pursuant to Section 2(b) the Indenture Trustee has assigned, its estate, right, title and interest in and to the Lease, Guarantee Agreement, Bill of Sale, Consent and Agreement, Purchase Agreement, Service Agreement and Telesat Agreement to the Owner Trustee, as provided for in Section 9.3 of the Indenture, and the Owner Trustee hereby agrees and confirms that to the extent such assignment has occurred prior to the actions relating to releases of liens and security interests and terminations of agreements or rights hereunder by the Indenture Trustee, the Owner Trustee is taking (or also taking) such actions.

9. Indenture Trustee Also Acting as Attorney-in-Fact. The parties hereto acknowledge that pursuant to the Noteholder Instruction Letter contained in the Instruction and Letter of Transmittal (as defined in the Offer) the Indenture Trustee has been constituted and

appointed the true and lawful agent and attorney-in-fact of certain of the Noteholders (the "Appointing Noteholders"), and in consenting to the termination of (or terminating) and releasing rights under Section 3(b) the Indenture Trustee is acting at the direction of the Appointing Noteholders and also as attorney-in-fact on behalf of the Appointing Noteholders.

10. Limitations of Liability of the Trust Company and the Indenture Trustee.

(a) It is expressly understood and agreed by and between the parties hereto that (i) this Agreement is executed and delivered by the Trust Company not in its individual capacity but solely as Owner Trustee in the exercise of the power and authority conferred on and vested in it as such Owner Trustee, (ii) each of the representations, undertakings and agreements made herein by the Owner Trustee are not personal representations, undertakings and agreements of the Trust Company, but are binding only on the Lessor's Estate and the Owner Trustee, as trustee, and (iii) except as expressly set forth herein or in the Operative Documents or the XM Agreements, nothing herein contained shall be construed as creating any liability of the Trust Company, or any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of, the Trust Company, all such liability, if any, being expressly waived by the other parties hereto, and by any Person claiming by, through or under them.

(b) It is expressly understood and agreed by and between the parties hereto that (i) this Agreement is executed and delivered by the Indenture Trustee not in its individual capacity but solely in its capacity as trustee as provided in the Indenture in the exercise of the power and authority conferred on and vested in it as such trustee, (ii) each of the representations, undertakings and agreements made herein by the Indenture Trustee are not personal representations, undertakings and agreements of the Indenture Trustee, but are binding only on the Indenture Estate and the Indenture Trustee, as trustee, and (iii) except as expressly set forth herein or in the Operative Documents or the XM Agreements, nothing herein contained shall be construed as creating any liability of the Indenture Trustee, or any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of, the Indenture Trustee, all such liability, if any, being expressly waived by the other parties hereto, and by any Person claiming by, through or under them.

11. Amendments. This Agreement may not be amended, waived or terminated without the written consent of the parties hereto.

12. Successors and Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by facsimile or email of an executed counterpart of a signature page to this Agreement and any other agreement to be delivered in connection herewith shall be effective as delivery of an original executed counterpart of this Agreement and such other agreement.

14. Governing Law.

(a) This Agreement has been delivered in, and shall in all respects be governed by, and construed in accordance with, the laws of the State of New York applicable to agreements made and to be performed entirely within such State.

(b) Each party hereto hereby irrevocably agrees, accepts and submits itself to the non-exclusive jurisdiction of the courts of the State of New York in the city and county of New York and of the United States District Court for the Southern District of New York, in connection with any legal action, suit or proceeding with respect to any matter relating to or arising out of or in connection with this Agreement.

(c) Each party hereto hereby irrevocably consents and agrees to the service of any and all legal process, summons, notices and documents out of any of the aforementioned courts in any such suit, action or proceeding, which service may be made by mailing copies thereof by registered or certified mail, postage prepaid, at the address set forth in Schedule I or II of the Participation Agreement, as applicable, or at such other address as such party has specified in a notice in accordance with Section 13.03 of the Participation Agreement (the parties agree that such service will become effective five (5) Business Days after such mailing). Each party hereto hereby agrees that service upon it, or any of its agents, in each case in accordance with this Section, shall constitute valid and effective personal service upon such party, and each party hereto hereby agrees that the failure of any of its agents to give any notice of such service to any such party shall not impair or affect in any way the validity of such service on such party or any judgment rendered in any action or proceeding based thereon. Nothing herein shall affect the right of any party to service of process in any other manner permitted by Applicable Law or to commence legal proceedings or to proceed against any other party in any jurisdiction other than that specified above.

(d) To the extent that any party hereto has or hereafter may acquire any immunity from jurisdiction of any of the above-named courts or from any legal process therein, with respect to itself or its property, such party hereby irrevocably waives, to the extent permitted by Applicable Law, such immunity, and each party hereto hereby irrevocably waives, to the extent permitted by Applicable Law, and agrees not to assert, by way of motion, as a defense, or otherwise, in any legal action or proceeding brought hereunder in any of the above-named courts, (i) the defense of sovereign immunity, (ii) that it or any of its property is immune from the above described legal process or (iii) that such action or proceeding is brought in an inconvenient forum, that venue for the action or proceeding is improper or that this Agreement may not be enforced in or by such courts.

(e) EACH PARTY HERETO HEREBY WAIVES ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION IN ANY COURT IN ANY JURISDICTION BASED UPON OR ARISING OUT OF OR RELATING TO THIS AGREEMENT.

15. Entire Agreement. Each party hereto acknowledges that this Agreement together with the relevant provisions of the XM-4 Transaction Agreements constitutes the entire agreement of the parties with respect to the subject matter of this Agreement, provided, however, this provision does not affect the termination of the XM-4 Transaction Agreements described in Section 3 above. There have been no other representations, warranties, agreements or understandings between the parties with respect to the subject matter hereof, other than as set forth in this Agreement and the relevant provisions of the XM-4 Transaction Agreements.

16. Captions. Captions to the paragraphs of this Agreement are solely for the convenience of the parties hereto, are not part of this Agreement, and shall not be used for the interpretation of, or determination of the validity of, this Agreement or any of its provisions.

[Signature Page Immediately Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Bill of Sale and Termination Agreement to be duly executed by their respective authorized officers on the date first above written.

XM SATELLITE RADIO INC.

By: /s/ Gary M. Parsons
Name: Gary M. Parsons
Title: Chairman

XM SATELLITE RADIO HOLDINGS INC.

By: /s/ Gary M. Parsons
Name: Gary M. Parsons
Title: Chairman

XM EQUIPMENT LEASING LLC

By: /s/ Gary M. Parsons
Name: Gary M. Parsons
Title: Chairman

XM RADIO INC.

By: /s/ Gary M. Parsons
Name: Gary M. Parsons
Title: Chairman

XM 1500 ECKINGTON LLC

By: /s/ Gary M. Parsons
Name: Gary M. Parsons
Title: Chairman

XM INVESTMENT LLC

By: /s/ Gary M. Parsons
Name: Gary M. Parsons
Title: Chairman

SATELLITE LEASING (702-4), LLC

By: /s/ Gaurav Seth
Name: Gaurav Seth
Title: Authorized Signatory

WELLS FARGO BANK NORTHWEST, NATIONAL ASSOCIATION, not in its individual capacity, but solely in its capacity as Owner Trustee

By: /s/ Scott Rosevear
Name: Scott Rosevear
Title: Vice President

THE BANK OF NEW YORK MELLON, not in its individual capacity, but solely in its capacity as Indenture Trustee and as attorney-in-fact for the Appointing Noteholders

By: /s/ Remo J. Reale
Name: Remo J. Reale
Title: Vice President

SATELLITE LEASING TRUST (702-4), LLT

By: WELLS FARGO BANK NORTHWEST, NATIONAL ASSOCIATION, not in its individual capacity, but solely in its capacity as Owner Trustee

By: /s/ Scott Rosevear
Name: Scott Rosevear
Title: Vice President

ANNEX 1

XM-4 TRANSACTION AGREEMENTS

Agreements that can be terminated by the parties hereto

- Lease (parties are XM and Owner Trustee)
- Purchase Agreement (parties are Holdings and Owner Trustee)
- Service Agreement (parties are XM, Holdings and Owner Trustee)
- Security Agreement (parties are XM, Holdings and Owner Trustee)
- Consent and Agreement (parties are XM, Holdings, Owner Trustee and Indenture Trustee)
- Equity Wrap Agreement (parties are XM 1500 Eckington LLC, XM Investment LLC and Owner Participant)
- Competitor List side letter dated as of February 13, 2007, by and among XM, Holdings and the Owner Participant
- Competitor OP side letter dated as of February 13, 2007, by and among the Owner Participant, Holdings and XM
- Technical Information Side Letter (parties are XM, Holdings, OP, Owner Trustee and Indenture Trustee)
- Agreed Methodology Side Letter (parties are XM, Holdings, OP, Owner Trustee and Indenture Trustee)
- Deed of Trust, Security Agreement and Fixture Filing effective as of February 13, 2007 by XM 1500 Eckington LLC to the trustee named therein for the benefit of the Owner Participant
- Deed of Trust, Security Agreement and Fixture Filing effective as of February 13, 2007 by XM Investment LLC to the trustee named therein for the benefit of the Owner Participant
- Assignment of Leases and Rents effective as of February 13, 2007 by XM 1500 Eckington LLC to the Owner Participant
- Assignment of Leases and Rents effective as of February 13, 2007 by XM Investment LLC to the Owner Participant

Restricted Account Agreement (Access Restricted Immediately) dated February 8, 2007 among XM 1500 Eckington LLC, the Owner Participant and Wells Fargo Bank

Restricted Account Agreement dated February 8, 2007 among XM Investment LLC, the Owner Participant and Wells Fargo Bank

Environmental Indemnity Agreement dated as of February 13, 2007 by XM 1500 Eckington LLC and Holdings in favor of the Owner Participant

Environmental Indemnity Agreement dated as of February 13, 2007 by XM Investment LLC and Holdings in favor of the Owner Participant

Subordination, Non-Disturbance and Attornment Agreement effective as of February 13, 2007 by XM 1500 Eckington, XM and Owner Participant

Subordination, Non-Disturbance and Attornment Agreement effective as of February 13, 2007 by XM Investment, XM and Owner Participant

Agreements that may not be able to be terminated by the sole action of the parties hereto

Participation Agreement (parties are XM, Holdings, Owner Participant, Owner Trustee, Indenture Trustee and Noteholders)

Telesat Agreement (parties are XM, Holdings, Owner Trustee and Telesat

Agreements that automatically terminate by their terms

Guaranty Agreement (parties are Holdings, XM Equipment Leasing LLC and XM Radio Inc.) (terminates when all of the Guaranteed Obligations (as defined in the Guaranty Agreement) have been paid in full and are not subject to rescission or return)

Owner Participant Guaranty Agreement (parties are GSFS Investments I Corp., XM, Holdings, Owner Trustee, Indenture Trustee and Noteholders) (terminates when all of the Obligations (as defined in the Owner Participant Guaranty Agreement) have been paid in full and are not subject to rescission or return)

Right of First Offer side letter dated as of February 13, 2007, by and between the Goldman, Sachs & Co. and Holdings (terminates simultaneously with the termination of the Lease)

Exhibit 10.2

EXECUTION COPY

SHARE LENDING AGREEMENT

Dated as of July 28, 2008

Between

Sirius Satellite Radio Inc. ("**Lender**") and

Morgan Stanley Capital Services, Inc. ("**Borrower**")

This AGREEMENT sets forth the terms and conditions under which Borrower may, from time to time, borrow from Lender shares of Common Stock.

The parties hereto agree as follows:

Section 1. *Certain Definitions*. The following capitalized terms shall have the following meanings:

"**Board of Directors**" means the board of directors of Lender.

"**Business Day**" means a day on which regular trading occurs in the principal trading market for the Common Stock.

"**Cash**" means any coin or currency of the United States as at the time shall be legal tender for payment of public and private debts.

"**Clearing Organization**" means The Depository Trust Company, or, if agreed to in writing by Borrower and Lender, such other securities intermediary at which Borrower and Lender maintain accounts.

"**Closing Price**" on any day means, with respect to the Common Stock (i) if the Common Stock is listed on a U.S. securities exchange registered under the Exchange Act or is included in the OTC Bulletin Board Service (operated by the National Association of Securities Dealers, Inc.), the last reported sale price, regular way, in the principal trading session on such day on such market on which the Common Stock is then listed or is admitted to trading (or, if the day of determination is not a Business Day, the last preceding Business Day) and (ii) if the Common Stock is not so listed or admitted to trading or if the last reported sale price is not obtainable (even if the Common Stock is listed or admitted to trading on such market), the average of the bid prices for the Common Stock obtained from as many dealers in the Common Stock (which may include Borrower or its affiliates), but not exceeding three, as shall furnish bid prices available to Lender.

"**Common Stock**" means shares of common stock, par value $0.001, of Lender, or any other security, assets or other consideration (including cash) into which such common stock shall be exchanged or converted as the result of any merger, consolidation, other business combination, reorganization, reclassification, recapitalization or other corporate action (including, without limitation, a reorganization in bankruptcy), then, effective upon such exchange or conversion, the amount of such other security, assets or other consideration received in exchange for one share of Common Stock shall be deemed to become one share of Common Stock. For purposes of the foregoing, where a share of Common Stock may be converted or exchanged into more than a single type of consideration based upon any form of stockholder election, such consideration will be deemed to be the weighted average of the types and amounts of consideration received by the holders of Lender's Common Stock that affirmatively make such an election.

"**Credit Downgrade**" occurs when Guarantor receives ratings for its long term, unsecured and unsubordinated indebtedness below BBB+ by Standard and Poor's Ratings Group, or its successor ("**S&P**"), and below Baa1 by Moody's Investors Service, Inc., or its successor ("**Moody's**"); *provided*, if one of S&P or Moody's ceases to rate such debt, Credit Downgrade occurs when Guarantor receives a rating for such indebtedness that is below BBB+ by S&P or below Baa1 by Moody's; *provided further*, if both S&P and Moody's cease to rate such debt, Credit Downgrade occurs when Guarantor receives an equivalent or lower rating for such indebtedness by a substitute rating agency mutually agreed upon by Lender and Borrower.

"**Cutoff Time**" shall mean 10:00 a.m. in the jurisdiction of the Clearing Organization, or such other time on a Business Day by which a transfer of Loaned Shares must be made by Lender to Borrower, as shall be determined in accordance with market practice.

"**DTV**" means, with respect to any Business Day, the daily trading volume reported for the Common Stock during such Business Day.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Exchangeable Notes**" means up to $550,000,000 aggregate principal amount of 7% Exchangeable Senior Subordinated Notes due 2014 issued by XM Satellite Radio, Inc.

"**Facility Termination Date**" means the earlier to occur of (i) the first date as of which all of the Exchangeable Notes have been exchanged, repaid or repurchased or are otherwise no longer outstanding and (ii) December 1, 2014.

"**Final Borrowing Date**" means the date that follows the Final Borrowing Notice Date by three Business Days.

"**Final Borrowing Notice Date**" means August 20, 2008, which shall be the date that follows July 29, 2008 by 16 Business Days,*provided* that (i) for each such Business Day with respect to which the DTV is less than 23,000,000 shares of Common Stock, the Final Borrowing Notice Date shall be postponed for one Business Day, (ii) for each such Business Day with respect to which the DTV is greater than 68,000,000 shares of Common Stock, the Final Borrowing Notice Date shall be accelerated by one Business Day and (iii) for each such Business Day on which Lender's registration statement is not available to Borrower and its affiliates to effect sales of the Loaned Shares in accordance with the Underwriting Agreement, the Final Borrowing Notice Date shall be postponed for one Business Day.

"**Guarantee**" has the meaning set forth in Section 15 of this Agreement.

"**Guarantor**" means Morgan Stanley, a Delaware corporation.

"**Indenture**" means the indenture for the Exchangeable Notes.

"**Lender's Designated Account**" means the securities account of Lender as notified by Lender to Borrower promptly following execution hereof and in no event later than July 31, 2008.

"**Loan Availability Period**" means the period beginning on the date hereof and ending on the Facility Termination Date or such earlier date on which this Agreement shall terminate in accordance with its terms.

"**Loaned Shares**" means shares of Common Stock transferred in a Loan hereunder until such Common Stock (or identical Common Stock) is transferred back to Lender hereunder. If, as the result of a stock dividend, stock split or reverse stock split, the number of outstanding shares of Common Stock is increased or decreased, then the number of outstanding Loaned Shares shall be proportionately increased or decreased, as the case may be. If any new or different security or securities, assets or other consideration shall be exchanged for the outstanding shares of Common Stock as described in the definition thereof, such new or different security or securities, assets or other consideration shall, effective upon such exchange, be deemed to become a Loaned Share in substitution for the former Loaned Share for which such exchange is made and in the same proportions as described in the definition of "Common Stock." For purposes of return of Loaned Shares by Borrower or purchase or sale of securities pursuant to Section 4 or 10, Borrower may return securities of the same issuer, class and quantity as the Loaned Shares as adjusted pursuant to the two preceding sentences.

"**Maximum Number of Shares**" means 188,399,978 shares of Common Stock, subject to the adjustments as follows:

(a) If, as the result of a stock dividend, stock split or reverse stock split, the number of outstanding shares of Common Stock is increased or decreased, the Maximum Number of Shares shall, effective as of the payment or delivery date of any such event, be proportionally increased or decreased, as the case may be.

(b) If any Exchangeable Notes are exchanged, repaid or repurchased or otherwise cease to be outstanding on a day prior to the "Maturity Date" (as defined in the Indenture) (such Exchangeable Notes, the "Early Retired Notes"), then, upon receipt by Borrower of a written notice from Lender setting forth the aggregate principal amount of such Early Retired Notes, the Maximum Number of Shares shall be reduced by a number of shares of Common Stock relating to such Early Retired Notes as the parties shall mutually agree to.

(c) Upon the termination of any Loan pursuant to Section 4(a), the Maximum Number of Shares shall be reduced by the number of Loaned Shares surrendered by Borrower to Lender.

"**Securities Act**" means the Securities Act of 1933, as amended.

"**Transfer Agent**" means BNY Mellon Shareowner Services.

"**UCC**" means the Uniform Commercial Code as in effect in the State of New York on the date hereof and as it may be amended from time to time.

"**Underwriting Agreement**" means the Underwriting Agreement, dated as of July 28, 2008, entered into between Borrower, Lender and Morgan Stanley & Co. Incorporated and UBS Securities LLC as representatives for the several underwriters named therein, providing for the public offering of the Common Stock.

Section 2. *Loans of Shares; Transfers of Loaned Shares*

(a) Subject to the terms and conditions of this Agreement (including without limitation paragraph (b) immediately below) and subject to the closing and issuance of the Exchangeable Notes, Lender hereby agrees to make available for borrowing by Borrower, at any time and from time to time, during the Loan Availability Period, shares of Common Stock up to, in the aggregate, the Maximum Number of Shares.

(b) Subject to the terms and conditions of this Agreement, Borrower may, from time to time at any time on or prior to the Final Borrowing Notice Date, by written notice to Lender and the Transfer Agent (a "**Borrowing Notice**"), initiate one or more transactions in which Lender will lend Loaned Shares to Borrower

through the issuance by Lender of such Loaned Shares to Borrower upon the terms, and subject to the conditions, set forth in this Agreement (each such issuance and loan, a "**Loan**"); *provided* that Borrower may not consummate (i) more than one Loan per Business Day or (ii) any Loan after the Final Borrowing Date. Such Loan shall be confirmed through the book-entry settlement system of the Clearing Organization. The records maintained by the Clearing Organization shall constitute conclusive evidence with respect to the Loan, including the number of shares of Common Stock that are the subject of the Loan to which the applicable records relate.

(c) Notwithstanding anything to the contrary in this Agreement, Borrower shall not be permitted to borrow, and may not initiate a Loan hereunder with respect to, any shares of Common Stock at any time to the extent that Borrower determines (in its sole discretion) that any Loan of such shares of Common Stock shall cause Borrower to become, directly or indirectly, a "beneficial owner" (within the meaning of Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder) of more than 9.9% of the shares of Common Stock outstanding at such time.

(d) Lender shall transfer Loaned Shares to Borrower on or before the Cutoff Time on the date specified in the Borrowing Notice for the commencement of the Loan, which date shall not be earlier than (i) in the case of the first Borrowing Notice delivered hereunder, the second Business Day following the receipt by the Lender of such Borrowing Notice and (ii) in the case of each subsequent Borrowing Notice, the third Business Day following the receipt by Lender of such Borrowing Notice. Delivery of the Loaned Shares to Borrower shall be made in the manner set forth under Section 11 below.

(e) In the Borrowing Notice next following any change in the Final Borrowing Date pursuant to clauses (i) or (ii) of the definition thereof, Borrower shall give written notice to Lender of such change, which notice shall specify the DTV on the Business Day such change was effected. Borrower shall also notify Lender in its final Borrowing Notice that upon consummation of the Loan to which such Borrowing Notice relates, Borrower will have borrowed the Maximum Number of Shares.

Section 3. *Loan Fee.* Borrower agrees to pay Lender a single loan fee per Loan (a "**Loan Fee**") equal to $0.001 per Loaned Share included in such Loan. The Loan Fee shall be paid by Borrower on or before the time of transfer of the Loaned Shares pursuant to Section 2(d) on a delivery-versus-payment basis through the facilities of the Clearing Organization.

Section 4. *Loan Terminations.*

(a) Borrower may terminate all or any portion of a Loan on any Business Day by giving written notice thereof to Lender and transferring the corresponding number of Loaned Shares to Lender, without any consideration being payable in respect thereof by Lender to Borrower. Any such loan termination shall be effective upon delivery of the Loaned Shares in accordance with the terms hereof.

(b) Subject to Section 10 below, all outstanding Loans, if any, shall terminate on the Facility Termination Date, and all Loaned Shares then outstanding, if any, shall be delivered by Borrower to Lender, without any consideration being payable in respect thereof by Lender to Borrower, no later than the thirty-third Business Day following the Facility Termination Date. In addition, if at any time the number of Loaned Shares outstanding under this Agreement exceeds the Maximum Number of Shares, then the outstanding Loans shall immediately terminate to the extent of such excess and, subject to Section 10 below, such excess number of Loaned Shares shall be delivered by Borrower to Lender, without any consideration being payable in respect thereof by Lender to Borrower, no later than the thirty-third Business Day following the first date as of which such excess exists.

(c) Subject to Section 10 below, if a Loan is terminated upon the occurrence of a Default as set forth in Section 9, the Loaned Shares shall be delivered by Borrower to Lender, without any consideration being payable in respect thereof by Lender to Borrower, no later than the thirty-third Business Day following the termination date of such Loan as provided in Section 9.

Section 5. *Distributions.*

(a) If at any time when there are Loaned Shares outstanding under this Agreement, Lender pays a cash dividend or makes a cash distribution in respect of all its outstanding Common Stock, Borrower shall pay to Lender (whether or not Borrower is a holder of any or all of the outstanding Loaned Shares), within three Business Days after the payment of such dividend or distribution, an amount in cash equal to the product of (i) the amount per share of such dividend or distribution and (ii) the number of Loaned Shares outstanding on the record date for such dividend or distribution.

(b) If at any time when there are Loaned Shares outstanding under this Agreement, Lender makes a distribution in respect of outstanding Common Stock (other than a distribution upon liquidation or a reorganization in bankruptcy) in property or securities, including any options, warrants, rights or privileges in respect of securities (other than a distribution of Common Stock, but including any options, warrants, rights or privileges exercisable for, convertible into or exchangeable for Common Stock) (a "**Non-Cash Distribution**"), Borrower shall deliver to Lender in kind (whether or not Borrower is a holder of any or all of the outstanding Loaned Shares), within three Business Days after the date of such Non-Cash Distribution, the property or securities so distributed in an amount (the "**Delivery Amount**")

equal to the product of (i) the amount per share of Common Stock of such Non-Cash Distribution and (ii) the number of Loaned Shares outstanding on the record date for such dividend or distribution; *provided* that if Borrower returns any Loaned Shares to Lender following a record date for such a Non-Cash Distribution on such Loaned Shares, but prior to the settlement of such Non-Cash Distribution on such Loaned Shares, Borrower shall nonetheless deliver to Lender the Delivery Amount in respect of such Non-Cash Distribution within three Business Days after the settlement date of such distribution.

Section 6. *Rights in Respect of Loaned Shares.* Subject to the terms of this Agreement, including Borrower's obligation to return the Loaned Shares in accordance with the terms of this Agreement, and except as otherwise agreed by Borrower and Lender or Borrower and any subsequent transferee of Loaned Shares, insofar as Borrower or such transferee is the record owner of any such Loaned Shares, such person shall have all of the incidents of ownership in respect of any such Loaned Shares, including the right to transfer the Loaned Shares to others. Notwithstanding the foregoing, Borrower agrees that it will not vote, and it will cause any of its affiliates that are the record owner of any Loaned Shares to not vote, any Loaned Shares initially loaned to it by Lender on any matter submitted to a vote of Lender's shareholders except in certain circumstances where such vote is required for quorum purposes.

Section 7. *Representations and Warranties.*

(a) Each of Borrower and Lender represent and warrant to the other that:

(i) it has full power to execute and deliver this Agreement, to enter into the Loan contemplated hereby and to perform its obligations hereunder;

(ii) it has taken all necessary action to authorize such execution, delivery and performance;

(iii) this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms; and

(iv) the execution, delivery and performance of this Agreement does not and will not violate, contravene, or constitute a default under, (A) its certificate of incorporation, bylaws or other governing documents, (B) any laws, rules or regulations of any governmental authority to which it is subject, (C) any contracts, agreements or instrument to which it is a party or (D) any judgment, injunction, order or decree by which it is bound.

(b) Lender represents and warrants to Borrower, as of the date hereof, and as of the date any Loaned Shares are transferred to Borrower in respect of any Loan hereunder, that the Loaned Shares and all other outstanding shares of Common

Stock of the Company have been duly authorized and, upon the issuance and delivery of the Loaned Shares to Borrower in accordance with the terms and conditions hereof, and subject to the contemporaneous or prior receipt of the applicable Loan Fee by Lender, will be duly authorized, validly issued, fully paid nonassessible shares of Common Stock and the stockholders of Lender have no preemptive rights with respect to the Loaned Shares.

(c) Lender represents and warrants to Borrower, as of the date hereof, and as of the date any Loaned Shares are transferred to Borrower in respect of any Loan hereunder, that the outstanding shares of Common Stock are listed on The NASDAQ Global Select Market ("NASDAQ") and the Loaned Shares have been approved for listing on NASDAQ, subject to official notice of issuance.

(d) Lender represents and warrants to Borrower, as of the date any Loaned Shares are transferred to Borrow in respect of any Loan hereunder, Lender is not "insolvent" (as such term is defined under Section 101(32) of Title 11 of the United States Code (the "Bankruptcy Code").

(e) Lender represents and warrants to Borrower, as of the date any Loaned Shares are transferred to Borrower in respect of any Loan hereunder, Lender will be able to purchase the Maximum Number of Shares at a price equal to the Loan Fee in compliance with the corporate law of Lender's jurisdiction of incorporation.

(f) Lender represents to Borrower that for United States tax purposes it is a resident of the United States.

(g) Lender represents and warrants to Borrower, as of the date hereof, that Lender does not have any Common Stock repurchase program.

Section 8. *Covenants.*

(a) Borrower represents and warrants to Lender that it is a "stockbroker" and "financial participant" within the meaning of Sections 101(53A) and 101(22A) of the Bankruptcy Code; (ii) each Loan hereunder be a "securities contract," as such term is defined in Section 741(7) of the Bankruptcy Code, entitled to the protections afforded by, among other sections, Sections 362(b)(6), 546(e) and 555 of the Bankruptcy Code; (iii) each and every transfer of funds, securities and other property under this Agreement be a "transfer" and a "settlement payment" or a "margin payment," as such terms are used in Sections 362(b)(6) and 546(e) of the Bankruptcy Code and (iv) the rights of the parties upon a Default under Section 9 to constitute a "contractual right" described in Sections 362(b)(6) and 555 of the Bankruptcy Code.

(b) Lender shall, no later than the later of (i) five Business Days prior to any repurchase of Common Stock, or (ii) the public announcement of any repurchase of Common Stock (such later date, the "**Repurchase Notice Deadline**"),

give Borrower a written notice of such repurchase (a "**Repurchase Notice**") if, following such repurchase, the Outstanding Borrow Percentage as determined on such day after giving effect to such repurchase would be greater by 0.5% than the Outstanding Borrow Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater by 0.5% than Outstanding Borrow Percentage as of the date hereof); *provided* that if Lender makes a public announcement of the authorization by the Board of Directors of any entry by Lender into a new Common Stock repurchase program or of any increase in the size of an existing Common Stock repurchase program of Lender prior to the Repurchase Notice Deadline related to repurchase of Common Stock made under such authorization, then, in addition to the Repurchase Notice, Lender shall immediately notify Borrower of such board authorization. The "**Outstanding Borrow Percentage**" as of any day is the fraction (A) the numerator of which is the number of Loaned Shares outstanding on such day and (B) the denominator of which is the number of shares of Common Stock outstanding on such day, including such Loaned Shares.

(c) Borrower covenants and agrees with Lender that, insofar as Borrower or any of its affiliates is the record owner of any Loaned Shares, such Loaned Shares shall be used for the purpose of directly or indirectly facilitating the sale of Exchangeable Notes and hedging activities relating to the Exchangeable Notes by the holders thereof.

(d) In respect of any Early Retired Notes, each of Lender and Borrower shall use its reasonable best efforts to identify to the other party as promptly as practicable the beneficial owner of the Early Retired Notes, and Borrower shall use its reasonable best efforts to identify to Lender as promptly as practicable the number of Loaned Shares (if any) to be returned by Borrower in respect of such Early Retired Notes.

Section 9. *Defaults.*

(a) All Loans, and any further obligation to make Loans under this Agreement, may, at the option of the non-defaulting party by a written notice to the defaulting party (which option shall be deemed exercised even if no notice is given immediately on the occurrence of an event specified in Section 9(a)(iii) or 9(a)(iv) below), be terminated (x) immediately on the occurrence of any of the events set forth in Section 9(a)(iii) or 9(a)(iv) below or (y) two Business Days following such notice on the occurrence of any of the events set forth below (each, a "**Default**"):

(i) Borrower fails to deliver Loaned Shares to Lender as required by Section 4;

(ii) Borrower fails to deliver or pay to Lender when due any cash, securities or other property as required by Section 5;

(iii) the filing by or on behalf of either party or Guarantor of a voluntary petition or an answer seeking reorganization, arrangement, readjustment of its debts or for any other relief under any bankruptcy, reorganization, compromise, arrangement, insolvency, readjustment of debt, dissolution, moratorium, delinquency, winding-up or liquidation or similar act or law, of any state, federal or other applicable foreign jurisdictions, now or hereafter existing ("**Bankruptcy Law**"), or any action by such party for, or consent or acquiescence to, the appointment of a receiver, trustee, conservatory, custodian or similar official of such party, or of all or a substantial part of its property; or the making by such party of a general assignment for the benefit of creditors; or the admission by such party in writing of its inability to pay its debts as they become due;

(iv) the filing of any involuntary petition against either party or Guarantor in bankruptcy or seeking reorganization, arrangement, readjustment of its debts or for any other relief under any Bankruptcy Law and an order for relief by a court having jurisdiction in the premises shall have been issued or entered therein; or any other similar relief shall be granted under any applicable federal or state law or law of any other applicable foreign jurisdictions; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee or other officer having similar powers over such party or over all or a part of its property shall have been entered; or the involuntary appointment of an interim receiver, trustee or other custodian of such party or of all or a substantial part of its property or the issuance of a warrant of attachment, execution or similar process against any substantial part of the property of such party; and continuance of any such event for 15 consecutive calendar days unless dismissed, bonded to the satisfaction of the court having jurisdiction in the premises or discharged;

(v) Lender or Borrower fails to provide any indemnity as required by Section 12;

(vi) Borrower notifies Lender of its inability to or intention not to perform Borrower's obligations hereunder or otherwise disaffirms, rejects or repudiates any of its obligations hereunder, or Guarantor notifies Lender of its inability to or intention not to perform its obligations under the Guarantee or otherwise disaffirms, rejects or repudiates any of its obligations under the Guarantee;

(vii) any representation made by Borrower under this Agreement in connection with any Loan or Loans hereunder shall be incorrect or untrue in any material respect during the term of any Loan hereunder or Borrower fails to comply in any material respect with any of

its covenants or agreements under this Agreement, or any representation made by Guarantor under the Guarantee, shall be incorrect or untrue in any material respect during the term of any Loan hereunder or Guarantor fails to comply in any material respect with any of its covenants or agreements under the Guarantee; or

(viii) Guarantor fails to deliver or pay Lender cash, securities or other property as required by the Guarantee.

Section 10. *Right to Extend; Lender's Remedies.*

(a) Borrower may, following the termination of any Loan hereunder, delay the date on which the related Loaned Shares are due to Lender pursuant to Sections 4(b) or 4(c) (the "**Settlement Due Date**"), with respect to some or all of such Loaned Shares, if Borrower reasonably determines, based on the advice of counsel, that such extension is reasonably necessary to enable Borrower (or any of its affiliates) to effect purchases of Common Stock in connection with this Agreement in a manner that would be in compliance with legal and regulatory requirements (i) applicable to Borrower or such affiliates in purchasing such shares of Common Stock or (ii) if Borrower were deemed to be Lender or an affiliated purchaser of Lender, that would be applicable to Lender in purchasing such shares of Common Stock; *provided* that no such extension or extensions shall postpone the Settlement Due Date later than the date that is 60 Business Days after the original date that would have been the Settlement Due Date but for this clause (a).

(b) If, upon the termination of any Loan under Section 9 and, on the Settlement Due Date (as may be extended pursuant to clause (a) above), the purchase of Common Stock in an amount equal to all or any portion of the Loaned Shares to be delivered to Lender by Borrower in accordance with Sections 4(b) or 4(c) of this Agreement (i) shall be prohibited by any law, rules or regulation of any governmental authority to which it is or would be subject, (ii) shall violate, or would upon such purchase likely violate, any order or prohibition of any court, tribunal or other governmental authority, (iii) shall require the prior consent of any court, tribunal or governmental authority prior to any such repurchase or (iv) would subject Borrower, in the reasonable judgment of Borrower, based on the advice of counsel, to any liability or potential liability under any applicable federal securities laws (including, without limitation, Section 16 of the Exchange Act) (each of (i), (ii), (iii) and (iv), a "**Legal Obstacle**"), then, in each case, Borrower shall immediately notify Lender of the Legal Obstacle and the basis therefor, whereupon such Borrower's obligations under Sections 4(b) or 4(c), as the case may be, shall be suspended until such time as no Legal Obstacle with respect to such obligations shall exist (a "**Repayment Suspension**"). Following the occurrence of, and during the continuation of any Repayment Suspension, Borrower shall use its reasonable

best efforts to remove or cure the Legal Obstacle as promptly as possible and promptly deliver to Lender any Loaned Shares that it actually acquires. If, notwithstanding its reasonable best efforts, Borrower is unable to remove or cure the Legal Obstacle within 30 Business Days of the Settlement Due Date (as such Date may be extended pursuant to clause (a) above so long as the sum of the extensions pursuant to clause (a) above and this sentence does not exceed 60 Business Days), Borrower's obligation to return the Loaned Shares shall be converted to an obligation to pay to Lender, on the first Business Day following the extension period described above, in lieu of the delivery of Loaned Shares in accordance with Sections 4(b) or 4(c), as the case may be, an amount in immediately available funds (the "**Replacement Cash**") equal to the product of (A) the Closing Price as of the last Business Day of the extension period described above multiplied by (B) the number of Loaned Shares then outstanding.

(c) If Sections 10(a) and Section 10(b) are not applicable and Borrower shall fail to deliver Loaned Shares in accordance with Section 4, or if Section 10(b) is applicable and Borrower shall fail to pay the Replacement Cash in accordance with Section 10(b), then, in addition to any other remedies available to Lender under this Agreement or under applicable law, Lender shall have the right (upon prior written notice to Borrower) to purchase a like amount of Loaned Shares ("**Replacement Shares**") in the principal market for such securities in a commercially reasonable manner and in compliance with applicable securities laws. To the extent Lender shall exercise such right, Borrower's obligation to return a like amount of Loaned Shares or to pay the Replacement Cash, as applicable, shall terminate and Borrower shall be liable to Lender for the purchase price of Replacement Shares (plus all other amounts, if any, due to Lender hereunder), all of which shall be due and payable within one Business Day of notice to Borrower by Lender of the aggregate purchase price of the Replacement Shares. The purchase price of Replacement Shares purchased under this Section 10 shall include broker's fees and commissions and all other reasonable costs, fees and expenses related to such purchase.

Section 11. *Transfers.*

(a) All transfers of Loaned Shares to Borrower hereunder shall be made by the crediting by a Clearing Organization of such Loaned Shares to Borrower's "securities account" (within the meaning of Section 8-501 of the UCC) maintained with such Clearing Organization. All transfers of Loaned Shares to Lender hereunder shall be made by the crediting of such Loaned Shares to Lender's Designated Account. In every transfer of "financial assets" (within the meaning of Section 8-102 of the UCC) hereunder, the transferor shall take all steps necessary (a) to effect a delivery to the transferee under Section 8-301 of the UCC, or to cause the creation of a security entitlement in favor of the transferee under Section 8-501 of the UCC, (b) to enable the transferee to obtain "control" (within the meaning of Section 8-106 of the UCC), and (c) to provide the transferee with comparable rights under any applicable foreign law or regulation that is applicable to such transfer.

(b) All transfers of cash hereunder to Borrower or Lender shall be by wire transfer in immediately available, freely transferable funds.

(c) A transfer of securities or cash may be effected under this Section 11 on any day except (i) a day on which the transferee is closed for business at its address set forth in Section 16 or (ii) a day on which a Clearing Organization or wire transfer system is closed, if the facilities of such Clearing Organization or wire transfer system are required to effect such transfer.

Section 12. *Indemnities.*

(a) Lender hereby agrees to indemnify and hold harmless Borrower and its affiliates and its former, present and future directors, officers, employees and other agents and representatives from and against any and all liabilities, judgments, claims, settlements, losses, damages, fees, liens, taxes, penalties, obligations and expenses (and losses relating to Borrower's market activities as a consequence of becoming, or of the risk of becoming, subject to Section 16(b) under the Exchange Act, including without limitation, any forbearance from market activities or cessation of market activities and any losses in connection therewith or with respect to this Agreement) incurred or suffered by any such person or entity directly or indirectly arising from, by reason of, or in connection with, (i) any breach by Lender of any of its representations or warranties contained in Section 7 or (ii) any breach by Lender of any of its covenants or agreements in this Agreement.

(b) Borrower hereby agrees to indemnify and hold harmless Lender and its affiliates and its former, present and future directors, officers, employees and other agents and representatives from and against any and all liabilities, judgments, claims, settlements, losses, damages, fees, liens, taxes, penalties, obligations and expenses incurred or suffered by any such person or entity directly or indirectly arising from, by reason of, or in connection with (i) any breach by Borrower of any of its representations or warranties contained in Section 7 or (ii) any breach by Borrower of any of its covenants or agreements in this Agreement.

(c) In case any claim or litigation which might give rise to any obligation of a party under this Section 12 (each an "**Indemnifying Party**") shall come to the attention of the party seeking indemnification hereunder (the "**Indemnified Party**"), the Indemnified Party shall promptly notify the Indemnifying Party in writing of the existence and amount thereof; *provided* that the failure of the Indemnified Party to give such notice shall not adversely affect the right of the Indemnified Party to indemnification under this Agreement, except to the extent the Indemnifying Party is materially prejudiced thereby. The Indemnifying Party shall promptly notify the Indemnified Party in writing if it accepts such claim or litigation

as being within its indemnification obligations under this Section 12. Such response shall be delivered no later than 30 days after the initial notification from the Indemnified Party; *provided* that, if the Indemnifying Party reasonably cannot respond to such notice within 30 days, the Indemnifying Party shall respond to the Indemnified Party as soon thereafter as reasonably possible.

(d) An Indemnifying Party shall be entitled to participate in and, if (i) in the good faith judgment of the Indemnified Party such claim can properly be resolved by money damages alone and the Indemnifying Party has the financial resources to pay such damages and (ii) the Indemnifying Party admits that this indemnity fully covers the claim or litigation, the Indemnifying Party shall be entitled to direct the defense of any claim at its expense, but such defense shall be conducted by legal counsel reasonably satisfactory to the Indemnified Party. An Indemnified Party shall not make any settlement of any claim or litigation under this Section 12 without the written consent of the Indemnifying Party.

Section 13. *Termination of Agreement.*

(a) This Agreement may be terminated (i) at any time by the written agreement of Lender and Borrower, or (ii) by Lender or Borrower upon the occurrence of a Default.

(b) Unless otherwise agreed by Borrower and Lender, the provisions of Section 12 shall survive the termination of this Agreement.

Section 14. *Assignments*. Neither Borrower nor Lender can assign any of its rights or obligations under this Agreement without the prior written consent of the other party. Within 30 days of an occurrence of a Credit Downgrade, Lender may deliver a written notice to Borrower (the "**Assignment Notice**") requesting that the Borrower assign its rights and obligations under this Agreement to a financial institution reasonably acceptable to Borrower and Lender (the "**Assignee**"). Following receipt of the Assignment Notice, Borrower will use its reasonable efforts to assign to the Assignee its rights and obligations under the Agreement and its, or its affiliates' corresponding rights and obligations under swap or other agreements with holders of Exchangeable Notes (the "**Back-to-back Agreements**") within not more than 60 days of its receipt of the Assignment Notice; *provided* that Borrower shall be under no obligation to effect any such assignment unless (i) the Assignee shall assume all of the Borrower's rights and obligations under the Agreement and all Back-to-back Agreements, (ii) each of the counterparties to the Back-to-back Agreements shall consent to an assignment of the Back-to-back Agreement to which it is a party, (iii) none of such assignments (w) shall be prohibited by any law, rules or regulation of any governmental authority to which Borrower or any of its affiliates is or would be subject, (x) shall violate, or would upon any such assignment likely violate, any order or prohibition of any court, tribunal or other governmental authority, (y)

shall require the prior consent of any court, tribunal or other governmental authority prior to such assignment or (z) would subject Borrower or any of its affiliates, in the reasonable judgment of Borrower, based on the advice of counsel, to any liability or potential liability under any applicable laws, and (iv) Lender shall fully cooperate with Borrower in effecting all such assignments. Notwithstanding the foregoing, Borrower's rights and obligations under Section 12 of this Agreement shall survive any assignment.

Section 15. *Guarantee.* On or prior to the date of the transfer of Loaned Shares to Borrower in a Loan pursuant to this Agreement, Guarantor will execute a guarantee (the "**Guarantee**") in favor of Lender in the form attached hereto as Exhibit A.

Section 16. *Notices.*

(a) All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given when received.

(b) All such notices and other communications shall be directed to the following address:

(i) If to Borrower to:

Morgan Stanley Capital Services, Inc.
1585 Broadway
New York, NY 10036

with a copy to:

Morgan Stanley & Co. Incorporated, Legal Department,
1221 Avenue of the Americas, New York, NY 10020
Attention: Legal Department
Facsimile: (212) 507-4338

(ii) If to Lender to:

Sirius Satellite Radio Inc.
1221 Avenue of the Americas
New York, New York 10020
Attention: Chief Financial Officer

With a copy to:

Sirius Satellite Radio Inc.
1221 Avenue of the Americas
New York, New York 10020
Attention: General Counsel

(iii) If to the Transfer Agent to:

BNY Mellon Shareowner Services
480 Washington Boulevard - 29th Floor
Jersey City, NY 07310
Facsimile: 201-680-4606

(c) In the case of any party, at such other address as may be designated by written notice to the other parties.

Section 17. *Governing Law; Submission to Jurisdiction; Severability.*

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of New York, but excluding any choice of law provisions that would require the application of the laws of a jurisdiction other than New York.

(b) EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY (A) SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR NEW YORK STATE COURT SITTING IN NEW YORK CITY, AND ANY APPELLATE COURT FROM ANY SUCH COURT, SOLELY FOR THE PURPOSE OF ANY SUIT, ACTION OR PROCEEDING BROUGHT TO ENFORCE ITS OBLIGATIONS HEREUNDER OR RELATING IN ANY WAY TO THIS AGREEMENT OR ANY LOAN HEREUNDER AND (B) WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO, ANY DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT AND ANY RIGHT OF JURISDICTION ON ACCOUNT OF ITS PLACE OF RESIDENCE OR DOMICILE.

(c) EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY RIGHT THAT IT MAY HAVE TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) To the extent permitted by law, the unenforceability or invalidity of any provision or provisions of this Agreement shall not render any other provision or provisions herein contained unenforceable or invalid.

Section 18. *Counterparts.* This Agreement may be executed in any number of counterparts, and all such counterparts taken together shall be deemed to constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto to have executed this Share Lending Agreement as of the date and year first above written.

Sirius Satellite Radio Inc.,
as Lender

By: /s/ Mel Karmazin
Name: Mel Karmazin
Title: Chief Executive Officer

Morgan Stanley Capital Services, Inc.,
as Borrower

By: /s/ Alan Thomas
Name: Alan Thomas
Title: Managing Director

EXHIBIT A

[Form of Guarantee]

July 28, 2008

To: Sirius Satellite Radio Inc.

Ladies and Gentlemen:

In consideration of that certain Share Lending Agreement dated as of July 28, 2008 (hereinafter the "Agreement") by and between Morgan Stanley Capital Services, Inc. (hereinafter "MSCS") and Sirius Satellite Radio Inc. (hereinafter "Sirius"), Morgan Stanley, a Delaware corporation (hereinafter "MS"), hereby irrevocably and unconditionally guarantees to Sirius, with effect from the date of the Agreement, the due and punctual payment of all amounts payable by MSCS under the Agreement when the same shall become due and payable, whether on the date scheduled for payment, upon demand, upon declaration of termination or otherwise, in accordance with the terms of the Agreement and giving effect to any applicable grace period. Upon failure of MSCS punctually to pay any such amounts, and upon written demand by Sirius to MS at its address set forth in the signature block of this Guarantee (or to such other address as MS may specify in writing), MS agrees to pay or cause to be paid such amounts; provided that delay by Sirius in giving such demand shall in no event affect MS's obligations under this Guarantee.

MS hereby agrees that its obligations hereunder shall be unconditional and will not be discharged except by complete payment of the amounts payable under the Agreement, irrespective of any claim as to the Agreement's validity, regularity or enforceability or the lack of authority of MSCS to execute or deliver the Agreement; or any change in or amendment to the Agreement; or any waiver or consent by Sirius with respect to any provisions thereof; or the absence of any action to enforce the Agreement, or the recovery of any judgment against MSCS or of any action to enforce a judgment against MSCS under the Agreement; or any similar circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor generally.

MS hereby waives diligence, presentment, demand on MSCS for payment or otherwise (except as provided hereinabove), filing of claims, requirement of a prior proceeding against MSCS and protest or notice, except as provided for in the Agreement with respect to amounts payable by MSCS. If at any time payment under the Agreement is rescinded or must be otherwise restored or returned by Sirius upon the insolvency, bankruptcy or reorganization of MSCS or MS or otherwise, MS's obligations hereunder with respect to such payment shall be reinstated upon such restoration or return being made by Sirius.

MS represents to Sirius as of the date hereof that:

1. it is duly organized and validly existing under the laws of the jurisdiction of its incorporation and has full power and legal right to execute and deliver this Guarantee and to perform the provisions of this Guarantee on its part to be performed;

2. its execution, delivery and performance of this Guarantee have been and remain duly authorized by all necessary corporate action and do not contravene any provision of its certificate of incorporation or by-laws or any law, regulation or contractual restriction binding on it or its assets;

3. all consents, authorizations, approvals and clearances (including, without limitation, any necessary exchange control approval) and notifications, reports and registrations requisite for its due execution, delivery and performance of this Guarantee have been obtained from or, as the case may be, filed with the relevant governmental authorities having jurisdiction and remain in full force and effect and all conditions thereof have been duly complied with and no other action by, and no notice to or filing with, any governmental authority having jurisdiction is required for such execution, delivery or performance; and

4. this Guarantee is its legal, valid and binding obligation enforceable against it in accordance with its terms except as enforcement hereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights or by general equity principles.

By accepting this Guarantee and entering into the Agreement, Sirius agrees that MS shall be subrogated to all rights of Sirius against MSCS in respect of any amounts paid by MS pursuant to this Guarantee, provided that MS shall be entitled to enforce or to receive any payment arising out of or based upon such right of subrogation only to the extent that it has paid all amounts payable by MSCS under the Agreement.

This Guarantee shall be governed by and construed in accordance with the laws of the State of New York. All capitalized terms not otherwise defined herein shall have the respective meanings assigned to them in the Agreement.

MORGAN STANLEY

By: _____
Name:
Title:
Address: 1585 Broadway
New York, NY 10036

Exhibit 10.3

EXECUTION COPY

SHARE LENDING AGREEMENT

Dated as of July 28, 2008

Between

Sirius Satellite Radio Inc. ("**Lender**") and

UBS AG, London Branch. ("**Borrower**")

This AGREEMENT sets forth the terms and conditions under which Borrower may, from time to time, borrow from Lender shares of Common Stock.

The parties hereto agree as follows:

Section 1. *Certain Definitions*. The following capitalized terms shall have the following meanings:

"**Board of Directors**" means the board of directors of Lender.

"**Business Day**" means a day on which regular trading occurs in the principal trading market for the Common Stock.

"**Cash**" means any coin or currency of the United States as at the time shall be legal tender for payment of public and private debts.

"**Clearing Organization**" means The Depository Trust Company, or, if agreed to in writing by Borrower and Lender, such other securities intermediary at which Borrower and Lender maintain accounts.

"**Closing Price**" on any day means, with respect to the Common Stock (i) if the Common Stock is listed on a U.S. securities exchange registered under the Exchange Act or is included in the OTC Bulletin Board Service (operated by the National Association of Securities Dealers, Inc.), the last reported sale price, regular way, in the principal trading session on such day on such market on which the Common Stock is then listed or is admitted to trading (or, if the day of determination is not a Business Day, the last preceding Business Day) and (ii) if the Common Stock is not so listed or admitted to trading or if the last reported sale price is not obtainable (even if the Common Stock is listed or admitted to trading on such market), the average of the bid prices for the Common Stock obtained from as many dealers in the Common Stock (which may include Borrower or its affiliates), but not exceeding three, as shall furnish bid prices available to Lender.

"**Common Stock**" means shares of common stock, par value $0.001, of Lender, or any other security, assets or other consideration (including cash) into which such common stock shall be exchanged or converted as the result of any merger, consolidation, other business combination, reorganization, reclassification, recapitalization or other corporate action (including, without limitation, a reorganization in bankruptcy), then, effective upon such exchange or conversion, the amount of such other security, assets or other consideration received in exchange for one share of Common Stock shall be deemed to become one share of Common Stock. For purposes of the foregoing, where a share of Common Stock may be converted or exchanged into more than a single type of consideration based upon any form of stockholder election, such consideration will be deemed to be the weighted average of the types and amounts of consideration received by the holders of Lender's Common Stock that affirmatively make such an election.

"**Credit Downgrade**" occurs when Borrower receives ratings for its long term, unsecured and unsubordinated indebtedness below BBB+ by Standard and Poor's Ratings Group, or its successor ("**S&P**"), and below Baa1 by Moody's Investors Service, Inc., or its successor ("**Moody's**"); *provided*, if one of S&P or Moody's ceases to rate such debt, Credit Downgrade occurs when Borrower receives a rating for such indebtedness that is below BBB+ by S&P or below Baa1 by Moody's; *provided further*, if both S&P and Moody's cease to rate such debt, Credit Downgrade occurs when Borrower receives an equivalent or lower rating for such indebtedness by a substitute rating agency mutually agreed upon by Lender and Borrower.

"**Cutoff Time**" shall mean 10:00 a.m. in the jurisdiction of the Clearing Organization, or such other time on a Business Day by which a transfer of Loaned Shares must be made by Lender to Borrower, as shall be determined in accordance with market practice.

"**DTV**" means, with respect to any Business Day, the daily trading volume reported for the Common Stock during such Business Day.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Exchangeable Notes**" means up to $550,000,000 aggregate principal amount of 7% Exchangeable Senior Subordinated Notes due 2014 issued by XM Satellite Radio, Inc.

"**Facility Termination Date**" means the earlier to occur of (i) the first date as of which all of the Exchangeable Notes have been exchanged, repaid or repurchased or are otherwise no longer outstanding and (ii) December 1, 2014.

"**Final Borrowing Date**" means the date that follows the Final Borrowing Notice Date by three Business Days.

"**Final Borrowing Notice Date**" means August 15, 2008; *provided* that for each Business Day from the date hereof through and including August 15, 2008 on which Lender's registration statement is not available to Borrower and its affiliates to effect sales of the Loaned Shares in accordance with the Underwriting Agreement, the Final Borrowing Notice Date shall be postponed for one Business Day.

"**Indenture**" means the indenture for the Exchangeable Notes.

"**Lender's Designated Account**" means the securities account of Lender as notified by Lender to Borrower promptly following execution hereof and in no event later than July 31, 2008.

"**Loan Availability Period**" means the period beginning on the date hereof and ending on the Facility Termination Date or such earlier date on which this Agreement shall terminate in accordance with its terms.

"**Loaned Shares**" means shares of Common Stock transferred in a Loan hereunder until such Common Stock (or identical Common Stock) is transferred back to Lender hereunder. If, as the result of a stock dividend, stock split or reverse stock split, the number of outstanding shares of Common Stock is increased or decreased, then the number of outstanding Loaned Shares shall be proportionately increased or decreased, as the case may be. If any new or different security or securities, assets or other consideration shall be exchanged for the outstanding shares of Common Stock as described in the definition thereof, such new or different security or securities, assets or other consideration shall, effective upon such exchange, be deemed to become a Loaned Share in substitution for the former Loaned Share for which such exchange is made and in the same proportions as described in the definition of "Common Stock." For purposes of return of Loaned Shares by Borrower or purchase or sale of securities pursuant to Section 4 or 10, Borrower may return securities of the same issuer, class and quantity as the Loaned Shares as adjusted pursuant to the two preceding sentences.

"**Maximum Number of Shares**" means 74,000,005 shares of Common Stock, subject to the adjustments as follows:

(a) If, as the result of a stock dividend, stock split or reverse stock split, the number of outstanding shares of Common Stock is increased or decreased, the Maximum Number of Shares shall, effective as of the payment or delivery date of any such event, be proportionally increased or decreased, as the case may be.

(b) If any Exchangeable Notes are exchanged, repaid or repurchased or otherwise cease to be outstanding on a day prior to the "Maturity Date" (as defined in the Indenture) (such Exchangeable Notes, the "Early Retired Notes"), then, upon receipt by Borrower of a written notice from Lender setting forth the aggregate principal amount of such Early Retired Notes, the Maximum Number of Shares shall be reduced by a number of shares of Common Stock relating to such Early Retired Notes as the parties shall mutually agree to.

(c) Upon the termination of any Loan pursuant to Section 4(a), the Maximum Number of Shares shall be reduced by the number of Loaned Shares surrendered by Borrower to Lender.

"**Securities Act**" means the Securities Act of 1933, as amended.

"**Transfer Agent**" means BNY Mellon Shareowner Services.

"**UCC**" means the Uniform Commercial Code as in effect in the State of New York on the date hereof and as it may be amended from time to time.

"**Underwriting Agreement**" means the Underwriting Agreement, dated as of July 28, 2008, entered into between Borrower, Lender and Morgan Stanley & Co. Incorporated and UBS Securities LLC as representatives for the several underwriters named therein, providing for the public offering of the Common Stock.

Section 2. *Loans of Shares; Transfers of Loaned Shares*

(a) Subject to the terms and conditions of this Agreement (including without limitation paragraph (b) immediately below) and subject to the closing and issuance of the Exchangeable Notes, Lender hereby agrees to make available for borrowing by Borrower, at any time and from time to time, during the Loan Availability Period, shares of Common Stock up to, in the aggregate, the Maximum Number of Shares.

(b) Subject to the terms and conditions of this Agreement, Borrower may, from time to time at any time on or prior the Final Borrowing Notice Date, by written notice to Lender and the Transfer Agent (a "**Borrowing Notice**"), initiate one or more transactions in which Lender will lend Loaned Shares to Borrower through the issuance by Lender of such Loaned Shares to Borrower upon the terms, and subject to the conditions, set forth in this Agreement (each such issuance and loan, a "**Loan**"); *provided* that Borrower may not consummate (i) more than one Loan per Business Day or (ii) any Loan after the Final Borrowing Date. Such Loan shall be confirmed through the book-entry settlement system of the Clearing Organization. The records maintained by the Clearing Organization shall constitute conclusive evidence with respect to the Loan, including the number of shares of Common Stock that are the subject of the Loan to which the applicable records relate.

(c) Notwithstanding anything to the contrary in this Agreement, Borrower shall not be permitted to borrow, and may not initiate a Loan hereunder with respect to, any shares of Common Stock at any time to the extent that Borrower determines (in its sole discretion) that any Loan of such shares of Common Stock shall cause Borrower to become, directly or indirectly, a "beneficial owner" (within the meaning of Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder) of more than 9.9% of the shares of Common Stock outstanding at such time.

(d) Lender shall transfer Loaned Shares to Borrower on or before the Cutoff Time on the date specified in the Borrowing Notice for the commencement of the Loan, which date shall not be earlier than (i) in the case of the first Borrowing Notice delivered hereunder, the second Business Day following the receipt by the Lender of such Borrowing Notice and (ii) in the case of each subsequent Borrowing Notice, the third Business Day following the receipt by Lender of such Borrowing Notice. Delivery of the Loaned Shares to Borrower shall be made in the manner set forth under Section 11 below.

(e) In the Borrowing Notice next following any change in the Final Borrowing Date pursuant to clauses (i) or (ii) of the definition thereof, Borrower shall give written notice to Lender of such change, which notice shall specify the DTV on the Business Day such change was effected. Borrower shall also notify Lender in its final Borrowing Notice that upon consummation of the Loan to which such Borrowing Notice relates, Borrower will have borrowed the Maximum Number of Shares.

Section 3. *Loan Fee.* Borrower agrees to pay Lender a single loan fee per Loan (a "**Loan Fee**") equal to $0.001 per Loaned Share included in such Loan. The Loan Fee shall be paid by Borrower on or before the time of transfer of the Loaned Shares pursuant to Section 2(d) on a delivery-versus-payment basis through the facilities of the Clearing Organization.

Section 4. *Loan Terminations.*

(a) Borrower may terminate all or any portion of a Loan on any Business Day by giving written notice thereof to Lender and transferring the corresponding number of Loaned Shares to Lender, without any consideration being payable in respect thereof by Lender to Borrower. Any such loan termination shall be effective upon delivery of the Loaned Shares in accordance with the terms hereof.

(b) Subject to Section 10 below, all outstanding Loans, if any, shall terminate on the Facility Termination Date, and all Loaned Shares then outstanding,

if any, shall be delivered by Borrower to Lender, without any consideration being payable in respect thereof by Lender to Borrower, no later than the thirty-third Business Day following the Facility Termination Date. In addition, if at any time the number of Loaned Shares outstanding under this Agreement exceeds the Maximum Number of Shares, then the outstanding Loans shall immediately terminate to the extent of such excess and, subject to Section 10 below, such excess number of Loaned Shares shall be delivered by Borrower to Lender, without any consideration being payable in respect thereof by Lender to Borrower, no later than the thirty-third Business Day following the first date as of which such excess exists.

(c) Subject to Section 10 below, if a Loan is terminated upon the occurrence of a Default as set forth in Section 9, the Loaned Shares shall be delivered by Borrower to Lender, without any consideration being payable in respect thereof by Lender to Borrower, no later than the thirty-third Business Day following the termination date of such Loan as provided in Section 9.

Section 5. *Distributions.*

(a) If at any time when there are Loaned Shares outstanding under this Agreement, Lender pays a cash dividend or makes a cash distribution in respect of all its outstanding Common Stock, Borrower shall pay to Lender (whether or not Borrower is a holder of any or all of the outstanding Loaned Shares), within three Business Days after the payment of such dividend or distribution, an amount in cash equal to the product of (i) the amount per share of such dividend or distribution and (ii) the number of Loaned Shares outstanding on the record date for such dividend or distribution.

(b) If at any time when there are Loaned Shares outstanding under this Agreement, Lender makes a distribution in respect of outstanding Common Stock (other than a distribution upon liquidation or a reorganization in bankruptcy) in property or securities, including any options, warrants, rights or privileges in respect of securities (other than a distribution of Common Stock, but including any options, warrants, rights or privileges exercisable for, convertible into or exchangeable for Common Stock) (a "**Non-Cash Distribution**"), Borrower shall deliver to Lender in kind (whether or not Borrower is a holder of any or all of the outstanding Loaned Shares), within three Business Days after the date of such Non-Cash Distribution, the property or securities so distributed in an amount (the "**Delivery Amount**") equal to the product of (i) the amount per share of Common Stock of such Non-Cash Distribution and (ii) the number of Loaned Shares outstanding on the record date for such dividend or distribution; *provided* that if Borrower returns any Loaned Shares to Lender following a record date for such a Non-Cash Distribution on such Loaned Shares, but prior to the settlement of such Non-Cash Distribution on such Loaned Shares, Borrower shall nonetheless deliver to Lender the Delivery Amount in respect of such Non-Cash Distribution within three Business Days after the settlement date of such distribution.

Section 6. *Rights in Respect of Loaned Shares.* Subject to the terms of this Agreement, including Borrower's obligation to return the Loaned Shares in accordance with the terms of this Agreement, and except as otherwise agreed by Borrower and Lender or Borrower and any subsequent transferee of Loaned Shares, insofar as Borrower or such transferee is the record owner of any such Loaned Shares, such person shall have all of the incidents of ownership in respect of any such Loaned Shares, including the right to transfer the Loaned Shares to others. Notwithstanding the foregoing, Borrower agrees that it will not vote, and it will cause any of its affiliates that are the record owner of any Loaned Shares to not vote, any Loaned Shares initially loaned to it by Lender on any matter submitted to a vote of Lender's shareholders except in certain circumstances where such vote is required for quorum purposes.

Section 7. *Representations and Warranties.*

(a) Each of Borrower and Lender represent and warrant to the other that:

(i) it has full power to execute and deliver this Agreement, to enter into the Loan contemplated hereby and to perform its obligations hereunder;

(ii) it has taken all necessary action to authorize such execution, delivery and performance;

(iii) this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms; and

(iv) the execution, delivery and performance of this Agreement does not and will not violate, contravene, or constitute a default under, (A) its certificate of incorporation, bylaws or other governing documents, (B) any laws, rules or regulations of any governmental authority to which it is subject, (C) any contracts, agreements or instrument to which it is a party or (D) any judgment, injunction, order or decree by which it is bound.

(b) Lender represents and warrants to Borrower, as of the date hereof, and as of the date any Loaned Shares are transferred to Borrower in respect of any Loan hereunder, that the Loaned Shares and all other outstanding shares of Common Stock of the Company have been duly authorized and, upon the issuance and delivery of the Loaned Shares to Borrower in accordance with the terms and conditions hereof, and subject to the contemporaneous or prior receipt of the applicable Loan Fee by Lender, will be duly authorized, validly issued, fully paid nonassessible shares of Common Stock and the stockholders of Lender have no preemptive rights with respect to the Loaned Shares.

(c) Lender represents and warrants to Borrower, as of the date hereof, and as of the date any Loaned Shares are transferred to Borrower in respect of any Loan hereunder, that the outstanding shares of Common Stock are listed on The NASDAQ Global Select Market ("NASDAQ") and the Loaned Shares have been approved for listing on NASDAQ, subject to official notice of issuance.

(d) Lender represents and warrants to Borrower, as of the date any Loaned Shares are transferred to Borrow in respect of any Loan hereunder, Lender is not "insolvent" (as such term is defined under Section 101(32) of Title 11 of the United States Code (the "Bankruptcy Code").

(e) Lender represents and warrants to Borrower, as of the date any Loaned Shares are transferred to Borrower in respect of any Loan hereunder, Lender will be able to purchase the Maximum Number of Shares at a price equal to the Loan Fee in compliance with the corporate law of Lender's jurisdiction of incorporation.

(f) Lender represents to Borrower that for United States tax purposes it is a resident of the United States.

(g) Lender represents and warrants to Borrower, as of the date hereof, that Lender does not have any Common Stock repurchase program.

Section 8. *Covenants.*

(a) Borrower represents and warrants to Lender that it is a "financial institution," "swap participant" and "financial participant" within the meaning of Sections 101(22), 101(53C) and 101(22A) of Title 11 of the Bankruptcy Code. The parties hereto further agree and acknowledge (A) that this Agreement is intended to be (i) a "securities contract," as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder is a "settlement payment," as such term is defined in Section 741(8) of the Bankruptcy Code, and (ii) a "swap agreement," as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder is a "transfer," as such term is defined in Section 101(54) of the Bankruptcy Code, and (B) that Borrower is intended to be entitled to the protections afforded by, among other sections, Sections 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code.

(b) Lender shall, no later than the later of (i) five Business Days prior to any repurchase of Common Stock, or (ii) the public announcement of any repurchase of Common Stock (such later date, the "**Repurchase Notice Deadline**"), give Borrower a written notice of such repurchase (a "**Repurchase Notice**") if,

following such repurchase, the Outstanding Borrow Percentage as determined on such day after giving effect to such repurchase would be greater by 0.5% than the Outstanding Borrow Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater by 0.5% than Outstanding Borrow Percentage as of the date hereof); *provided* that if Lender makes a public announcement of the authorization by the Board of Directors of any entry by Lender into a new Common Stock repurchase program or of any increase in the size of an existing Common Stock repurchase program of Lender prior to the Repurchase Notice Deadline related to repurchase of Common Stock made under such authorization, then, in addition to the Repurchase Notice, Lender shall immediately notify Borrower of such board authorization. The "**Outstanding Borrow Percentage**" as of any day is the fraction (A) the numerator of which is the number of Loaned Shares outstanding on such day and (B) the denominator of which is the number of shares of Common Stock outstanding on such day, including such Loaned Shares.

(c) Borrower covenants and agrees with Lender that, insofar as Borrower or any of its affiliates is the record owner of any Loaned Shares, such Loaned Shares shall be used for the purpose of directly or indirectly facilitating the sale of Exchangeable Notes and hedging activities relating to the Exchangeable Notes by the holders thereof.

(d) In respect of any Early Retired Notes, each of Lender and Borrower shall use its reasonable best efforts to identify to the other party as promptly as practicable the beneficial owner of the Early Retired Notes, and Borrower shall use its reasonable best efforts to identify to Lender as promptly as practicable the number of Loaned Shares (if any) to be returned by Borrower in respect of such Early Retired Notes.

Section 9. *Defaults.*

(a) All Loans, and any further obligation to make Loans under this Agreement, may, at the option of the non-defaulting party by a written notice to the defaulting party (which option shall be deemed exercised even if no notice is given immediately on the occurrence of an event specified in Section 9(a)(iii) or 9(a)(iv) below), be terminated (x) immediately on the occurrence of any of the events set forth in Section 9(a)(iii) or 9(a)(iv) below or (y) two Business Days following such notice on the occurrence of any of the events set forth below (each, a "**Default**"):

(i) Borrower fails to deliver Loaned Shares to Lender as required by Section 4;

(ii) Borrower fails to deliver or pay to Lender when due any cash, securities or other property as required by Section 5;

(iii) the filing by or on behalf of either party of a voluntary petition or an answer seeking reorganization, arrangement, readjustment of its debts or for any other relief under any bankruptcy, reorganization, compromise, arrangement, insolvency, readjustment of debt, dissolution, moratorium, delinquency, winding-up or liquidation or similar act or law, of any state, federal or other applicable foreign jurisdictions, now or hereafter existing ("**Bankruptcy Law**"), or any action by such party for, or consent or acquiescence to, the appointment of a receiver, trustee, conservatory, custodian or similar official of such party, or of all or a substantial part of its property; or the making by such party of a general assignment for the benefit of creditors; or the admission by such party in writing of its inability to pay its debts as they become due;

(iv) the filing of any involuntary petition against either party in bankruptcy or seeking reorganization, arrangement, readjustment of its debts or for any other relief under any Bankruptcy Law and an order for relief by a court having jurisdiction in the premises shall have been issued or entered therein; or any other similar relief shall be granted under any applicable federal or state law or law of any other applicable foreign jurisdictions; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee or other officer having similar powers over such party or over all or a part of its property shall have been entered; or the involuntary appointment of an interim receiver, trustee or other custodian of such party or of all or a substantial part of its property or the issuance of a warrant of attachment, execution or similar process against any substantial part of the property of such party; and continuance of any such event for 15 consecutive calendar days unless dismissed, bonded to the satisfaction of the court having jurisdiction in the premises or discharged;

(v) Lender or Borrower fails to provide any indemnity as required by Section 12;

(vi) Borrower notifies Lender of its inability to or intention not to perform Borrower's obligations hereunder or otherwise disaffirms, rejects or repudiates any of its obligations hereunder; or

(vii) any representation made by Borrower under this Agreement in connection with any Loan or Loans hereunder shall be incorrect or untrue in any material respect during the term of any Loan hereunder or Borrower fails to comply in any material respect with any of its covenants or agreements under this Agreement.

Section 10. *Right to Extend; Lender's Remedies.*

(a) Borrower may, following the termination of any Loan hereunder, delay the date on which the related Loaned Shares are due to Lender pursuant to Sections 4(b) or 4(c) (the "**Settlement Due Date**"), with respect to some or all of such Loaned Shares, if Borrower reasonably determines, based on the advice of counsel, that such extension is reasonably necessary to enable Borrower (or any of its affiliates) to effect purchases of Common Stock in connection with this Agreement in a manner that would be in compliance with legal and regulatory requirements (i) applicable to Borrower or such affiliates in purchasing such shares of Common Stock or (ii) if Borrower were deemed to be Lender or an affiliated purchaser of Lender, that would be applicable to Lender in purchasing such shares of Common Stock; *provided* that no such extension or extensions shall postpone the Settlement Due Date later than the date that is 60 Business Days after the original date that would have been the Settlement Due Date but for this clause (a).

(b) If, upon the termination of any Loan under Section 9 and, on the Settlement Due Date (as may be extended pursuant to clause (a) above), the purchase of Common Stock in an amount equal to all or any portion of the Loaned Shares to be delivered to Lender by Borrower in accordance with Sections 4(b) or 4(c) of this Agreement (i) shall be prohibited by any law, rules or regulation of any governmental authority to which it is or would be subject, (ii) shall violate, or would upon such purchase likely violate, any order or prohibition of any court, tribunal or other governmental authority, (iii) shall require the prior consent of any court, tribunal or governmental authority prior to any such repurchase or (iv) would subject Borrower, in the reasonable judgment of Borrower, based on the advice of counsel, to any liability or potential liability under any applicable federal securities laws (including, without limitation, Section 16 of the Exchange Act) (each of (i), (ii), (iii) and (iv), a "**Legal Obstacle**"), then, in each case, Borrower shall immediately notify Lender of the Legal Obstacle and the basis therefor, whereupon such Borrower's obligations under Sections 4(b) or 4(c), as the case may be, shall be suspended until such time as no Legal Obstacle with respect to such obligations shall exist (a "**Repayment Suspension**"). Following the occurrence of, and during the continuation of any Repayment Suspension, Borrower shall use its reasonable best efforts to remove or cure the Legal Obstacle as promptly as possible and promptly deliver to Lender any Loaned Shares that it actually acquires. If, notwithstanding its reasonable best efforts, Borrower is unable to remove or cure the Legal Obstacle within 30 Business Days of the Settlement Due Date (as such Date may be extended pursuant to clause (a) above so long as the sum of the extensions pursuant to clause (a) above and this sentence does not exceed 60 Business Days), Borrower's obligation to return the Loaned Shares shall be converted to an obligation to pay to Lender, on the first Business Day following the extension period described above, in lieu of the delivery of Loaned Shares in accordance with Sections 4(b) or 4(c), as the case may be, an amount in

immediately available funds (the "**Replacement Cash**") equal to the product of (A) the Closing Price as of the last Business Day of the extension period described above multiplied by (B) the number of Loaned Shares then outstanding.

(c) If Sections 10(a) and Section 10(b) are not applicable and Borrower shall fail to deliver Loaned Shares in accordance with Section 4, or if Section 10(b) is applicable and Borrower shall fail to pay the Replacement Cash in accordance with Section 10(b), then, in addition to any other remedies available to Lender under this Agreement or under applicable law, Lender shall have the right (upon prior written notice to Borrower) to purchase a like amount of Loaned Shares ("**Replacement Shares**") in the principal market for such securities in a commercially reasonable manner and in compliance with applicable securities laws. To the extent Lender shall exercise such right, Borrower's obligation to return a like amount of Loaned Shares or to pay the Replacement Cash, as applicable, shall terminate and Borrower shall be liable to Lender for the purchase price of Replacement Shares (plus all other amounts, if any, due to Lender hereunder), all of which shall be due and payable within one Business Day of notice to Borrower by Lender of the aggregate purchase price of the Replacement Shares. The purchase price of Replacement Shares purchased under this Section 10 shall include broker's fees and commissions and all other reasonable costs, fees and expenses related to such purchase.

Section 11. *Transfers.*

(a) All transfers of Loaned Shares to Borrower hereunder shall be made by the crediting by a Clearing Organization of such Loaned Shares to Borrower's "securities account" (within the meaning of Section 8-501 of the UCC) maintained with such Clearing Organization. All transfers of Loaned Shares to Lender hereunder shall be made by the crediting of such Loaned Shares to Lender's Designated Account. In every transfer of "financial assets" (within the meaning of Section 8-102 of the UCC) hereunder, the transferor shall take all steps necessary (a) to effect a delivery to the transferee under Section 8-301 of the UCC, or to cause the creation of a security entitlement in favor of the transferee under Section 8-501 of the UCC, (b) to enable the transferee to obtain "control" (within the meaning of Section 8-106 of the UCC), and (c) to provide the transferee with comparable rights under any applicable foreign law or regulation that is applicable to such transfer.

(b) All transfers of cash hereunder to Borrower or Lender shall be by wire transfer in immediately available, freely transferable funds.

(c) A transfer of securities or cash may be effected under this Section 11 on any day except (i) a day on which the transferee is closed for business at its address set forth in Section 16 or (ii) a day on which a Clearing Organization or wire transfer system is closed, if the facilities of such Clearing Organization or wire transfer system are required to effect such transfer.

Section 12. *Indemnities.*

(a) Lender hereby agrees to indemnify and hold harmless Borrower and its affiliates and its former, present and future directors, officers, employees and other agents and representatives from and against any and all liabilities, judgments, claims, settlements, losses, damages, fees, liens, taxes, penalties, obligations and expenses (and losses relating to Borrower's market activities as a consequence of becoming, or of the risk of becoming, subject to Section 16(b) under the Exchange Act, including without limitation, any forbearance from market activities or cessation of market activities and any losses in connection therewith or with respect to this Agreement) incurred or suffered by any such person or entity directly or indirectly arising from, by reason of, or in connection with, (i) any breach by Lender of any of its representations or warranties contained in Section 7 or (ii) any breach by Lender of any of its covenants or agreements in this Agreement.

(b) Borrower hereby agrees to indemnify and hold harmless Lender and its affiliates and its former, present and future directors, officers, employees and other agents and representatives from and against any and all liabilities, judgments, claims, settlements, losses, damages, fees, liens, taxes, penalties, obligations and expenses incurred or suffered by any such person or entity directly or indirectly arising from, by reason of, or in connection with (i) any breach by Borrower of any of its representations or warranties contained in Section 7 or (ii) any breach by Borrower of any of its covenants or agreements in this Agreement.

(c) In case any claim or litigation which might give rise to any obligation of a party under this Section 12 (each an "**Indemnifying Party**") shall come to the attention of the party seeking indemnification hereunder (the "**Indemnified Party**"), the Indemnified Party shall promptly notify the Indemnifying Party in writing of the existence and amount thereof; *provided* that the failure of the Indemnified Party to give such notice shall not adversely affect the right of the Indemnified Party to indemnification under this Agreement, except to the extent the Indemnifying Party is materially prejudiced thereby. The Indemnifying Party shall promptly notify the Indemnified Party in writing if it accepts such claim or litigation as being within its indemnification obligations under this Section 12. Such response shall be delivered no later than 30 days after the initial notification from the Indemnified Party; *provided* that, if the Indemnifying Party reasonably cannot respond to such notice within 30 days, the Indemnifying Party shall respond to the Indemnified Party as soon thereafter as reasonably possible.

(d) An Indemnifying Party shall be entitled to participate in and, if (i) in the good faith judgment of the Indemnified Party such claim can properly be resolved by money damages alone and the Indemnifying Party has the financial resources to pay such damages and (ii) the Indemnifying Party admits that this indemnity fully covers the claim or litigation, the Indemnifying Party shall be

entitled to direct the defense of any claim at its expense, but such defense shall be conducted by legal counsel reasonably satisfactory to the Indemnified Party. An Indemnified Party shall not make any settlement of any claim or litigation under this Section 12 without the written consent of the Indemnifying Party.

Section 13. *Termination of Agreement.*

(a) This Agreement may be terminated (i) at any time by the written agreement of Lender and Borrower, or (ii) by Lender or Borrower upon the occurrence of a Default.

(b) Unless otherwise agreed by Borrower and Lender, the provisions of Section 12 shall survive the termination of this Agreement.

Section 14. *Assignments*. Neither Borrower nor Lender can assign any of its rights or obligations under this Agreement without the prior written consent of the other party. Within 30 days of an occurrence of a Credit Downgrade, Lender may deliver a written notice to Borrower (the "**Assignment Notice**") requesting that the Borrower assign its rights and obligations under this Agreement to a financial institution reasonably acceptable to Borrower and Lender (the "**Assignee**"). Following receipt of the Assignment Notice, Borrower will use its reasonable efforts to assign to the Assignee its rights and obligations under the Agreement and its, or its affiliates' corresponding rights and obligations under swap or other agreements with holders of Exchangeable Notes (the "**Back-to-back Agreements**") within not more than 60 days of its receipt of the Assignment Notice; *provided* that Borrower shall be under no obligation to effect any such assignment unless (i) the Assignee shall assume all of the Borrower's rights and obligations under the Agreement and all Back-to-back Agreements, (ii) each of the counterparties to the Back-to-back Agreements shall consent to an assignment of the Back-to-back Agreement to which it is a party, (iii) none of such assignments (w) shall be prohibited by any law, rules or regulation of any governmental authority to which Borrower or any of its affiliates is or would be subject, (x) shall violate, or would upon any such assignment likely violate, any order or prohibition of any court, tribunal or other governmental authority, (y) shall require the prior consent of any court, tribunal or other governmental authority prior to such assignment or (z) would subject Borrower or any of its affiliates, in the reasonable judgment of Borrower, based on the advice of counsel, to any liability or potential liability under any applicable laws, and (iv) Lender shall fully cooperate with Borrower in effecting all such assignments. Notwithstanding the foregoing, Borrower's rights and obligations under Section 12 of this Agreement shall survive any assignment.

Section 15. [Reserved.]

Section 16. *Notices.*

(a) All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given when received.

(b) All such notices and other communications shall be directed to the following address:

(i) If to Borrower to:

UBS AG, London Branch
299 Park Avenue, 29th Floor
New York, NY 10171
Facsimile: 212-821-4610

With a copy to:

UBS AG
Equities Legal Department
677 Washington Blvd, 8th Floor
Stamford, CT 06901
Fax: 203-719-5627
Attn: Gordon S. Kiesling

(ii) If to Lender to:

Sirius Satellite Radio Inc.
1221 Avenue of the Americas
New York, New York 10020
Attention: Chief Financial Officer

With a copy to:

Sirius Satellite Radio Inc.
1221 Avenue of the Americas
New York, New York 10020
Attention: General Counsel

(iii) If to the Transfer Agent to:

BNY Mellon Shareowner Services
480 Washington Boulevard - 29th Floor
Jersey City, NY 07310
Facsimile: 201-680-4606

(c) In the case of any party, at such other address as may be designated by written notice to the other parties.

Section 17. *Governing Law; Submission to Jurisdiction; Severability.*

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of New York, but excluding any choice of law provisions that would require the application of the laws of a jurisdiction other than New York.

(b) EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY (A) SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR NEW YORK STATE COURT SITTING IN NEW YORK CITY, AND ANY APPELLATE COURT FROM ANY SUCH COURT, SOLELY FOR THE PURPOSE OF ANY SUIT, ACTION OR PROCEEDING BROUGHT TO ENFORCE ITS OBLIGATIONS HEREUNDER OR RELATING IN ANY WAY TO THIS AGREEMENT OR ANY LOAN HEREUNDER AND (B) WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO, ANY DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT AND ANY RIGHT OF JURISDICTION ON ACCOUNT OF ITS PLACE OF RESIDENCE OR DOMICILE.

(c) EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY RIGHT THAT IT MAY HAVE TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(d) To the extent permitted by law, the unenforceability or invalidity of any provision or provisions of this Agreement shall not render any other provision or provisions herein contained unenforceable or invalid.

Section 18. *Counterparts.* This Agreement may be executed in any number of counterparts, and all such counterparts taken together shall be deemed to constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto to have executed this Share Lending Agreement as of the date and year first above written.

Sirius Satellite Radio Inc.,
as Lender

By: /s/ Mel Karmazin
Name: Mel Karmazin
Title: Chief Executive Officer

UBS AG, London Branch
as Borrower

By: /s/ Gordon S. Kiesling
Name: Gordon S. Kiesling
Title: Executive Director and Counsel
Region Americas Legal

Exhibit 10.4

EXECUTION COPY

SIRIUS SATELLITE RADIO INC.

262,399,983 Shares of Common Stock

Underwriting Agreement

As of July 28, 2008

Morgan Stanley & Co. Incorporated
UBS Securities LLC
as Representatives
of the several Underwriters named in Schedule I
hereto (the "Representatives")

c/o Morgan Stanley & Co. Incorporated
1585 Broadway
New York, NY 10036

Ladies and Gentlemen:

Sirius Satellite Radio Inc., a Delaware corporation (the "**Company**"), subject to the terms and conditions stated herein, proposes to issue and lend to each of Morgan Stanley Capital Services, Inc. ("**Morgan Stanley**") and UBS AG, London Branch ("**UBS**" and collectively with Morgan Stanley, the "**Borrowers**") as a share loan, pursuant to and upon the terms set forth in the share lending agreement between the Company and Morgan Stanley and the share lending agreement between the Company and UBS, each dated as of July 28, 2008 (the "**Share Lending Agreements**"), an amount of the Company's common stock, par value $0.001 per share ("**Stock**") up to the sum of the Maximum Number of Shares (as such term is defined in each of the Share Lending Agreements) under both of the Share Lending Agreements (such shares being referred to herein as the "**Borrowed Shares**"), such aggregate Maximum Number of Shares being 262,399,983 as of the date hereof, 183,679,988 of which the Company will initially lend to the Borrowers (the "**Initial Hedging Shares**") and up to 78,719,995 of which the Borrowers may borrow from time to time (the "**Hedging Reserve Shares**"). The Company has been advised that the Borrowers will transfer the Initial Hedging Shares to the Representatives, which will initially offer the Initial Hedging Shares to the public at the fixed price per share stated on the cover of the Prospectus (as defined below) in an underwritten public offering by the several underwriters named in Schedule I hereto (the "**Underwriters**"). If the Representatives are the only firms listed in Schedule I hereto, then the term "**Underwriters**" as used herein shall be deemed to refer to the Representatives.

The Company has been further advised that the Borrowers will transfer any Hedging Reserve Shares they may borrow from time to time to the Representatives, which will offer any such Hedging Reserve Shares to the public at prices prevailing in the market at the time of sale or at negotiated prices. Each time of sale of any Hedging Reserve Shares by the Underwriters

for purposes of Rule 159 under the Securities Act of 1933, as amended (the "**Securities Act**"), is hereinafter referred to as a "**Hedging Reserve Time of Sale**", and each date on which Hedging Reserve Shares are delivered to the Underwriter under this Agreement is hereinafter referred to as a "**Hedging Reserve Closing Date**".

Concurrently with the issuance of the Borrowed Shares, XM Satellite Radio, Inc. ("**XM Satellite**") is offering, by means of a private offering memorandum, $550,000,000 aggregate principal amount of its 7.00% Exchangeable Senior Subordinated Notes due 2014 (the "**Exchangeable Notes**") in a private placement. The Exchangeable Notes are exchangeable for shares of Stock in accordance with their terms and the terms of the related indenture (the "**Indenture**"). The Exchangeable Notes are being offered and sold in connection with the merger (the "**Merger**") contemplated by the Agreement and Plan of Merger, dated as of February 19, 2007, among XM Satellite Radio Holdings Inc. ("**XM Holdings**"), the Company and Vernon Merger Corporation (as amended or supplemented by any subsequent letter agreement, the "**Merger Agreement**"), pursuant to which Vernon Merger Corporation shall be merged with and into XM Holdings, with XM Holdings as the surviving corporation. The Offering (as defined below), the Refinancing Transactions (as such term is described in the Disclosure Package and the Prospectus), the offering of the Exchangeable Notes and the Merger are collectively referred to herein as the "**Transactions**."

The Company hereby confirms its agreement with the Underwriters and the Borrowers concerning the offering and sale of the Borrowed Shares (the "**Offering**"), as follows:

1. Registration Statement. The Company has filed with the Securities and Exchange Commission (the "**Commission**") a registration statement, including a prospectus, (file number 333-152548) on Form S-3, relating to the securities (the "**Shelf Securities**"), including the Borrowed Shares, registered thereunder to be issued from time to time by the Company. The registration statement as amended to the date of this Agreement, including the information (if any) deemed to be part of the registration statement at the time of effectiveness pursuant to Rule 430A or Rule 430 B under the Securities Act is hereinafter referred to as the "**Registration Statement**", and the related prospectus covering the Shelf Securities dated July 25, 2008, in the form first used to confirm sales of the Shares (or in the form first made available to the Underwriters by the Company to meet requests of purchasers pursuant to Rule 173 under the Securities Act) is hereinafter referred to as the "**Basic Prospectus**." The Basic Prospectus, as supplemented by the prospectus supplement specifically relating to the Borrowed Shares in the form first used to confirm sales of the Borrowed Shares (or in the form first made available to the Underwriters by the Company to meet requests of purchasers pursuant to Rule 173 under the Securities Act) is hereinafter referred to as the "**Prospectus**," and the term "**preliminary prospectus**" means any preliminary form of the Prospectus. For purposes of this Agreement, "**free writing prospectus**" has the meaning set forth in Rule 405 under the Securities Act; "**Initial Time of Sale Prospectus**" means the most recent preliminary prospectus as amended or supplemented immediately prior to the Initial Time of Sale (as defined below); "**Disclosure Package**" means the Initial Time of Sale Prospectus together with each free writing prospectus identified in Schedule II hereto, if any, and any other free writing prospectus that the parties hereto shall hereafter expressly agree in writing to treat as part of the Disclosure Package, if any, each of which is identified in Schedule II hereto; and "**broadly available road show**" means a bona fide electronic road show as defined in Rule 433(h)(5) under the Securities Act that has

been made available without restriction to any person. As used herein, the terms "Registration Statement," "Basic Prospectus," "preliminary prospectus," "Initial Time of Sale Prospectus" and "Prospectus" shall include the documents, if any, incorporated by reference therein. The terms "**supplement**," "**amendment**," and "**amend**" as used herein with respect to the Registration Statement, the Basic Prospectus, the Time of Sale Prospectus, any preliminary prospectus or free writing prospectus shall include all documents subsequently filed by the Company with the Commission pursuant to the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), that are deemed to be incorporated by reference therein. The term "**Initial Time of Sale**" as used herein means 7:30 p.m. on the date hereof.

2. Purchase of Borrowed Shares by the Underwriters. (a) Subject to the terms and conditions and in reliance upon the representations and warranties herein set forth, the Borrowers agree to sell to the Underwriters, and the Underwriters agree to purchase from the Borrowers, at a purchase price of $1.50 per share, the Initial Hedging Shares that the Company will lend to Morgan Stanley and UBS under their respective Share Lending Agreements. Delivery of and payment for the Initial Hedging Shares shall be made at 10:00 AM, New York City time, on August 1, 2008 or at such time on such later date not more than five Business Days after the foregoing date as the Underwriters shall designate, which date and time may be postponed by agreement among the Underwriter, the Company and the Borrowers (such date and time of delivery and payment for the Initial Hedging Shares being herein called the "**Initial Closing Date**").

(b) Subject to the terms and conditions and in reliance upon the representations and warranties herein set forth, from time to time the Borrowers agree to sell to the Underwriters, and the Underwriters agree to purchase from the Borrowers, the Hedging Reserve Shares that the Company will from time to time lend to Morgan Stanley and UBS under their respective Share Lending Agreements. The number of Hedging Reserve Shares to be purchased and sold, the price to be paid by the Underwriters to the Borrowers for the Hedging Reserve Shares to be purchased and the time for delivery of and payment for any Hedging Reserve Shares shall be mutually agreed between the Borrowers and the Underwriters.

(c) The Company understands that the Underwriters and the Borrowers intend to offer the Initial Hedging Shares and the Hedging Reserve Shares for sale to the public, as described in the Disclosure Package and the Prospectus.

3. Representations and Warranties of the Company. The Company represents and warrants to each of the Underwriters and each of the Borrowers that:

(a) *Registration Statement and Prospectus.* The Registration Statement has become effective, and no order suspending the effectiveness of the Registration Statement has been issued by the Commission and no proceeding for that purpose has been initiated or threatened by the Commission. If the Registration Statement is an automatic shelf registration statement (as defined in Rule 405 under the Securities Act), the Company is a well-known seasoned issuer (as defined in Rule 405 under the Securities Act) eligible to use the Registration Statement as an automatic shelf registration statement and the Company has not received notice that the Commission objects to the use of the Registration Statement as an automatic shelf registration statement.

(b) *Disclosure*. Each document, if any, filed or to be filed pursuant to the Exchange Act and incorporated by reference in the Initial Time of Sale Prospectus or the Prospectus complied or will comply when so filed in all material respects with the Exchange Act and the applicable rules and regulations of the Commission thereunder, (i) each part of the Registration Statement, when such part became effective, did not contain, and each such part, as amended or supplemented, if applicable, as of the Initial Closing Date and as of each Hedging Reserve Shares Closing Date, will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) the Registration Statement as of the date hereof does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (iii) the Registration Statement and the Prospectus comply, and as amended or supplemented, if applicable, will comply in all material respects with the Securities Act and the applicable rules and regulations of the Commission thereunder, (iv) the Disclosure Package does not, as of the Initial Time of Sale, and will not, as of each Hedging Reserve Time of Sale when the Prospectus is not yet available to prospective purchasers, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, (v) each broadly available road show, if any, when considered together with the Disclosure Package, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and (vi) the Prospectus, as of its date, does not contain and, as amended or supplemented, if applicable, as of the Closing Date, as of each Hedging Reserve Time of Sale after the Prospectus is available to prospective purchasers and as of each Hedging Reserve Closing Date, will not contain, any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that the representations and warranties set forth in this paragraph do not apply to statements or omissions in the Registration Statement, the Disclosure Package or the Prospectus based upon information relating to any Underwriter or the Borrowers furnished to the Company in writing by such Underwriter or the Borrowers through the Representatives expressly for use therein.

(c) *Free Writing Prospectuses*. The Company is not an "ineligible issuer" in connection with the Offering pursuant to Rules 164, 405 and 433 under the Securities Act. Any free writing prospectus that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder. Each free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act or that was prepared by or behalf of or used or referred to by the Company complies or will comply in all material respects with the requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder. Except for the free writing prospectuses, if any, identified in Schedule II hereto forming part of the Disclosure Package, and electronic road shows, if any, each furnished to you before first use, the Company has not prepared, used or referred to, and will not, without your prior consent, prepare, use or refer to, any free writing prospectus.

(d) *Capitalization.* The capitalization of the Company and it subsidiaries (i) was, as of March 31, 2008, as set forth in the Disclosure Package and the Prospectus in the "Actual"

column under the heading "Capitalization" and (ii) assuming the consummation of the Transactions on the terms described therein, will be, as of the Closing Date, as set forth in the Disclosure Package and the Prospectus in the "As adjusted for the merger and Refinancing Transactions" column under the heading "Capitalization." Attached as Schedule III(a) is a true and complete list of each domestic entity in which the Company has a direct or indirect majority equity or voting interest as of the date of this Agreement prior to giving effect to the Merger (the "**Pre-Merger Subsidiaries**") and attached as Schedule III(b) is a complete list of each entity in which the Company has a direct or indirect majority equity or voting interest as of the date of this Agreement after giving effect to the Merger excluding the Pre-Merger Subsidiaries (the "**New Subsidiaries**"), in each case listing each such Pre-Merger Subsidiary's or New Subsidiary's, as the case may be, jurisdictions of organization, name of its equityholder(s) and percentage held by each equityholder. All of the issued and outstanding equity interests of each Subsidiary (as defined below) have been duly and validly authorized and issued, are and immediately after giving effect to the Merger will be, fully paid and non-assessable, were not issued in violation of any preemptive or similar right and, except as set forth in each of the Disclosure Package and the Prospectus, are owned, and after giving effect to the Merger will be owned, directly or indirectly, by the Company free and clear of all liens (other than transfer restrictions imposed by the Act, the securities or Blue Sky laws of certain jurisdictions and security interests granted pursuant to existing security agreements (the "**Sirius Existing Security Agreements**") in respect of the Term Credit Agreement, dated as of June 20, 2007 and the Loral Credit Agreement (as defined in the Prospectus). Except as set forth in each of the Disclosure Package and the Prospectus, there are not currently and after giving effect to the Merger there will not be, any outstanding options, warrants or other rights to acquire or purchase, or instruments convertible into or exchangeable for, any equity interests of the Company or any of the Subsidiaries. All the outstanding shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and are not subject to any pre-emptive or similar rights; except as described in or expressly contemplated in the Disclosure Package and the Prospectus, there are no outstanding rights (including, without limitation, pre-emptive rights), warrants or options to acquire, or instruments convertible into or exchangeable for, any shares of capital stock or other equity interest in the Company or any of the Subsidiaries, or any contract, commitment, agreement, understanding or arrangement of any kind relating to the issuance of any capital stock of the Company or any such subsidiary, any such convertible or exchangeable securities or any such rights, warrants or options; the capital stock of the Company conforms in all material respects to the description thereof contained in the Disclosure Package and the Prospectus. As used herein, with respect to any representation or warranty made on the date hereof, "**Subsidiary**" shall refer to any Pre-Merger Subsidiary and "**Subsidiaries**" shall refer to the Pre-Merger Subsidiaries collectively; and with respect to any representation or warranty made after the date hereof, "**Subsidiary**" shall refer to any Pre-Merger Subsidiary or New Subsidiary, and "**Subsidiaries**" shall refer to the Pre-Merger Subsidiaries and New Subsidiaries collectively. Notwithstanding anything herein to the contrary, any representation or warranty made after the date hereof with respect to any New Subsidiary shall be deemed to be subject to the exceptions and limitations applicable to the corresponding representation and warranty in the Purchase Agreement, dated the date hereof, relating to the Exchangeable Notes offering.

(e) *Organization and Good Standing.* The Company (A) is a corporation, duly incorporated and validly existing under the laws of Delaware; (B) has, and after giving effect to the Transactions will have, all requisite corporate or other power and authority necessary to own

its property and carry on its business as now being conducted and (C) is qualified to do business and is in good standing in all jurisdictions in which the nature of the business conducted by it or its ownership of property makes such qualification necessary, except where the failure to be so qualified and be in good standing, individually or in the aggregate, could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. A "**Material Adverse Effect**" means (x) a material adverse effect on the business, proposed business (including giving effect to the Transactions), condition (financial or other), results of operations, performance, properties or affairs of the Company and its Subsidiaries, taken as a whole or (y) an adverse effect on the ability to consummate the Transactions on a timely basis.

(f) *Corporate Power and Authority*. The Company has all requisite corporate or other power and authority to execute, deliver and perform all of its obligations under this Agreement and the Share Lending Agreements and to consummate the transactions contemplated hereby, and, without limitation, the Company has all requisite corporate power and authority to perform its obligations under the Exchangeable Notes.

(g) *Underwriting Agreement*. This Agreement has been duly and validly authorized, executed and delivered by the Company.

(h) *Share Lending Agreement.* Each of the Share Lending Agreements has been duly and validly authorized by the Company and, when duly executed and delivered by the Company (assuming the due authorization, execution and delivery thereof by Morgan Stanley or UBS, as applicable), will be a legally binding and valid obligation of the Company, enforceable against it in accordance with it terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity and the discretion of the court before which any proceeding therefor may be brought and an implied covenant of good faith and fair dealing (the "**Bankruptcy Exceptions**").

(i) *Borrowed Shares.* At or before the Initial Closing Date, the Borrowed Shares to be issued in accordance with the terms hereof and of the Share Lending Agreements will have been duly authorized and validly reserved for issuance, and, upon issuance in accordance with the terms hereof, will be issued free of statutory and contractual preemptive rights, resale rights, rights of first refusal and similar rights and free of any voting restrictions (and will be free of any restriction, pursuant to the Company's charter or bylaws or any agreement or other instrument to which the Company is a party, upon the transfer thereof), and will be sufficient in number to meet the requirements of this Agreement and the Share Lending Agreements; such Borrowed Shares, when so issued in accordance with the terms hereof and of the Share Lending Agreements, will be duly and validly issued and fully paid and non-assessable; and any certificates for such Borrowed Shares shall be in due and proper form.

(j) *Merger Agreement.* The Merger Agreement has been duly and validly authorized, executed and delivered by the Company and is a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except as the enforcement thereof may be limited by the Bankruptcy Exceptions. The Merger Agreement conforms in all material respects to the description thereof in each of the Disclosure Package and the Prospectus.

(k) *No Violation or Default.* None of the Company nor any Subsidiary is, or immediately after giving effect to the Transactions will be, (A) in violation of its charter, bylaws or other constitutive documents, (B) in default (or, with notice or lapse of time or both, would be in default) in the performance or observance of any obligation, agreement, covenant or condition contained in any bond, debenture, note, indenture, mortgage, deed of trust, loan or credit agreement, lease, license, franchise agreement, authorization, permit, certificate or other agreement or instrument to which the Company or any Subsidiary is a party or by which any of them is bound or to which any of their assets or properties is subject (collectively, "**Agreements and Instruments**"), or (C) except as set forth in each of the Disclosure Package and the Prospectus, in violation of any law, statute, rule or regulation or any judgment, order or decree of any domestic or foreign court or other governmental or regulatory authority, agency or other body with jurisdiction over any of them or any of their assets or properties ("**Governmental Authority**") including, without limitation, the Communications Act of 1934 (the "**Communications Act**") and the rules and regulations of the Federal Communications Commission (the "**FCC**"), except, in the case of clauses (B) and (C), for such defaults or violations as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Except as set forth in each of the Disclosure Package and the Prospectus, the Company and the Subsidiaries possess all licenses, permits, approvals, registrations and other authorizations from the FCC and foreign regulatory bodies necessary to the conduct of its business (the "**Communications Licenses**"). Except as set forth in each of the Disclosure Package and the Prospectus, the Communications Licenses are in full force and effect, have not been revoked, suspended, canceled, rescinded or terminated, have not expired, and are not subject to any condition except those set forth on the Communications Licenses themselves or which are generally applicable to authorizations of such type. Except as set forth in each of the Disclosure Package and the Prospectus (i) to the best knowledge of the Company and the Subsidiaries, there is not pending any action by or before the FCC or any foreign regulatory body to revoke, suspend, cancel, rescind or materially and adversely modify any of the Communications Licenses (other than proceedings of general applicability); (ii) there is not issued or outstanding, by or before the FCC or any foreign regulatory body, any order to show cause, notice of violation, notice of apparent liability, order of forfeiture or similar notice against the Company or any of the Subsidiaries that could result in any such action; (iii) to the best knowledge of the Company, there are not pending or threatened any petitions to deny, complaints, investigations, or other proceedings by or before the FCC, any foreign regulatory body or any court of competent jurisdiction (with respect to any appeal of any decision by the FCC or a foreign regulatory body) concerning the Company or any of the Subsidiaries or the Communications Licenses that can reasonably be expected to result in a Material Adverse Effect. Except as set forth in each of the Disclosure Package and the Prospectus, the Company and the Subsidiaries have made, or have caused to be made, all reports and filings required to be filed by the Company and any of the Subsidiaries with the FCC or any foreign or international regulatory body (including, without limitation, the International Telecommunication Union), and such reports and filings have been timely filed and are accurate and complete in all material respects, except for such filings which if not made or untimely filed would not reasonably be expected to result in a Material Adverse Effect. Except as set forth in each of the Disclosure Package and the Prospectus, to the best knowledge of the Company, there exists no condition that, and after giving effect to the Merger there will exist no condition that, with notice, the passage of time or otherwise, would constitute a default under any such document or instrument described in this Section 3(k), which default could reasonably be expected to have a Material Adverse Effect.

(l) *No Conflicts*. The execution, delivery and performance of this Agreement and the Share Lending Agreement and consummation of the Transactions to which it is a party by the Company does not and will not (i) violate the charter, bylaws or other constitutive documents of the Company or any Subsidiary, (ii) conflict with or constitute a breach of or a default under (or an event that with notice or the lapse of time, or both, would constitute a default), or require consent under, or result in a Repayment Event (as defined below), other than a Repayment Event that will be satisfied at the Closing Date or as contemplated by each of the Disclosure Package and the Prospectus, or the creation or imposition of a lien, charge or encumbrance on any property or assets of the Company or Subsidiary under any of the Agreements and Instruments, to the extent a party thereto or (iii) violate any law, statute, rule or regulation, including, without limitation, Regulation T, U or X of the Board of Governors of the Federal Reserve System, or any judgment, order or decree of any Governmental Authority. No consent, approval, authorization or order of, or filing, registration, qualification, license or permit of or with, any Governmental Authority is required to be obtained or made by the Company or any Subsidiary for the execution, delivery and performance by Company or any Subsidiary of this Agreement and the Share Lending Agreement and the consummation of the Transactions, except such as have been or will be obtained or made on or prior to the Closing Date.

(m) *No Consents or Waivers*. No consents or waivers from any other person or entity are or will be required for the execution, delivery and performance of this Agreement and the Share Lending Agreement and the consummation of the Transactions, other than the registration of the Borrowed Shares under the Securities Act, such consents, approvals, authorizations, orders and registrations or qualifications as may be required under applicable state securities laws in connection with the purchase and distribution of the Borrowed Shares by the Underwriters and such consents and waivers as have been obtained or will be obtained prior to the Closing Date and will be in full force and effect. As used herein, a "**Repayment Event**" means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any Subsidiary.

(n) *Company's Independent Accountants.* Ernst & Young LLP, the public accountants whose report is included or incorporated by reference in each of the Disclosure Package and the Prospectus with respect to the Company and the Subsidiaries, are independent within the meaning of the Act and the rules of the Public Company Accounting Oversight Board. The historical financial statements (including the notes thereto) of the Company and the Subsidiaries included or incorporated by reference in each of the Disclosure Package and the Prospectus present fairly in all material respects the consolidated financial position, results of operations, cash flows and changes in stockholder's equity of the entities to which they relate at the respective dates and for the respective periods indicated. All such financial statements have been prepared in accordance with generally accepted accounting principles in the United States ("**GAAP**") applied on a consistent basis throughout the periods presented (except as disclosed therein) and in compliance with Regulation S-X ("**Regulation S-X**") under the Exchange Act, except that the interim financial statements do not include full footnote disclosure. Except as may otherwise be indicated in the Disclosure Package and the Prospectus, the information set

forth under the caption "Summary — Summary historical and pro forma consolidated financial data of Sirius" and "—Unaudited pro forma condensed combined financial statements" included in each of the Disclosure Package and the Prospectus have been prepared on a basis consistent with that of the audited financial statements of the Company.

(o) *No Material Adverse Change*. Since the date as of which information is given in each of the Disclosure Package and the Prospectus, except as set forth or contemplated in each of the Disclosure Package and the Prospectus, (A) none of the Company or any Subsidiary has (1) incurred any liabilities or obligations, direct or contingent, that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, or (2) entered into any material transaction not in the ordinary course of business, (B) there has not been any event or development in respect of the business or condition (financial or other) of the Company or any Subsidiary that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, (C) there has been no dividend or distribution of any kind declared, paid or made by the Company on any of its equity interests and (D) there has not been any material change in the long-term debt of the Company or any Subsidiary.

(p) *Pro Form Financials*. The unaudited pro forma financial statements (including the notes thereto) (A) comply as to form in all material respects with the applicable requirements of Regulation S-X, (B) have been prepared in accordance with the Commission's rules and guidelines with respect to pro forma financial statements and (C) have been properly computed on the bases described therein. The assumptions used in the pro forma and as adjusted financial information included in each of the Disclosure Package and the Prospectus are reasonable, and the adjustments used therein are appropriate to give effect to the transactions or circumstances referred to therein.

(q) *Statistical Data and Forward-Looking Statements*. The statistical and market-related data and forward-looking statements included in each of the Disclosure Package and the Prospectus are based on or derived from sources that the Issuers believe to be reliable and accurate in all material respects and represent their good faith estimates that are made on the basis of data derived from such sources. The Company has obtained the written consent to the use of such data from such sources to the extent required.

(r) *Legal Proceedings*. Except as set forth in each of the Disclosure Package and the Prospectus, there is (A) no action, suit or proceeding before or by any Governmental Authority or arbitrator, now pending or, to the knowledge of the Company, threatened or contemplated, to which the Company or any Subsidiary is or may be a party or to which the business, assets or property of the Company or any Subsidiary is or may be subject, (B) no law, statute, rule or regulation that has been enacted, adopted or issued or, to the knowledge of the Issuers, that has been proposed by any Governmental Authority, (C) no judgment, decree or order of any Governmental Authority that, in any of clause (A), (B) or (C), could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(s) *Labor*. Except as could not reasonably be expected to have a Material Adverse Effect, no labor disturbance by the employees of the Company or any Subsidiary exists or, to the knowledge of the Company, is imminent.

(t) *Environmental Laws.* None of the Company or any of the Subsidiaries has, or immediately after giving effect to the Merger will have, violated any environmental, safety or similar law or regulation applicable to it or its business or property relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants ("**Environmental Laws**"), lacks or immediately after giving effect to the Merger will lack, any permit, license or other approval required of it under applicable Environmental Laws, is violating or immediately after giving effect to the Merger will be violating, any term or condition of such permit, license or approval or is subject to any pending or threatened liability under the Environmental Laws which could reasonably be expected to, either individually or in the aggregate, have a Material Adverse Effect.

(u) *Licenses and Permits*. Each of the Company and the Subsidiaries have, and immediately after giving effect to the Merger will have, except as set forth in each of the Disclosure Package and the Prospectus (A) all licenses, certificates, permits, authorizations, approvals, franchises and other rights from, and has made all declarations and filings with, all applicable Governmental Authorities and all self-regulatory authorities (each, an "**Authorization**") necessary to engage in the business conducted by it in the manner described in each of the Disclosure Package and the Prospectus, except where the failure to hold such Authorizations could not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect, and (B) no reason to believe that any Governmental Authority or self-regulatory authority is considering or threatening limiting, suspending or revoking any such Authorization, except where such limitation, suspension or revocation could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as set forth in each of the Disclosure Package and the Prospectus, all such Authorizations are, and immediately after giving effect to the Merger will be, valid and in full force and effect, and the Company and the Subsidiaries are, and immediately after giving effect to the Merger will be, in compliance in all material respects with the terms and conditions of all such Authorizations and with the rules and regulations of the authorities having jurisdiction with respect to such Authorizations, except for any invalidity, failure to be in full force and effect or noncompliance with any Authorization that could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(v) *Good Title*. Each of the Company and the Subsidiaries have, and immediately after giving effect to the Merger will have, good, valid and marketable title in fee simple to all items of owned real property and valid title to all personal property owned by each of them, in each case free and clear of any pledge, lien, encumbrance, security interest or other defect or claim of any third party, except (A) such as do not materially and adversely affect the value of such property and do not materially interfere with the use made or proposed to be made of such property by the Company or such Subsidiary, (B) liens described in each of the Disclosure Package and the Prospectus, (C) as created pursuant to the Indenture and (D) liens permitted by the Indenture and Sirius Existing Security Agreements. Any real property, personal property and buildings held under lease by the Company or any such Subsidiary are, and after immediately after giving effect to the Merger will be, held under valid, subsisting and enforceable leases, with such exceptions as do not materially interfere with the use made or proposed to be made of such property and buildings by the Company or such Subsidiary.

(w) *Intellectual Property*. Each of the Company and each Subsidiary owns, possesses or has the right to employ, and immediately after giving effect to the Merger will own, possess or have the right to employ all patents, patent rights, licenses (including all FCC, state, local or other regulatory licenses) inventions, copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks and trade names, (collectively, the "**Intellectual Property**") necessary to conduct the businesses operated by it or that are proposed to be operated by it, including after giving effect to the Merger, as described in each of the Disclosure Package and the Prospectus, except where the failure to own, possess or have the right to employ such Intellectual Property, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. None of the Company nor any Subsidiary has received any notice of infringement of or conflict with (and neither knows of any such infringement or a conflict with) asserted rights of others with respect to any of the foregoing that could reasonably be expected to have a Material Adverse Effect. The use of the Intellectual Property in connection with the business and operations of the Company and the Subsidiaries does not infringe, and immediately after giving effect to the Merger will not infringe, on the rights of any person, except for such infringement as could not reasonably be expected to have a Material Adverse Effect.

(x) *Taxes*. All tax returns required to be filed by the Company or any Subsidiary have been filed in all jurisdictions where such returns are required to be filed; and all taxes, including withholding taxes, value added and franchise taxes, penalties and interest, assessments, fees and other charges due or claimed to be due from such entities or that are due and payable have been paid, other than those being contested in good faith and for which reserves have been provided in accordance with GAAP or those currently payable without penalty or interest and except where the failure to make such required filings or payments could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(y) *ERISA*. Neither the Company nor any Subsidiary has, or after giving effect to the Merger will have, any liability for any prohibited transaction or accumulated funding deficiency (within the meaning of Section 412 of the Internal Revenue Code) or any complete or partial withdrawal liability with respect to any pension, profit sharing or other plan which is subject to the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), to which the Company or any Subsidiary makes or ever has made a contribution and in which any employee of the Company or any Subsidiary is or has ever been a participant. With respect to such plans, each of the Company and each Subsidiary is, and immediately after giving effect to the Merger will be, in compliance in all material respects with all applicable provisions of ERISA.

(z) *Investment Company Act.* None of the Company nor any Subsidiary is, or after giving effect to the Transactions will be, required to be registered as an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

(aa) *Internal Controls.* The Company and the Subsidiaries maintain, and immediately after giving effect to the Merger will maintain, a system of internal accounting controls sufficient to provide reasonable assurance that: (A) transactions are executed in accordance with management's general or specific authorizations; (B) transactions are recorded as necessary to permit preparation of their financial statements in conformity with GAAP and to maintain accountability for assets; (C) access to assets is permitted only in accordance with management's

general or specific authorization; and (D) the recorded accountability for their assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(bb) *Disclosure Controls and Procedures.* The Company and the Subsidiaries have established and maintain, and immediately after giving effect to the Merger will maintain, disclosure controls and procedures (as such term is defined in Rules 13a-15 and 15d-14 under the Exchange Act); such disclosure controls and procedures are designed to ensure that material information relating to the Company and the Subsidiaries is made known to the chief executive officer and chief financial officer of the Company by others within the Company or any Subsidiary, and such disclosure controls and procedures are reasonably effective to perform the functions for which they were established subject to the limitations of any such control system; the Company's auditors and the audit committee of the board of directors of the Company have been advised of: (A) any significant deficiencies in the design or operation of internal controls which could adversely affect the Company's ability to record, process, summarize, and report financial data; and (B) any fraud, whether or not material, that involves management or other employees who have a role in the Company's internal controls; and since the date of the most recent evaluation of such disclosure controls and procedures, there have been no significant changes in internal controls or in other factors that could significantly affect internal controls. The Company has provided or made available to the Underwriters or their counsel true and complete copies of all existent minutes or draft minutes of meetings, or resolutions adopted by written consent, of the boards of directors of the Company and each committee of each such board in the past three years, and all agendas for each such meeting for which minutes or draft minutes do not exist.

(cc) *No Broker's Fees*. Except as described in the section entitled "Underwriting" in each of the Disclosure Package and the Prospectus, there are no contracts, agreements or understandings between the Company or any Subsidiary and any other person other than the Underwriters pursuant to this Agreement that would give rise to a valid claim against the Company, any such Subsidiary or any of the Underwriters for a brokerage commission, finder's fee or like payment in connection with the issuance, purchase and sale of the Securities.

(dd) *Sarbanes-Oxley*. There is and has been no failure on the part of the Company and any of the Company's directors or officers, in their capacities as such, to comply in all material respects with any presently applicable provision of the Sarbanes Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the "**Sarbanes Oxley Act**"), including Section 402 related to loans and Sections 302 and 906 related to certifications.

(ee) *Listing*. The issued and outstanding Stock, including the Shares, has been listed for quotation on The NASDAQ National Market. The Company has not received any notice from the NASDAQ regarding the delisting of the Common Stock from the NASDAQ;

(ff) *No Stabilization*. The Company has not taken, directly or indirectly, any action designed to, or that could reasonably be expected to, cause or result in any stabilization or manipulation of the price of the Borrowed Shares.

4. [Reserved.]

5. Further Agreements of the Company. The Company covenants and agrees with the Underwriter that:

(a) *Prospectus*. The Company will file the final Prospectus with the Commission within the time periods specified by Rule 424(b) and Rule 430A under the Securities Act and will file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus (or in lieu thereof the notice referred to in Rule 173(a) of the Securities Act) is required in connection with Offering; and the Company will furnish copies of the Prospectus to the Underwriters in New York City prior to 10:00 a.m., New York City time, on the business day next succeeding the date of this Agreement in such quantities as the Underwriters may reasonably request.

(b) *Free Writing Prospectuses*. The Company will obtain the Representatives' consent before taking, or failing to take, any action that would cause the Company to make an offer of any of the Initial Hedging Shares or the Hedging Reserve Shares that would constitute an issuer free writing Prospectus or to be required to file a free writing prospectus pursuant to Rule 433(d) of the Securities Act and the rules and regulations of the Commission thereunder, other than the issuer free writing prospectuses, if any, listed on Schedule II hereto. The Company will not take any action that would result in the Underwriters being required to file with the Commission pursuant to Rule 433(d) of the Securities Act and the rules and regulations of the Commission thereunder a free writing prospectus prepared by or on behalf of any of the Underwriters that the Underwriters otherwise would not have been required to file thereunder.

(c) *Delivery of Copies*. The Company will deliver to each of the Underwriters during the Prospectus Delivery Period (as defined below) as many copies of the Initial Time of Sale Prospectus and the Prospectus (including all amendments and supplements thereto and documents incorporated by reference therein) as such Underwriter may reasonably request. As used herein, the term "**Prospectus Delivery Period**" means such period of time after the first date of the public offering of the Borrowed Shares as in the opinion of counsel for the Representatives a prospectus (or in lieu thereof the notice referred to in Rule 173(a) of the Securities Act) relating to the Borrowed Shares is required by law to be delivered in connection with sales of the Borrowed Shares by the Underwriters or any dealer.

(d) *Amendments or Supplements*. Before filing any amendment or supplement to the Registration Statement, the Disclosure Package or the Prospectus, the Company will furnish to the Representatives and counsel for the Underwriters a copy of the proposed amendment or supplement for review, and will not file any such proposed amendment or supplement to which the Representatives reasonably object.

(e) *Notice to the Underwriters.* The Company will advise the Underwriters promptly, and confirm such advice in writing, (i) when any amendment to the Registration Statement has been filed or becomes effective; (ii) when any supplement or any amendment to the Prospectus has been filed; (iii) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Initial Time of Sale Prospectus or the Prospectus or the receipt of any comments from the Commission relating to the Registration

Statement or any other request by the Commission for any additional information; (iv) of the issuance by the Commission of any order suspending the effectiveness of the Registration Statement or preventing or suspending the use of the Initial Time of Sale Prospectus or the Prospectus or the initiation or threatening of any proceeding for that purpose; (v) of the occurrence of any event within the Prospectus Delivery Period as a result of which the Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus is delivered to a purchaser, not misleading; and (vi) of the receipt by the Company of any notice with respect to any suspension of the qualification of the Borrowed Shares for offer and sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; and the Company will use its reasonable efforts to prevent the issuance of any such order suspending the effectiveness of the Registration Statement, preventing or suspending the use of the Initial Time of Sale Prospectus or the Prospectus or suspending any such qualification of the Borrowed Shares and, if any such order is issued, will obtain as soon as possible the withdrawal thereof.

(f) *Ongoing Compliance of the Initial Time of Sale Prospectus*. If during the Prospectus Delivery Period, the Time of Sale Prospectus is being used to solicit offers to buy Borrowed Shares at a time when the Prospectus is not yet available to prospective purchasers (i) any event shall occur or condition shall exist as a result of which the Initial Time of Sale Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances, not misleading or (ii) it is necessary to amend or supplement the Initial Time of Sale Prospectus to comply with law, the Company will immediately notify the Underwriter thereof and forthwith prepare and, subject to paragraph (c) above, file with the Commission and furnish to the Underwriters and to such dealers as the Representatives may designate, such amendments or supplements to the Initial Time of Sale Prospectus as may be necessary so that the statements in the Initial Time of Sale Prospectus as so amended or supplemented will not, in the light of the, be misleading or so that the Initial Time of Sale Prospectus as so amended or supplemented will comply with law.

(g) *Ongoing Compliance of the Prospectus*. If during the Prospectus Delivery Period (i) any event shall occur or condition shall exist as a result of which the Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) of the Securities Act) is delivered to a purchaser, not misleading or (ii) it is necessary to amend or supplement the Prospectus to comply with law, the Company will immediately notify the Underwriter thereof and forthwith prepare and, subject to paragraph (c) above, file with the Commission and furnish to the Underwriter and to such dealers as the Underwriter may designate, such amendments or supplements to the Prospectus as may be necessary so that the statements in the Prospectus as so amended or supplemented will not, in the light of the circumstances existing when the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) of the Securities Act) is delivered to a purchaser, be misleading or so that the Prospectus will comply with law.

(h) *Securities Laws Compliance.* During the Prospectus Delivery Period, the Company will comply, at its own expense, with all requirements imposed by the Securities Act and the Exchange Act, as now and hereafter amended, and by the rules and regulations of the Commission thereunder, as from time to time in force, as necessary to permit the continuance of sales of or dealing in the Borrowed Shares during such period in accordance with the provisions hereof and as contemplated by the Prospectus.

(i) *Blue Sky Compliance*. The Company will qualify the Borrowed Shares for offer and sale under the securities or Blue Sky laws of such jurisdictions as the Representatives shall reasonably request and will continue such qualifications in effect so long as required for distribution of the Borrowed Shares; provided that the Company shall not be required to (i) qualify as a foreign corporation or other entity or as a dealer in securities in any such jurisdiction where it would not otherwise be required to so qualify, (ii) file any general consent to service of process in any such jurisdiction or (iii) subject itself to taxation in any such jurisdiction if it is not otherwise so subject.

(j) *Earnings Statement*. The Company will make generally available to its security holders and the Underwriter as soon as practicable an earning statement that satisfies the provisions of Section 11(a) of the Securities Act and Rule 158 of the Commission promulgated thereunder covering a period of at least twelve months beginning with the first fiscal quarter of the Company occurring after the "effective date" (as defined in Rule 158) of the Registration Statement.

(k) *Lock-up*. For a period of 90 days after the Initial Closing Date, the Company will not (i) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of, directly or indirectly, any shares of Stock or any securities convertible into or exercisable or exchangeable for Stock other than the Exchangeable Notes or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Stock, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Stock or such other securities, in cash or otherwise, without the prior written consent of the Representatives, other than the Stock to be sold hereunder and any shares of Stock issued upon the exercise of options granted under existing employee stock option plans, outstanding convertible and equity-linked securities (including securities issued by XM Satellite and XM Holdings), or pursuant to the Merger or the Exchangeable Notes offering.

(l) *Expiration of Shelf Registration Statement.* If the third anniversary of the initial effective date of the Registration Statement occurs before all the Borrowers Shares have been sold by the Underwriters, prior to the third anniversary to file a new shelf registration statement and to take any other action necessary to permit the public offering of the Borrowed Shares to continue without interruption; references herein to the Registration Statement shall include the new registration statement effective with the Commission.

(m) *Press Releases.* During the period ending on the earlier of (i) the date that all of the Hedging Reserve Shares have been sold by the Underwriters to the public and (ii) the later of the Final Borrowing Dates (as such dates are defined in the Share Lending Agreements) (the

"**Additional Offering Period**"), except as required by law, the Company will issue no press release or other broadly-disseminated communication, and will hold no press conferences with respect to (i) the Initial Hedging Shares or the Hedging Reserve Shares, without the Representatives' prior written consent, which consent may be by e-mail (and which will not be unreasonably withheld) or (ii) the financial condition or results of operations of the Company or any of its Subsidiaries, or any material acquisition or disposition by the Company or any of its Subsidiaries, without notifying the Representatives of such disclosure prior to issuing any press release or other broadly-disseminated communication or holding any press conference, and, to the extent reasonably practicable, the Company will permit the Representatives to comment on any such press release or other broadly-disseminated communication. In the event that any such disclosure is required by law, the Company will promptly notify the Representatives of such required disclosure prior to issuing any press release or other broadly-disseminated communication or holding any press conference, and, to the extent reasonably practicable, the Company will permit the Representatives to comment on any such press release or other broadly-disseminated communication.

(n) *Due Diligence Meetings*. During the Additional Offering Period, the Company will cause the chief financial officer and the general counsel of the Company to participate in weekly telephonic due diligence sessions with the Representatives and their counsel.

(o) *Bring-downs*. During the Additional Offering Period, on each date after the Initial Closing Date on which the Registration Statement or Prospectus is amended or supplemented, the Company will deliver or cause to be delivered to the Representatives upon their reasonable request (provided such request does not create undue disruption or expense for the Company): (i) supplemental opinions and/or negative assurance letters, as applicable, confirming as of such date the opinions and/or letters delivered on the Initial Closing Date pursuant to Section 7(g) hereof of Simpson Thacher & Bartlett LLP, Skadden, Arps, Slate, Meagher & Flom LLP, Hogan & Hartson LLP and Wiley Rein LLP, (ii) in the case of an amendment or supplement to the Registration Statement or Prospectus because of new or updated financial or accounting information (including the filing of a quarterly report on Form 10-Q), (a) supplemental letters confirming as of such date the letters delivered on the Initial Closing Date pursuant to Section 7(f) hereof of Ernst & Young LLP and KPMG LLP and (b) a supplemental officers certificate confirming as of such date the matters referred to in Section 7(e) hereof.

(p) *Regulation M Compliance*. Without the prior written consent of the Borrowers, the Company shall not, and shall cause its affiliated purchasers (as defined in Regulation M under the 1934 Act) not to, directly or indirectly (including, without limitation, by means of a derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any shares of Stock (or equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable for shares of Stock until the Hedging Reserve Termination Date (as defined in Section 8 hereof).

(q) *Listing*. The Company will use its reasonable efforts to obtain approval for, and maintain the listing of the Borrowed Shares for trading on, the Nasdaq Global Select Market.

(r) *No Stabilization*. The Company will not take, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Shares.

6. [Reserved.]

7. Conditions of Underwriter's Obligations. The obligation of the Underwriters to purchase the Initial Hedging Shares on the Initial Closing Date as provided herein is subject to the performance by the Company of its respective covenants and other obligations hereunder and to the following additional conditions:

(a) *No Stop Order*. No order suspending the effectiveness of the Registration Statement shall be in effect, and no proceeding for such purpose shall be pending before or threatened by the Commission; the Prospectus and each issuer free writing prospectus, if any, shall have been timely filed with the Commission under the Securities Act and in accordance with Section 5(a) hereof; and all requests by the Commission for additional information shall have been complied with to the reasonable satisfaction of the Underwriter.

(b) *Representations and Warranties*. The respective representations and warranties of the Company contained herein shall be true and correct on the date hereof and on and as of the Initial Closing Date; and the statements of the Company and its officers made in any certificate delivered pursuant to this Agreement shall be true and correct on and as of the Initial Closing Date.

(c) *No Downgrade.* Subsequent to the execution and delivery of this Agreement and prior to the Initial Closing Date, (i) no downgrading shall have occurred in the rating accorded any securities or preferred stock issued or guaranteed by the Company by any "nationally recognized statistical rating organization", as such term is defined by the Commission for purposes of Rule 436(g)(2) under the Securities Act; and (ii) no such organization shall have publicly announced that it has under surveillance or review, or has changed its outlook with respect to, its rating of any securities or preferred stock issued or guaranteed by the Company (other than an announcement with positive implications of a possible upgrading).

(d) *No Material Adverse Change*. Subsequent to the execution and delivery of this Agreement and prior to the Initial Closing Date, no event or condition of a type described in Section 3(o) hereof shall have occurred or shall exist, which event or condition is not described in the Prospectus (excluding any amendment or supplement thereto) and the effect of which in the judgment of the Underwriter makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Initial Hedging Shares on the Initial Closing Date on the terms and in the manner contemplated by this Agreement and the Prospectus.

(e) *Officer's Certificate*. The Representatives shall have received on and as of the Initial Closing Date a certificate of an executive officer of the Company who has specific knowledge of the Company's financial matters and is satisfactory to the Representatives (A) confirming that such officer has carefully reviewed the Registration Statement, the Disclosure Package and the Prospectus and, to the best knowledge of such officer, the representation of the Company set forth in Section 3(a) hereof is true and correct, (B) confirming that the other

representations and warranties of the Company in this Agreement are true and correct and that the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to the Initial Closing Date and (C) to the effect set forth in paragraphs (a), (c) and (d) of this Section 7.

(f) *Comfort Letters.* At the time of execution of this Agreement, Ernst & Young LLP, with respect to the Company, and KPMG LLP, with respect to XM Satellite, shall each have furnished to the Underwriters, a letter, dated the date hereof and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, containing statements and information of the type customarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained or incorporated by reference in the Registration Statement, the Initial Time of Sale Prospectus and the Prospectus; provided that each such letter shall use a "cut-off" date no more than three business days prior to the date hereof. On the Initial Closing Date, the Underwriters shall have received from each of Ernst & Young LLP and KPMG LLP a letter, dated the Initial Closing Date and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, to the effect that they reaffirm the statements in the letter furnished pursuant to the immediately preceding sentence; provided that each such letter shall use a "cut-off" date no more than three business days prior to the Initial Closing Date.

(g) *Opinions of Counsel for the Company and XM Satellite*. The Underwriters shall have received on the Initial Closing Date (i) a negative assurance letter dated the Initial Closing Date, addressed to the Underwriters, of Skadden, Arps, Slate, Meagher & Flom LLP, counsel to XM Satellite, substantially in the form of Exhibit A-1 attached hereto, (ii) an opinion and negative assurance letter each dated the Initial Closing Date, addressed to the Underwriters, of Hogan & Hartson L.L.P., regarding regulatory matters, substantially in the form of Exhibit A-2 attached hereto, (iii) an opinion and negative assurance letter each dated the Initial Closing Date, addressed to the Underwriters, of Simpson Thacher & Bartlett LLP, counsel to the Company, substantially in the form of Exhibit A-3 attached hereto and (iv) an opinion dated the Initial Closing Date, addressed to the Underwriters, of Wiley Rein LLP, regarding regulatory matters, substantially in the form of Exhibit A-4 attached hereto.

(h) *Opinion of Counsel for the Underwriters.* The Underwriters shall have received on and as of the Initial Closing Date an opinion of Latham & Watkins LLP, counsel for the Underwriters, substantially in the form of Exhibit B attached hereto, and such counsel shall have received such documents and information as they may reasonably request to enable them to pass upon such matters.

(i) *CFO Certificate*. On the date hereof, the Underwriters shall have received a certification from David J. Frear Executive Vice President and Chief Financial Officer of Sirius (the "CFO Certification") regarding financial information contained in the Disclosure Package in form and substance satisfactory to the Underwriters and counsel to the Underwriters, dated the date of this Agreement. In addition, on the Initial Closing Date, the Underwriters shall have received a bring-down certificate of the CFO Certification dated the Initial Closing Date in form and substance satisfactory to the Underwriters and counsel to the Underwriters.

(j) [Reserved.]

(k) *No Legal Impediment to Sale*. No action shall have been taken and no statute, rule, regulation or order shall have been enacted, adopted or issued by any federal, state or foreign governmental or regulatory authority that would, as of the Initial Closing Date, prevent the sale of the Borrowed Shares; and no injunction or order of any federal, state or foreign court shall have been issued that would, as of the Initial Closing Date, prevent the sale of the Borrowed Shares.

(l) *Exchangeable Notes Offering*. At the Initial Closing Date, the offering of the Exchangeable Notes shall have been consummated on the terms and conditions described in the Initial Time of Sale Prospectus and the Prospectus.

(m) *Merger*. At the Initial Closing Date, the Merger shall have been consummated and the Representatives shall have received evidence of such consummation.

(n) *Share Lending Agreements.* The Company shall have complied with all of its obligations under each of the Share Lending Agreements in all material respects; no event or circumstance shall exist that would permit, with the giving of notice, the lapse of time or both, the early termination of the Share Lending Agreements by the Company or the Borrowers; and each of the Share Lending Agreements shall be in full force and effect.

(o) *Additional Documents.* On or prior to the Closing Date, the Company shall have furnished to the Underwriter and the Selling Stockholders such further certificates and documents as the Underwriter may reasonably request.

All opinions, letters, certificates and evidence mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Underwriter.

8. Indemnification and Contribution.

(a) *Indemnification of the Underwriter by the Company.* The Company agrees to indemnify and hold harmless the Underwriters and the Share Borrowers, their respective affiliates, directors and officers and each person, if any, who controls each of the Underwriters or the Share Borrowers within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages and liabilities (including, without limitation, legal fees and other expenses reasonably incurred in connection with any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred), joint or several, that arise out of, or are based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in (A) the Registration Statement, any preliminary prospectus, the Prospectus or any issuer free writing prospectus or in any "issuer information" (as defined in Rule 433(d) of the Securities Act) that the Company has filed or is required to file pursuant to Rule 433(d) of the Securities Act relating to the Borrowed Shares (or any amendment or supplement to any of the foregoing), or (B) any other materials or information provided to investors by, or with the approval of, the Company in connection with the Offering, including in any "road show" (as defined in Rule 433 under the Securities Act) ("**Marketing Materials**") or (ii) any omission or alleged omission to state therein, when read together with the Registration Statement and the Prospectus, a material fact required to be stated therein or necessary in order

to make the statements therein, in the light of the circumstances under which they were made, not misleading, except insofar as such losses, claims, damages or liabilities arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to the Underwriters or the Borrowers furnished to the Company by the Representatives expressly for use therein, it being understood and agreed that the only such information furnished by the Representatives consists of the information provided in any letter dated the date hereof from the Representatives specify such information.

(b) *Indemnification of the Company.* The Underwriters and the Borrowers each agrees to indemnify and hold harmless the Company, its directors, its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the indemnity set forth in paragraph (a) above, but only with respect to any losses, claims, damages or liabilities that arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to the Underwriters or the Borrowers furnished to the Company in writing by the Representatives expressly for use in the Registration Statement, any preliminary prospectus, or the Prospectus (or any amendment or supplement to any of the foregoing) (or any amendment or supplement thereto).

(c) *Notice and Procedures*. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any person in respect of which indemnification may be sought pursuant to the preceding paragraphs of this Section 8, such person (the "**Indemnified Person**") shall promptly notify the person against whom such indemnification may be sought (the "**Indemnifying Person**") in writing; provided that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have under this Section 8 except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided, further, that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have to an Indemnified Person otherwise than under this Section 8. If any such proceeding shall be brought or asserted against an Indemnified Person and it shall have notified the Indemnifying Person thereof, the Indemnifying Person shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others entitled to indemnification pursuant to this Section 8 that the Indemnifying Person may designate in such proceeding and shall pay the reasonable fees and expenses of such counsel related to such proceeding, as incurred. In any such proceeding, any Indemnified Person shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Person unless (i) the Indemnifying Person and the Indemnified Person shall have mutually agreed to the contrary; (ii) the Indemnifying Person has failed within a reasonable time to retain counsel reasonably satisfactory to the Indemnified Person; (iii) the Indemnified Person shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Indemnifying Person; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the Indemnifying Person and the Indemnified Person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood and agreed that the Indemnifying Person shall not, in connection with any proceeding

or related proceeding in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all Indemnified Persons, and that all such fees and expenses shall be reimbursed as they are incurred. Any such separate firm for the Underwriters, its affiliates, directors and officers and any control persons of the Underwriters shall be designated in writing by the Representatives; any such separate firm for the Company, its directors, its officers who signed the Registration Statement and any control persons of the Company shall be designated in writing by the Company. The Indemnifying Person shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the Indemnifying Person agrees to indemnify each Indemnified Person from and against any loss or liability by reason of such settlement or judgment. No Indemnifying Person shall, without the written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Person is or could have been a party and indemnification could have been sought hereunder by such Indemnified Person, unless such settlement (x) includes an unconditional release of such Indemnified Person, in form and substance reasonably satisfactory to such Indemnified Person, from all liability on claims that are the subject matter of such proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

(d) *Contribution*. If the indemnification provided for in paragraphs (a) and (b) above is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each Indemnifying Person under such paragraph, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities in such proportion as is appropriate to reflect the relative fault of the Company, on the one hand, and the Underwriters and the Borrowers, on the other, in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative fault of the Company, on the one hand, and the Underwriters and the Borrowers, on the other hand, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company, on the one hand, or by the Underwriters and the Borrowers, on the other hand, and the parties' intent and relative, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) *Limitation on Liability*. The Company, the Selling Stockholders and the Underwriter agree that it would not be just or equitable if contribution pursuant to this Section 8 were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (d) above. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages and liabilities referred to in paragraph (d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such Indemnified Person in connection with any such action or claim. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(f) *Non-Exclusive Remedies*. The remedies provided for in this Section 8 are not exclusive and shall not limit any rights or remedies that may otherwise be available to any Indemnified Person at law or in equity.

9. Termination. This Agreement may be terminated in the absolute discretion of the Representatives, by notice to the Company, if after the execution and delivery of this Agreement and prior to the Initial Closing Date (i) trading generally shall have been suspended or materially limited on or by any of the New York Stock Exchange, the National Association of Securities Dealers, Inc. or in any over-the-counter market; (ii) trading of any securities issued or guaranteed by the Company shall have been suspended on any exchange or in any over-the-counter market; (iii) a general moratorium on commercial banking activities shall have been declared by federal or New York State authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States; or (iv) there shall have occurred any outbreak or escalation of hostilities or any change in financial markets or any calamity or crisis, either within or outside the United States, that, in the judgment of the Representatives, is material and adverse and makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Borrowed Shares on the Initial Closing Date on the terms and in the manner contemplated by this Agreement and the Prospectus.

Following the Initial Closing Date, this Agreement shall expire on the close of business on the last day of the Additional Offering Period (such date and time, the "**Hedging Reserve Termination Date**").

10. Payment of Expenses. (a) Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, the Company agrees to pay or cause to be paid all costs and expenses incident to the performance of its obligations hereunder, including, without limitation, (i) the costs incident to the preparation, printing and filing under the Securities Act of the Registration Statement, any preliminary prospectus, the Prospectus and any free writing prospectus (including all exhibits, amendments and supplements thereto) and the distribution thereof to the Underwriters; (ii) the costs of reproducing and distributing this Agreement and the documentation related hereto; (iii) the fees and expenses incurred in connection with the registration or qualification and determination of eligibility for investment of the Borrowed Shares under the laws of such jurisdictions as the Representatives may designate and the preparation, printing and distribution of a Blue Sky Memorandum (including the related fees and expenses of counsel for the Underwriters); (iv) the fees and expenses of the Company's counsel and independent accountants in connection with this Agreement; (v) the costs and charges of any transfer agent or any registrar; and (vi) the costs related to the transfer and delivery of the Borrowed Shares to the Underwriters, including any transfer or other taxes payable thereon.

(a) It is understood that the Underwriters will pay all of their costs and expenses, including fees and expenses of their counsel, transfer taxes payable upon resale of any of the Borrowed Shares by them and any advertising expenses incurred in connection with any of the resale offers it may make.

(b) If (i) this Agreement is terminated pursuant to Section 9 or (ii) the Underwriters decline to purchase the Shares because of any refusal, inability or failure on the part of the

Company to satisfy any condition to the obligations of the Underwriters set forth in this Agreement to be satisfied or because of any refusal, inability or failure on the part of the Company to perform any agreement in this Agreement or comply with any provision of this Agreement, the Company agrees to reimburse the Underwriters for all out-of-pocket costs and expenses (including the reasonable fees and expenses of their counsel) reasonably incurred by the Underwriters in connection with this Agreement and the Offering.

11. Persons Entitled to Benefit of Agreement. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and any controlling persons referred to herein, and the affiliates, officers and directors of the Underwriters referred to in Section 8 hereof. Nothing in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein. No purchaser of Borrowed Shares from the Underwriters shall be deemed to be a successor merely by reason of such purchase.

12. Survival. The respective indemnities, rights of contribution, representations, warranties and agreements of the Company, the Borrowers and the Underwriters contained in this Agreement or made by or on behalf of the Company, the Borrowers or the Underwriters pursuant to this Agreement or any certificate delivered pursuant hereto shall survive the delivery of and payment for the Borrowed Shares and shall remain in full force and effect, regardless of any termination of this Agreement or any investigation made by or on behalf of the Company, the Borrowers or the Underwriter.

13. Certain Defined Terms. For purposes of this Agreement, (a) except where otherwise expressly provided, the term "affiliate" has the meaning set forth in Rule 405 under the Securities Act; (b) the term "business day" means any day other than a day on which banks are permitted or required to be closed in New York City; and (c) the term "subsidiary" has the meaning set forth in Rule 405 under the Securities Act.

14. Miscellaneous. (a) *Notices*. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted and confirmed by any standard form of telecommunication. Notices to the Underwriters shall be given to them Morgan Stanley & Co Incorporated, 1585 Broadway, New York, New York 10036 fax number: 212-761-0538, Attention: GCM Syndicate Desk) and UBS Securities LLC, 299 Park Avenue, New York, New York 10171 (Attention: Syndicate Desk). Notices to the Company shall be given to it at Sirius Satellite Radio Inc., 1221 Avenue of the Americas, 37th Floor, New York, NY 10020 (fax: (212) 584-5353); Attention: Patrick L. Donnelly, Executive Vice President, General Counsel and Secretary. Notices to the Borrowers shall be given to Morgan Stanley Capital Services, Inc. 1585 Broadway, New York, New York 10036 (fax number: 212-761-0538, Attention: GCM Syndicate Desk) and UBS AG, London Branch, 299 Park Avenue, New York, New York 10171 (Attention: Syndicate Desk).

(b) *Governing Law*. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

(c) *Counterparts*. This Agreement may be signed in counterparts (which may include counterparts delivered by any standard form of telecommunication), each of which shall be an original and all of which together shall constitute one and the same instrument.

(d) *Amendments or Waivers*. No amendment or waiver of any provision of this Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

(e) *Entire Agreement.* This Agreement, together with any contemporaneous written agreements and any prior written agreements (to the extent not expressly superseded by this Agreement) that relate to Offering, represents the entire agreement between the Company, on the one hand, and the Borrowers and the Underwriters, on the other, with respect to the preparation of the Registration Statement, the Disclosure Package, the Prospectus, any free writing prospectus, the conduct of the Offering and the purchase and sale of the Borrowed Shares.

(f) *No Fiduciary Duty.* The Company acknowledges that in connection with the Offering: (A) the Underwriters and the Borrowers have acted at arms length, are not agents of, and owe no fiduciary duties to, the Company or any other person, (B) the Underwriters and the Borrowers owe the Company only those duties and obligations set forth in this Agreement and prior written agreements (to the extent not superseded by this Agreement), if any, and (C) the Underwriters and the Borrowers may have interests that differ from those of the Company. The Company waives to the full extent permitted by applicable law any claims it may have against the Underwriters and the Borrowers arising from an alleged breach of fiduciary duty in connection with the Offering.

(g) *Headings*. The headings herein are included for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

[Signature page follows]

If the foregoing is in accordance with your understanding, please indicate your acceptance of this Agreement by signing in the space provided below.

Very truly yours,

SIRIUS SATELLITE RADIO INC.

By: Patrick L. Donnelly
Name: Patrick L. Donnelly
Title: Executive Vice President,
General Counsel and Secretary

Accepted as of the date hereof:

MORGAN STANLEY CAPITAL SERVICES, INC.,
as a Borrower of the Borrowed Shares

By: /s/ Alan Thomas
Name: Alan Thomas
Title: Managing Director

UBS AG, LONDON BRANCH
as a Borrower of the Borrowed Shares

By: /s/ Gordon S. Kiesling
Name: Gordon S. Kiesling
Title: Executive Director and Counsel Region Americas Legal

By: /s/ Karen A. Wendell
Name: Karen A. Wendell
Title: Executive Director Region Americas Legal

MORGAN STANLEY & CO. INCORPORATED
UBS SECURITIES LLC

Acting severally on behalf of themselves
and the several Underwriters named in Schedule I hereto.

By: Morgan Stanley & Co. Incorporated

By: /s/ John Tyree
Name: John Tyree
Title: Managing Director

By: UBS Securities LLC

By: /s/ Omar Jaffrey
Name: Omar Jaffrey
Title: Managing Director

By: /s/ Siran Tanielyan
Name: Siran Tanielyan
Title: Associate Director

Schedule I

Underwriter	Number of Borrowed Shares To Be Purchased
Morgan Stanley & Co. Incorporated	188,399,978
UBS Securities LLC	74,000,005
Total:	262,399,983

Schedule II

Free Writing Prospectuses:

1. Final Pricing Term Sheet attached hereto

SIRIUS SATELLITE RADIO INC.

Final Pricing Term Sheet

Issuer of common stock:	Sirius Satellite Radio Inc., a Delaware corporation ("Sirius").
Issue:	Common stock, $0.001 par value per share
Aggregate Number of Shares:	262,399,983
Shares Offered at Fixed Price:	183,679,988
Shares to be Offered on a Delayed Basis at Prevailing Market Prices at the Time of Sale or at Negotiated Prices:	78,719,995
Total Sirius shares outstanding at 6/30/08:	1,501,131,817
Sum of total Sirius shares outstanding at 6/30/08 and Common Stock offered:	1,763,531,800
Fixed Price for Shares in Fixed Price Offering:	$1.50 per share
Joint Underwriters:	Morgan Stanley & Co. Incorporated UBS Securities LLC
Trade Date:	July 28, 2008
Settlement Date:	August 1, 2008
Form of Offering:	Registered offering of common stock lent by Sirius to affiliates of the underwriters.
Closing Conditions:	Consummation of the offering is conditioned upon completion of the merger and the consummation of the concurrent private offering of $550 million of 7% exchangeable senior subordinated notes due 2014 issued by XM Satellite Radio Inc. and exchangeable for Sirius common stock at an exchange rate of 533.3333 shares per $1,000 principal amount of notes, as well as additional customary conditions.
Use of Proceeds:	Sirius will receive no proceeds from the offering of the shares.
Listing:	NASDAQ Global Select Market

The issuer has filed a registration statement (including prospectus) with the SEC for the offering to which this communication relates. Before you invest, you should read the prospectus in that registration statement and the other documents the issuer has filed with the SEC for more complete information about the issuer and this offering. You may get these documents for free

by visiting EDGAR on the SEC Web site at **www.sec.gov**. Alternatively, the issuer, any underwriter or any dealer participating in the offering will arrange to send you the prospectus if you request it by calling toll-free Morgan Stanley & Co. Incorporated at 1-866-718-1649 or UBS Investment Bank at (888) 827-7275.

Schedule III(a)

Pre-Merger Subsidiaries

Subsidiaries of Sirius Satellite Radio Inc.

Subsidiary	**Jurisdiction of Organization**
Satellite CD Radio, Inc.	Delaware
Sirius Asset Management Company LLC	Delaware
Sirius Entertainment Promotions LLC	Delaware
Spend LLC	Maryland
Vernon Merger Corporation	Delaware

All of these subsidiaries are wholly owned subsidiaries.

Schedule III(b)

New Subsidiaries

Subsidiaries of XM Satellite Radio Holdings Inc.

XM Satellite Radio Inc.
XM 1500 Eckington LLC
XM Orbit LLC
XM Investments LLC
XM Escrow LLC

Subsidiaries of XM Satellite Radio Inc.

XM Radio Inc.
XM Innovations Inc.
XM Equipment Leasing LLC
XM EMall Inc.
XM Capital Resources Inc.

All of these subsidiaries are organized in the State of Delaware and are wholly owned subsidiaries.

EXHIBIT 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER

I, Mel Karmazin, the Chief Executive Officer of Sirius XM Radio Inc., certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Sirius XM Radio Inc. for the period ended September 30, 2008;

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

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

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal controls over financial reporting (as defined in Exchange 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 changes in the registrant's internal controls over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (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.

By: /s/ MEL KARMAZIN
Mel Karmazin
Chief Executive Officer
(Principal Executive Officer)

November 11, 2008

EXHIBIT 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER

I, David J. Frear, the Executive Vice President and Chief Financial Officer of Sirius XM Radio Inc., certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Sirius XM Radio Inc. for the period ended September 30, 2008;

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

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

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal controls over financial reporting (as defined in Exchange 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 changes in the registrant's internal controls over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (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.

By: /s/ DAVID J. FREAR
David J. Frear
Executive Vice President and
Chief Financial Officer
(Principal Financial Officer)

November 11, 2008

EXHIBIT 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY
ACT OF 2002

In connection with the Quarterly Report of Sirius XM Radio Inc. (the "Company") on Form 10-Q for the period ended September 30, 2008 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Mel Karmazin, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ MEL KARMAZIN
Mel Karmazin
Chief Executive Officer
(Principal Executive Officer)

November 11, 2008

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

EXHIBIT 32.2

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY
ACT OF 2002

In connection with the Quarterly Report of Sirius XM Radio Inc. (the "Company") on Form 10-Q for the period ended September 30, 2008 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, David J. Frear, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ DAVID J. FREAR
David J. Frear
Executive Vice President and
Chief Financial Officer
(Principal Financial Officer)

November 11, 2008

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.