Table of Contents

**As filed with the Securities and Exchange Commission on November 9, 2011**

**Registration No. 333-**

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

---

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

---

# Vantiv, Inc.
(Exact name of registrant as specified in its charter)

| **Delaware** | **7389** | **26-4532998** |
|---|---|---|
| (State or Other Jurisdiction of Incorporation or Organization) | (Primary Standard Industrial Classification Code Number) | (I.R.S. Employer Identification Number) |

---

**8500 Governor's Hill Drive**
**Symmes Township, Ohio 45249**
**(513) 900-5250**
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

**Nelson F. Greene, Esq.**
**Chief Legal Officer and Secretary**
**8500 Governor's Hill Drive**
**Symmes Township, Ohio 45249**
**(513) 900-5250**
(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent For Service)

---

**Copies to:**

| **Alexander D. Lynch, Esq.** | **Richard J. Sandler, Esq.** |
|---|---|
| Weil, Gotshal & Manges LLP | Davis Polk & Wardwell LLP |
| 767 Fifth Avenue | 450 Lexington Avenue |
| New York, New York 10153 | New York, New York 10017 |
| (212) 310-8000 (Phone) | (212) 450-4000 (Phone) |
| (212) 310-8007 (Fax) | (212) 701-5224 (Fax) |

---

**Approximate date of commencement of proposed sale to the public:**
**As soon as practicable after the effective date of this Registration Statement.**

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

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

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

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

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.

Large accelerated filer o Accelerated filer o Non-accelerated filer ☒ Smaller reporting company o

**CALCULATION OF REGISTRATION FEE**

| Title of Each Class of Securities to be Registered | Proposed Maximum Aggregate Offering Price(1)(2) | Amount of Registration Fee |
|---|---|---|
| Class A common stock, $0.01 par value per share | $100,000,000 | $11,460 |

(1) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(o) promulgated under the Securities Act.

(2) Includes shares of Class A common stock that may be issuable upon exercise of an option to purchase additional shares granted to the underwriters.

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

Table of Contents

**The information in this prospectus is not complete and may be changed. Neither we nor the selling stockholders may sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.**

**PRELIMINARY PROSPECTUS**
**Subject to Completion, dated November 9, 2011**

**Shares**

# Class A Common Stock

---

This is an initial public offering of shares of Class A common stock of Vantiv, Inc. Vantiv, Inc. is selling shares of Class A common stock and the selling stockholders named in this prospectus are selling a total of shares of Class A common stock. Vantiv, Inc. will not receive any proceeds from the sale of Class A shares to be offered by the selling stockholders.

---

Prior to this offering, there has been no public market for the Class A common stock. It is currently estimated that the initial public offering price per share of our Class A common stock will be between $ and $ . After pricing the offering, we expect the Class A common stock will be listed on the New York Stock Exchange or NASDAQ Global Market under the symbol " ".

---

**Investing in our Class A common stock involves a high degree of risk. See "Risk Factors" beginning on page 17.**

---

| | Per Share | Total |
|---|---|---|
| Initial public offering price | $ | $ |
| Underwriting discounts and commissions | $ | $ |
| Proceeds, before expenses, to us | $ | $ |
| Proceeds, before expenses, to the selling stockholders | $ | $ |

We have granted the underwriters an option, for a period of 30 days from the date of this prospectus, to purchase up to additional shares of our Class A common stock to cover over-allotments, if any.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed on the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The underwriters expect to deliver the shares of Vantiv, Inc.'s Class A common stock to investors on or about , 2012.

**J.P. Morgan** **Morgan Stanley** **Credit Suisse**

**Goldman, Sachs & Co.** **Deutsche Bank Securities**

---

**Citigroup** **UBS Investment Bank** **Jefferies**

**Raymond James** **William Blair & Company** **Wells Fargo Securities**

, 2012

## TABLE OF CONTENTS


| | Page |
|---|---|
| Summary | 1 |
| Risk Factors | 17 |
| Forward-Looking Statements | 42 |
| Organizational Structure | 43 |
| Use of Proceeds | 48 |
| Dividend Policy | 49 |
| Capitalization | 50 |
| Dilution | 51 |
| Selected Historical Financial Data | 53 |
| Management's Discussion and Analysis of Financial Condition and Results of Operations | 55 |
| Business | 84 |
| Management | 107 |
| Executive and Director Compensation | 112 |
| Certain Relationships and Related Person Transactions | 123 |
| Principal and Selling Stockholders | 136 |
| Description of Certain Indebtedness | 138 |
| Description of Capital Stock | 140 |
| Shares Eligible for Future Sale | 146 |
| Material U.S. Federal Income and Estate Tax Considerations for Non-U.S. Holders | 148 |
| Underwriting (Conflicts of Interest) | 152 |
| Legal Matters | 161 |
| Experts | 161 |
| Where You Can Find More Information | 161 |
| Unaudited Pro Forma Financial Information | 162 |
| Index to Financial Statements | F-1 |


Neither we, the selling stockholders, nor the underwriters (or any of our or their respective affiliates) have authorized anyone to provide any information other than that contained in this prospectus or in any free writing prospectus prepared by or on behalf of us or to which we have referred you. Neither we, the selling stockholders nor the underwriters (or any of our or their respective affiliates) take any responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. We are not, the selling stockholders are not and the underwriters (or any of our or their respective affiliates) are not, making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus is only accurate as of the date on the front cover of this prospectus. Our business, financial condition, results of operations and prospects may have changed since that date.

"VANTIV", "NPC", "NATIONAL PROCESSING COMPANY" and "JEANIE" and their respective logos are our trademarks. Solely for convenience, we refer to our trademarks in this prospectus without the ™ and ® symbols, but such references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights to our trademarks. Other service marks, trademarks and trade names referred to in this prospectus are the property of their respective owners. As indicated in this prospectus, we have included market data and industry forecasts that were obtained from industry publications and other sources.

Until , 2012 (25 days after the date of this prospectus), all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

## SUMMARY

*The items in the following summary are described in more detail later in this prospectus. This summary provides an overview of selected information and does not contain all of the information you should consider. Therefore, you should also read the more detailed information set out in this prospectus, including the risk factors, the financial statements and related notes thereto, and the other documents to which this prospectus refers before making an investment decision. Unless otherwise stated in this prospectus, or as the context otherwise requires, references to "Vantiv," "we," "us" or "our company" refer to Vantiv, Inc. and its subsidiaries.*

Vantiv is a leading, integrated payment processor differentiated by a single, proprietary technology platform. We are the third largest merchant acquirer and the largest PIN debit acquirer by transaction volume in the United States. We efficiently provide a suite of comprehensive services to merchants and financial institutions of all sizes. Our technology platform offers our clients a single point of service that is easy to connect to and use in order to access a broad range of payment services and solutions. Our integrated business and single platform also enable us to innovate, develop and deploy new services and provide us with significant economies of scale. Our varied and broad distribution provides us with a large and diverse client base and channel partner relationships. We believe this combination of attributes provides us with competitive advantages and has enabled us to generate strong growth and profitability.

Our single, proprietary technology platform is differentiated from our competitors' multiple platform architectures. Because of our single point of service and ability to collect, manage and analyze data across the payment processing value chain, we can identify and develop new services more efficiently. Once developed, we can more cost-effectively deploy new solutions to our clients through our single platform. Our single scalable platform also enables us to efficiently manage, update and maintain our technology, increase capacity and speed and realize significant operating leverage.

We offer a broad suite of payment processing services that enable our clients to meet their payment processing needs through a single provider. We enable merchants of all sizes to accept and process credit, debit and prepaid payments and provide them supporting services, such as information solutions, interchange management and fraud management, as well as vertical-specific solutions in sectors such as grocery, pharmacy, retail, petroleum and restaurants, including, quick service restaurants, or QSRs. We also provide mission critical payment services to financial institutions, such as card issuer processing, payment network processing, fraud protection, card production, prepaid program management, ATM driving and network gateway and switching services that utilize our proprietary Jeanie PIN debit payment network.

We provide small and mid-sized clients with the comprehensive solutions that we have developed to meet the extensive requirements of our large merchant and financial institution clients. We then tailor these solutions to the unique needs of our small and mid-sized clients. In addition, we take a consultative approach to providing services that help our clients enhance their payments-related services. We are also well positioned to provide payment solutions for high growth markets, such as prepaid, ecommerce and mobile payment offerings, because we process payment transactions across the entire payment processing value chain on a single platform.

We distribute our services through direct and indirect distribution channels using a unified sales approach that enables us to efficiently and effectively target merchants and financial institutions of all sizes. Our direct channel includes a national sales force that targets financial institutions and national merchants, regional and mid-market sales teams that sell solutions to merchants and third-party reseller clients and a telesales operation that targets small and mid-sized merchants. Our indirect channel to merchants includes relationships with a broad range of independent sales organizations, or ISOs, merchant banks, value-added resellers and trade associations that target merchants, including difficult

to reach small and mid-sized merchants. Our indirect channel to financial institutions includes relationships with third-party resellers and core processors.

We have a broad and diversified merchant and financial institution client base. Our merchant client base has low client concentration and is heavily weighted in non-discretionary everyday spend categories, such as grocery and pharmacy, and includes large national retailers, including nine of the top 25 national retailers by revenue in 2010, and over 200,000 small and mid-sized merchant locations. Our financial institution client base is also well diversified and includes over 1,300 financial institutions.

We generate revenues based primarily on transaction fees paid by merchants or financial institutions. Our revenue increased from $884.9 million for the year ended December 31, 2008 to $1.2 billion for the year ended December 31, 2010. Our revenue, less network fees and other costs, which we refer to as net revenue, increased from $451.4 million for the year ended December 31, 2008 to $566.1 million for the year ended December 31, 2010. Our net income decreased from $152.6 million for the year ended December 31, 2008 to $54.9 million for the year ended December 31, 2010. Our adjusted EBITDA increased from $278.7 million for the year ended December 31, 2008 to $400.5 million for the year ended December 31, 2010.

**Our History and Separation from Fifth Third Bank**

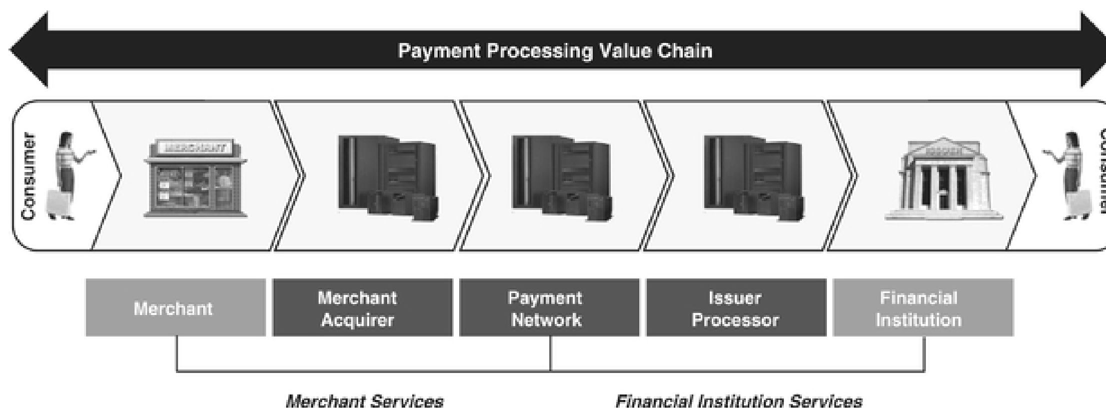
We have a 40 year history of providing payment processing services. We operated as a business unit of Fifth Third Bank until June 2009 when certain funds managed by Advent International Corporation acquired a majority interest in Fifth Third Bank's payment processing business unit with the goal of creating a separate stand-alone company. Since the separation, we established our own organization, headquarters, brand and growth strategy. As a stand-alone company, we have made substantial investments to enhance our single, proprietary technology platform, recruit additional executives with significant payment processing and operating experience, expand our sales force, reorganize our business to better align it with our market opportunities and broaden our geographic footprint beyond the markets traditionally served by Fifth Third Bank and its affiliates. In addition, we made three strategic acquisitions in 2010. We acquired NPC Group, Inc., or NPC, to substantially enhance our access to small to mid-sized merchants, certain assets of Town North Bank, N.A., or TNB, to broaden our market position with credit unions, and certain assets of Springbok Services Inc., or Springbok, to expand our prepaid processing capabilities.

**Industry Background**

Electronic payments is a large and growing market, and according to The Nilson Report, personal consumption expenditures in the United States using cards and other electronic payments reached $4.48 trillion in 2009 and are projected to reach $7.23 trillion in 2015, representing a compound annual growth rate of approximately 8% during that period. This growth will be driven by favorable secular trends, such as the shift from cash and checks towards card-based and other electronic payments due to their greater convenience, security, enhanced services and rewards and loyalty features.

Payment processors help merchants and financial institutions develop and offer electronic payment solutions to their customers, facilitate the routing and processing of electronic payment transactions and manage a range of supporting security, value-added and back office services. In addition, many large

banks manage and process their card accounts in-house. This is collectively referred to as the payment processing value chain and is illustrated below:




Many payment processors specialize in providing services in discrete areas of the payment processing value chain, such as merchant acquiring, payment network or issuer processing services. A limited number of payment processors have capabilities or offer services in multiple parts of the payment processing value chain. Many processors that provide solutions targeting more than one part of the payment processing value chain utilize multiple, disparate technology platforms requiring their clients to access payment processing services through multiple points of contact.

The payment processing industry will continue to adopt new technologies, develop new products and services, evolve new business models and experience new market entrants and changes in the regulatory environment. In the near-term, we believe merchants and financial institutions will seek services that help them enhance their own offerings to consumers, provide additional information solution services to help them run their businesses more efficiently and develop new products and services that provide tangible, incremental revenue streams. Over the medium to longer-term, we believe that emerging, alternative payment technologies, such as mobile payments, electronic wallets, mobile marketing offers and incentives and rewards services, will be adopted by merchants and other businesses and represent an attractive growth opportunity for the industry.

**Our Competitive Strengths**

***Single, Proprietary Technology Platform***

We have a single, proprietary technology platform that provides our clients with differentiated payment processing solutions and provides us with significant strategic and operational benefits. Our clients access our processing solutions through a single point of access and service, which is easy to use and enables our clients to acquire additional services as their business needs evolve. Our platform also allows us to collect, manage and analyze data that we can then package into information solutions for our clients. It also provides insight into market trends and opportunities as they emerge, which enhances our ability to innovate and develop new value-added services. Our single platform allows us to more easily deploy new solutions that span the payment processing value chain, such as prepaid, ecommerce and mobile, which are high growth market opportunities. Since we operate one scalable technology platform, we are able to efficiently manage, update and maintain our technology and increase capacity and speed, which provide significant operating leverage.

***Integrated Business***

We operate as a single integrated business using a unified sales and product development approach. Our integrated business and established client relationships across the payment processing

value chain enhance our ability to cross-sell our services, develop new payment processing services and deliver substantial value to our clients. By operating as a single business, we believe we can manage our business more efficiently resulting in increased profitability. Our integrated business differentiates us from payment processors that are focused on discrete areas of the payment processing value chain or that operate multiple payment processing businesses.

***Comprehensive Suite of Services***

We offer a broad suite of payment processing services that enable our merchant and financial institution clients to address their payment processing needs through a single provider. Our solutions include traditional processing services as well as a range of innovative value-added services. We provide small and mid-sized clients with the comprehensive solutions originally developed for our large clients that we have adapted to meet the specific needs of our small and mid-sized clients. We have developed industry specific solutions with features and functionality to meet the specific requirements of various industry verticals, market segments and client types.

***Diverse Distribution Channels***

We sell our services to merchants, financial institutions and third-party reseller clients of all types and sizes through diverse distribution channels, which has resulted in low client concentration. Our direct channel includes a national sales force that targets financial institutions and national retailers, regional and mid-market sales teams that sell solutions to merchants and third-party reseller clients and a telesales operation that targets small and mid-sized merchants. Our indirect channel includes relationships with a broad range of ISOs, merchant banks, value-added resellers and trade associations that target merchants, including difficult to reach small and mid-sized merchants, as well as arrangements with core processors that sell our solutions to small and mid-sized financial institutions.

***Strong Execution Capabilities***

Our management team has significant experience in the payment processing industry and has demonstrated strong execution capabilities. Since we created a stand-alone company in 2009, we have invested substantial resources to enhance our technology platform, deepened our management organization, expanded our sales force, completed three acquisitions, introduced several new services, launched the Vantiv brand and built out and moved into our new corporate headquarters. We executed all of these projects while delivering substantial revenue growth and strong profitability.

**Our Strategy**

***Increase Small to Mid-Sized Client Base***

We are focused on increasing our small to mid-sized client base to capitalize on the growth and margin opportunities provided by smaller merchants and financial institutions, which outsource all or a significant portion of their payment processing requirements and are generally more profitable on a per transaction basis. We plan to continue to identify and reach these small to mid-sized merchants and financial institutions through our direct sales force, ISOs, partnership and referral arrangements and third-party resellers and core processors.

***Develop New Services***

We seek to develop additional payment processing services that address evolving client demands and provide additional cross-selling opportunities by leveraging our single technology platform, industry knowledge and client relationships across the payment processing value chain. For example, we intend to expand our prepaid card services and customized fraud management services and introduce data-rich

information solutions to provide our merchant and financial institution clients with new opportunities to generate incremental revenue or lower their costs.

***Expand Into High Growth Segments and Verticals***

We believe there is a substantial opportunity for us to expand further into high growth payment segments, such as prepaid, ecommerce, mobile and information solutions, and attractive industry verticals, such as business-to-business, healthcare, government and education. We intend to further develop our technology capabilities to handle specific processing requirements for these segments and verticals, add new services that address their needs and broaden our distribution channels to reach these potential clients.

***Broaden and Deepen Our Distribution Channels***

We intend to broaden and deepen our direct and indirect distribution channels to reach potential clients and sell new services to our existing clients. We plan to grow our direct sales force, including telesales, add new referral partners, such as merchant banks, and grow our indirect channels through new ISOs, partnership and referral arrangements, third-party resellers and core processors. We will also continue to develop additional support services for our distribution channels, provide sales and product incentives and increase our business development resources dedicated to growing and promoting our distribution channels.

***Enter New Geographic Markets***

When we operated as a business unit of Fifth Third Bank we had a strong market position with large national merchants, and we focused on serving small to mid-sized merchants in Fifth Third Bank's core market in the Midwestern United States. We are expanding our direct and indirect distribution channels and leveraging our technology platform to target additional regions. In the future, we will also look to augment our U.S. business by selectively expanding into international markets through strategic partnerships or acquisitions that enhance our distribution channels, client base and service capabilities.

***Pursue Acquisitions***

We have recently completed three acquisitions, and we intend to continue to seek acquisitions that provide attractive opportunities to increase our small to mid-sized client base, enhance our service offerings, target high growth payment segments and verticals, enter into new geographic markets and enhance and deepen our distribution channels. We also will consider acquisitions of discrete merchant portfolios that we believe would enhance our scale and client base and strengthen our market position in the payment processing industry.

**Risks Affecting Our Business**

Investing in our Class A common stock involves substantial risk. Before participating in this offering, you should carefully consider all of the information in this prospectus, including risks discussed in "Risk Factors" beginning on page 17. Some of our most significant risks are:

- If we cannot keep pace with rapid developments and change in our industry and provide new services to our clients, the use of our services could decline, reducing our revenues.

- The payment processing industry is highly competitive, and we compete with certain firms that are larger and that have greater financial resources. Such competition could adversely affect the transaction and other fees we receive from merchants and financial institutions.

- Unauthorized disclosure of data, whether through cybersecurity breaches, computer viruses or otherwise, could expose us to liability, protracted and costly litigation and damage our reputation.

- Our systems and our third party providers' systems may fail due to factors beyond our control, which could interrupt our service, cause us to lose business and increase our costs.

- Any acquisitions, partnerships or joint ventures that we make could disrupt our business and harm our financial condition.

- If we fail to comply with the applicable requirements of the Visa, MasterCard or other payment networks, those payment networks could seek to fine us, suspend us or terminate our registrations through our financial institution sponsors.

- We rely on financial institution sponsors, which have substantial discretion with respect to certain elements of our business practices, and financial institution clearing service providers, in order to process electronic payment transactions. If these sponsorships or clearing services are terminated and we are unable to secure new bank sponsors or financial institutions, we will not be able to conduct our business.

- If Fifth Third Bank fails or is acquired by a third party, it could place certain of our material contracts at risk, decrease our revenue, and would transfer the ultimate voting power of a significant amount of our common stock to a third party.

- We are subject to extensive government regulation, and any new laws and regulations, industry standards or revisions made to existing laws, regulations, or industry standards affecting the electronic payments industry and other industries in which we operate may have an unfavorable impact on our business, financial condition and results of operations.

- Because we are deemed to be controlled by Fifth Third Bank and Fifth Third Bancorp for purposes of federal and state banking laws, we are subject to supervision and examination by federal and state banking regulators, and our activities are limited to those permissible for Fifth Third Bank and Fifth Third Bancorp. We may therefore be restricted from engaging in new activities or businesses, whether organically or by acquisition. We are also subject to supervision and examination by the new federal Consumer Financial Protection Bureau.

- We may not be able to successfully manage our intellectual property and may be subject to infringement claims.

- We have a limited operating history as a stand-alone company upon which you can evaluate our performance, and accordingly, our prospects must be considered in light of the risks that any newly stand-alone company encounters. Furthermore, we maintain many relationships with our former parent entity, Fifth Third Bank.

**Organizational Structure**

Prior to the completion of this offering, we will effect the reorganization transactions described in "Organizational Structure." We are a holding company, and our principal assets are equity interests in Vantiv Holding, LLC, or Vantiv Holding, and Transactive Ecommerce Solutions Inc., or Transactive. As the majority unitholder of Vantiv Holding and the majority stockholder of Transactive, we will operate and control the business and affairs of Vantiv Holding and Transactive. Our control will be subject to the terms of a stockholders' agreement, or the Vantiv, Inc. Stockholders' Agreement, and the Amended and Restated Vantiv Holding Limited Liability Company Agreement, each of which includes supermajority voting or consent requirements for specified matters. See "Description of Capital Stock—Vantiv Holding" and "Certain Relationships and Related Party Transactions—Reorganization and Offering Transactions—Vantiv, Inc. Stockholders' Agreement." Through Vantiv Holding, Transactive

and their respective operating subsidiaries, we will continue to conduct the business conducted by the operating entities included in our historical financial statements. We will conduct all of our domestic operations through Vantiv Holding and its subsidiaries. The units of Vantiv Holding held by the Fifth Third Bank or its affiliates and the shares of Transactive held by Fifth Third Financial Corporation, or Fifth Third Financial, are treated as a non-controlling interest in our financial statements. The diagram below depicts our organizational structure immediately following this offering:

**Principal Stockholders**

Our principal equity holders are (i) funds managed by Advent International Corporation, which we refer to as Advent, which hold our Class A common stock and (ii) Fifth Third Bank and its subsidiary, FTPS Partners, LLC, which we refer to, together with their affiliates, as the Fifth Third investors, which after the reorganization transactions will hold our Class B common stock as well as Class B units of Vantiv Holding. References in this prospectus to our "existing investors" are to Advent, the Fifth Third investors and JPDN Enterprises, LLC, an affiliate of Charles D. Drucker, our chief executive officer, or JPDN.

***Advent***

Since 1984, Advent has raised $26 billion in private equity capital and completed over 270 transactions valued at more than $60 billion in 35 countries. Advent's current portfolio is comprised of investments in 54 companies across five sectors—Retail, Consumer & Leisure; Financial and Business Services; Industrial; Technology, Media & Telecoms; and Healthcare. The Advent team includes more than 170 investment professionals in 18 offices around the world.

***Fifth Third Bancorp and Fifth Third Bank***

Fifth Third Bancorp is a diversified financial services company headquartered in Cincinnati, Ohio. Fifth Third Bank is an Ohio banking corporation and a wholly-owned indirect subsidiary of Fifth Third Bancorp. As of September 30, 2011, Fifth Third Bancorp had $115 billion in assets and operated 15 affiliates with 1,314 full-service Banking Centers, including 103 Bank Mart locations open seven days a week inside select grocery stores and 2,437 ATMs in 12 states throughout the Midwestern and Southern regions of the United States. Fifth Third Bancorp operates four main businesses: Commercial Banking, Branch Banking, Consumer Lending, and Investment Advisors. Fifth Third Bancorp's common stock is traded on the NASDAQ National Global Select Market under the symbol "FITB."

**Additional Information**

We are a Delaware corporation. We were incorporated as Advent-Kong Blocker Corp. on March 25, 2009 and changed our name to Vantiv, Inc. on November 8, 2011. Our principal executive offices are located at 8500 Governor's Hill Drive, Symmes Township, Cincinnati, Ohio 45249. Our telephone number at our principal executive offices is (513) 900-5250. Our corporate website is *www.vantiv.com.* The information that appears on our website is not part of, and is not incorporated into, this prospectus.

## The Offering

| | |
|---|---|
| Common stock offered by us | shares of Class A common stock. |
| Common stock offered by the selling stockholders | shares of Class A common stock. |
| Total offering | shares of Class A common stock. |
| Class A common stock to be outstanding after this offering | shares of Class A common stock ( shares if the underwriters' option to purchase additional shares is exercised in full). |
| Class B common stock to be outstanding after this offering | shares of Class B common stock. The Fifth Third investors will receive one share of our Class B common stock for each Class B unit of Vantiv Holding that they hold upon the consummation of the reorganization transactions, this offering and the repurchase of the Class B units by Vantiv Holding with the proceeds from the offering at a purchase price equal to the public offering price less the underwriting discounts and commissions, as described in "Use of Proceeds." The Class B common stock has no economic rights, but will provide the Fifth Third investors with the voting rights in Vantiv, Inc. as described below. |
| Option to purchase additional shares | The underwriters have an option to purchase a maximum of additional shares of Class A common stock from us. The underwriters can exercise this option at any time within 30 days from the date of this prospectus. |
| Conflicts of interest | We expect to use more than 5% of the net proceeds from the sale of the Class A common stock to repay indebtedness under our senior secured credit facilities (see "Description of Certain Indebtedness") owed by us to certain affiliates of the underwriters. Accordingly, the offering is being made in compliance with the requirements of Rule 5121 of the Financial Industry Regulatory Authority's Conduct Rules. This rule provides generally that if more than 5% of the net proceeds from the sale of securities, not including underwriting compensation, is paid to the underwriters or their affiliates, the initial public offering price of the Class A common stock may not be higher than that recommended by a "qualified independent underwriter" meeting certain standards. Deutsche Bank Securities Inc. is assuming the responsibilities of acting as the qualified independent underwriter in conducting due diligence. See "Underwriting—Conflicts of Interest." |

| | |
|---|---|
| Use of proceeds | We estimate that the net proceeds to us from our sale of shares of Class A common stock in this offering will be approximately $ million, after deducting underwriting discounts and commissions and estimated expenses payable by us in connection with this offering. This assumes a public offering price of $ per share, which is the midpoint of the price range set forth on the cover of this prospectus. We intend to contribute $ of the net proceeds to Vantiv Holding and $ of the net proceeds to Transactive. Vantiv Holding intends to use a portion of net proceeds to repay $ principal amount of our senior secured credit facilities. Vantiv Holding also intends to use $ of such net proceeds to redeem Class B units from the Fifth Third investors at a purchase price equal to the public offering price less underwriting discounts and commissions. Transactive intends to use $ of such net proceeds to redeem shares of its Class B common stock from Fifth Third Financial at a purchase price equal to the public offering price less underwriting discounts and commissions. We will not receive any proceeds from the sale of shares of Class A common stock by the selling stockholders. See "Use of Proceeds." |
| Dividend policy | We do not anticipate paying any dividends on our common stock in the foreseeable future. See "Dividend Policy." |
| Voting rights | Each share of Class A stock will entitle the holder to one vote in all matters.<br><br>The shares of our Class B common stock will entitle the holders of the Class B common stock collectively to hold up to 19.9% of the aggregate voting power of our outstanding common stock determined on a formulaic basis. To the extent that the Fifth Third investors hold more than 19.9% of the aggregate voting power of our outstanding common stock as a result of the ownership of both Class A and Class B common stock, the Fifth Third investors' voting power will be limited to 19.9%, other than in connection with a stockholder vote to approve a merger or other change of control of Vantiv, Inc., in which event the Fifth Third investors will have the right to that number of votes equal to the number of shares of Class A common stock they would own if they had converted all of their Class B units of Vantiv Holding. In addition (and except in connection with such change of control), to the extent that the Fifth Third investors otherwise hold Class A common stock and Class B common stock entitled to less than 19.9% of the voting power of the outstanding common stock, then the Fifth Third investors will be entitled only to such lesser voting power. |

| | |
|---|---|
| | Holders of our Class A and Class B common stock will vote together as a single class on all matters presented to our stockholders for their vote or approval, except that holders of our Class B stock, voting as a separate class, will be entitled to elect a number of our directors equal to the percentage of the voting power of all of our outstanding common stock represented by the holders of our Class B common stock but not exceeding 19.9% of the board of directors, except as otherwise required by applicable law. |
| | Immediately following this offering, our public stockholders will have % of the voting power in Vantiv, Inc., or % if the underwriters exercise in full their option to purchase additional shares. See "Description of Capital Stock." |
| Risk factors | Investing in our Class A common stock involves a high degree of risk. See "Risk Factors" beginning on page 17 of this prospectus for a discussion of factors you should carefully consider before investing in our Class A common stock. |
| Proposed NYSE or Nasdaq symbol | " ." |

Unless otherwise indicated, the number of shares of our Class A common stock to be outstanding after this offering:

- includes shares of unrestricted Class A common stock and shares of restricted Class A common stock issuable upon the conversion or exercise of phantom equity units outstanding under the Vantiv Holding Management Phantom Equity Plan;
- excludes an aggregate of additional shares of Class A common stock that will initially be available for future awards pursuant to our 2012 Vantiv, Inc. Equity Incentive Plan;
- excludes shares of Class A common stock issuable upon exercise of a warrant currently held by Fifth Third Bank or any conversion of Class B units of Vantiv Holding issuable upon exercise of such warrant;
- excludes shares of Class A common stock issuable upon the exchange of Class B units of Vantiv Holding for Class A common stock;
- gives effect to a for 1 stock split of our Class A common stock prior to the consummation of this offering;
- gives effect to our amended and restated certificate of incorporation, which will be in effect prior to the consummation of this offering; and
- assumes no exercise of the underwriters' option to purchase up to additional shares of our Class A common stock from us.

Unless otherwise indicated, this prospectus assumes an initial public offering price of $ per share, the midpoint of the price range set forth on the cover of this prospectus.

## SUMMARY HISTORICAL FINANCIAL AND OTHER DATA

The period prior to and including June 30, 2009, the date of the separation transaction, is referred to in the following table as "Predecessor," and all periods after such date are referred to in the following table as "Successor." Prior to the separation transaction, we operated as a business unit of Fifth Third Bank. As a result, the financial data for the predecessor period included in this prospectus does not necessarily reflect what our financial position or results of operations would have been had we operated as a separate, stand-alone entity during those periods. The financial statements for all successor periods are not comparable to those of the predecessor periods.

The following table sets forth our summary historical financial and other data for the periods and as of the dates indicated. We derived the statement of income data for the six months ended June 30, 2011 and 2010 and the balance sheet data as of June 30, 2011 from our unaudited financial statements included elsewhere in this prospectus. We derived the statement of income data for the year ended December 31, 2010, the non-GAAP combined year ended December 31, 2009 and the year ended December 31, 2008 from our audited financial statements for such periods included elsewhere in this prospectus. Results for the year ended December 31, 2009 are presented on a non-GAAP combined basis containing the predecessor period of January 1 to June 30, 2009 combined with the successor period of July 1 to December 31, 2009 to enable a comparison with 2008 and 2010 on a full year basis. There were no other adjustments made to these non-GAAP combined results. The non-GAAP combined results do not purport to reflect the results that would have been obtained had the separation transaction occurred on January 1, 2009.

We have prepared the unaudited financial information set forth below on the same basis as our audited financial statements and have included all adjustments, consisting of only normal recurring adjustments, that we consider necessary for a fair presentation of our financial position and operating results for such periods. The results for any interim period are not necessarily indicative of the results that may be expected for a full year.

The summary unaudited pro forma as adjusted balance sheet data as of June 30, 2011 has been prepared to give pro forma effect to (i) the reorganization transactions described in "Organizational Structure" and (ii) the sale of our Class A common stock in this offering and the application of the net proceeds from this offering as described in "Use of Proceeds."

Our historical results are not necessarily indicative of future operating results. You should read the information set forth below in conjunction with "Selected Historical Financial Data," "Unaudited Pro Forma Financial Information," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our financial statements and the related notes thereto included elsewhere in this prospectus.

| | Successor | | | Non-GAAP Combined | Predecessor |
|---|---|---|---|---|---|
| | Six Months Ended June 30, 2011 | Six Months Ended June 30, 2010 | Year Ended December 31, 2010 | Year Ended December 31, 2009(1) | Year Ended December 31, 2008 |
| | (in thousands, except share data) | | | | |
| **Statement of income data:** | | | | | |
| Revenue | $ 774,010 | $ 511,235 | $ 1,162,132 | $ 950,726 | $ 884,918 |
| Network fees and other costs | 367,910 | 265,345 | 595,995 | 476,605 | 433,496 |
| Net revenue | 406,100 | 245,890 | 566,137 | 474,121 | 451,422 |
| Sales and marketing | 115,789 | 36,822 | 98,418 | 70,047 | 71,247 |
| Other operating costs | 72,720 | 54,509 | 124,383 | 48,275 | — |
| General and administrative | 49,607 | 26,005 | 58,091 | 46,526 | 8,747 |
| Depreciation and amortization | 75,701 | 50,825 | 110,964 | 52,241 | 2,250 |
| Allocated expenses | — | — | — | 52,980 | 114,892 |
| Income from operations | 92,283 | 77,729 | 174,281 | 204,052 | 254,286 |
| Interest expense—net | (59,573) | (57,691) | (116,020) | (68,657) | — |
| Non-operating expenses | (13,799) | (3,000) | (4,300) | (9,227) | (5,635) |
| Income before applicable income taxes | 18,911 | 17,038 | 53,961 | 126,168 | 248,651 |
| Income tax expense (benefit) | 2,551 | 3,269 | (956) | 36,700 | 96,049 |
| Net income | 16,360 | 13,769 | 54,917 | $ 89,468 | $ 152,602 |
| Less: net income attributable to non-controlling interests | (7,481) | (9,173) | (32,924) | | |
| Net income attributable to Vantiv, Inc. | $ 8,879 | $ 4,596 | $ 21,993 | | |
| Pro forma net income per share(2): | | | | | |
| Basic | | | | | |
| Diluted | | | | | |
| Pro forma weighted average shares outstanding(2): | | | | | |
| Basic | | | | | |
| Diluted | | | | | |
| **Other data:** | | | | | |
| Adjusted EBITDA(3) | $ 197,007 | $ 188,283 | $ 400,503 | $ 298,399 | $ 278,668 |
| Transactions (in millions): | | | | | |
| Merchant Services | 4,522 | 3,876 | 8,206 | 7,250 | 6,493 |
| Financial Institution Services | 1,702 | 1,436 | 3,060 | 2,628 | 2,369 |

| | As of June 30, 2011 | |
|---|---|---|
| | Actual | Pro Forma As Adjusted(4) |
| **Balance sheet data:** | | |
| Cash and cash equivalents | $ 255,831 | |
| Total assets | 3,335,882 | |
| Total long-term liabilities | 1,759,452 | |
| Non-controlling interests | 599,213 | |
| Total equity | 1,201,772 | |

(1) Results for the year ended December 31, 2009 are presented on a non-GAAP combined basis containing the predecessor period in 2009 combined with the successor period in 2009 to enable a comparison with 2008 and 2010 on a full year basis. There were no other adjustments made to these non-GAAP combined results. The non-GAAP combined results do not purport to reflect the results that would have been obtained had the separation transaction occurred on January 1, 2009. For more detail on the non-GAAP combined results for 2009, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Results of Operations."

(2) Pro forma information gives effect to the reorganization transactions as more fully described in "Organizational Structure."

(3) Adjusted EBITDA is calculated as net income before interest expense—net, income tax (benefit) expense and depreciation and amortization adjusted for:

- transition costs related to our separation transaction from Fifth Third Bank;
- debt refinancing costs;
- share-based compensation expense;
- acquisition and integration costs incurred in connection with our acquisitions;
- changes in the fair value of the put rights Vantiv, Inc. received in connection with the separation transaction;
- transaction costs incurred in connection with the separation transaction; and
- NPC's EBITDA for the six months ended June 30, 2010 and the period January 1, 2010 through the acquisition date of November 3, 2010.

Adjusted EBITDA eliminates the effects of items that we do not consider indicative of our core operating performance. Adjusted EBITDA is a supplemental measure of operating performance that does not represent and should not be considered as an alternative to net income, as determined by U.S. generally accepted accounting principles, or GAAP, and our calculation of adjusted EBITDA may not be comparable to that reported by other companies.

Management believes the inclusion of the adjustments to adjusted EBITDA are appropriate to provide additional information to investors about certain material non-cash items and about unusual items that we do not expect to continue at the same level in the future. By providing this non-GAAP financial measure, together with a reconciliation to GAAP results, we believe we are enhancing investors' understanding of our business and our results of operations, as well as assisting investors in evaluating how well we are executing strategic initiatives. We believe adjusted EBITDA is used by investors as a supplemental measure to evaluate the overall operating performance of companies in our industry.

Management uses adjusted EBITDA or comparable metrics:

- as a measurement used in comparing our operating performance on a consistent basis;
- to calculate incentive compensation for our employees;
- for planning purposes, including the preparation of our internal annual operating budget;
- to evaluate the performance and effectiveness of our operational strategies; and
- to assess compliance with various metrics associated with our debt agreements.

Adjusted EBITDA has limitations as an analytical tool, and you should not consider it in isolation, or as a substitute for analysis of our results as reported under GAAP. Some of the limitations are:

- adjusted EBITDA does not reflect the significant interest expense, or the cash requirements necessary to service interest or principal payments, on our debt;
- although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future, and adjusted EBITDA does not reflect the cash requirements for such replacements;
- adjusted EBITDA does not reflect our tax expense or the cash requirements to pay our taxes; and

- adjusted EBITDA does not reflect the non-cash component of employee compensation.

To address these limitations, we reconcile adjusted EBITDA to the most directly comparable GAAP measure, net income. Further, we also review GAAP measures and evaluate individual measures that are not included in adjusted EBITDA.

In calculating adjusted EBITDA, we exclude costs associated with our transition to a stand-alone company and our debt refinancing as these are non-recurring in nature. We believe it is useful to exclude share-based compensation expense from adjusted EBITDA because non-cash equity grants made at a certain price and point in time do not necessarily reflect how our business is performing at any particular time and share-based compensation expense is not a key measure of our core operating performance. We exclude acquisition and integration costs as they are non-recurring in nature and not indicative of our core operations. Adjustments related to our put rights reflect non-operational expenses associated with the change in the fair value of a financial instrument. We also adjust for NPC's EBITDA so that adjusted EBITDA for 2010 is comparable to future periods in which NPC's results are consolidated with our results.

The following table reconciles net income to adjusted EBITDA:

| | Successor | | | Non-GAAP Combined | Predecessor |
|---|---|---|---|---|---|
| | Six Months Ended June 30, 2011 | Six Months Ended June 30, 2010 | Year Ended December 31, 2010 | Year Ended December 31, 2009 | Year Ended December 31, 2008 |
| | | | (in thousands) | | |
| Net income | $ 16,360 | $ 13,769 | $ 54,917 | $ 89,468 | $ 152,602 |
| Interest expense—net(a) | 59,573 | 57,691 | 116,020 | 68,784 | 5,635 |
| Income tax expense (benefit) | 2,551 | 3,269 | (956) | 36,700 | 96,049 |
| Depreciation and amortization | 75,701 | 50,825 | 110,964 | 52,241 | 2,250 |
| EBITDA | 154,185 | 125,554 | 280,945 | 247,193 | 256,536 |
| Transition costs(b) | 27,128 | 21,181 | 44,519 | 24,059 | 18,213 |
| Debt refinancing costs(c) | 13,699 | — | — | — | — |
| Share-based compensation(d) | 1,393 | 1,188 | 2,799 | 1,723 | 3,919 |
| Acquisition and integration costs(e) | 502 | 1,091 | 4,489 | — | — |
| Losses related to put rights(f) | 100 | 3,000 | 4,300 | 9,100 | — |
| Transaction costs(g) | — | — | — | 16,324 | — |
| NPC(h) | — | 36,269 | 63,451 | — | — |
| Adjusted EBITDA | $ 197,007 | $ 188,283 | $ 400,503 | $ 298,399 | $ 278,668 |

(a) The amounts of interest expense for 2009 and 2008 include internal funding costs allocated to us by Fifth Third Bank prior to the separation transaction and are included as non-operating expenses on our statements of income.

(b) Transition costs include costs associated with our separation transaction from Fifth Third Bank, including costs incurred for our human resources, finance, marketing and legal functions and severance costs; consulting fees related to non-recurring transition projects; expenses related to various strategic and separation initiatives; depreciation and amortization charged to us by Fifth Third Bank under our transition services agreement; and compensation costs

related to payouts of a one-time signing bonus to former Fifth Third Bank employees transferred to us as part of our transition deferred compensation plan.

(c) Includes non-operating expenses incurred with the refinancing of our debt in May 2011.

(d) Share-based compensation includes non-cash compensation expense recorded related to phantom equity units of Vantiv Holding issued to our employees. See Note 11 to our audited financial statements.

(e) Acquisition and integration costs include fees incurred in connection with our acquisitions in 2010, including legal, accounting and advisory fees as well as consulting fees for integration services.

(f) Represents the non-cash expense related to fair value adjustments to the value of the put rights Vantiv, Inc. received from Fifth Third Bank in connection with the separation transaction. The put rights will terminate in connection with this offering and, accordingly, we do not expect adjustments to fair value to be material in future periods. For more information regarding the put rights, see Note 7 to our audited financial statements.

(g) Consists of transaction costs, principally professional and advisory fees, incurred by us on behalf of Advent in connection with the separation transaction.

(h) Reflects NPC's EBITDA from January 2010 until our acquisition of NPC in November 2010.

(4) Gives effect to the reorganization transactions described in "Organizational Structure" and the sale of our Class A common stock in this offering and the application of the net proceeds from this offering as described in "Use of Proceeds."

## RISK FACTORS

*An investment in our Class A common stock involves a high degree of risk. You should carefully consider the following risks, as well as the other information contained in this prospectus, before making an investment in our Class A common stock. If any of the following risks actually occur, our business, financial condition and results of operations may be materially adversely affected. In such an event, the trading price of our Class A common stock could decline and you could lose part or all of your investment.*

### Risks Related to Our Business

***If we cannot keep pace with rapid developments and change in our industry and provide new services to our clients, the use of our services could decline, reducing our revenues.***

The electronic payments market in which we compete is subject to rapid and significant changes. This market is characterized by rapid technological change, new product and service introductions, evolving industry standards, changing customer needs and the entrance of non-traditional competitors. In order to remain competitive, we are continually involved in a number of projects to develop new services or compete with these new market entrants, including the development of mobile phone payment applications, prepaid card offerings, ecommerce services and other new offerings emerging in the electronic payments industry. These projects carry risks, such as cost overruns, delays in delivery performance problems and lack of customer acceptance. In the electronic payments industry these risks are acute. Any delay in the delivery of new services or the failure to differentiate our services or to accurately predict and address market demand could render our services less desirable, or even obsolete, to our clients. Furthermore, even though the market for alternative payment processing services is evolving, it may not continue to develop rapidly enough for us to recover the costs we have incurred in developing new services targeted at this market.

In addition, the services we deliver are designed to process very complex transactions and provide reports and other information on those transactions, all at very high volumes and processing speeds. Any failure to deliver an effective and secure service or any performance issue that arises with a new service could result in significant processing or reporting errors or other losses. As a result of these factors, our development efforts could result in increased costs and/or we could also experience a loss in business that could reduce our earnings or could cause a loss of revenue if promised new services are not timely delivered to our clients or do not perform as anticipated. We also rely in part on third parties, including some of our competitors and potential competitors, for the development of, and access to new technologies. Our future success will depend in part on our ability to develop or adapt to technological changes and evolving industry standards. If we are unable to develop, adapt to or access technological changes or evolving industry standards on a timely and cost effective basis, our business, financial condition and results of operations would be materially adversely affected.

Furthermore, our competitors may have the ability to devote more financial and operational resources than we can to the development of new technologies and services, including ecommerce and mobile payment processing services, that provide improved operating functionality and features to their existing service offerings. If successful, their development efforts could render our services less desirable to clients, resulting in the loss of clients or a reduction in the fees we could generate from our offerings.

***The payment processing industry is highly competitive, and we compete with certain firms that are larger and that have greater financial resources. Such competition could adversely affect the transaction and other fees we receive from merchants and financial institutions, and as a result, our margins, business, financial condition and results of operations.***

The market for payment processing services is highly competitive. Other providers of payment processing services have established a sizable market share in the small and mid-sized merchant and financial institution processing and servicing sector, as well as servicing large merchants and financial

institutions, which are the markets in which we are principally focused. We also face competition from non-traditional payment processors that have significant financial resources. Our growth will depend on a combination of the continued growth of electronic payments and our ability to increase our market share. The weakness of the current economic recovery could cause future growth of electronic payments to slow compared to historical rates of growth.

Our competitors include financial institutions, subsidiaries of financial institutions and well-established payment processing companies, including Bank of America Merchant Services, Chase Paymentech Solutions, Elavon Inc. (a subsidiary of U.S. Bancorp), First Data Corporation, Global Payments, Inc., Heartland Payment Systems, Inc. and WorldPay Payment Services in our Merchant Services segment, and Fidelity National Information Services, Inc., First Data Corporation, Fiserv, Inc., Total System Services, Inc. and Visa Debit Processing Service in our Financial Institution Services segment. With respect to our Financial Institutions Services segment, in addition to competition with direct competitors, we also compete with the capabilities of many larger potential clients that have either historically developed their key payment processing applications in-house, or have recently moved such application in-house, and therefore weigh whether they should develop these capabilities in-house or acquire them from a third party.

Our competitors that are financial institutions or are affiliated with financial institutions may not incur the sponsorship costs we incur for registration with the payment networks. Many of these competitors have substantially greater financial, technological and marketing resources than we have. Accordingly, these competitors may be able to offer more attractive fees to our current and prospective clients, or especially with respect to our financial institution clients, other services that we do not offer. Competition may influence the fees we receive. If competition causes us to reduce the fees we charge, we will have to aggressively control our costs in order to maintain our profit margins. Competition could also result in a loss of existing clients, and greater difficulty attracting new clients, which we may not be able to do. One or more of these factors could have a material adverse effect on our business, financial condition and results of operations.

Furthermore, we are facing new competition emerging from non-traditional competitors offering alternative payment methods, such as PayPal and Google. These non-traditional competitors have significant financial resources and robust networks and are highly regarded by consumers. If these non-traditional competitors gain a greater share of total electronic payments transactions, it could also have material adverse effect on our business, financial condition and results of operations.

***Unauthorized disclosure of data, whether through cybersecurity breaches, computer viruses or otherwise, could expose us to liability, protracted and costly litigation and damage our reputation.***

We are responsible for certain third parties under Visa, MasterCard and other payment network rules and regulations, including merchants, ISOs, third party service providers and other agents, which we refer to collectively as associated participants. We and certain of our associated participants process, store and/or transmit sensitive data, such as names, addresses, social security numbers, credit or debit card numbers, driver's license numbers and bank account numbers, and we have ultimate liability to the payment networks and member financial institutions that register us with Visa, MasterCard and other payment networks for our failure or the failure of our associated participants to protect this data in accordance with payment network requirements. The loss of merchant or cardholder data by us or our associated participants could result in significant fines and sanctions by the payment networks or governmental bodies, which could have a material adverse effect on our business, financial condition and results of operations.

These concerns about security are increased when we transmit information over the Internet. Computer viruses can be distributed and spread rapidly over the Internet and could infiltrate our systems, which might disrupt our delivery of services and make them unavailable. In addition, a significant cybersecurity breach could result in payment networks prohibiting us from processing

transactions on their networks or the loss of our financial institution sponsorship that facilitates our participation in the payment networks.

We and our associated participants have been in the past and could be in the future, subject to breaches of security by hackers. In such circumstances, our encryption of data may not prevent unauthorized access and we may be subject to liability, including payment network fines and assessments and claims for unauthorized purchases with misappropriated credit, debit or card information, impersonation or other similar fraud claims. A misuse of such data or a cybersecurity breach could harm our reputation and deter clients from using electronic payments generally and our services specifically, increase our operating expenses in order to correct the breaches or failures, expose us to uninsured liability, increase our risk of regulatory scrutiny, result in the imposition of penalties and fines under state and federal laws or by the payment networks, and adversely affect our continued payment network registration and financial institution sponsorship.

We cannot assure you that there are written agreements in place with every associated participant or that such written agreements will prevent the unauthorized use or disclosure of data or allow us to seek reimbursement from associated participants. Any such unauthorized use or disclosure of data could result in protracted and costly litigation, which could have a material adverse effect on our business, financial condition and results of operations.

***Our systems and our third party providers' systems may fail due to factors beyond our control, which could interrupt our service, cause us to lose business and increase our costs.***

We depend on the efficient and uninterrupted operation of numerous systems, including our computer systems, software, data centers and telecommunications networks, as well as the systems of third parties. Our systems and operations or those of our third party providers, could be exposed to damage or interruption from, among other things, fire, natural disaster, power loss, telecommunications failure, unauthorized entry and computer viruses. Our property and business interruption insurance may not be adequate to compensate us for all losses or failures that may occur. Defects in our systems or those of third parties, errors or delays in the processing of payment transactions, telecommunications failures or other difficulties could result in:

- loss of revenues;
- loss of clients;
- loss of merchant and cardholder data;
- fines imposed by payment network associations;
- harm to our business or reputation resulting from negative publicity;
- exposure to fraud losses or other liabilities;
- additional operating and development costs; and/or
- diversion of technical and other resources.

***We may not be able to continue to expand our share of the existing payment processing markets or expand into new markets which would inhibit our ability to grow and increase our profitability.***

Our future growth and profitability depend, in part, upon our continued expansion within the markets in which we currently operate, the further expansion of these markets, the emergence of other markets for payment processing, and our ability to penetrate these markets. Future growth and profitability of our business will depend upon our ability to penetrate other markets for payment processing. We may not be able to successfully identify suitable acquisition, investment and partnership or joint venture candidates in the future, and if we do, they may not provide us with the benefits we

anticipated. Once completed, investments, partnerships and joint ventures may not realize the value that we expect.

Our expansion into new markets is also dependent upon our ability to apply our existing technology or to develop new applications to meet the particular service needs of each new market. We may not have adequate financial or technological resources to develop effective and secure services or distribution channels that will satisfy the demands of these new markets. If we fail to expand into new and existing payment processing markets, we may not be able to continue to grow our revenues and earnings.

Furthermore, in response to market developments, we may expand into new geographical markets and foreign countries in which we do not currently have any operating experience. We cannot assure you that we will be able to successfully expand in such markets or internationally due to our lack of experience and the multitude of risks associated with global operations.

***Any acquisitions, partnerships or joint ventures that we make could disrupt our business and harm our financial condition.***

Acquisitions, partnerships and joint ventures are part of our growth strategy. We evaluate, and expect in the future to evaluate potential strategic acquisitions of and partnerships or joint ventures with complementary businesses, services or technologies. We may not be successful in identifying acquisition, partnership and joint venture candidates. In addition, we may not be able to successfully finance or integrate any businesses, services or technologies that we acquire or with which we form a partnership or joint venture. For instance, we may not be able to successfully integrate the recently acquired NPC platforms into our existing platforms. Furthermore, the integration of any acquisition may divert management's time and resources from our core business and disrupt our operations. Certain partnerships and joint ventures we make with merchants may prevent us from competing for certain clients or in certain lines of business. We may spend time and money on projects that do not increase our revenue. As a subsidiary of a bank holding company, Fifth Third Bancorp, for purposes of the Bank Holding Company Act of 1956, as amended, or the BHC Act, we may conduct only activities authorized under the BHC Act for a bank holding company or a financial holding company, and as a subsidiary of a bank, Fifth Third Bank, for purposes of relevant federal and state banking laws, we may conduct only activities authorized under such laws. These activities and restrictions may limit our ability to acquire other businesses or enter into other strategic transactions. In addition, in connection with any acquisitions, we must comply with state and federal antitrust requirements. It is possible that perceived or actual violations of these requirements could give rise to regulatory enforcement action or result in us not receiving all necessary approvals in order to complete a desired acquisition. To the extent we pay the purchase price of any acquisition in cash, it would reduce our cash reserves, and to the extent the purchase price is paid with our stock, it could be dilutive to our stockholders. To the extent we pay the purchase price with proceeds from the incurrence of debt, it would increase our already high level of indebtedness and could negatively affect our liquidity and restrict our operations. Our competitors may be willing or able to pay more than us for acquisitions, which may cause us to lose certain acquisitions that we would otherwise desire to complete. In addition, pursuant to the supermajority provisions in the Amended and Restated Vantiv Holding Limited Liability Company Agreement and consent rights in the Vantiv, Inc. Stockholders' Agreement, Advent and Fifth Third Bank's approval is required for acquisitions and incurrences of indebtedness above certain thresholds. We cannot ensure that any acquisition, partnership or joint venture we make will not have a material adverse effect on our business, financial condition and results of operations.

***If we fail to comply with the applicable requirements of the Visa, MasterCard or other payment networks, those payment networks could seek to fine us, suspend us or terminate our registrations through our financial institution sponsors. Fines could have a material adverse effect on our business, financial condition or results of operations, and if these registrations are terminated, we may not be able to conduct our business.***

A significant source of our revenue comes from processing transactions through the Visa, MasterCard and other payment networks. The payment networks routinely update and modify their requirements. Changes in the requirements may impact our ongoing cost of doing business and we may not, in every circumstance, be able to pass through such costs to our clients or associated participants. Furthermore, if we do not comply with the payment network requirements, the payment networks could seek to fine us, suspend us or terminate our registrations which allow us to process transactions on their networks. On occasion, we have received notices of non-compliance and fines, which have typically related to excessive chargebacks by a merchant or data security failures on the part of a merchant. If we are unable to recover fines from or pass through costs to our merchants or other associated participants, we would experience a financial loss. The termination of our registration, or any changes in the payment network rules that would impair our registration, could require us to stop providing payment network services to the Visa, MasterCard or other payment networks, which would have a material adverse effect on our business, financial condition and results of operations.

***Changes in payment network rules or standards could adversely affect our business, financial condition and results of operations.***

In order to provide our transaction processing services, we are registered through our bank partnerships with the Visa, MasterCard and other payment networks as service providers for member institutions. As such, we and many of our clients are subject to card association and payment network rules that could subject us or our clients to a variety of fines or penalties that may be levied by the card associations or payment networks for certain acts or omissions by us or our associated participants. On occasion, we have received notices of non-compliance and fines, which have typically related to excessive chargebacks by a merchant or data security failures on the part of a merchant. If we are unable to recover fines from our merchants, we would experience a financial loss. The Visa, MasterCard and other payment networks, some of which are our competitors, set the standards with which we must comply. The termination of our member registration or our status as a certified service provider, or any changes in card association or other payment network rules or standards, including interpretation and implementation of the rules or standards, that increase our cost of doing business or limit our ability to provide transaction processing services to or through our clients, could have a material adverse effect on our business, financial condition and results of operations.

***If we cannot pass increases from payment networks including interchange, assessment, transaction and other fees along to our merchants, our operating margins will be reduced.***

We pay interchange and other fees set by the payment networks to the card issuing financial institution and the payment networks for each transaction we process. From time to time, the payment networks increase the interchange fees and other fees that they charge payment processors and the financial institution sponsors. At their sole discretion, our financial institution sponsors have the right to pass any increases in interchange and other fees on to us and they have consistently done so in the past. We are generally permitted under the contracts into which we enter, and in the past we have been able to, pass these fee increases along to our merchants through corresponding increases in our processing fees. However, if we are unable to pass through these and other fees in the future, it could have a material adverse effect on our business, financial condition and results of operations.

***We rely on financial institution sponsors, which have substantial discretion with respect to certain elements of our business practices, and financial institution clearing service providers, in order to process electronic payment transactions. If these sponsorships or clearing services are terminated and we are unable to secure new bank sponsors or financial institutions, we will not be able to conduct our business.***

Because we are not a bank, we are not eligible for membership in the Visa, MasterCard or other payment networks and are, therefore, unable to directly access the payment networks, which are required to process transactions. The Visa, MasterCard and other payment network operating regulations require us to be sponsored by a member bank in order to process electronic payment transactions. We are currently registered with the Visa, MasterCard and other payment networks through Fifth Third Bank, which has maintained that registration since we were established as a separate entity in 2009. Our wholly-owned subsidiary NPC Group, Inc. is currently registered with the Visa, MasterCard and other payment networks through First National Bank of Omaha which will expire in December 2012, when we plan to consolidate our registration sponsorship with Fifth Third Bank. Our current agreement with Fifth Third Bank expires in June 2019. Furthermore, our agreements with our financial institution sponsors give them substantial discretion in approving certain aspects of our business practices, including our solicitation, application and qualification procedures for merchants and the terms of our agreements with merchants. Our financial institution sponsors' discretionary actions under these agreements could have a materially adverse effect on our business, financial condition and results of operations. We also rely on various financial institutions to provide clearing services in connection with our settlement activities. If our sponsorships or clearing services agreements are terminated and we are unable to secure another bank sponsor or clearing service provider, we will not be able to process Visa, MasterCard and other payment network transactions or settle transactions which would have a material adverse effect on our business, financial condition and results of operations.

***Increased merchant, ISO or referral partner attrition could cause our revenues to decline.***

We experience attrition in merchant credit, debit or prepaid card processing volume resulting from several factors, including business closures, transfers of merchants' accounts to our competitors and account closures that we initiate due to heightened credit risks relating to contract breaches by merchants or a reduction in same store sales. Our ISO and referral partner channels, which purchase and resell our electronic payments services to their own portfolios of merchant customers, are strong contributors to our revenue growth in our Merchant Services segment. If an ISO or referral partner switches to another transaction processor, shuts down or becomes insolvent, we will no longer receive new merchant referrals from the ISO or referral partner, and we risk losing existing merchants that were originally enrolled by the ISO or referral partner. We cannot predict the level of attrition in the future and our revenues could decline as a result of higher than expected attrition, which could have a material adverse effect on our business, financial condition and results of operations.

***If we do not successfully renew or renegotiate our agreements with our clients or ISOs, our business will suffer.***

A significant amount of our revenue is derived under contracts with clients and ISOs. Consolidation among financial institutions and merchants has resulted in an increasingly concentrated client base. The financial position of our clients and ISOs and their willingness to pay for our services are affected by general market conditions, competitive pressures and operating margins within their respective industries. Contract renewal or renegotiation time presents our clients and ISOs with the opportunity to consider other providers. The loss or renegotiation of our contracts with existing clients or ISOs or a significant decline in the number of transactions we process for them could have a material adverse effect on our business, financial condition and results of operations.

***We are subject to economic and political risk, the business cycles and credit risk of our clients and the overall level of consumer, business and government spending, which could negatively impact our business, financial condition and results of operations.***

The electronic payments industry depends heavily on the overall level of consumer, business and government spending. We are exposed to general economic conditions that affect consumer confidence, consumer spending, consumer discretionary income or changes in consumer purchasing habits. A sustained deterioration in general economic conditions, particularly in the United States, or increases in interest rates may adversely affect our financial performance by reducing the number or average purchase amount of transactions made using electronic payments. A reduction in the amount of consumer spending could result in a decrease in our revenue and profits. If cardholders of our financial institution clients make fewer transactions with their cards, our merchants make fewer sales of their products and services using electronic payments or people spend less money per transaction, we will have fewer transactions to process at lower dollar amounts, resulting in lower revenue.

A further weakening in the economy could have a negative impact on our clients, as well as their customers who purchase products and services using our payment processing systems, which could, in turn, negatively impact our business, financial condition and results of operations, particularly if the recessionary environment disproportionately affects some of the discretionary market segments that represent a larger portion of our payment processing volume. In addition, a further weakening in the economy could force retailers to close, resulting in exposure to potential credit losses and future transaction declines. Furthermore, credit card issuers have been reducing credit limits, closing accounts, and more selective with respect to whom they issue credit cards. We also have a certain amount of fixed and semi-fixed costs, including rent, debt service, processing contractual minimums and salaries, which could limit our ability to quickly adjust costs and respond to changes in our business and the economy. Changes in economic conditions could also adversely impact our future revenues and profits and cause a materially adverse effect on our business, financial condition and results of operations.

In addition, a recessionary economic environment could affect our merchants through a higher rate of bankruptcy filings, resulting in lower revenues and earnings for us. Our merchants are liable for any charges properly reversed by the card issuer on behalf of the cardholder. Our associated participants are also liable for any fines, or penalties, that may be assessed by any payment networks. In the event that we are not able to collect such amounts from the associated participants, due to fraud, breach of contract, insolvency, bankruptcy or any other reason, we may be liable for any such charges. Furthermore, in the event of a closure of a merchant, we are unlikely to receive our fees for any transactions processed by that merchant in its final months of operation, all of which would negatively impact our business, financial condition and results of operations.

***We incur liability when our merchants refuse or cannot reimburse us for chargebacks resolved in favor of their customers, fees, fines or other assessments we incur from the payment networks. We cannot accurately anticipate these liabilities, which may adversely affect our business, financial condition and results of operations.***

In the event a dispute between a cardholder and a merchant is not resolved in favor of the merchant, the transaction is normally charged back to the merchant and the purchase price is credited or otherwise refunded to the cardholder. Furthermore, such disputes are more likely to arise during economic downturns, such as the one we are currently experiencing. If we are unable to collect such amounts from the merchant's account or reserve account (if applicable), or if the merchant refuses or is unable, due to closure, bankruptcy or other reasons, to reimburse us for a chargeback, we may bear the loss for the amount of the refund paid to the cardholder. The risk of chargebacks is typically greater with those merchants that promise future delivery of goods and services rather than delivering goods or rendering services at the time of payment. We may experience significant losses from chargebacks in the future. Any increase in chargebacks not paid by our merchants could have a materially adverse effect on our business, financial condition and results of operations.

***Fraud by merchants or others could have a material adverse effect on our business, financial condition and results of operations.***

We face potential liability for fraudulent electronic payment transactions or credits initiated by merchants or others. Examples of merchant fraud include when a merchant or other party knowingly uses a stolen or counterfeit credit, debit or prepaid card, card number or other credentials to record a false sales transaction, processes an invalid card, or intentionally fails to deliver the merchandise or services sold in an otherwise valid transaction. Criminals are using increasingly sophisticated methods to engage in illegal activities such as counterfeiting and fraud. It is possible that incidents of fraud could increase in the future. Failure to effectively manage risk and prevent fraud would increase our chargeback liability or other liability. Increases in chargebacks or other liability could have a material adverse effect on our business, financial condition and results of operations.

***A decline in the use of credit, debit or prepaid cards as a payment mechanism for consumers or adverse developments with respect to the payment processing industry in general could have a materially adverse effect on our business, financial condition and results of operations.***

If consumers do not continue to use credit, debit or prepaid cards as a payment mechanism for their transactions or if there is a change in the mix of payments between cash, credit, debit and prepaid cards which is adverse to us, it could have a material adverse effect on our business, financial condition and results of operations. In response to rules implementing the Durbin Amendment, financial institutions may charge their customers additional fees for the use of debit cards. If such fees result in decreased use of debit cards by cardholders, our business, financial condition and results of operations may be adversely affected. We believe future growth in the use of credit, debit and prepaid cards and other electronic payments will be driven by the cost, ease-of-use, and quality of services offered to consumers and businesses. In order to consistently increase and maintain our profitability, consumers and businesses must continue to use electronic payment methods including, credit, debit and prepaid cards. Moreover, if there is an adverse development in the payments industry in general, such as new legislation or regulation that makes it more difficult for our clients to do business, our business, financial condition and results of operations may be adversely affected.

***Continued consolidation in the banking and retail industries could adversely affect our growth.***

Historically, the banking industry has been the subject of consolidation, regardless of overall economic conditions, while the retail industry has been the subject of consolidation due to cyclical economic events. As banks and retail merchants consolidate, our ability to successfully offer our services will depend in part on whether the institutions that survive are willing to outsource their electronic payment processing to third party vendors and whether those institutions have pre-existing relationships with us or any of our competitors. Larger banks and merchants with greater transaction volumes may demand lower fees, which could result in lower revenues and earnings for us. In addition, in times of depressed economic conditions, similar to those experienced in the last few years, a higher number of financial institutions are taken over by the Federal Deposit Insurance Corporation, or FDIC. The government seizure of a potential or current financial institution customer could have a negative effect on our business, by eliminating the institution's need for our services or by voiding any contracts we may have had in place with such institution.

***If Fifth Third Bank fails or is acquired by a third party, it could place certain of our material contracts at risk, decrease our revenue, and would transfer the ultimate voting power of a significant amount of our common stock to a third party.***

If Fifth Third Bank, as one of our largest clients and provider of the services under our Clearing, Settlement and Sponsorship Agreement, Referral Agreement and Master Services Agreement, were to be placed into receivership or conservatorship, it could jeopardize our ability to generate revenue and conduct our business. Fifth Third Bank accounted for approximately 4% of our revenue in the six months ended June 30, 2011 and provides crucial services to us. See "Certain Relationships and

Related Person Transactions—Business Arrangements with Fifth Third Bank and Fifth Third Bancorp." The loss of both a major client and material service provider due to a receivership or conservatorship, could have a materially adverse effect on our business, financial condition and results of operations.

If Fifth Third Bank were to be acquired by a third party, it could affect certain of our contractual arrangements with them. For instance, in the event of a change of control or merger of Fifth Third Bank, our Clearing Settlement and Sponsorship Agreement and our Referral Agreement provide that Fifth Third Bank may assign the contract to an affiliate or successor, in which case we would not have the right to terminate the contract regardless of such assignee's ability to perform such services. Our Master Services Agreement provides that Fifth Third Bank would be in default under the agreement upon a change of control, in which case we would have the right to terminate the agreement effective upon 60 days notice to Fifth Third Bank unless the surviving entity assumes Fifth Third Bank's obligation and the level of fees paid to us pursuant to the Master Services Agreement remain equal or greater than fees paid to us prior to the change of control. In addition, the acquiring company may choose to terminate the terms of such contracts, requiring us to litigate if we believe such termination is not pursuant to contract terms, and find alternative clients, counterparties or sponsorships. The added expense of litigation and the inability to find suitable substitute clients or counterparties in a timely manner would have a material adverse effect on our business, financial condition and results of operations.

Furthermore, such an acquisition would place in the hands of the acquiring third party the voting power of Fifth Third Bank's stock ownership in Vantiv, Inc. (including any shares of Class A common stock that may be issued in exchange for the Fifth Third investors' Class B units in Vantiv Holding) along with Fifth Third Bank's supermajority voting rights in Vantiv Holding and its consent rights in Vantiv, Inc. We may not have a historical relationship with the acquiring party, and the acquiring party may be a competitor of ours or provide many of the same services that we provide. The acquiring party may vote its shares of our common stock or exercise its supermajority rights and consent rights in a manner adverse to us and our other stockholders.

***Our risk management policies and procedures may not be fully effective in mitigating our risk exposure in all market environments or against all types of risks.***

Our risk management policies and procedures may not be fully effective to identify, monitor and manage our risks. Some of our risk evaluation methods depend upon information provided by others and public information regarding markets, clients or other matters that are otherwise inaccessible by us. In some cases, however, that information may not be accurate, complete or up-to-date. If our policies and procedures are not fully effective or we are not always successful in capturing all risks to which we are or may be exposed, we may suffer harm to our reputation or be subject to litigation or regulatory actions that could have a material adverse effect on our business, financial condition and results of operations.

***We are subject to extensive government regulation, and any new laws and regulations, industry standards or revisions made to existing laws, regulations, or industry standards affecting the electronic payments industry and other industries in which we operate may have an unfavorable impact on our business, financial condition and results of operations.***

Our business is impacted by laws and regulations that affect our industry. The number of new and proposed regulations has increased significantly, particularly pertaining to interchange fees on credit and debit card transactions, which are paid to the card issuing financial institution. In July 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, or the Dodd-Frank Act, which significantly changed financial regulation. Changes affecting the payment processing industry include restricting amounts of debit card fees that certain issuing financial institutions can charge merchants and allowing merchants to set minimum dollar amounts for the acceptance of credit cards and offer discounts for different payment methods. These restrictions could

negatively affect the number of debit transactions, and prices changed per transaction, which would negatively affect our business. The Dodd-Frank Act also created a new Consumer Financial Protection Bureau, or the CFPB, that became operational on July 21, 2011 and will assume responsibility for most federal consumer protection laws in the area of financial services, including consumer credit. In addition, the Dodd-Frank Act created a Financial Stability Oversight Council that has the authority to determine whether non-bank financial companies, such as us, should be supervised by the Board of Governors of the Federal Reserve System, or the Federal Reserve, because they are systemically important to the U.S. financial system. Any such designation would result in increased regulatory burdens on our business.

Rules released by the Federal Reserve in July 2011 to implement the so-called Durbin Amendment to the Dodd-Frank Act mandate a cap on debit transaction interchange fees for card issuers with assets greater than $10 billion. The rules also contain prohibitions on network exclusivity and routing restrictions. Beginning in October 2011, (i) a card payment network may not prohibit a card issuer from contracting with any other card payment network for the processing of electronic debit transactions involving the issuer's debit cards and (ii) card issuing financial institutions and card payment networks may not inhibit the ability of merchants to direct the routing of debit card transactions over any card payment networks that can process the transactions. By April 2012, most debit card issuers will be required to enable at least two unaffiliated card payment networks on each debit card. The interchange fee cap has the potential to alter the type or volume of card based transactions that we process on behalf of our clients. These new regulations could result in the need for us to make capital investments to modify our services to facilitate our existing clients' and potential clients' compliance and reduce the fees we are able to charge our clients. These new regulations also could result in greater pricing transparency and increased price-based competition leading to lower margins and higher rates of client attrition. Furthermore, the requirements of the new regulations and the timing of their effective dates could result in changes in our clients' business practices that may alter their delivery of their products and services to consumers and the timing of their investment decisions, which could change the demand for our services as well as alter the type or volume of transactions that we process on behalf of our clients. See "Business—Regulations—Dodd-Frank Act."

In addition, the Card Accountability, Responsibility, and Disclosure Act of 2009, or CARD Act, created new requirements applicable to credit card issuers. The CARD Act, along with the Federal Reserve's amended Regulation E, created new requirements applicable to certain prepaid cards. In the future, we may have to obtain state licenses to expand our distribution network for prepaid cards, which licenses we may not be able to obtain. If we fail or are unable to comply with these requirements, our clients (or in certain instances, we) could be subject to the imposition of fines, civil liability (and/or in the case of willful and deliberate non-compliance, criminal liability) which may impact our ability to offer our credit issuer processing services, prepaid or other related services which could have a material adverse effect on our business, financial condition and results of operations.

Furthermore, on July 26, 2011, the Financial Crimes Enforcement Network of the U.S. Department of the Treasury, or FinCEN, issued a final rule regarding the applicability of the Bank Secrecy Act's regulations to "prepaid access" products and services. This rulemaking clarifies the anti-money laundering obligations for entities engaged in the provision and sale of prepaid services such as prepaid cards, including a requirement that will cause us to register with FinCEN as a "money services business—provider of prepaid access." Notwithstanding previously implemented anti-money laundering procedures pursuant to various contractual obligations, the rule increases our regulatory risks and, as with other regulatory requirements, violations of the rule could have a material adverse effect on our business, financial condition and results of operations.

Separately, the Housing Assistance Tax Act of 2008 included an amendment to the Internal Revenue Code of 1986, as amended, or the Code, that requires information returns to be made for each calendar year by merchant acquiring entities and third-party settlement organizations with respect to payments made in settlement of payment card transactions and third-party payment network

transactions occurring in that calendar year. This requirement to make information returns applies to returns for calendar years beginning after December 31, 2010. Reportable transactions are also subject to backup withholding requirements. We could be liable for penalties if our information return is not in compliance with the new regulations. In addition, these new regulations will require us to incur additional costs to modify our systems so that we may provide compliant services. This law will result in significant additional Form 1099 reporting requirements for us in the first half of 2012.

The overall impact of these regulations on us is difficult to estimate, in part because certain regulations need to be adopted by the CFPB with respect to consumer financial products and services and regulations have only recently been adopted by the Federal Reserve with respect to certain interchange fees and in part because such regulations have only recently taken effect. These and other laws and regulations could adversely affect our business, financial condition and results of operations. In addition, even an inadvertent failure to comply with laws and regulations, as well as rapidly evolving social expectations of corporate fairness, could damage our business or our reputation.

***Governmental regulations designed to protect or limit access to consumer information could adversely affect our ability to effectively provide our services to merchants.***

Governmental bodies in the United States and abroad have adopted, or are considering the adoption of, laws and regulations restricting the transfer of, and requiring safeguarding of, non-public personal information. For example, in the United States, all financial institutions must undertake certain steps to ensure the privacy and security of consumer financial information. While our operations are subject to certain provisions of these privacy laws, we have limited our use of consumer information solely to providing services to other businesses and financial institutions. In connection with providing services to our clients, we are required by regulations and contracts with our merchants and financial institution clients to provide assurances regarding the confidentiality and security of non-public consumer information. These contracts require periodic audits by independent companies regarding our compliance with industry standards and also allow for similar audits regarding best practices established by regulatory guidelines. The compliance standards relate to our infrastructure, components and operational procedures designed to safeguard the confidentiality and security of non-public consumer personal information shared by our clients with us. Our ability to maintain compliance with these standards and satisfy these audits will affect our ability to attract and maintain business in the future. If we fail to comply with these regulations, we could be exposed to suits for breach of contract or to governmental proceedings. In addition, our client relationships and reputation could be harmed, and we could be inhibited in our ability to obtain new clients. If more restrictive privacy laws or rules are adopted by authorities in the future on the federal or state level, our compliance costs may increase, our opportunities for growth may be curtailed by our compliance capabilities or reputational harm and our potential liability for security breaches may increase, all of which could have a material adverse effect on our business, financial condition and results of operations.

***Changes in tax laws or their interpretations, or becoming subject to additional U.S., state or local taxes that cannot be passed through to our clients, could negatively affect our business, financial condition and results of operations.***

We are subject to tax laws in each jurisdiction where we do business. Changes in tax laws or their interpretations could decrease the amount of revenues we receive, the value of tax loss carryforwards and tax credits recorded on our balance sheet and the amount of our cash flow, and have a material adverse impact on our business, financial condition and results of operations. Furthermore, companies in the payment processing industry, including us, may become subject to taxation in various tax jurisdictions. Taxing jurisdictions have not yet adopted uniform positions on this topic. If we are required to pay additional taxes and are unable to pass the tax expense through to our clients, our costs would increase and our net income would be reduced, and it could have a material adverse effect on our business, financial condition and results of operations.

***Because we are deemed to be controlled by Fifth Third Bank and Fifth Third Bancorp for purposes of federal and state banking laws, we are subject to supervision and examination by federal and state banking regulators, and our activities are limited to those permissible for Fifth Third Bank and Fifth Third Bancorp. We may therefore be restricted from engaging in new activities or businesses, whether organically or by acquisition. We are also subject to supervision and examination by the new Federal Consumer Financial Protection Bureau.***

Fifth Third Bank currently owns an equity interest representing approximately 49% of the voting and economic equity interest of Vantiv Holding, and, after the consummation of this offering, will continue to own approximately      % of the economic interest in Vantiv Holding and approximately 19.9% of the voting interest in Vantiv, Inc.

Because of the size of Fifth Third Bank's beneficial voting and economic interest, we and Vantiv Holding are deemed to be controlled by Fifth Third Bancorp and Fifth Third Bank and are therefore considered to be a subsidiary of Fifth Third Bancorp under the BHC Act and of Fifth Third Bank under relevant federal and state banking laws. We are therefore subject to regulation and supervision by the Federal Reserve and the Ohio Division of Financial Institutions, or the ODFI. We will remain subject to regulation and examination until Fifth Third Bancorp and Fifth Third Bank are no longer deemed to control us for bank regulatory purposes, which we do not have the ability to control and which will not occur until Fifth Third Bank has significantly reduced its equity interest in us, as well as certain other factors.

For as long as we are deemed to be controlled by Fifth Third Bancorp and Fifth Third Bank, we are subject to regulation, supervision, examination and potential enforcement action by the Federal Reserve and the ODFI and to most banking laws, regulations and orders that apply to Fifth Third Bancorp and Fifth Third Bank. Any restrictions placed on Fifth Third Bancorp or Fifth Third Bank as a result of any supervisory actions may also restrict us or our activities in certain circumstances, even if these actions are unrelated to our conduct or business. Further, as long as we are deemed to be controlled by Fifth Third Bancorp, we may conduct only activities that are authorized under the BHC Act for a bank holding company, or a BHC, which include activities so closely related to banking as to be a proper incident thereto, or for a financial holding company, or FHC, which include activities that are financial in nature or incidental to financial activities. In addition, as long as Fifth Third Bank holds an equity interest in us or Vantiv Holding, directly or indirectly, our activities are further limited to those that are permissible for Fifth Third Bank to engage in directly, which include activities that are part of, or incidental to, the business of banking. Accordingly, we have agreed to certain covenants in the Amended and Restated Vantiv Holding Limited Liability Company Agreement and the Vantiv, Inc. Stockholders' Agreement that are intended to facilitate compliance by Fifth Third Bank with relevant federal and state banking laws. For more information about these provisions, see "Business—Regulation—Banking Regulation," as well as "Certain Relationships and Related Party Transactions—Agreements Related to the Separation Transaction—Vantiv, Inc. Stockholders' Agreement," and "Description of Capital Stock—Vantiv Holding."

To date, the activities restrictions of the BHC Act and other federal and state banking laws and our covenants with Fifth Third Bank have not materially limited our business activities, as BHCs are expressly authorized to engage in data, payment and information processing. However, we cannot assure you that will always be the case. New activities that we may wish to commence in the future may not be permissible for us under the BHC Act or other relevant federal or state banking laws, or may require prior regulatory approvals. More generally, the Federal Reserve has broad powers to approve, deny or refuse to act upon applications or notices for us to conduct new activities, acquire or divest businesses or assets, or reconfigure existing operations. Federal Reserve approval may also be required before we engage in activities abroad or invest in a non-U.S. company.

Any activities or other regulatory restrictions or approval requirements applicable to us as a result of our affiliation with Fifth Third Bancorp and Fifth Third Bank may inhibit our expansion into new markets or new business lines and may limit our ability to acquire other businesses or enter into other

strategic transactions, which may in turn have a material adverse effect on our business, financial condition and results of operations.

We are subject to direct supervision and examination by the CFPB because we are an affiliate of Fifth Third Bank (which is an insured depository institution with greater than $10 billion in assets) and because we are a service provider to insured depository institutions with assets of $10 billion or more in connection with their consumer financial products and to entities that are larger participants in markets for consumer financial products and services such as prepaid cards. The CFPB was created by the Dodd-Frank Act and will assume rulemaking authority over several enumerated federal consumer financial protection laws. It is also authorized to issue rules prohibiting unfair, deceptive or abusive acts or practices by persons offering consumer financial products or services and those, such as us, who are service providers to such persons. The CFPB has authority to enforce these consumer financial protection laws and rules. CFPB rules and examinations may require us to adjust our activities and may increase our compliance costs, which could have a material adverse effect on our business, financial condition, and results of operations.

For a further discussion of the applicability of banking regulation to our business and the risks presented by such regulation, see "Business—Regulation—Banking Regulation."

***The costs and effects of litigation, investigations or similar matters, or adverse facts and developments related thereto, could materially affect our business, financial position and results of operations.***

We are involved in various litigation matters and from time to time may be involved in governmental or regulatory investigations or similar matters arising out of our business. Our insurance or indemnities may not cover all claims that may be asserted against us, and any claims asserted against us, regardless of merit or eventual outcome, may harm our reputation. Should the ultimate judgments or settlements in any pending litigation or future litigation or investigation significantly exceed our insurance coverage, they could have a material adverse effect on our business, financial condition and results of operations.

***Our insurance coverage may be inadequate to cover all significant risk exposures.***

We maintain limited third party insurance policies covering certain potential liabilities including property, director and officer, business interruption, errors and omissions and general liability. There can be no assurance that such coverage will be available or sufficient to cover all claims to which we may become subject. If insurance coverage is unavailable or insufficient to cover any such claims, our business, financial condition and results of operations could be materially adversely affected.

***We may not be able to successfully manage our intellectual property and may be subject to infringement claims.***

We rely on a combination of contractual rights and copyright, trademark, patent and trade secret laws to establish and protect our proprietary technology. Third parties may challenge, invalidate, circumvent, infringe or misappropriate our intellectual property, or such intellectual property may not be sufficient to permit us to take advantage of current market trends or otherwise to provide competitive advantages, which could result in costly redesign efforts, discontinuance of certain service offerings or other competitive harm. Others, including our competitors may independently develop similar technology, duplicate our services or design around our intellectual property, and in such cases we could not assert our intellectual property rights against such parties. Further, our contractual arrangements may not effectively prevent disclosure of our confidential information or provide an adequate remedy in the event of unauthorized disclosure of our confidential information. We may have to litigate to enforce or determine the scope and enforceability of our intellectual property rights, trade secrets and know-how, which is expensive, could cause a diversion of resources and may not prove successful. Also, because of the rapid pace of technological change in our industry, aspects of our business and our services rely on technologies developed or licensed by third parties, and we may not be able to obtain or continue to obtain licenses and technologies from these third parties on reasonable terms or at all. The loss of intellectual property protection or the inability to obtain third party intellectual property could harm our business and ability to compete.

We may also be subject to costly litigation in the event our services and technology infringe upon or otherwise violate a third party's proprietary rights. Third parties may have, or may eventually be issued, patents that could be infringed by our services or technology. Any of these third parties could make a claim of infringement against us with respect to our services or technology. We may also be subject to claims by third parties for breach of copyright, trademark, license usage or other intellectual property rights. Any claim from third parties may result in a limitation on our ability to use the intellectual property subject to these claims. Additionally, in recent years, individuals and groups have been purchasing intellectual property assets for the sole purpose of making claims of infringement and attempting to extract settlements from companies like ours. Even if we believe that intellectual property related claims are without merit, defending against such claims is time consuming and expensive and could result in the diversion of the time and attention of our management and employees. Claims of intellectual property infringement also might require us to redesign affected services, enter into costly settlement or license agreements, pay costly damage awards, or face a temporary or permanent injunction prohibiting us from marketing or selling certain of our services. Even if we have an agreement for indemnification against such costs, the indemnifying party, if any in such circumstances, may be unable to uphold its contractual obligations. If we cannot or do not license the infringed technology on reasonable terms or substitute similar technology from another source, our revenue and earnings could be adversely impacted.

Finally, we use open source software in connection with our technology and services. Companies that incorporate open source software into their products have, from time to time, faced claims challenging the ownership of open source software. As a result, we could be subject to suits by parties claiming ownership of what we believe to be open source software. Some open source software licenses require users who distribute open source software as part of their software to publicly disclose all or part of the source code to such software and/or make available any derivative works of the open source code on unfavorable terms or at no cost. While we monitor the use of open source software in our technology and services and try to ensure that none is used in a manner that would require us to disclose the source code to the related technology or service, such use could inadvertently occur and any requirement to disclose our proprietary source code could be harmful to our business, financial condition and results of operations.

***If we lose key personnel our business, financial condition and results of operations may be adversely affected.***

We are dependent upon the ability and experience of a number of our key personnel who have substantial experience with our operations, the rapidly changing payment processing industry and the selected markets in which we offer our services. It is possible that the loss of the services of one or a combination of our senior executives or key managers, including Charles D. Drucker, our Chief Executive Officer, could have a material adverse effect on our business, financial condition and results of operations.

***The ability to attract, recruit, retain and develop qualified employees is critical to our success and growth.***

Our business functions at the intersection of rapidly changing technological, social, economic and regulatory developments that require a wide ranging set of expertise and intellectual capital. In order for us to successfully compete and grow, we must attract, recruit, retain and develop the necessary personnel who can provide the needed expertise across the entire spectrum of our intellectual capital needs. While we have a number of our key personnel who have substantial experience with our operations, we must also develop our personnel to provide succession plans capable of maintaining continuity in the midst of the inevitable unpredictability of human capital. However, the market for qualified personnel is competitive, and we may not succeed in recruiting additional personnel or may

fail to effectively replace current personnel who depart with qualified or effective successors. Our effort to retain and develop personnel may also result in significant additional expenses, which could adversely affect our profitability. We cannot assure that qualified employees will continue to be employed or that we will be able to attract and retain qualified personnel in the future. Failure to retain or attract key personnel could have a material adverse effect on our business, financial condition and results of operations.

***Our operating results are subject to seasonality, which could result in fluctuations in our quarterly net income.***

We have experienced in the past, and expect to continue to experience, seasonal fluctuations in our revenues as a result of consumer spending patterns. Historically our revenues have been strongest in our third and fourth quarters, and weakest in our first quarter. This is due to the increase in the number and amount of electronic payment transactions related to seasonal retail events.

***We may need to raise additional funds to finance our future capital needs, which may prevent us from growing our business.***

We may need to raise additional funds to finance our future capital needs, including developing new services and technologies, and to fund ongoing operating expenses. We also may need additional financing earlier than we anticipate if we, among other things:

- purchase residual equity (the portion of our commissions or residuals that we have committed to our distribution channel partners for as long as the merchant processes with us, which we may buy out at an agreed multiple) from a large number of distribution channel partners;
- need to reduce pricing in response to competitive or regulatory pressures;
- are required to pay significant settlements or fines;
- repurchase our common stock; or
- finance Vantiv Holding's purchase of its Class B units from Fifth Third investors upon the exercise of their right to put their Class B units of Vantiv Holding to Vantiv Holding in exchange for cash to the extent that we decide to purchase rather than exchange such units for Class A common stock.

If we raise additional funds through the sale of equity securities, these transactions may dilute the value of our outstanding Class A common stock. We may also decide to issue securities, including debt securities that have rights, preferences and privileges senior to our Class A common stock. Such debt financing would increase our already high level of indebtedness and could negatively affect our liquidity and restrict our operations. We may be unable to raise additional funds on terms favorable to us or at all. If financing is not available or is not available on acceptable terms, we may be unable to fund our future needs. This may prevent us from increasing our market share, capitalizing on new business opportunities or remaining competitive in our industry.

***Potential clients may be reluctant to switch to a new vendor, which may adversely affect our growth.***

Many potential clients, including both financial institutions and merchants, worry about potential disadvantages associated with switching payment processing vendors, such as a loss of accustomed functionality, increased costs and business disruption. For potential clients of our Merchant Services and Financial Institution Services segments, switching from one vendor of core processing or related software and services (or from an internally-developed system) to a new vendor is a significant undertaking. As a result, potential clients often resist change. We seek to overcome this resistance through strategies such as making investments to enhance the functionality of our software. However,

there can be no assurance that our strategies for overcoming potential clients' reluctance to change vendors will be successful, and this resistance may adversely affect our growth.

***We have a long sales cycle for many of our services, and if we fail to close sales after expending significant time and resources to do so, our business, financial condition and results of operations could be adversely affected.***

The initial installation and set-up of many of our services often involve significant resource commitments by our clients, particularly those with larger operational scale. Potential clients generally commit significant resources to an evaluation of available services and require us to expend substantial time (up to six to nine months), effort and money educating them as to the value of our services. We incur substantial costs in order to obtain each new customer. We may expend significant funds and management resources during the sales cycle and ultimately fail to close the sale. Our sales cycle may be extended due to our clients' budgetary constraints or for other reasons. If we are unsuccessful in closing sales after expending significant funds and management resources or we experience delays, it could have a material adverse effect on our business, financial condition and results of operations.

**Risks Related to Our Company and Our Organizational Structure**

***We have a limited operating history as a stand-alone company upon which you can evaluate our performance, and accordingly, our prospects must be considered in light of the risks that any newly stand-alone company encounters. Furthermore, we maintain many relationships with our former parent entity.***

Historically, our business has been conducted as a business unit of Fifth Third Bank, and many key services required by us for the operation of our business were provided by Fifth Third Bank until recently. Thus, we have limited experience operating as a stand-alone company and performing various corporate functions, including human resources, tax administration, legal (including compliance with the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, and with the periodic reporting obligations of the Exchange Act), treasury administration, investor relations, internal audit, insurance and information technology, as well as the accounting for items such as equity compensation and income taxes. Our business is subject to the substantial risks inherent in the commencement of a new business enterprise in an intensely regulated and competitive industry. Our prospects must be considered in light of the risks, expenses and difficulties encountered by companies in the early stages of independent business operations, particularly companies that are heavily affected by economic conditions and operate in highly regulated and competitive environments. Furthermore, we currently use services from Fifth Third Bank, such as treasury management services and limited information technology services. If Fifth Third Bank were to stop providing such services and we were unable to replace these services or enter into appropriate third party agreements on terms and conditions, including cost, comparable to those with Fifth Third Bank, it could have a material adverse effect on our business, financial condition and results of operations. For more information regarding our relationship with Fifth Third Bank, see "Certain Relationships and Related Person Transactions."

***Our substantial indebtedness could adversely affect our ability to raise additional capital to fund our operations, limit our ability to react to changes in the economy or our industry, expose us to interest rate risk to the extent of our variable rate debt and prevent us from meeting our debt obligations.***

We have a high level of indebtedness. As of June 30, 2011, after giving effect to this offering and the application of our estimated net proceeds therefrom, we would have had total indebtedness of $ million. Our high degree of leverage could have significant negative consequences, including:

- increasing our vulnerability to adverse economic, industry or competitive developments;

- requiring a substantial portion of cash flow from operations to be dedicated to the payment of principal and interest on our indebtedness, therefore reducing our ability to use our cash flow to fund our operations, capital expenditures and future business opportunities;
- exposing us to the risk of increased interest rates because certain of our borrowings, including and most significantly borrowings under our senior secured credit facilities, are at variable rates of interest;
- making it more difficult for us to satisfy our obligations with respect to our indebtedness, and any failure to comply with the obligations of any of our debt instruments, including restrictive covenants and borrowing conditions, could result in an event of default under the agreements governing such indebtedness;
- restricting us from making strategic acquisitions or causing us to make non-strategic divestitures;
- making it more difficult for us to obtain payment network sponsorship and clearing services from financial institutions;
- limiting our ability to obtain additional financing for working capital, capital expenditures, product development, debt service requirements, acquisitions and general corporate or other purposes; and
- limiting our flexibility in planning for, or reacting to, changes in our business or market conditions and placing us at a competitive disadvantage compared to our competitors who are less highly leveraged and who, therefore, may be able to take advantage of opportunities that our leverage prevents us from exploiting.

The majority of our indebtedness consists of indebtedness under our senior secured credit facilities which mature in 2016 and 2017. Our senior secured revolving credit facility matures in 2015. We may not be able to refinance our senior secured credit facilities or any other existing indebtedness because of our high level of debt, debt incurrence restrictions under our debt agreements or because of adverse conditions in credit markets generally.

***Despite our high indebtedness level, we still may be able to incur significant additional amounts of debt, which could further exacerbate the risks associated with our substantial indebtedness.***

We and our subsidiaries may be able to incur substantial additional indebtedness in the future. Although our senior secured credit facilities contain restrictions on the incurrence of additional indebtedness, these restrictions are subject to a number of significant qualifications and exceptions, and under certain circumstances, the amount of indebtedness that could be incurred in compliance with these restrictions could be substantial. For example, we may incur up to $350.0 million of additional debt pursuant to an incremental facility under our senior secured credit facilities, subject to certain terms and conditions. If new debt is added to our existing debt levels, the risks related to our indebtedness that we will face would increase.

***Our balance sheet includes significant amounts of goodwill and intangible assets. The impairment of a significant portion of these assets would negatively affect our business, financial condition and results of operations.***

Our balance sheet includes goodwill and intangible assets that represent 75% of our total assets at June 30, 2011. These assets consist primarily of goodwill and identified intangible assets associated with our acquisitions. We also expect to engage in additional acquisitions, which may result in our recognition of additional goodwill and intangible assets. Under current accounting standards, we are required to amortize certain intangible assets over the useful life of the asset, while goodwill and certain other intangible assets are not amortized. On at least an annual basis, we assess whether there

have been impairments in the carrying value of goodwill and certain intangible assets. If the carrying value of the asset is determined to be impaired, then it is written down to fair value by a charge to operating earnings. An impairment of a significant portion of goodwill or intangible assets could have a material adverse effect on our business, financial condition and results of operations.

***We will be required to pay our existing investors for most of certain tax benefits we may claim in connection with this offering and related transactions, and the amounts we pay could be significant.***

In connection with this offering, Vantiv Holding will purchase a portion of the Fifth Third investors' existing units of Vantiv Holding. The purchase of these units of Vantiv Holding from the Fifth Third investors is expected to result in increases in the tax basis of the assets of Vantiv Holding. In addition, the units of Vantiv Holding held by JPDN will be exchanged for shares of our Class A common stock to be sold in this offering, and the units in Vantiv Holding held by the Fifth Third investors may in the future be exchanged for cash or shares of our Class A common stock. These exchanges may result in increases in the tax basis of the assets of Vantiv Holding. Any increases in tax basis that occur as a result of the purchase of units from existing members or from future exchanges of units in Vantiv Holding, and any tax attributes that we currently have, may reduce the amount of tax that we would otherwise be required to pay in the future. In addition, NPC has certain net operating losses, or NOLs, and other tax attributes that may reduce the amount of tax that NPC would otherwise be required to pay in the future.

Prior to the consummation of the offering, Vantiv, Inc. will enter into four tax receivable agreements with our existing investors. One tax receivable agreement will provide for the payment by us to the Fifth Third investors of 85% of the amount of cash savings, if any, in U.S. federal, state and local income tax that we actually realize as a result of the increases in tax basis that may result from the purchase of Vantiv Holding units from the Fifth Third investors or from the future exchange of units by the Fifth Third investors for cash or shares of our Class A common stock, as well as the tax benefits attributable to payments made under such tax receivable agreement, excluding in each case any tax benefits attributable to a deemed distribution to the Fifth Third investors as a result of a reduction of its share of Vantiv Holding's liabilities under Section 752 of the Code. Any actual increase in tax basis, as well as the amount and timing of any payments under the agreement, will vary depending upon a number of factors, including the timing of exchanges, the price of shares of our Class A common stock at the time of the exchange, the extent to which such exchanges are taxable, and the amount and timing of our income. The second of these tax receivable agreements will provide for the payment by us to Advent of 85% of the amount of cash savings, if any, in U.S. federal, state and local income tax that we actually realize as a result of our use of our tax attributes, as well as the tax benefits attributable to payments made under such tax receivable agreement. The third of these tax receivable agreements will provide for the payment by us to our existing investors of 85% of the amount of cash savings, if any, in U.S. federal, state and local income tax that NPC actually realizes as a result of its use of its NOLs and other tax attributes, as well as the tax benefits attributable to payments made under such tax receivable agreement, with any such payment being paid to Advent, the Fifth Third investors and JPDN according to their respective ownership interests in Vantiv Holding immediately prior to the reorganization transactions. The fourth of these tax receivable agreements will provide for the payment to JPDN of 85% of the amount of cash savings, if any, in U.S. federal, state and local income tax that we actually realize as a result in the increase in tax basis that may result from the Vantiv Holding units exchanged for our Class A common stock by JPDN, as well as the tax benefits attributable to payments made under such tax receivable agreement.

The payments we will be required to make under the tax receivable agreements could be substantial. Assuming no material changes in the relevant tax law, and that we earn sufficient taxable income to realize all tax benefits that are subject to the tax receivable agreements, we expect future payments under the tax receivable agreements relating to our tax attributes and NPC's NOLs and other

tax attributes to aggregate $283.0 million and to range over the next 15 years from approximately $6.6 million to $28.0 million per year. Other payments may be made pursuant to the tax receivable agreements related to the purchase by us of units in Vantiv Holding from existing members which we cannot quantify at this time and which could be significant. Future payments to our existing investors in respect of subsequent exchanges would be in addition to these amounts and are expected to be substantial as well. The foregoing numbers are merely estimates, and the actual payments could differ materially. It is possible that future transactions or events, including changes in tax rates, could increase or decrease the actual tax benefits realized and the corresponding tax receivable agreement payments. There may be a material adverse effect on our liquidity if, as a result of timing discrepancies or otherwise, distributions to us by Vantiv Holding are not sufficient to permit us to make payments under the tax receivable agreements after we have paid taxes. The payments under the tax receivable agreements are not conditioned upon the continued ownership of us or Vantiv Holding by the other parties to that agreement.

***In certain cases, payments under the tax receivable agreements to our existing investors may be accelerated and/or significantly exceed the actual benefits we realize in respect of the tax attributes subject to the tax receivable agreements.***

The tax receivable agreements provide that, upon certain mergers, asset sales, other forms of business combination or certain other changes of control, our obligations to make payments with respect to tax benefits would be based on certain assumptions, including that we would have sufficient taxable income to fully use the NOLs or deductions arising from increased tax basis of assets. As a result, upon a merger or other change of control, we could be required to make payments under the tax receivable agreements that are greater than 85% of our actual tax savings.

We may elect to terminate any or all of the tax receivable agreements prior to the time they terminate in accordance with their terms. If we were to so elect, we would be required to make an immediate payment equal to the present value of the anticipated future tax benefits taken into account under the tax receivable agreements. The anticipated future tax benefits would be determined under certain assumptions that in general assume that we would recognize the greatest amount of benefits at the earliest time. As a result, the payments we would be required to make if we elect to terminate any or all of the tax receivable agreements could exceed 85% of the tax savings that we actually realize from the increased tax basis and/or the NOLs, and we could be required to make those payments significantly in advance of the time the tax savings arise.

***We will not be reimbursed for any payments made to our existing investors under the tax receivable agreements in the event that any tax benefits are disallowed.***

If the Internal Revenue Service, or the IRS, challenges the tax basis increases or NOLs that give rise to payments under the tax receivable agreements and the tax basis increases or NOLs are subsequently disallowed, the recipients of payments under those agreements will not reimburse us for any payments we previously made to them. Any such disallowance would be taken into account in determining future payments under the tax receivable agreements and would, therefore, reduce the amount of any such future payments. Nevertheless, if the claimed tax benefits from the tax basis increases or NOLs are disallowed, our payments under the tax receivable agreements could exceed our actual tax savings, and we may not be able to recoup payments under the tax receivable agreements that were calculated on the assumption that the disallowed tax savings were available.

***Our principal assets after completion of this offering will be our interests in Vantiv Holding and Transactive, and we will depend on dividends, distributions and other payments, advances and transfers of funds from Vantiv Holding and Transactive to meet any existing or future debt service and other obligations and to pay dividends, if any, and taxes and other expenses.***

We are a holding company, and we conduct all of our domestic operations through Vantiv Holding and its subsidiaries. We have no material assets other than our ownership of units of Vantiv Holding. We have no independent means of generating revenues. We intend to cause Vantiv Holding to make (i) periodic tax distributions to its members computed based on an estimate of the net taxable income of Vantiv Holding allocable to a holder of its units multiplied by an assumed tax rate and only to the extent that all distributions from Vantiv Holding for the relevant year were insufficient to cover the tax liabilities in accordance with the Amended and Restated Vantiv Holding Limited Liability Company Agreement, (ii) payments under the tax receivable agreements, and (iii) dividends, if any, declared by Vantiv Holding in accordance with the Amended and Restated Vantiv Holding Limited Liability Company Agreement. The Amended and Restated Vantiv Holding Limited Liability Company Agreement will contain supermajority voting rights that will effectively require Advent's and Fifth Third Bank's approval of all distributions paid by Vantiv Holding, other than periodic tax distributions and payments under the tax receivable agreements, and periodic payments to cover reasonable administrative expenses of Vantiv, Inc. To the extent that we need funds and Vantiv Holding is restricted from making such distributions under applicable law or regulation or the terms of its indebtedness, or is otherwise unable to provide such funds, it could materially adversely affect our liquidity and, consequently, our business, financial condition and results of operations.

***Unfavorable resolution of tax contingencies could adversely affect our tax expense and have a material adverse effect on our business, financial condition and results of operations.***

Our tax returns and positions are subject to review and audit by federal, state, local and international taxing authorities. An unfavorable outcome to a tax audit could result in higher tax expense, thereby negatively impacting our results of operations. We do not have any known tax exposures relating to deductions, transactions and other matters involving some uncertainty as to the proper tax treatment of the item, and therefore, have not established any contingency reserves for such uncertainties. In the event an issue is raised by a taxing authority, there is no assurance that, it will be finally resolved without material financial cost. An unfavorable resolution, therefore, could negatively impact our effective tax rate, cash flows, business, financial condition and results of operations in the current and/or future periods.

***Advent and the Fifth Third investors will have substantial control over us and Vantiv Holding after this offering and will be able to influence corporate matters with respect to us and Vantiv Holding. Advent and the Fifth Third investors may have interests that differ from each other and from those of our other stockholders.***

Upon completion of this offering and assuming the underwriters do not elect to exercise their option to purchase additional shares, Advent and the Fifth Third investors will directly or indirectly hold, in the aggregate, approximately % and 19.9% of the voting power of our outstanding common stock, respectively. As a result, each of Advent and the Fifth Third investors will be able to strongly influence or effectively control the election of our directors and the outcome of any corporate transaction or other matter submitted to our stockholders for approval, including potential mergers or acquisitions, asset sales and other significant corporate transactions. The aggregate beneficial ownership, including the voting power, of the Class A common stock and the Class B common stock that the Fifth Third investors hold will be limited to 19.9% other than in connection with a stockholder vote with respect to a change of control, in which event Fifth Third will have the right to that number of votes equal to the number of shares of Class A common stock it would own if it had converted all its Class B units of Vantiv Holding. In addition, of our directors are employees of Advent.

The Fifth Third investors, as holders of our Class B common stock, will have the right to elect a number of our directors proportionate to the voting power represented by the Class B common stock; accordingly, of our directors are employees of Fifth Third Bank or its affiliates, as described under "Management." In addition, Advent and Fifth Third Bank have supermajority voting rights pursuant to the Amended and Restated Vantiv Holding Limited Liability Company Agreement and consent rights pursuant to Vantiv, Inc.'s Stockholders' Agreement with respect to certain significant matters. See "Certain Relationships and Related Person Transactions—Reorganization and Offering Transactions—Vantiv, Inc. Stockholders' Agreement" and "Description of Capital Stock—Vantiv Holding."

The interests of Advent and the Fifth Third investors may not coincide with each other or the best interests of other holders of our Class A common stock. This concentration of voting power could also have the effect of delaying, deterring or preventing a change of control or other business combination that might otherwise be beneficial to the stockholders of our Class A common stock.

***Advent and Fifth Third Bank will be able to significantly influence our operations and management because of certain supermajority voting and other rights in the Amended and Restated Vantiv Holding Limited Liability Company Agreement and consent rights in the Vantiv, Inc. Stockholders' Agreement.***

Other than with respect to Transactive, all of our business and operations will be conducted through Vantiv Holding, and our control of Vantiv Holding will be subject to the supermajority voting requirements in the Amended and Restated Vantiv Holding Limited Liability Company Agreement. We will also be subject to the consent rights in the Vantiv, Inc. Stockholders' Agreement. The supermajority voting provisions at Vantiv Holding will require the approval of seven of nine directors of Vantiv Holding for certain significant matters and will therefore require the approval of directors who are appointed by Advent and Fifth Third Bank. The consent rights in the Vantiv, Inc. Stockholders' Agreement will require Advent's and Fifth Third Bank's approval for the same significant matters at Vantiv, Inc. These significant matters include certain change of control transactions; acquisitions, dispositions, incurrences of debt or equity issuances above specified thresholds; declaration and payment of dividends; transactions with affiliates; changes to our business plan; capital expenditures; changes to credit facilities or incentive plans; hiring or firing of auditors; material tax elections; and changes in constituent documents or governance of our subsidiaries. See "Description of Capital Stock—Vantiv Holding" and "Certain Relationships and Related Person Transactions—Reorganization and Offering Transactions—Vantiv, Inc. Stockholders' Agreement." These supermajority voting rights and consent rights may discourage or prevent transactions involving a change of control, including transactions in which you as a holder of our Class A common stock might otherwise receive a premium for their shares. Moreover, to the extent that the interests of Advent or Fifth Third Bank differ from those of us or the holders of our Class A common stock, Advent's and Fifth Third Bank's ability to block certain actions may have a materially adverse effect on our business, financial condition and results of operations.

***Certain of our existing investors have interests and positions that could present potential conflicts with our and our stockholders' interests.***

Advent makes investments in companies and may, from time to time, acquire and hold interests in businesses that compete directly or indirectly with us. Advent and Fifth Third Bank may also pursue, for their own accounts, acquisition opportunities that may be complementary to our business, and as a result, those acquisition opportunities may not be available to us. Our amended and restated certificate of incorporation will contain provisions renouncing any interest or expectancy held by our directors affiliated with Advent and Fifth Third Bank in certain corporate opportunities. Accordingly, the interests of Advent and Fifth Third Bank may supersede ours, causing them or their affiliates to compete against us or to pursue opportunities instead of us, for which we have no recourse. Such

actions on the part of Advent and Fifth Third Bank and inaction on our part could have a material adverse effect on our business, financial condition and results of operations.

***Some provisions of Delaware law and our amended and restated certificate of incorporation and amended and restated bylaws may deter third parties from acquiring us and diminish the value of our Class A common stock.***

Our amended and restated certificate of incorporation and amended and restated bylaws provide for, among other things:

- restrictions on the ability of our stockholders to call a special meeting and the business that can be conducted at such meeting;
- restrictions on the ability of our stockholders to remove a director or fill a vacancy on the board of directors;
- our ability to issue additional shares of Class A common stock and to issue preferred stock with terms that the board of directors may determine, in each case without stockholder approval;
- the absence of cumulative voting in the election of directors;
- a classified board of directors;
- a prohibition of action by written consent of stockholders unless such action is recommended by all directors then in office; and
- advance notice requirements for stockholder proposals and nominations.

These provisions in our amended and restated certificate of incorporation and amended and restated bylaws may discourage, delay or prevent a transaction involving a change in control of our company that is in the best interest of our minority stockholders. Even in the absence of a takeover attempt, the existence of these provisions may adversely affect the prevailing market price of our Class A common stock if they are viewed as discouraging future takeover attempts. These provisions could also make it more difficult for stockholders to nominate directors for election to our board of directors and take other corporate actions.

**Risks Related to this Offering**

***If a substantial number of shares become available for sale and are sold in a short period of time, the market price of our Class A common stock could decline.***

If Advent and the Fifth Third investors sell substantial amounts of our Class A common stock in the public market following this offering, the market price of our Class A common stock could decrease significantly. The perception in the public market that Advent and the Fifth Third investors might sell shares of Class A common stock could also depress the market price of our Class A common stock. Upon the consummation of this offering, we will have shares of Class A common stock outstanding. Our directors, executive officers, Advent, the Fifth Third investors and substantially all of our other stockholders will be subject to the lock-up agreements described in "Underwriting" and are subject to the Rule 144 holding period requirements described in "Shares Eligible for Future Sale—Lock-up Arrangements and Registration Rights." After these lock-up agreements have expired and holding periods have elapsed, additional shares will be eligible for sale in the public market including any shares of Class A common stock that the Fifth Third investors obtain through the exercise of their right to exchange Class B units of Vantiv Holding for shares of our Class A common stock, as well as any shares of Class A common stock obtained through the exercise of the warrant held by Fifth Third Bank. See "Certain Relationships and Related Person Transactions—Agreements Related to the Separation Transaction—Warrant" and "Description of Capital Stock—Vantiv Holding."

Advent and the Fifth Third investors will have registration rights with respect to Class A common stock they hold. See "Shares Eligible for Future Sale—Lock-up Agreements and Registration Rights." The market price of shares of our Class A common stock may drop significantly when the restrictions on resale by our existing investors lapse as a result of sales by our stockholders in the market or the perception that such sales could or will occur. Any decline in the price of shares of our Class A common stock could impede our ability to raise capital through the issuance of additional shares of our Class A common stock or other equity securities.

***There may not be an active, liquid trading market for our Class A common stock.***

Prior to this offering, there has been no public market for shares of our Class A common stock. We cannot predict the extent to which investor interest in our company will lead to the development of a trading market on the NYSE or Nasdaq or how liquid that market may become. If an active trading market does not develop, you may have difficulty selling any of our Class A common stock that you purchase. The initial public offering price of shares of our Class A common stock will be determined by negotiation between us and the underwriters and may not be indicative of market prices of our Class A common stock that will prevail following the completion of this offering. The market price of shares of our Class A common stock may decline below the initial public offering price, and you may not be able to resell your shares of our Class A common stock at or above the initial offering price.

***As a public company, we will become subject to additional financial and other reporting and corporate governance requirements that may be difficult and costly for us to satisfy.***

We have historically operated our business as a business unit of a public company or a private company. After this offering, we will be required to file with the SEC annual and quarterly information and other reports that are specified in Section 13 of the Exchange Act. We will also be required to ensure that we have the ability to prepare financial statements that are fully compliant with all SEC reporting requirements on a timely basis. We will also become subject to other reporting and corporate governance requirements, including the requirements of the NYSE or Nasdaq, and certain provisions of the Sarbanes-Oxley Act and the regulations promulgated thereunder, which will impose significant compliance obligations upon us. As a public company, we will, among other things:

- prepare and distribute periodic public reports and other stockholder communications in compliance with our obligations under the federal securities laws and applicable NYSE or Nasdaq rules;
- create or expand the roles and duties of our board of directors and committees of the board;
- institute more comprehensive financial reporting and disclosure compliance functions;
- supplement our internal accounting, auditing and reporting function, including hiring additional staff with expertise in accounting and financial reporting for a public company;
- enhance and formalize closing procedures at the end of our accounting periods;
- enhance our internal audit and tax functions;
- enhance our investor relations function;
- establish new internal policies, including those relating to disclosure controls and procedures; and
- involve and retain to a greater degree outside counsel and accountants in the activities listed above.

These changes will require a significant commitment of additional resources. We may not be successful in implementing these requirements and the significant commitment of resources required

for implementing them could adversely affect our business, financial condition and results of operations. In addition, if we fail to implement the requirements with respect to our internal accounting and audit functions, our ability to report our results of operations on a timely and accurate basis could be impaired and we could suffer adverse regulatory consequences or violate NYSE or Nasdaq listing standards. There could also be a negative reaction in the financial markets due to a loss of investor confidence in us and the reliability of our financial statements.

The changes necessitated by becoming a public company require a significant commitment of resources and management oversight that has increased and may continue to increase our costs and might place a strain on our systems and resources. As a result, our management's attention might be diverted from other business concerns. If we fail to maintain an effective internal control environment or to comply with the numerous legal and regulatory requirements imposed on public companies, we could make material errors in, and be required to restate, our financial statements. Any such restatement could result in a loss of public confidence in the reliability of our financial statements and sanctions imposed on us by the SEC.

***Our internal control over financial reporting does not currently meet the standards required by Section 404 of the Sarbanes-Oxley Act, and failure to achieve and maintain effective internal control over financial reporting in accordance with Section 404 of the Sarbanes-Oxley Act could have a material adverse effect on our business, financial condition and results of operations.***

Our internal control over financial reporting does not currently meet the standards required by Section 404 of the Sarbanes-Oxley Act, standards that we will be required to meet in the course of preparing future financial statements. We do not currently document or test our compliance with these controls on a periodic basis in accordance with Section 404. Furthermore, we have not tested our internal controls in accordance with Section 404 and, due to our lack of documentation, such a test would not be possible to perform at this time.

We are in the early stages of addressing our internal control procedures to satisfy the requirements of Section 404, which requires an annual management assessment of the effectiveness of our internal control over financial reporting. If, as a public company, we are not able to implement the requirements of Section 404 in a timely manner or with adequate compliance, our independent registered public accounting firm may not be able to attest to the effectiveness of our internal control over financial reporting. If we are unable to maintain adequate internal control over financial reporting, we may be unable to report our financial information on a timely basis, may suffer adverse regulatory consequences or violations of applicable stock exchange listing rules and may breach the covenants under our credit facilities. There could also be a negative reaction in the financial markets due to a loss of investor confidence in us and the reliability of our financial statements.

In addition, we will incur additional costs in order to improve our internal control over financial reporting and comply with Section 404, including increased auditing and legal fees and costs associated with hiring additional accounting and administrative staff.

***We expect that our stock price will fluctuate significantly, which could cause the value of your investment to decline, and you may not be able to resell your shares at or above the initial public offering price.***

Securities markets worldwide have experienced, and are likely to continue to experience, significant price and volume fluctuations. This market volatility, as well as general economic, market or political conditions, could reduce the market price of our Class A common stock regardless of our results of operations. The trading price of our Class A common stock is likely to be volatile and subject to wide price fluctuations in response to various factors, including:

- market conditions in the broader stock market;

- actual or anticipated fluctuations in our quarterly financial and operating results;
- introduction of new services by us, our competitors or our clients;
- issuance of new or changed securities analysts' reports or recommendations;
- investor perceptions of us and the industries in which we or our clients operate;
- sales, or anticipated sales, of large blocks of our stock, including those by our existing investors;
- additions or departures of key personnel;
- regulatory or political developments;
- litigation and governmental investigations; and
- changing economic conditions.

These and other factors may cause the market price and demand for shares of our Class A common stock to fluctuate substantially, which may limit or prevent investors from readily selling their shares of Class A common stock and may otherwise negatively affect the liquidity of our Class A common stock. In addition, in the past, when the market price of a stock has been volatile, holders of that stock have sometimes instituted securities class action litigation against the company that issued the stock. If any of our stockholders brought a lawsuit against us, we could incur substantial costs defending the lawsuit. Such a lawsuit could also divert the time and attention of our management from our business, which could significantly harm our profitability and reputation.

***If securities or industry analysts do not publish research or reports about our business, publish research or reports containing negative information about our business, adversely change their recommendations regarding our Class A common stock or if our results of operations do not meet their expectations, our stock price and trading volume could decline.***

The trading market for our Class A common stock will be influenced by the research and reports that industry or securities analysts publish about us or our business. If one or more of these analysts cease coverage of our company or fail to publish reports on us regularly, we could lose visibility in the financial markets, which in turn could cause our stock price or trading volume to decline. Moreover, if one or more of the analysts who cover us downgrade our stock, or if our results of operations do not meet their expectations, the trading price of our Class A common stock would decline.

***We do not anticipate paying any cash dividends for the foreseeable future.***

We currently intend to retain our future earnings, if any, for the foreseeable future, to repay indebtedness and for general corporate purposes. We do not intend to pay any dividends to holders of our Class A common stock. As a result, capital appreciation in the price of our Class A common stock, if any, will be your only source of gain on an investment in our Class A common stock. See "Dividend Policy."

***New investors in our Class A common stock will experience immediate and substantial book value dilution after this offering.***

The initial public offering price of our Class A common stock will be substantially higher than the pro forma net tangible book value per share of the outstanding Class A common stock immediately after the offering. Based on our pro forma net tangible book value as of June 30, 2011, if you purchase our Class A common stock in this offering, you will suffer immediate dilution in net tangible book value per share of approximately $        per share. See "Dilution."

## FORWARD-LOOKING STATEMENTS

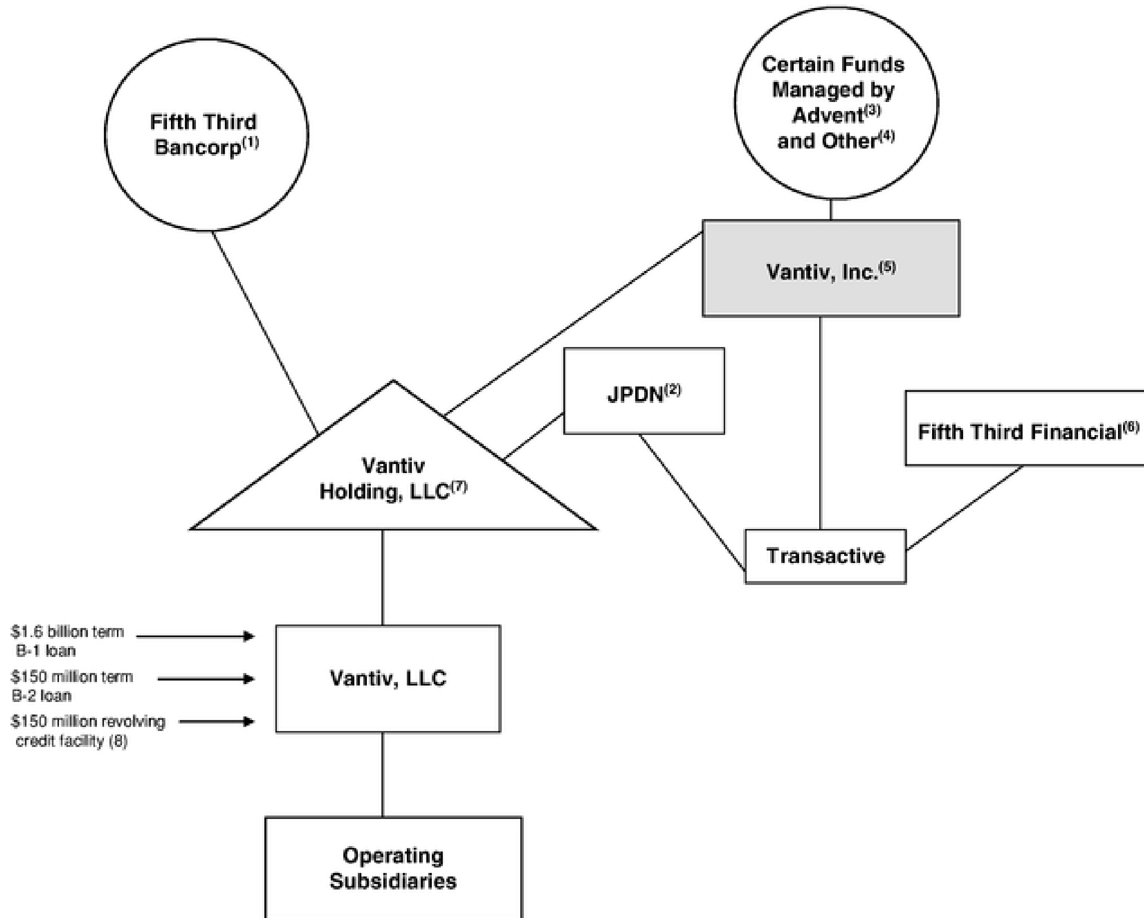
This prospectus contains forward-looking statements that are subject to risks and uncertainties. All statements other than statements of historical fact included in this prospectus are forward-looking statements. Forward-looking statements give our current expectations and projections relating to our financial condition, results of operations, plans, objectives, future performance and business. You can identify forward-looking statements by the fact that they do not relate strictly to historical or current facts. These statements may include words such as "anticipate," "estimate," "expect," "project," "plan," "intend," "believe," "may," "should," "can have," "likely" and other words and terms of similar meaning in connection with any discussion of the timing or nature of future operating or financial performance or other events.

The forward-looking statements contained in this prospectus are based on assumptions that we have made in light of our industry experience and our perceptions of historical trends, current conditions, expected future developments and other factors we believe are appropriate under the circumstances. As you read and consider this prospectus, you should understand that these statements are not guarantees of performance or results. They involve risks, uncertainties (many of which are beyond our control) and assumptions. Although we believe that these forward-looking statements are based on reasonable assumptions, you should be aware that many factors could affect our actual operating and financial performance and cause our performance to differ materially from the performance anticipated in the forward-looking statements. We believe these factors include, but are not limited to, those described under "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations." Should one or more of these risks or uncertainties materialize, or should any of these assumptions prove incorrect, our actual operating and financial performance may vary in material respects from the performance projected in these forward-looking statements.

Any forward-looking statement made by us in this prospectus speaks only as of the date on which we make it. Factors or events that could cause our actual operating and financial performance to differ may emerge from time to time, and it is not possible for us to predict all of them. We undertake no obligation to publicly update any forward-looking statement, whether as a result of new information, future developments or otherwise, except as may be required by law.

**ORGANIZATIONAL STRUCTURE**

The diagram below depicts our current organizational structure:




(1) Fifth Third Bank, a wholly-owned indirect subsidiary of Fifth Third Bancorp, and FTPS Partners, LLC, a wholly-owned subsidiary of Fifth Third Bank, own 44.52% and 4.42% of Vantiv Holding, respectively.
(2) JPDN Enterprises, LLC, an affiliate of Charles D. Drucker, our chief executive officer, owns 0.14% of Vantiv Holding, LLC and 0.14% of Transactive.
(3) Certain funds managed by Advent International Corporation own 99.4% of Vantiv, Inc.
(4) A director of Vantiv Holding, LLC owns 0.6% of Vantiv, Inc.
(5) Vantiv, Inc. owns 50.93% of Vantiv Holding and 50.93% of Transactive.
(6) Fifth Third Financial, a wholly-owned subsidiary of Fifth Third Bancorp, owns 48.93% of Transactive.
(7) Vantiv Holding, LLC owns 100% of Vantiv, LLC and the operating subsidiaries.
(8) As of June 30, 2011, a $1.5 million letter of credit was outstanding under our revolving credit facility.

Table of Contents

The diagram below depicts our organizational structure immediately following this offering:

**Reorganization transactions**

In connection with this offering, the following transactions, which we refer to as the "reorganization transactions," will occur:

- Vantiv, Inc. will amend and restate its certificate of incorporation and will have authorized capital stock consisting of shares of Class A common stock, shares of Class B common stock and shares of undesignated preferred stock. We will conduct a to 1 stock split of our Class A common stock prior to the consummation of this offering.

- Vantiv Holding's limited liability company agreement will be amended and restated to, among other things, modify its capital structure to provide for Class A units and Class B units, with the Class A units held by Vantiv, Inc. and the Class B units held by the Fifth Third investors. Vantiv, Inc. will hold Class A units and will be the majority unitholder of Vantiv Holding and will operate and control Vantiv Holding, subject to the terms of the supermajority voting requirements and other provisions set forth in the Amended and Restated Vantiv Holding Limited Liability Company Agreement. See "Description of Capital Stock—Vantiv Holding." The Fifth Third investors will hold Class B units, which will be exchangeable for shares of Class A common stock. See "Certain Relationships and Related Person Transactions—Reorganization and Offering Transactions—Exchange Agreement."

- Transactive's certificate of incorporation will be amended and restated to, among other things, modify its capital structure to provide for Class A common stock and Class B common stock, with the Class A common stock held by Vantiv, Inc. and the Class B common stock held by Fifth Third Financial.

- The stockholders of Vantiv, Inc., including Advent, will enter into the Vantiv, Inc. Stockholders' Agreement which will provide Fifth Third Bank with consent rights over certain significant matters. In addition to these consent rights, the Vantiv, Inc. Stockholders' Agreement will also provide for certain restrictions on the business activities of Vantiv, Inc. and Vantiv Holding. The Vantiv, Inc. Stockholders' Agreement will also provide that any sale, merger or other business

combination will be structured so that the Fifth Third investors receive the same consideration for their units as holders of our Class A common stock receive for their shares, subject to specified limitations. See "Certain Relationships and Related Person Transactions—Reorganization and Offering Transactions—Vantiv, Inc. Stockholders' Agreement."

- Vantiv, Inc. and the Fifth Third investors will enter into an exchange agreement, or the Exchange Agreement, under which the Fifth Third investors (or certain permitted transferees thereof) will have the right, subject to the terms of the Exchange Agreement, from time to time to exchange their Class B units in Vantiv Holding for shares of our Class A common stock on a one-for-one basis, subject to customary conversion rate adjustments, or, at Vantiv Holding's option, for cash, which we refer to as the put right. To the extent that we issue a share of Class A common stock upon the exchange of a Class B unit of Vantiv Holding, Vantiv Holding will issue a Class A unit to us and we will cancel a share of Class B common stock. See "Certain Relationships and Related Person Transactions—Reorganization and Offering Transactions—Exchange Agreement."

- We will enter into four tax receivable agreements, which will provide for payments by us to our existing shareholders equal to 85% of the amount of cash savings, if any, in U.S. federal, state and local income tax that we and NPC actually realize as a result of certain tax basis increases and NOLs. See "Certain Relationships and Related Person Transactions—Reorganization and Offering Transactions—Tax Receivable Agreements."

In addition, the Fifth Third investors will receive one share of our Class B common stock for each Class B unit of Vantiv Holding that they hold. The Class B common stock only carries voting rights and the right to appoint a certain number of directors; it carries no economic rights. The shares of our Class B common stock will entitle the holders of the Class B common stock collectively to up to 19.9% of the aggregate voting power of our outstanding common stock on a formulaic basis. To the extent that the Fifth Third investors hold more than 19.9% of the aggregate voting power of our outstanding common stock as a result of the ownership of both Class A and Class B common stock, the Fifth Third investors' voting power will be limited to 19.9%, other than in connection with a stockholder vote with respect to merger or other change of control, in which event the Fifth Third investors will have the right to that number of votes equal to the number of shares of Class A common stock they would own if they had converted all of their Class B units of Vantiv Holding. The Class B common stock, voting as a separate class, will also be entitled to elect a number of our directors equal to the percentage of the voting power of all of our outstanding common stock represented by the Class B common stock but not exceeding 19.9% of the board of directors. In addition (and except in connection with a change of control), to the extent that the Fifth Third investors hold Class A common stock and Class B common stock entitled to less than 19.9% of the voting power of the outstanding common stock, then the Fifth Third investors shall be entitled only to such lesser voting power determined on a formulaic basis.

Vantiv, Inc. will contribute the proceeds from this offering (after deducting underwriting discounts and commissions and expenses payable by Vantiv, Inc. in connection with the offering) (i) to Vantiv Holding which will use a portion of such net proceeds to redeem Class B units from the Fifth Third investors and (ii) to Transactive to redeem shares of its Class B common stock from Fifth Third Financial.

As a result of the reorganization transactions and this offering:

- the investors purchasing Class A common stock in this offering will collectively own              shares of our Class A common stock (or              shares of Class A common stock if the underwriters exercise in full their option to purchase additional shares of Class A common stock), and Vantiv, Inc. will hold              Class A units of Vantiv Holding;

- the funds managed by Advent International Corporation will hold shares of Class A common stock (or shares of Class A common stock if the underwriters exercise in full their option to purchase additional shares of Class A common stock);
- the Fifth Third investors will hold shares of our Class B common stock and Class B units of Vantiv Holding (or shares of Class B common stock and Class B units of Vantiv Holding if the underwriters exercise in full their option to purchase additional shares of Class A common stock), which Class B units are exchangeable on a one-for-one basis for shares of our Class A common stock upon exercise by the Fifth Third investors of their put right;
- the investors purchasing Class A common stock in this offering will collectively have % of the voting power and % of the economic interest of the common stock of Vantiv, Inc. (or % if the underwriters exercise in full their option to purchase additional shares of Class A common stock);
- the funds managed by Advent International Corporation will have % of the voting power of the common stock of Vantiv, Inc. (or % if the underwriters exercise in full their option to purchase additional shares of Class A common stock);
- the Fifth Third investors will have 19.9% of the voting power of the common stock of Vantiv, Inc. and no economic interest in Vantiv, Inc.; and
- certain of our employees will receive shares of unrestricted Class A common stock and shares of unvested restricted Class A common stock that will continue to vest in accordance with its terms, assuming an initial public offering price of $ per share, pursuant to their Phantom Unit Agreements with Vantiv Holding.

After the completion of this offering, Fifth Third Bank will continue to have a warrant to purchase Class B units of Vantiv Holding or shares of Class A common stock at an exercise price of approximately $ per unit or share, as applicable, subject to customary anti-dilution adjustments. Following this offering, the warrant will be (x) freely transferable and (y) freely exercisable subject to (i) the receipt of a private ruling from the IRS stating that the exercise of the warrant will not cause a deemed transfer taxable to the Vantiv Holding unitholders of an interest in the capital of Vantiv Holding for tax purposes from the Vantiv Holding unitholders to the party exercising the warrant, or a capital shift that causes a taxable event for the Vantiv Holding unitholders, (ii) enactment of final U.S. income tax regulations to clarify that no taxes due caused by a capital shift that causes a taxable event for the Vantiv Holding unitholders would be caused upon exercise of the warrant or (iii) Fifth Third Bank providing indemnity to us equal to 70% for any capital shift that may be caused by the exercise of the warrant (except in certain circumstances, including a change of control). The warrant expires upon the earliest to occur of (i) June 30, 2029 and (ii) a change of control of Vantiv, Inc. (as defined in the revised Warrant Agreement) where the price paid per unit in such change of control minus the exercise price of the warrant is less than zero. See "Certain Relationships and Related Person Transactions—Agreements Related to the Separation Transaction—Warrant."

Our post-offering organizational structure will allow the Fifth Third investors to retain equity ownership in Vantiv Holding, an entity that is classified as a partnership for U.S. federal income tax purposes, in the form of units. In addition, the Fifth Third investors from time to time may acquire an economic interest in Vantiv, Inc. by exercising their put right and acquiring Class A common stock. The Class B common stock will give voting rights to the Fifth Third investors. To the extent that the Fifth Third investors hold more than 19.9% of the aggregate voting power of the outstanding common stock as a result of the ownership of Class A common stock and Class B common stock, the Fifth Third investors' voting power will be limited to 19.9% other than in connection with a stockholder vote with respect to a change of control, in which event the Fifth Third investors will have the right to that number of votes equal to the number of shares of Class A common stock they would own if they had

converted all of their Class B units of Vantiv Holding. Investors in this offering will, by contrast, hold their equity ownership in Vantiv, Inc., a Delaware corporation that is a domestic corporation for U.S. federal income tax purposes, in the form of shares of Class A common stock. Vantiv, Inc. and Fifth Third Bank will incur U.S. federal, state and local income taxes on their proportionate share of any taxable income of Vantiv Holding.

Vantiv, Inc. is a holding company and its principal assets are equity interests in Vantiv Holding and Transactive. As the majority unitholder of Vantiv Holding and the majority stockholder of Transactive, we will operate and control the business and affairs of Vantiv Holding and Transactive, subject to certain supermajority voting requirements in the Amended and Restated Vantiv Holding Limited Liability Company Agreement and the consent rights in the Vantiv, Inc. Stockholders' Agreement. We will conduct our business through Vantiv Holding, Transactive and their respective operating subsidiaries.

In addition, pursuant to our amended and restated certificate of incorporation, the Exchange Agreement and the Amended and Restated Vantiv Holding Limited Liability Company Agreement, the capital structure of Vantiv, Inc. and Vantiv Holding will generally replicate one another and will provide for customary antidilution mechanisms in order to maintain the one-for-one exchange ratio between the Class B units of Vantiv Holding and the Vantiv, Inc. Class A common stock, among other things. See "Description of Capital Stock—Common Stock," "—Vantiv Holding" and "Certain Relationships and Related Person Transactions—Reorganization and Offering Transactions Exchange Agreement."

Pursuant to the Amended and Restated Vantiv Holding Limited Liability Company Agreement in effect at the time of this offering, we will determine when distributions will be made to unitholders of Vantiv Holding and the amount of any such distributions, subject to certain supermajority voting requirements set forth in the Amended and Restated Vantiv Holding Limited Liability Company Agreement. If a distribution is authorized, such distribution, other than with respect to certain tax distributions, will be made to the unitholders of Vantiv Holding pro rata in accordance with the percentages of their respective limited liability company interests.

The unitholders of Vantiv Holding, including Vantiv, Inc. will incur U.S. federal, state and local income taxes on their proportionate share of any taxable income of Vantiv Holding. Net profits and net losses of Vantiv Holding will generally be allocated to its unitholders (including Vantiv, Inc.) pro rata in accordance with the percentages of their respective limited liability company interests. The Amended and Restated Vantiv Holding Limited Company Liability Agreement will provide for cash distributions, which we refer to as "tax distributions," to the holders of its units if Vantiv, Inc., as the majority unitholder of Vantiv Holding, determines that the taxable income of Vantiv Holding allocated to the relevant unitholder will give rise to taxable income for such holder. Generally, these tax distributions will be computed based on an estimate of the net taxable income of Vantiv Holding allocable to a holder of its units multiplied by an assumed tax rate equal to the highest effective marginal combined U.S. federal, state or local income tax rate prescribed for a corporate resident in New York, New York (taking into account the nondeductibility of certain expenses and the character of our income). Tax distributions will be made only to the extent all distributions from Vantiv Holding for the relevant year were insufficient to cover such tax liabilities and, other than distributions made pursuant to the tax receivable agreements, are subject to certain supermajority voting rights set forth in the Amended Restated Vantiv Holding Limited Liability Company Agreement.

The Amended and Restated Vantiv Holding Limited Liability Company Agreement will also provide that substantially all expenses incurred by or attributable to Vantiv, Inc. (such as expenses incurred in connection with this offering, including expenses of each class of unitholder), but not including obligations incurred under the tax receivable agreements by Vantiv, Inc., income tax expenses of Vantiv, Inc. and payments on indebtedness incurred by Vantiv, Inc., will be borne by Vantiv Holding.

See "Certain Relationships and Related Person Transactions—Reorganization and Offering Transactions."

## USE OF PROCEEDS

We estimate that the net proceeds to us from our sale of shares of Class A common stock in this offering will be approximately $ million, after deducting underwriting discounts and commissions and estimated expenses payable by us in connection with this offering. This assumes a public offering price of $ per share, which is the midpoint of the price range set forth on the cover of this prospectus.

We intend to contribute $ of the net proceeds to Vantiv Holding and $ of the net proceeds to Transactive. Vantiv Holding intends to use a portion of the net proceeds we receive from the sale of our Class A common stock to repay $ principal amount of our term B-1 loan and $ principal amount of our term B-2 loan. Our senior secured credit facilities consist of two first lien facilities that mature on November 3, 2016 and November 3, 2017, respectively. As of June 30, 2011, we had $1.6 billion in term B-1 loans outstanding, $150.0 million in term B-2 loans outstanding and availability under a $150.0 million revolving credit facility under which a $1.5 million letter of credit was outstanding. The weighted average interest rate under our senior secured credit facilities as of June 30, 2011 was 4.6%, before the effect of our interest rate swap.

Vantiv Holding also intends to use $ of such net proceeds to redeem Class B units from the Fifth Third investors at a purchase price equal to the public offering price less the underwriting discounts and commissions. Transactive intends to use such net proceeds to redeem shares of its Class B common stock from Fifth Third Financial at a purchase price equal to the public offering price less the underwriting discounts and commissions.

Certain of the underwriters of this offering or their affiliates are lenders under our senior secured credit facilities. Accordingly, certain of the underwriters will receive net proceeds from this offering in connection with the repayment of our senior secured credit facilities. See "Underwriting—Conflicts of Interest."

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) the net proceeds to us from this offering by $ million, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting underwriting discounts and commissions and estimated expenses payable by us.

We will not receive any proceeds from the sale of shares by the selling stockholders.

## DIVIDEND POLICY

Vantiv Holding paid aggregate tax distributions to or on behalf of their equity holders, including Fifth Third Bank and JPDN Enterprises, LLC, an affiliate of Charles D. Drucker, our chief executive officer, or JPDN, of $17.8 million, $26.3 million and $2.8 million for the six months ended December 31, 2009, the year ended December 31, 2010 and the six months ended June 30, 2011, respectively, pursuant to the terms of the Amended and Restated Vantiv Holding Limited Liability Company Agreement. Vantiv Holding will continue to make tax distributions to its equity holders in accordance with the Amended and Restated Vantiv Holding Limited Liability Company Agreement after this offering.

We do not intend to pay cash dividends on our Class A common stock in the foreseeable future. We are a holding company that does not conduct any business operations of our own. As a result our ability to pay cash dividends on our Class A common stock, if any, will be dependent upon cash dividends and distributions and other transfers from Vantiv Holding, which are subject to certain supermajority requirements in the Amended and Restated Vantiv Holding Limited Liability Company Agreement. Excepted from the supermajority voting provisions are tax distributions made pursuant to the Amended and Restated Vantiv Holding Limited Liability Company Agreement, distributions pursuant to the tax receivable agreements, and distributions to cover reasonable administrative expenses at Vantiv, Inc. The amounts available to us to pay cash dividends are restricted by our subsidiaries' debt agreements. The declaration and payment of dividends also is subject to the discretion of our board of directors and depends on various factors, including our net income, financial condition, cash requirements, future prospects and other factors deemed relevant by our board of directors.

In addition, under Delaware law, our board of directors may declare dividends only to the extent of our surplus (which is defined as total assets at fair market value minus total liabilities, minus statutory capital) or, if there is no surplus, out of our net profits for the then current and/or immediately preceding fiscal year.

Any future determination to pay dividends will be at the discretion of our board of directors and will take into account:

- restrictions in our debt instruments;
- general economic business conditions;
- our financial condition and results of operations;
- the ability of our operating subsidiaries to pay dividends and make distributions to us; and
- such other factors as our board of directors may deem relevant.

## CAPITALIZATION

The following table sets forth our cash and cash equivalents and our capitalization as of June 30, 2011:

- on an actual basis;
- on a pro forma basis to give effect to the reorganization transactions as more fully described in "Organizational Structure;" and
- on a pro forma as adjusted basis to give effect to the sale of shares of our Class A common stock in this offering and the application of the net proceeds received by us from this offering as described under "Use of Proceeds."

This table should be read in conjunction with "Organizational Structure," "Use of Proceeds," "Selected Historical Financial Data," "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Description of Capital Stock" and our financial statements and the related notes thereto included elsewhere in this prospectus.

| | Actual | Pro Forma | Pro Forma As Adjusted(1) |
|---|---|---|---|
| | (in thousands, except share data) | | |
| Cash and cash equivalents | $ 255,831 | $ | $ |
| Debt: | | | |
| Current portion of note payable to a related party | $ 3,480 | $ | $ |
| Current portion of note payable | 12,730 | | |
| Note payable to a related party, excluding current portion | 375,946 | | |
| Note payable, excluding current portion(2) | 1,358,900 | | |
| Total long-term debt, including current portion | 1,751,056 | | |
| Equity: | | | |
| Common stock, $.01 par value; 510,000 shares authorized; 509,305 issued and outstanding, actual; no shares issued and outstanding pro forma | 5 | | |
| Class A common stock, $0.01 par value; shares authorized; no shares issued and outstanding, actual; shares issued and outstanding, pro forma(3) | — | | |
| Class B common stock, $0.01 par value; shares authorized; no shares issued and outstanding, actual; shares issued and outstanding, pro forma(3) | — | | |
| Preferred stock, $0.01 par value, shares authorized; no shares issued and outstanding, actual, pro forma and pro forma as adjusted | — | | |
| Paid-in capital | 576,309 | | |
| Retained earnings | 28,731 | | |
| Accumulated other comprehensive loss | (2,486) | | |
| Total Vantiv, Inc. equity | 602,559 | | |
| Non-controlling interests | 599,213 | | |
| Total capitalization | $ 2,952,828 | $ | $ |

(1) Assuming the number of shares sold by us in this offering remains the same as set forth on the cover page, a $1.00 increase or decrease in the assumed initial public offering price would increase or decrease, as applicable, our total capitalization by approximately $ million.

(2) Does not include $150.0 million of availability under our revolving credit facility, of which a $1.5 million letter of credit was outstanding at June 30, 2011.

(3) Does not give effect to (i) future exchanges of Class B units of Vantiv Holding (including Class B units issuable upon exercise of the warrant currently held by Fifth Third Bank) for shares of our Class A common stock upon exercise by the Fifth Third investors of their put rights, (ii) future issuances of Class A common stock upon exercise of the warrant currently held by Fifth Third Bank and (iii) future issuances of Class A common stock under the Vantiv Holding Management Phantom Equity Plan.

## DILUTION

If you invest in our Class A common stock, your interest will be diluted to the extent of the difference between the initial public offering price per share of our Class A common stock and the pro forma net tangible book value per share of our Class A common stock after the reorganization transactions described in "Organizational Structure" and this offering. Dilution results from the fact that the per share offering price of the Class A common stock is substantially in excess of the book value per share attributable to our existing investors.

Our pro forma net tangible book value as of June 30, 2011 would have been approximately $ , or $ per share, of our Class A common stock. Pro forma net tangible book value represents the amount of total tangible assets less total liabilities, and pro forma net tangible book value per share represents pro forma net tangible book value divided by the number of shares of Class A common stock outstanding, in each case, after giving effect to the reorganization transactions but not this offering.

After giving effect to (i) the completion of the reorganization transactions more fully described in "Organizational Structure," including, a for 1 stock split of our Class A common stock prior to the consummation of this offering, (ii) the sale of shares of Class A common stock in this offering at the assumed initial public offering price of $ per share (the midpoint of the range set forth on the cover of this prospectus) and (iii) the application of the net proceeds from this offering, our pro forma net tangible book value would have been $ , or $ per share. This represents an immediate increase in pro forma net tangible book value of $ per share to our existing investors and an immediate dilution in pro forma net tangible book value of $ per share to new investors.

The following table illustrates this dilution on a per share of Class A common stock basis:

| | | |
|---|---|---|
| Initial public offering price per share | | $ |
| Pro forma net tangible book value per share as of June 30, 2011 | $ | |
| Increase in pro forma net tangible book value per share attributable to new investors | | |
| Pro forma as adjusted net tangible book value per share after this offering | | |
| Dilution in pro forma net tangible book value per share to new investors | | $ |

The following table summarizes, on a pro forma basis as of June 30, 2011 after giving effect to the reorganization transactions and this offering, the total number of shares of Class A common stock purchased from us, the total cash consideration paid to us and the average price per share paid by our existing investors and by new investors purchasing shares in this offering.

| | Shares Purchased | | Total Consideration | | Average Price |
|---|---|---|---|---|---|
| | Number | Percent | Amount | Percent | Per Share |
| Existing investors | | % | $ | % | $ |
| New investors | | | | | $ |
| Total | | 100% | $ | 100% | $ |

If the underwriters were to fully exercise their option to purchase additional shares of our Class A common stock, the percentage of shares of our common stock held by existing investors would be %, and the percentage of shares of our common stock held by new investors would be %.

The above discussion and tables are based on the number of shares outstanding at June 30, 2011 on a pro forma basis and excludes an aggregate of additional shares of our Class A common stock that will be (i) issuable upon exchange of Class B units in Vantiv Holding (including Class B units issuable upon exercise of the warrant currently held by Fifth Third Bank) upon exercise by the Fifth Third investors of their put rights, (ii) issuable upon the exercise of the warrant currently held by Fifth Third Bank, if Fifth Third Bank opts to exercise the warrant directly for Class A common stock, (iii) issuable under the Vantiv Holding Management Phantom Equity Plan or (iv) reserved for future awards pursuant to our equity incentive plans. In addition, we may choose to raise additional capital due to market conditions or strategic considerations even if we believe we have sufficient funds for our current or future operating plans. To the extent that additional capital is raised through the sale of equity or convertible debt securities, the issuance of such securities could result in further dilution to our stockholders.

## SELECTED HISTORICAL FINANCIAL DATA

The periods prior to and including June 30, 2009, the date of the separation transaction, is referred to in the following table as "Predecessor," and all periods after such date are referred to in the following table as "Successor." Prior to the separation transaction, we operated as a business unit of Fifth Third Bank. As a result, the financial data for the predecessor period included in this prospectus does not necessarily reflect what our financial position or results of operations would have been had we operated as a separate, stand-alone entity during those periods. The financial statements for all successor periods are not comparable to those of the predecessor periods.

The following table sets forth our historical financial and other data for the periods and as of the dates indicated. We derived the statement of income data for the six months ended June 30, 2011 and 2010 and the balance sheet data as of June 30, 2011 from our unaudited financial statements included elsewhere in this prospectus. We derived the statement of income data for the year ended December 31, 2010, the six months ended December 31, 2009, the six months ended June 30, 2009 and the year ended December 31, 2008 and our balance sheet as of December 31, 2010 and 2009 from our audited financial statements for such periods included elsewhere in this prospectus. The balance sheet data as of December 31, 2008, 2007 and 2006 and the statement of income data for the years ended December 31, 2007 and 2006 are derived from our audited financial statements that are not included in this prospectus.

We have prepared the unaudited financial information set forth below on the same basis as our audited financial statements and have included all adjustments, consisting of only normal recurring adjustments, that we consider necessary for a fair presentation of our financial position and operating results for such periods. The results for any interim period are not necessarily indicative of the results that may be expected for a full year.

The results indicated below and elsewhere in this prospectus are not necessarily indicative of our future performance. You should read this information together with "Capitalization," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our financial statements and related notes thereto included elsewhere in this prospectus.

| | Successor | | | | Predecessor | | | |
|---|---|---|---|---|---|---|---|---|
| | Six Months Ended June 30, | | Year Ended December 31, | Six Months Ended December 31, | Six Months Ended June 30, | Year Ended December 31, | | |
| | 2011 | 2010 | 2010 | 2009 | 2009 | 2008 | 2007 | 2006 |
| | (in thousands, except share data) | | | | | | | |
| **Statement of income data:** | | | | | | | | |
| Revenue | $ 774,010 | $ 511,235 | $ 1,162,132 | $ 506,002 | $ 444,724 | $ 884,918 | $ 796,342 | $ 690,242 |
| Network fees and other costs | 367,910 | 265,345 | 595,995 | 254,925 | 221,680 | 433,496 | 382,025 | 315,886 |
| Sales and marketing | 115,789 | 36,822 | 98,418 | 32,486 | 37,561 | 71,247 | 58,337 | 63,359 |
| Other operating costs | 72,720 | 54,509 | 124,383 | 48,275 | — | — | — | — |
| General and administrative | 49,607 | 26,005 | 58,091 | 38,058 | 8,468 | 8,747 | 9,478 | — |
| Depreciation and amortization | 75,701 | 50,825 | 110,964 | 49,885 | 2,356 | 2,250 | 2,403 | 2,819 |
| Allocated expenses | — | — | — | — | 52,980 | 114,892 | 107,116 | 95,752 |
| Income from operations | 92,283 | 77,729 | 174,281 | 82,373 | 121,679 | 254,286 | 236,983 | 212,426 |
| Interest expense—net | (59,573) | (57,691) | (116,020) | (58,877) | (9,780) | — | — | — |
| Non-operating expenses | (13,799) | (3,000) | (4,300) | (9,100) | (127) | (5,635) | (6,350) | (6,712) |
| Income before applicable income taxes | 18,911 | 17,038 | 53,961 | 14,396 | 111,772 | 248,651 | 230,633 | 205,714 |
| Income tax expense (benefit) | 2,551 | 3,269 | (956) | (191) | 36,891 | 96,049 | 89,535 | 80,612 |
| Net income | 16,360 | 13,769 | 54,917 | 14,587 | $ 74,881 | $ 152,602 | $ 141,098 | $ 125,102 |
| Less: net income attributable to non-controlling interests | (7,481) | (9,173) | (32,924) | (16,728) | | | | |
| Net income (loss) attributable to Vantiv, Inc. | $ 8,879 | $ 4,596 | $ 21,993 | $ (2,141) | | | | |
| Net income (loss) per common share attributable to Vantiv, Inc. | | | | | | | | |
| Basic | $ 17.43 | $ 9.02 | $ 43.18 | $ (4.20) | | | | |
| Diluted | $ 17.43 | $ 9.02 | $ 43.18 | $ (4.20) | | | | |
| Shares used in computing net income (loss) per common share: | | | | | | | | |
| Basic | 509,305 | 509,305 | 509,305 | 509,305 | | | | |
| Diluted | 509,305 | 509,305 | 509,305 | 509,305 | | | | |
| Pro forma net income per share(1): | | | | | | | | |
| Basic | | | | | | | | |
| Diluted | | | | | | | | |
| Pro forma weighted average shares outstanding(1): | | | | | | | | |
| Basic | | | | | | | | |
| Diluted | | | | | | | | |

(1) Pro forma information gives effect to the reorganization transactions as more fully described in "Organizational Structure."

| | As of June 30, | As of December 31, | | | | |
|---|---|---|---|---|---|---|
| | 2011 | 2010 | 2009 | 2008 | 2007 | 2006 |
| | (in thousands) | | | | | |
| **Balance sheet data:** | | | | | | |
| Cash and cash equivalents | $ 255,831 | $ 236,512 | $ 289,169 | $ 2 | $ 10 | $ 1,569 |
| Total assets | 3,335,882 | 3,370,517 | 2,661,997 | 558,776 | 785,664 | 561,465 |
| Total long-term liabilities | 1,759,452 | 1,750,977 | 1,239,153 | — | — | — |
| Non-controlling interests | 599,213 | 599,256 | 590,915 | — | — | — |
| Total equity | 1,201,772 | 1,194,713 | 1,162,642 | 436,637 | 661,285 | 465,523 |

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

*The following discussion and analysis of our financial condition and results of operations should be read together with "Selected Historical Financial Data," "Unaudited Pro Forma Financial Data" and the financial statements and related notes included elsewhere in this prospectus. We conduct business through Vantiv Holding, LLC, or Vantiv Holding, and Transactive Ecommerce Solution Inc., or Transactive, our majority owned subsidiaries after the reorganization transactions, and, except as indicated, the discussion below does not give effect to our the reorganization transactions. See "Organizational Structure" included elsewhere in this prospectus for a description of the reorganization transactions. This discussion contains forward-looking statements, based on current expectations and related to future events and our future financial performance, that involve risks and uncertainties. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of many factors, including those set forth under "Risk Factors," "Forward-Looking Statements" and elsewhere in this prospectus.*

### Overview

We are the third largest merchant acquirer and the largest PIN debit acquirer by transaction volume and a leading, integrated payment processor in the United States differentiated by a single, proprietary technology platform. This enables us to efficiently provide a suite of comprehensive services to both merchants and financial institutions of all sizes in the United States. Our technology platform offers our clients a single point of access and service that is easy to connect to and use in order to access a broad range of payment services and solutions. Our integrated business and single platform also enable us to innovate, develop and deploy new services and provide us with significant economies of scale. Our varied and broad distribution provides us with a diverse client base and channel partner relationships.

Our single, proprietary technology platform is differentiated from our competitors' multiple platform architectures. Because of our single point of service and ability to collect, manage and analyze data across the payment processing value chain, we can identify and develop new services more efficiently. Once developed, we can more cost-effectively deploy new solutions to our clients through our single platform. Our single scalable platform also enables us to efficiently manage, update and maintain our technology, increase capacity and speed and realize significant operating leverage.

We enable merchants of all sizes to accept and process credit, debit and prepaid payments and provide them supporting services, such as information solutions, interchange management and fraud management, as well as vertical-specific solutions in sectors such as grocery, pharmacy, retail, petroleum and restaurants/quick service restaurants, or QSRs. We also provide mission critical payment services to financial institutions, such as card issuer processing, payment network processing, fraud protection, card production, prepaid program management, ATM driving and network gateway and switching services that utilize our proprietary Jeanie PIN debit payment network.

We provide small and mid-sized clients with the comprehensive solutions that we have developed to address the extensive requirements of our large clients. We then tailor these solutions to the unique needs of our small and mid-sized clients. In addition, we take a consultative approach to providing these services that helps our clients enhance their payments-related services.

We distribute our services through direct and indirect distribution channels using a unified sales approach that enables us to efficiently and effectively target merchants and financial institutions of all sizes. Our direct channel includes a national sales force that targets financial institutions and national merchants, regional and mid-market sales teams that sell solutions to merchants and third-party reseller clients and a telesales operation that targets small and mid-sized merchants. Our indirect channel to merchants includes relationships with a broad range of independent sales organizations, or ISOs, merchant banks, value-added resellers and trade associations that target merchants, including difficult

to reach small and mid-sized merchants. Our indirect channel to financial institutions includes relationships with third-party resellers and core processors.

**Our Separation from Fifth Third Bank**

Prior to June 30, 2009, we were an operating entity, first as a division of Fifth Third Bank and later as a limited liability company, Vantiv Holding, controlled by Fifth Third Bank. On June 30, 2009 Advent acquired a 50.9% ownership stake in the business unit through us, a then newly formed Delaware corporation, and began to operate the business of Vantiv Holding as a stand-alone company to better capitalize on evolving trends in the payment processing industry. In addition, through us, Advent acquired a 50.9% stake in Transactive from Fifth Third Financial Corporation, or Fifth Third Financial, an affiliate of Fifth Third Bank. We refer to these acquisitions as the separation transaction. In connection with the separation transaction, we received put rights, exercisable by us or our stockholders under certain circumstances, that if exercised obligate Fifth Third Bank to repurchase Advent's acquired interest in Vantiv Holding and Fifth Third Financial to repurchase Advent's acquired interest in Transactive. These put rights will terminate in connection with this offering.

In connection with the separation transaction, we assumed a $1.3 billion senior secured note due to Fifth Third Bank and Fifth Third Holdings LLC and entered into a $125 million secured revolving credit facility with Fifth Third Bank and Fifth Third Holdings LLC. We subsequently refinanced this indebtedness in connection with the NPC acquisition through senior secured credit facilities totaling $1.8 billion with a syndicate of banks.

In connection with the separation transaction, we entered into various agreements with Fifth Third Bank including a transition services agreement, or TSA. Under the TSA, Fifth Third Bank provided services that were required to support us as a stand-alone company during the period following the separation transaction. These services involved IT services, back-office support, employee related services, product development, risk management, legal, accounting and general business resources. Costs incurred under the TSA are included in network fees and other costs, other operating costs and general and administrative expenses. The TSA is expected to terminate on or before December 31, 2011. We anticipate continuing to enter into agreements with Fifth Third Bank for the provision of network processing and other third-party services. See "Certain Relationships and Related Person Transactions—Agreements with Fifth Third" for further information regarding our continuing relationships with Fifth Third Bank.

**Recent Acquisitions**

In November 2010, we acquired NPC Group, Inc., or NPC, for $620.0 million. The NPC acquisition enabled us to substantially enhance our access to small to mid-sized merchants. In July 2010, we acquired certain assets of Town North Bank, N.A., or TNB, for $52.4 million. The TNB acquisition allowed us to broaden our market position with credit unions. In September 2010, we acquired certain assets of Springbok Services Inc., or Springbok, which expanded our prepaid processing capabilities, for $1.5 million.

**Reorganization Transactions**

We are a holding company and own      % of the equity interests in Vantiv Holding and Transactive. The remaining equity interests in these majority owned subsidiaries are owned by Fifth Third Bank and FTPS Partners, LLC, with respect to Vantiv Holding, and by Fifth Third Financial, with respect to Transactive. In addition, all of the equity interests held by JPDN Enterprises, LLC, or JPDN, an affiliate of Charles D. Drucker, our chief executive officer, will be exchanged for shares of our Class A common stock to be sold in this offering. We will conduct a      to 1 stock split of our Class A common stock prior to the consummation of this offering. We will continue to conduct our

business through our majority owned subsidiaries and their direct and indirect subsidiaries. We refer to the above transactions as the reorganization transactions.

**Our Segments, Revenue and Expenses**

***Segments***

We operate as a single integrated business and report our results of operations in two segments, Merchant Services and Financial Institution Services. Merchant Services accounted for approximately 72% of revenue for the six months ended June 30, 2011, reflecting strong organic growth as well as the impact of the NPC acquisition which closed in November 2010. We evaluate segment performance based upon segment profit, which is defined as net revenue, less sales and marketing expense attributable to that segment.

*Merchant Services*

We provide a comprehensive suite of payment processing services, including acquiring and processing transactions, value-added services and merchant services for banks and credit unions. We are the third largest merchant acquirer by transaction volume and the largest PIN debit acquirer in the United States, serving a diverse set of merchants across a variety of end-markets, sizes and geographies. We authorize, clear, settle and provide reporting for electronic payment transactions for our merchant services clients. Our client base includes over 400,000 merchant locations, with an emphasis on non-discretionary everyday spend categories where spending has been more resilient during economic downturns. We serve leading national retailers, including nine of the top 25 by revenue in 2010, regional merchants and small to mid-sized business clients across many industries, such as grocery, pharmacy, retail, petroleum and restaurants/QSRs. We have low customer concentration in this segment with our top 25 merchant services clients by revenue representing only 16% of our merchant services net revenue for the 12 months ended June 30, 2011.

We provide our merchant services to merchants of varying sizes, which provides us with a number of key benefits. Given their size, large merchants generally receive customized payment processing solutions and lower per transaction pricing. These merchants provide us with significant operating scale efficiencies and recurring revenues, due to the large transaction volume that they generate. Small and mid-sized merchants are more difficult to reach on an individual basis, but generally generate higher per transaction fees. Our acquisition of NPC in 2010 expanded our merchant client base by adding over 200,000 merchant locations of principally small to mid-sized merchants.

*Financial Institution Services*

We provide integrated card issuer processing, payment network processing and value-added services to financial institutions. Our services include a comprehensive suite of transaction processing capabilities, including fraud protection, card production, prepaid cards and ATM driving and allow financial institutions to offer electronic payments solutions to their customers on a secure and reliable technology platform at a competitive cost. We provide these services using a consultative approach that helps our financial institution clients enhance their payments-related business.

We serve a diverse set of financial institutions, including regional banks, community banks, credit unions and regional PIN debit networks. We focus on small to mid-sized institutions with less than $15 billion in assets. Smaller financial institutions, including many of our clients, generally do not have the scale or infrastructure typical of large banks and are more likely to outsource payment processing needs. We provide a turnkey solution to such institutions to enable them to offer payment processing solutions. Our client base includes over 1,300 financial institutions. While the majority of our clients are small to mid-sized financial institutions, we have several large bank clients, including Fifth Third Bank. For the 12 months ended June 30, 2011, our top 25 financial institution services clients by revenue

represented 38% of our Financial Institution Services net revenue, with Fifth Third Bank providing 20% of our Financial Institution Services net revenue.

***Revenue***

We generate revenue primarily by processing electronic payment transactions. Set forth below is a description of our revenues by segment and factors impacting segment revenues.

*Merchant Services*

Our Merchant Services segment revenues are primarily derived from processing credit and debit card transactions. Merchant Services revenue is primarily comprised of fees charged to businesses, net of interchange fees, for payment processing services, including authorization, capture, clearing, settlement and information reporting of electronic transactions. The fees charged consist of either a percentage of the dollar volume of the transaction or a fixed fee, or both, and are recognized at the time of the transaction. Merchant Services revenue also includes a number of revenue items that are incurred by us and are reimbursable as the costs are passed through to and paid by our clients. These items primarily consist of Visa, MasterCard and other payment network fees. In addition, for sales through ISOs and certain other referral sources in which we are the primary party to the contract with the merchant, we record the full amount of the fees collected from the merchant as revenue. The amount of such revenue that is the excess of the contractual transaction fee (plus any assessments) with the ISO or referral source is remitted to the ISO or referral source in the form of residual payments on a monthly basis and is recorded as sales and marketing expense. Merchant Services revenue also includes revenue from ancillary services such as fraud management, equipment sales and terminal rent. Revenue in our Merchant Services segment is impacted primarily by transaction volume, average transaction size, the mix of merchant types in our client portfolio, the performance of our merchant clients and the effectiveness of our distribution channels. For the six months ended June 30, 2011 over half of the Merchant Services segment transactions that we processed were for merchants in the non-discretionary everyday spend categories, such as grocery and pharmacy, where spending has been more resilient during economic downturns.

*Financial Institution Services*

Our Financial Institution Services revenues are primarily derived from debit, credit and ATM card transaction processing, ATM driving and support, and PIN debit processing services. Financial Institution Services revenue associated with processing transactions includes per transaction and account related fees, card production fees and fees generated from our Jeanie network. Financial Institution Services revenue is impacted by the number of financial institutions using our services as well as their transaction volume. The number of financial institutions in the United States has declined as a result of prevailing economic conditions, consolidation as well as other market and regulatory pressures. These factors have contributed to industry-wide pricing compression of the fees that financial institutions are willing to pay for payment processing.

***Network Fees and Other Costs***

Network fees and other costs consist primarily of charges incurred by us which we pass through to our clients, including Visa, MasterCard and other payment network fees, card production costs, telecommunication charges, postage and other third party processing expenses.

***Net Revenue***

Net revenue is revenue, less network fees and other costs. Network fees and other costs have been increasing at a rate higher than transaction growth, causing our net revenue to grow at a slower rate

than revenue. Network fees and other costs are typically a larger percentage of our Merchant Services revenue than our Financial Institution Services revenue and were 54% of our Merchant Services revenue and 32% of our Financial Institution Services revenue for the six months ended June 30, 2011. Net revenue reflects revenue generated from the services we provide to our clients. Management uses net revenue to assess our operating performance. We believe that net revenue, when reviewed together with revenue, is meaningful to our investors in order to understand our performance.

***Expenses***

Set forth below is a brief description of the components of our expenses, aside from the network fees and other costs discussed above:

- *Sales and marketing* expense primarily consists of salaries and benefits paid to sales personnel, sales management and other sales and marketing personnel, advertising and promotional costs and residual payments made to ISOs and other third party resellers. In the near and long-term, we expect our sales and marketing expense to increase as we invest in our sales force and indirect distribution channels and expand our direct marketing.

- *Other operating costs* primarily consist of salaries and benefits paid to operational and IT personnel, costs associated with operating our technology platform and data centers, information technology costs for processing transactions, product development costs, software consulting fees and maintenance costs. We expect that our other operating costs will grow at a rate comparable to the rate of growth of net revenue for the short term as we expect efficiencies to be offset by increased investment in the development of new services. Over the long term, we expect that other operating costs will decrease as a percentage of net revenue as a result of efficiencies provided by our single technology platform and our integrated business.

- *General and administrative* expenses primarily consist of salaries and benefits paid to executive management and administrative employees, including finance, human resources, product development, legal and risk management, share-based compensation costs, equipment and occupancy costs and consulting costs. We expect our general and administrative expenses to increase in connection with our being a public reporting company, compliance with the Sarbanes-Oxley Act and increased investment in the development of new services. Over the long term, we expect that our general and administrative expenses will decrease as a percentage of net revenue. In connection with this offering, we expect to incur a charge related to share-based compensation of approximately $      related to the issuance of restricted and unrestricted stock to our employees upon conversion of phantom units under Vantiv Holding's Management Phantom Equity Plan. Approximately $      of this charge will be included in general and administrative expense in the period in which we consummate the offering. An additional $      of this charge will be included in general and administrative expense over the three year period following the consummation of this offering. In addition, pursuant to a new equity plan, we expect to make additional equity grants on the date of this offering and will incur a charge related to share-based compensation of approximately $      , which will be included in general and administrative expense over the      year vesting period of the equity grants.

- *Depreciation and amortization* expense consists of our depreciation expense related to investments in property, equipment and software as well as our amortization of intangible assets, principally customer relationships acquired in the separation transaction and our subsequent acquisitions, including NPC. Depreciation and amortization expense may increase as we continue to make capital expenditures and pursue acquisitions.

- *Allocated expenses* represent expenses allocated to us prior to the separation transaction, while we were a business unit of Fifth Third Bank. These expenses were related to certain functions

performed by Fifth Third Bank on behalf of the business unit, such as information technology, operational and administrative functions.

- *Interest expense—net* consists primarily of interest on borrowings under our senior secured credit facilities less interest income earned on our cash and cash equivalents.

- *Income tax expense (benefit)* represents federal, state and local taxes based on income in multiple jurisdictions.

- *Non-operating expenses* primarily consist of the periodic changes in value of the put rights we received in connection with the separation transaction and costs associated with our debt refinancing in May 2011. The put rights will terminate in connection with this offering.

**Factors Affecting the Comparability of Our Results of Operations**

As a result of a number of factors, our historical results of operations are not comparable from period to period and may not be comparable to our financial results of operations in future periods. Set forth below is a brief discussion of the key factors impacting the comparability of our results of operations.

***Prior Basis of Accounting***

Prior to the separation transaction, our business operated as a business unit of Fifth Third Bank. The period prior to and including June 30, 2009 is referred to as the predecessor period and all periods after such date are referred to as the successor period. Our financial statements for the predecessor period were "carved-out" from Fifth Third Bancorp's consolidated financial statements. Our financial statements for the successor period are presented on a stand-alone basis. Accordingly, the financial statements for the predecessor period may not be comparable to those of the successor period.

***Cost Allocations as Compared to Operating Expenses***

Prior to the separation transaction, costs associated with functions, services and facilities used by our business and performed or provided by Fifth Third Bank were charged to us by Fifth Third Bank and are reflected as allocated expenses in our results of operations. Subsequent to the separation transaction, operating expenses incurred as a stand-alone company are higher than the allocated expenses.

In connection with the separation transaction, we entered into the TSA, under which Fifth Third Bank continued to provide certain functions and services that were provided prior to the separation transaction. The TSA is expected to terminate on or before December 31, 2011. In addition, we made capital expenditures and incurred expenses for consulting services in connection with enhancements to our technology platform after the separation that we do not believe will be necessary in future periods.

***Transition Costs***

Subsequent to the separation transaction, our expenses included certain transition costs associated with our separation from Fifth Third Bank, including costs incurred for our human resources, finance, marketing and legal functions and severance costs, consulting fees related to non-recurring transition projects and expenses related to various strategic and separation initiatives. These costs are included in other operating costs and general and administrative expenses.

***Transaction Costs***

In connection with the separation transaction, Vantiv, Inc., on behalf of the funds managed by Advent International Corporation, incurred $16.3 million of non-recurring transaction costs, principally

professional fees. These transaction costs were included in general and administrative expenses for the six months ended December 31, 2009 and will not recur in future periods.

***Stand-Alone Costs***

After the separation transaction, we began to incur expenses associated with operating our business as a stand-alone company, including costs associated with establishment of corporate functions such as finance, internal audit, human resources and legal. These costs and expenses are included in sales and marketing expense, other operating costs and general and administrative expense and we refer to these costs and expenses as stand-alone costs. These operating costs are recurring in nature.

***Share-Based Compensation***

In connection with the separation transaction and the subsequent recruitment of additional management personnel, we incurred share-based compensation expense, which is included in general and administrative expense. We will incur additional share-based compensation expense in future periods.

***Acquisition and Integration Costs***

In 2010, we completed the NPC, TNB and Springbok acquisitions. During the six months ended June 30, 2011 and the year ended December 31, 2010, we incurred approximately $0.5 million and $4.5 million, respectively, in acquisition and integration costs, including legal, finance and accounting advisory fees and consulting fees for integration services which are included within general and administrative expenses.

***NPC Acquisition***

The NPC acquisition significantly increased our Merchant Services revenue and net income subsequent to the date of the NPC acquisition in November 2010.

***Increased Depreciation and Amortization Expense***

The economic and management rights we acquired in the separation transaction provided us with a controlling interest in Vantiv Holding and Transactive, which are consolidated in our financial statements with the non-controlling interests held by Fifth Third Bank, FTPS Partners, Fifth Third Financial and JPDN. The separation transaction and our acquisitions were accounted for as business combinations under ASC 805, *Business Combinations*. As such, the assets acquired, liabilities assumed and non-controlling interests were measured and reported in our financial statements at fair value. Since and including the separation transaction, we recorded (i) intangible assets related to acquired customer relationships of $1.1 billion, and (ii) property and equipment, primarily software, valued at $44.9 million in connection with the separation transaction and our other acquisitions. We also made significant capital expenditures since the separation transaction associated with enhancements to our technology platform which have increased our depreciation and amortization expense. As a result, our depreciation and amortization expense associated with customer relationship intangible and capital assets increased significantly in 2010 and 2011.

***Increased Interest Expense***

In the separation transaction, we assumed approximately $1.3 billion of debt and, in November 2010, we refinanced the assumed debt, as well as incurred additional debt in order to finance the NPC acquisition which increased our total indebtedness to $1.8 billion. As a result, the successor periods reflected significant interest expense as compared to the predecessor periods. We intend to use a

portion of the net proceeds from this offering to repay a portion of our debt. See "Use of Proceeds." Any change in the outstanding principal amount or indebtedness will impact our interest expense.

***Debt Refinancing Costs***

During the six months ended June 30, 2011, we expensed debt refinancing costs of $13.7 million with respect to non-operating expenses incurred with the refinancing of our senior secured credit facilities in May 2011.

***Income Taxes***

Prior to the separation transaction, income tax expense and deferred tax assets and liabilities were estimated based on operating as a business unit of Fifth Third Bank, using statutory rates applicable to Fifth Third Bank. Our effective tax rate, or income tax expense as a percentage of taxable income has been significantly lower since the separation transaction due in part to the effect of our non-controlling interests, as the holders of our non-controlling interests became responsible for paying income taxes on their percentage ownership of Vantiv Holding and Transactive thereby reducing our income tax expense. Our effective rate will increase as our controlling interest in Vantiv Holding and Transactive increases, as we will be responsible for paying income taxes on a greater percentage of taxable income thereby increasing our income tax expense.

***Non-controlling Interest***

Subsequent to the separation transaction and as a result of the non-controlling ownership interests in Vantiv Holding held by Fifth Third, FTPS Partners and JPDN and the non-controlling ownership interests in Transactive held by Fifth Third Financial and JPDN, our results of operations include net income attributable to the non-controlling interests of Fifth Third Bank, FTPS Partners, Fifth Third Financial and JPDN. Net income attributable to non-controlling interests during the six months ended June 30, 2011 and 2010 was $7.5 million and $9.2 million, respectively, and $32.9 million and $16.7 million, respectively, during the year ended December 31, 2010 and six months ended December 31, 2009. The sale or redemption of ownership interests in Vantiv Holding or Transactive by Fifth Third, Fifth Third Financial or JPDN as a result of this offering or in the future will reduce the amount recorded as non-controlling interest and increase net earnings attributable to our stockholders.

***Losses Related to Put Rights***

We account for the put rights Vantiv, Inc. received on behalf of funds managed by Advent in the separation transaction as a free-standing derivative under ASC 815, *Derivatives and Hedging*. At the time of the separation transaction, the put rights were valued at $14.2 million. As time lapses and the probabilities of the occurrence of the events triggering the put rights change, the value of the put rights changes. Changes in the value of the put rights are reflected in the statements of income as non-operating expenses. During the six months ended June 30, 2011 and 2010, losses due to changes in the value of the put rights were $0.1 million and $3.0 million, respectively, and $4.3 million and $9.1 million, respectively, during the year ended December 31, 2010 and six months ended December 31, 2009. We believe that the probability of the occurrence of any of the events triggering the put rights is remote and accordingly, the put rights were valued at $0.7 million at June 30, 2011. The put rights will be terminated in connection with this offering, and, accordingly we do not expect adjustments to fair value to be material in future periods.

**Regulatory Reform**

In July 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 was signed into law in the United States. The Dodd-Frank Act has resulted in significant structural and other changes to the regulation of the financial services industry. Among other things, the Dodd-Frank Act established the new CFPB to regulate consumer financial services, including electronic payments.

The Dodd-Frank Act provided for two self-executing statutory provisions limiting the ability of payment card networks to impose certain restrictions that became effective in July 2010. The first provision allows merchants to set minimum dollar amounts (not to exceed $10) for the acceptance of a credit card and allows federal governmental entities and institutions of higher education to set maximum amounts for the acceptance of credit cards. The second provision allows merchants to provide discounts or incentives to entice consumers to pay with cash, checks, debit cards or credit cards, as the merchant prefers.

The so-called Durbin Amendment to the Dodd-Frank Act provided that interchange fees that a card issuer or payment network receives or charges for debit transactions will now be regulated by the Federal Reserve and must be "reasonable and proportional" to the cost incurred by the card issuer in authorizing, clearing and settling the transaction. Payment network fees, such as switch fees assessed by our Jeanie network, may not be used directly or indirectly to compensate card issuers in circumvention of the interchange transaction fee restrictions. In July 2011, the Federal Reserve published the final rules governing debit interchange fees. Effective in October 2011, debit interchange rates for card issuing financial institutions with more than $10 billion of assets are capped at $0.21 per transaction with an additional component of five basis points of the transaction's value to reflect a portion of the issuer's fraud losses plus, for qualifying issuing financial institutions, an additional $0.01 per transaction in debit interchange for fraud prevention costs. The debit interchange fee would be $0.24 per transaction on a $38 debit card transaction, the average transaction size for debit card transactions. The cap on interchange fees is not expected to have a material direct impact on our results of operations.

In addition, the new rules implementing the Durbin Amendment contain prohibitions on network exclusivity and merchant routing restrictions. Beginning in October 2011, (i) pursuant to the Durbin Amendment a card payment network may not prohibit a card issuer from contracting with any other card payment network for the processing of electronic debit transactions involving the issuer's debit cards and (ii) card issuing financial institutions and card payment networks may not inhibit the ability of merchants to direct the routing of debit card transactions over any card payment networks that can process the transactions. By April 2012, most debit card issuers will be required to enable at least two unaffiliated card payment networks on each debit card. These regulatory changes are expected to create both challenges and opportunities for us. Increased regulation may add to the complexity of operating a payment processing business, creating an opportunity for larger competitors to differentiate themselves both in product capabilities and service delivery. The ban on network exclusivity also will allow us to compete for additional business. The Dodd-Frank Act's overall impact on us is difficult to estimate as it will take some time for the market to react and adjust to the new regulations.

**Results of Operations**

The following tables set forth our statements of income in dollars and as a percentage of net revenue for the periods presented. Results for the year ended December 31, 2009 are presented on a non-GAAP combined basis containing the predecessor period in 2009 combined with the successor period in 2009 to enable a comparison with 2008 and 2010 on a full year basis. There were no other adjustments made to these non-GAAP combined results. The non-GAAP combined results do not

Table of Contents

purport to reflect the results that would have been obtained had the separation transaction occurred on January 1, 2009.

| | Six Months Ended June 30, 2011 | Six Months Ended June 30, 2010 | Year Ended December 31, 2010 | Non-GAAP Combined Year Ended December 31, 2009(1) | Year Ended December 31, 2008 |
|---|---|---|---|---|---|
| | | | (in thousands) | | |
| Revenue | $ 774,010 | $ 511,235 | $ 1,162,132 | $ 950,726 | $ 884,918 |
| Network fees and other costs | 367,910 | 265,345 | 595,995 | 476,605 | 433,496 |
| Net revenue | 406,100 | 245,890 | 566,137 | 474,121 | 451,422 |
| Sales and marketing | 115,789 | 36,822 | 98,418 | 70,047 | 71,247 |
| Other operating costs | 72,720 | 54,509 | 124,383 | 48,275 | — |
| General and administrative | 49,607 | 26,005 | 58,091 | 46,526 | 8,747 |
| Depreciation and amortization | 75,701 | 50,825 | 110,964 | 52,241 | 2,250 |
| Allocated expenses | — | — | — | 52,980 | 114,892 |
| Income from operations | $ 92,283 | $ 77,729 | $ 174,281 | $ 204,052 | $ 254,286 |
| Non-financial data: | | | | | |
| Transactions (in millions) | 6,224 | 5,312 | 11,266 | 9,878 | 8,862 |

| | Six Months Ended June 30, 2011 | Six Months Ended June 30, 2010 | Year Ended December 31, 2010 | Non-GAAP Combined Year Ended December 31, 2009(1) | Year Ended December 31, 2008 |
|---|---|---|---|---|---|
| Net revenue | 100.0% | 100.0% | 100.0% | 100.0% | 100.0% |
| Sales and marketing | 28.5 | 15.0 | 17.4 | 14.8 | 15.8 |
| Other operating costs | 17.9 | 22.2 | 22.0 | 10.2 | 0.0 |
| General and administrative | 12.2 | 10.6 | 10.3 | 9.8 | 1.9 |
| Depreciation and amortization | 18.6 | 20.7 | 19.6 | 11.0 | 0.5 |
| Allocated expenses | 0.0 | 0.0 | 0.0 | 11.2 | 25.5 |
| Income from operations | 22.7% | 31.6% | 30.8% | 43.0% | 56.3% |

(1) The following table shows the calculation of the non-GAAP combined statement of income for the year ended December 31, 2009:

| | Successor Six Months Ended December 31, 2009 | Predecessor Six Months Ended June 30, 2009 | Non-GAAP Combined Year Ended December 31, 2009 |
|---|---|---|---|
| | | (in thousands) | |
| Revenue | $ 506,002 | $ 444,724 | $ 950,726 |
| Network fees and other costs | 254,925 | 221,680 | 476,605 |
| Net revenue | 251,077 | 223,044 | 474,121 |
| Sales and marketing | 32,486 | 37,561 | 70,047 |
| Other operating costs | 48,275 | — | 48,275 |
| General and administrative | 38,058 | 8,468 | 46,526 |
| Depreciation and amortization | 49,885 | 2,356 | 52,241 |
| Allocated expenses | — | 52,980 | 52,980 |
| Income from operations | $ 82,373 | $ 121,679 | $ 204,052 |
| Non-financial data: | | | |
| Transactions (in millions) | 5,181 | 4,697 | 9,878 |

**Six Months Ended June 30, 2011 Compared to Six Months Ended June 30, 2010**

***Revenue***

Revenue increased 51% to $774.0 million for the six months ended June 30, 2011 from $511.2 million for the six months ended June 30, 2010. The increase in revenue reflected the impact of the NPC acquisition, which accounted for $160.9 million of the increase. The remaining $101.9 million of the increase reflected transaction growth, as well as increased Visa, MasterCard and other payment network fees that we passed through to our clients.

***Network Fees and Other Costs***

Network fees and other costs increased 39% to $367.9 million for the six months ended June 30, 2011 from $265.3 million for the six months ended June 30, 2010. Approximately $34.3 million of this increase was attributable to the NPC acquisition. The remaining increase was due to transaction growth and the impact of increased Visa, MasterCard and other payment network fees that we passed through to our clients.

***Net Revenue***

Net revenue increased 65% to $406.1 million for the six months ended June 30, 2011 from $245.9 million for the six months ended June 30, 2010. The increase in net revenue reflected the impact of the NPC acquisition, which accounted for $126.6 million of the increase. Excluding the impact of the NPC acquisition, net revenue increased by $33.6 million, or 14%, primarily due to a 14% increase in transactions.

***Sales and Marketing***

Sales and marketing expense increased 215% to $115.8 million for the six months ended June 30, 2011 from $36.8 million for the six months ended June 30, 2010. Approximately $70.2 million of this increase was attributable to the NPC acquisition, primarily related to residual payments made to ISOs and personnel costs. Excluding the impact of the NPC acquisition, sales and marketing expense increased approximately $8.8 million, or 24%, primarily due to the addition of sales and marketing personnel and related costs.

***Other Operating Costs***

Other operating costs increased 33% to $72.7 million for the six months ended June 30, 2011 from $54.5 million for the six months ended June 30, 2010. Approximately $9.0 million of the increase was due to increased costs associated with the NPC acquisition. Excluding the impact of the NPC acquisition, other operating costs increased approximately $9.2 million, or 17%. This increase was due to an increase in stand-alone expenses of $3.9 million for the six months ended June 30, 2011 offset by a decrease in transition related expenses to $9.7 million for the six months ended June 30, 2011 from $10.2 million for the six months ended June 30, 2010. Excluding these costs, other operating costs increased $5.8 million, or 13%, as increased costs associated with the growth in transactions were offset in part by back-office efficiencies.

***General and Administrative***

General and administrative expenses increased 91% to $49.6 million for the six months ended June 30, 2011 from $26.0 million for the six months ended June 30, 2010. Approximately $5.6 million of the increase was due to increased expenses associated with the NPC acquisition. Excluding the impact of the NPC acquisition, the increase was approximately $18.0 million, or 69%. This increase was due to a $6.4 million increase in transition related expenses to $17.4 million for the six months ended

June 30, 2011 from $11.0 million during the six months ended June 30, 2010; a $0.2 million increase in share-based compensation to $1.4 million during the six months ended June 30, 2011 from $1.2 million during the six months ended June 30, 2010; and a $3.7 million increase in stand-alone expenses, offset by a $0.6 million decrease in acquisition and integration costs to $0.5 million for the six months ended June 30, 2011 from $1.1 million during the six months ended June 30, 2010. Excluding the impact of these items, general and administrative expenses increased $8.3 million, or 65%. The majority of this increase related to the addition of product development, finance, legal and human resources personnel and related costs.

***Depreciation and Amortization***

Depreciation and amortization expense increased 49% to $75.7 million for the six months ended June 30, 2011 from $50.8 million for the six months ended June 30, 2010. Amortization of the customer relationship intangible assets of $139.9 million acquired through the acquisitions of NPC and TNB contributed $16.1 million to the overall increase for the period. Additionally, increased capital expenditures, primarily related to the transition to a stand-alone entity, resulted in increased depreciation and amortization expense of approximately $8.5 million.

***Income from Operations***

Income from operations increased 19% to $92.3 million for the six months ended June 30, 2011 from $77.7 million for the six months ended June 30, 2010. Excluding the impact of the NPC acquisition of $26.8 million, transition related expenses, share-based compensation and acquisition and integration costs of $29.0 million in 2011 as compared to $23.5 million in 2010, an increase in stand-alone expenses of $7.6 million and increased depreciation and amortization expense during 2011, income from operations increased by 11%.

***Interest Expense—Net***

Interest expense—net increased to $59.6 million for the six months ended June 30, 2011 from $57.7 million for the six months ended June 30, 2010. The increase was due primarily to an increase in the principal amount of our debt outstanding, which was substantially offset by the impact of our debt refinancing that reduced the interest rate on our outstanding debt to a weighted average interest rate of approximately 5.7% during the six months ended June 30, 2011 from 9.5% during the six months ended June 30, 2010.

***Non-operating Expenses***

Non-operating expenses increased to $13.8 million for the six months ended June 30, 2011 from $3.0 million for the six months ended June 30, 2010. The increase was due to expenses incurred in connection with our May 2011 debt refinancing.

***Income Tax Expense***

Income tax expense decreased to $2.6 million for the six months ended June 30, 2011 from $3.3 million for the six months ended June 30, 2010, primarily due to a benefit recognized as a result of the reduction in the Michigan state income tax rate.

***Segment Results***

The following tables provide a summary of the components of segment profit for our two segments for the six months ended June 30, 2011 and 2010.

| Merchant Services | Six Months Ended June 30, 2011 | Six Months Ended June 30, 2010 | $ Change | % Change |
|---|---|---|---|---|
| | (dollars in thousands) | | | |
| Revenue | $ 554,421 | $ 327,298 | $ 227,123 | 69% |
| Network fees and other costs | 298,484 | 215,615 | 82,869 | 38 |
| Net revenue | 255,937 | 111,683 | 144,254 | 129 |
| Sales and marketing | 101,515 | 25,700 | 75,815 | 295 |
| Segment profit | $ 154,422 | $ 85,983 | $ 68,439 | 80% |
| Non-financial data: | | | | |
| Transactions (in millions) | 4,522 | 3,876 | | 17% |

| Financial Institution Services | Six Months Ended June 30, 2011 | Six Months Ended June 30, 2010 | $ Change | % Change |
|---|---|---|---|---|
| | (dollars in thousands) | | | |
| Revenue | $ 219,589 | $ 183,937 | $ 35,652 | 19% |
| Network fees and other costs | 69,426 | 49,730 | 19,696 | 40 |
| Net revenue | 150,163 | 134,207 | 15,956 | 12 |
| Sales and marketing | 13,311 | 10,808 | 2,503 | 23 |
| Segment profit | $ 136,852 | $ 123,399 | $ 13,453 | 11% |
| Non-financial data: | | | | |
| Transactions (in millions) | 1,702 | 1,436 | | 19% |

***Net Revenue***

*Merchant Services*

Net revenue in this segment increased 129% to $255.9 million for the six months ended June 30, 2011 from $111.7 million for the six months ended June 30, 2010. Approximately $126.6 million of the increase was attributable to the NPC acquisition. Excluding the impact of the NPC acquisition, net revenue increased by $17.6 million, or 16%. This increase was primarily due to a 12% increase in transactions.

*Financial Institution Services*

Net revenue in this segment increased 12% to $150.2 million for the six months ended June 30, 2011 from $134.2 million for the six months ended June 30, 2010. The increase in revenue resulted from a 19% increase in transactions, including the impact of the TNB acquisition, as well as increased sales of value-added services to our financial institution clients. The impact of the increase in transaction volume was offset in part by price compression in connection with several long term contract renewals, as well as the impact of acquisitions made by certain of our large financial institution clients which increased transaction volume at the lower per transaction fee levels paid by such clients.

***Sales and Marketing***

*Merchant Services*

Sales and marketing expense increased 295% to $101.5 million for the six months ended June 30, 2011 from $25.7 million for the six months ended June 30, 2010. Approximately $70.2 million of this

increase was attributable to the impact of the NPC acquisition, which primarily related to residual payments made to ISOs and personnel and related costs. Excluding the impact of the NPC acquisition, sales and marketing expense increased $5.6 million, or 22%. This increase was primarily attributable to increased sales personnel and related costs and expenses associated with the expansion of our distribution channels.

*Financial Institution Services*

Sales and marketing expense increased 23% to $13.3 million for the six months ended June 30, 2011 from $10.8 million for the six months ended June 30, 2010. The increase was primarily due to an increase in sales personnel and related costs.

**Year Ended December 31, 2010 Compared to Year Ended December 31, 2009 (Non-GAAP Combined)**

***Revenue***

Revenue increased 22% to $1.2 billion for the year ended December 31, 2010 from $950.7 million for the year ended December 31, 2009 (non-GAAP combined). Approximately $49.4 million of this increase was attributable to the impact of the NPC acquisition. Excluding the impact of the NPC acquisition, revenue increased $162.0 million, or 17%. This increase was primarily due to transaction growth and increased Visa, MasterCard and other payment network fees that we pass through to our clients.

***Network Fees and Other Costs***

Network fees and other costs increased 25% to $596.0 million for the year ended December 31, 2010 from $476.6 million for the year ended December 31, 2009 (non-GAAP combined). Approximately $10.9 million of this increase was attributable to the impact of the NPC acquisition. Excluding the impact of the NPC acquisition, network fees and other costs increased by $108.5 million, or 23%. This increase was attributable to transaction growth of 14% as well as the impact of increased Visa, MasterCard and other payment network fees that we pass through to our clients.

***Net Revenue***

Net revenue increased 19% to $566.1 million for the year ended December 31, 2010 from $474.1 million for the year ended December 31, 2009 (non-GAAP combined). The increase in net revenue reflected the impact of the NPC acquisition, which accounted for $38.6 million of the increase. Excluding the impact of the NPC acquisition, net revenue increased by $53.4 million, or 11%, primarily due to a 14% increase in transactions, which was partially offset by price compression in our Financial Institution Services segment.

***Sales and Marketing***

Sales and marketing expense increased 41% to $98.4 million for the year ended December 31, 2010 from $70.0 million for the year ended December 31, 2009 (non-GAAP combined). Approximately $20.9 million of the increase was attributable to the impact of the NPC acquisition, primarily related to residual payments made to ISOs and personnel and related costs. Excluding the impact of the NPC acquisition, sales and marketing expense increased $7.5 million, or 11%, as a result of increased sales personnel and related costs.

***Other Operating Costs, General and Administrative Expenses and Allocated Expenses***

Prior to June 30, 2009, as a wholly-owned business unit of Fifth Third Bank, expenses were allocated to us by Fifth Third Bank and were primarily reported as allocated expenses. The majority of

these expenses were salaries and employee benefit related expenses as well as information technology and operational support services that were provided by Fifth Third Bank. During the successor periods, the majority of these expenses that were recorded as allocated expenses prior to the separation transaction became our direct expenses and are reported within other operating costs and general and administrative expenses. Based on the difference in presentation of such expenses during the successor and predecessor periods, we believe an analysis of these costs in total is more meaningful and indicative of our results of operations. The following table below summarizes such costs and expenses for the years ended December 31, 2010 and 2009 (non-GAAP combined):

| | Total | Other Operating Costs | General and Administrative Expenses | Allocated Expenses |
|---|---|---|---|---|
| Year ended December 31, 2010 | $ 182,474 | $ 124,383 | $ 58,091 | $ — |
| Six months ended December 31, 2009 (Successor) | 86,333 | 48,275 | 38,058 | — |
| Six months ended June 30, 2009 (Predecessor) | 61,448 | — | 8,468 | 52,980 |
| Year ended December 31, 2009 (Non-GAAP Combined) | $ 147,781 | $ 48,275 | $ 46,526 | $ 52,980 |

Other operating costs, general and administrative expenses and allocated expenses in total increased 23% to $182.5 million for the year ended December 31, 2010 from $147.8 million for the year ended December 31, 2009 (non-GAAP combined). Approximately $6.0 million of this increase was attributable to the impact of the NPC acquisition. The remaining increase reflected an increase in transition related costs to $44.5 million during 2010 from $24.0 million during 2009; acquisition and integration costs of $4.5 million incurred during 2010; an increase in share-based compensation expense to $2.8 million during 2010 from $1.7 million during 2009; and increased stand-alone expenses of $8.1 million during 2009, offset by $16.3 million of transaction costs in 2009 that were not incurred in 2010. Excluding these items, other operating costs, general and administrative expenses and allocated expenses increased approximately $10.8 million, or 10%, primarily due to increased personnel and related costs.

***Depreciation and Amortization***

Depreciation and amortization expense increased to $111.0 million for the year ended December 31, 2010 from $52.2 million for the year ended December 31, 2009 (non-GAAP combined). The increase was primarily attributable to the amortization of customer relationship intangible assets acquired in connection with the separation transaction and the NPC acquisition. Amortization related to customer relationship intangible assets acquired in connection with the separation transaction was approximately $91.9 million in 2010 compared to $45.9 million in 2009. This increase was due to the inclusion of a full year of amortization related to the customer relationship intangible assets in 2010 acquired in the separation transaction as compared to six months of amortization in 2009. Additionally, approximately $6.4 million of the increase in amortization was attributable to the customer relationship intangible assets acquired in connection with the acquisitions made in 2010, primarily the NPC acquisition. Increased capital expenditures during 2010 resulted in increased depreciation and amortization of approximately $6.4 million as compared to 2009.

***Income from Operations***

Income from operations decreased 15% to $174.3 million for the year ended December 31, 2010 from $204.1 million for the year ended December 31, 2009 (non-GAAP combined). Excluding the impact of the NPC acquisition of $6.7 million, transition related expenses, share-based compensation, acquisition and integration costs and transaction costs of $51.8 million in 2010 as compared to $42.0 million in 2009, an increase in stand-alone expenses of $8.1 million, and increased depreciation and amortization expense in 2010, income from operations increased by 14% as compared to 2009.

***Interest Expense—Net***

Interest expense—net increased to $116.0 million for the year ended December 31, 2010, compared to $58.9 million and $9.8 million, respectively, during the six months ended December 31, 2009 and June 30, 2009. We began incurring interest expense as of June 1, 2009, when we assumed the debt from Fifth Third Bank. The increase in net interest expense of $47.3 million for the year ended December 31, 2010 was primarily attributable to the debt being outstanding for the full year in 2010 compared to seven months of 2009. Interest expense—net was also impacted by our November 2010 debt refinancing, at which time we incurred approximately $551.6 million in additional indebtedness to finance our acquisition of NPC. The increase in interest expense—net due to increased debt balances was substantially offset by a reduction in the overall interest rate on the refinanced debt from 9.5% during 2009 and 2010 prior to the refinancing to a weighted-average rate of approximately 5.7% subsequent to the refinancing.

***Non-operating Expenses***

For the years ended December 31, 2010 and 2009, non-operating expenses consisted primarily of losses related to the put rights we received in connection with the separation transaction. The put rights will terminate in connection with this offering.

***Income Tax Expense (Benefit)***

Income tax expense declined to an income tax benefit of $1.0 million for the year ended December 31, 2010 as compared to an income tax expense of $36.7 million for the year ended December 31, 2009. Prior to the separation transaction, as a business unit of Fifth Third Bank we were subject to Fifth Third's effective tax rate. Following the separation transaction, income tax expense was recorded based upon our effective combined corporate and state tax rate, excluding net income attributable to non-controlling interests. During the year ended December 31, 2010, our income tax expense was offset by a local deferred income tax benefit of approximately $13.0 million related to the relocation of our corporate headquarters to a lower tax jurisdiction and changes in certain state income tax rates.

***Segment Results***

The following tables provide a summary of the components of segment profit for our two segments for the year ended December 31, 2010 and the year ended 2009 (non-GAAP combined):

| Merchant Services | Year Ended December 31, 2010 | Non-GAAP Combined Year Ended December 31, 2009(1) | $ Change | % Change |
|---|---|---|---|---|
| | (dollars in thousands) | | | |
| Revenue | $ 756,930 | $ 584,579 | $ 172,351 | 29% |
| Network fees and other costs | 476,932 | 378,578 | 98,354 | 26 |
| Net revenue | 279,998 | 206,001 | 73,997 | 36 |
| Sales and marketing | 73,441 | 50,907 | 22,534 | 44 |
| Segment profit | $ 206,557 | $ 155,094 | $ 51,463 | 33 |
| Non-financial data: | | | | |
| Transactions (in millions) | 8,206 | 7,250 | | 13% |

| Financial Institution Services | Year Ended December 31, 2010 | Non-GAAP Combined Year Ended December 31, 2009(1) | $ Change | % Change |
|---|---|---|---|---|
| | (dollars in thousands) | | | |
| Revenue | $ 405,202 | $ 366,147 | $ 39,055 | 11% |
| Network fees and other costs | 119,063 | 98,027 | 21,036 | 21 |
| Net revenue | 286,139 | 268,120 | 18,019 | 7 |
| Sales and marketing | 22,964 | 19,140 | 3,824 | 20 |
| Segment profit | $ 263,175 | $ 248,980 | $ 14,195 | 6 |
| Non-financial data: | | | | |
| Transactions (in millions) | 3,060 | 2,628 | | 16% |

(1) Year ended December 31, 2009 (non-GAAP combined) data is derived by combining the successor and predecessor periods during 2009.

***Net Revenue***

*Merchant Services*

Net revenue increased 36% to $280.0 million for the year ended December 31, 2010 from $206.0 million for the year ended December 31, 2009 (non-GAAP combined). Approximately $38.6 million of this increase was attributable to the impact of the NPC acquisition. Excluding the impact of the NPC acquisition, net revenue increased $35.4 million, or 17%. The increase in net revenue was primarily due to an increase in transactions of 13%.

*Financial Institution Services*

Net revenue increased 7% to $286.1 million for the year ended December 31, 2010 from $268.1 million for the year ended December 31, 2009 (non-GAAP combined). The increase was primarily due to a 16% increase in transactions, partially offset by pricing compression in contract renewals, as well as, the impact of acquisitions made by certain of our large financial institution clients which increased transaction volume at the lower per transaction fee levels paid by such clients.

***Sales and Marketing***

*Merchant Services*

Sales and marketing expense increased 44% to $73.4 million for the year ended December 31, 2010 from $50.9 million for the year ended December 31, 2009 (non-GAAP combined). Approximately $20.9 million of the increase was attributable to the NPC acquisition, primarily related to residual payments made to ISOs and personnel costs. Excluding the impact of the NPC acquisition, sales and marketing expense increased $1.6 million primarily as a result of increased sales personnel and related costs.

*Financial Institution Services*

Sales and marketing expense increased 20% to $23.0 million for the year ended December 31, 2010 from $19.1 million for the year ended December 31, 2009 (non-GAAP combined). The increase was primarily attributable to increased sales personnel and related costs.

**Year Ended December 31, 2009 (Non-GAAP Combined) Compared to Year Ended December 31, 2008**

***Revenue***

Revenue increased 7% to $950.7 million for the year ended December 31, 2009 (non-GAAP combined) from $884.9 million for the year ended December 31, 2008. The increase was primarily attributable to transaction growth, as well as increased Visa, MasterCard and other payment network fees that we passed through to our clients. Our strong client presence with merchants in the everyday spend categories partially offset the impact of the economic downturn.

***Network Fees and Other Costs***

Network fees and other costs increased 10% to $476.6 million for the year ended December 31, 2009 (non-GAAP combined) from $433.5 million for the year ended December 31, 2008. This increase was attributable to higher transaction growth as well as increased Visa, MasterCard and other payment network fees that we passed through to our clients.

***Net Revenue***

Net revenue increased 5% to $474.1 million for the year ended December 31, 2009 (non-GAAP combined) from $451.4 million for the year ended December 31, 2008. The increase was primarily due to an 11% increase in transactions, which was partially offset by lower consumer spending as a result of an economic downturn, as well as a shift in transaction volume to larger national merchants which generally pay lower per transaction fees.

***Sales and Marketing***

Sales and marketing expense decreased $1.2 million, or 2%, to $70.0 million for the year ended December 31, 2009 (non-GAAP combined) from $71.2 million for the year ended December 31, 2008. This decrease was due to cost reduction initiatives that we implemented during the economic downturn.

***Other Operating Costs, General and Administrative Expenses and Allocated Expenses***

The following table below summarizes other operating costs, general and administrative expenses and allocated expenses for the years ended December 31, 2009 (non-GAAP combined) and 2008:

| | Total | Other Operating Costs | General and Administrative Expenses | Allocated Expenses |
|---|---|---|---|---|
| Six months ended December 31, 2009 (Successor) | $ 86,333 | $ 48,275 | $ 38,058 | $ — |
| Six months ended June 30, 2009 (Predecessor) | 61,448 | — | 8,468 | 52,980 |
| Year ended December 31, 2009 (non-GAAP combined) | $ 147,781 | $ 48,275 | $ 46,526 | $ 52,980 |
| Year ended December 31, 2008 | $ 123,639 | $ — | $ 8,747 | $ 114,892 |

For the year ended December 31, 2009 (non-GAAP combined), other operating costs, general and administrative expenses and allocated expenses in total were approximately $147.8 million, representing an increase of $24.1 million, or 20%, as compared to the year ended December 31, 2008. This increase was due to an increase in transition related expenses to $24.0 million during 2009 from $18.2 million during 2008 and $16.3 million of transaction costs incurred in 2009, offset by a decrease in share-based compensation to $1.7 million during 2009 from $3.9 million during 2008. Excluding these items, other

operating costs, general and administrative expenses and allocated expenses increased $4.2 million, or 4%, due primarily to increased personnel and related costs.

***Depreciation and Amortization***

Depreciation and amortization expense was $52.2 million for the year ended December 31, 2009 (non-GAAP combined) and $2.3 million for the year ended December 31, 2008. The increase was primarily attributable to approximately $45.9 million of amortization related to the customer relationship intangible assets we acquired in connection with the separation transaction. The remaining increase was due to additional depreciation and amortization related to an increase in capital expenditures during 2009 as we enhanced our technology platform after the separation transaction.

***Income from Operations***

Income from operations decreased 20% to $204.1 million for the year ended December 31, 2009 (non-GAAP combined) from $254.3 million for the year ended December 31, 2008. Excluding transition related expenses, share-based compensation and transaction costs of $42.0 million in 2009 (non-GAAP combined) as compared to $22.1 million during 2008, as well as increased depreciation and amortization expense during 2009, income from operations increased by 7%.

***Interest Expense—Net***

Interest expense—net for the six months ended December 31, 2009 and June 30, 2009, respectively was $58.9 million and $9.8 million, respectively. Interest expense—net during these periods reflected interest paid during the seven month period beginning June 1, 2009 on the debt we assumed from Fifth Third Bank in connection with the separation transaction. In 2008, we were a business unit of Fifth Third Bank and cash and funding requirements were met through Fifth Third Bank's centralized cash management function and as a result we did not have any debt outstanding and did not incur interest expense.

***Non-operating Expenses***

Non-operating expenses increased to $9.2 million for the year ended December 31, 2009 (non-GAAP combined) from $5.6 million for the year ended December 31, 2008. For the six months ended December 31, 2009, non-operating expenses consisted primarily of the loss related to the put rights we received in conjunction with the separation transaction. The put rights will terminate in connection with this offering. For the year ended December 31, 2008, non-operating expenses consisted of internal funding costs allocated to us by Fifth Third Bank.

***Income Tax Expense***

We recognized an income tax benefit of $0.2 million for the six months ended December 31, 2009. We incurred an income tax expense of $36.9 million and $96.0 million for the six months ended June 30, 2009 and the year ended December 31, 2008, respectively. Prior to the separation transaction, as a business unit of Fifth Third Bank, we were subject to Fifth Third Bank's then effective tax rate. Following the separation transaction, income tax expense was recorded based upon our effective combined corporate and state tax rate, excluding net income attributable to non-controlling interests.

***Segment Results***

The following tables provide a summary of the components of segment profit for our two segments for the years ended December 31, 2009 (non-GAAP combined) and 2008:

| Merchant Services | Non-GAAP Combined Year Ended December 31, 2009(1) | Year Ended December 31, 2008 | $ Change | % Change |
|---|---|---|---|---|
| | (dollars in thousands) | | | |
| Revenue | $ 584,579 | $ 532,283 | $ 52,296 | 10% |
| Network fees and other costs | 378,578 | 331,443 | 47,135 | 14 |
| Net revenue | 206,001 | 200,840 | 5,161 | 3 |
| Sales and marketing | 50,907 | 47,010 | 3,897 | 8 |
| Segment profit | $ 155,094 | $ 153,830 | $ 1,264 | 1% |
| Non-financial data: | | | | |
| Transactions (in millions) | 7,250 | 6,493 | | 12% |

| Financial Institution Services | Non-GAAP Combined Year Ended December 31, 2009(1) | Year Ended December 31, 2008 | $ Change | % Change |
|---|---|---|---|---|
| | (dollars in thousands) | | | |
| Revenue | $ 366,147 | $ 352,635 | $ 13,512 | 4% |
| Network fees and other costs | 98,027 | 102,053 | (4,026) | (4) |
| Net revenue | 268,120 | 250,582 | 17,538 | 7 |
| Sales and marketing | 19,140 | 24,237 | (5,097) | (21) |
| Segment profit | $ 248,980 | $ 226,345 | $ 22,635 | 10% |
| Non-financial data: | | | | |
| Transactions (in millions) | 2,628 | 2,369 | | 11% |

(1) Year ended December 31, 2009 (non-GAAP combined) is derived by combining the successor and predecessor periods during 2009.

***Net Revenue***

*Merchant Services*

Net revenue increased 3% to $206.0 million for the year ended December 31, 2009 (non-GAAP combined) from $200.8 million for the year ended December 31, 2008. This increase was attributable to a 12% increase in transactions, which was partially offset by lower consumer spending as a result of an economic downturn that resulted in a decrease in average dollar amount per transaction as well as a shift in volume to large national merchants.

*Financial Institution Services*

Net revenue increased 7% to $268.1 million for the year ended December 31, 2009 (non-GAAP combined) from $250.6 million for the year ended December 31, 2008. This increase was attributable to an 11% increase in transactions, which was partially offset by price compression in contract renewals.

***Sales and Marketing***

*Merchant Services*

Sales and marketing expense increased 8% to $50.9 million for the year ended December 31, 2009 (non-GAAP combined) from $47.0 million for the year ended December 31, 2008. The increase was primarily related to increased sales personnel and related costs.

*Financial Institution Services*

Sales and marketing expense decreased 21% to $19.1 million for the year ended December 31, 2009 (non-GAAP combined) from $24.2 million for the year ended December 31, 2008. This decrease was primarily related to cost reduction initiatives that we implemented during the economic downturn.

**Quarterly Results of Operations**

The following table sets forth our unaudited results of operations on a quarterly basis for the six months ended June 30, 2011 and the year ended December 31, 2010.

| | Three Months Ended | | | | | |
|---|---|---|---|---|---|---|
| | June 30, 2011 | March 31, 2011 | December 31, 2010 | September 30, 2010 | June 30, 2010 | March 31, 2010 |
| | (in thousands) | | | | | |
| Revenue | $ 402,564 | $ 371,446 | $ 362,258 | $ 288,639 | $ 262,876 | $ 248,359 |
| Net revenue | 216,870 | 189,230 | 181,571 | 138,676 | 126,738 | 119,152 |
| Depreciation and amortization | 39,001 | 36,700 | 32,735 | 27,404 | 25,576 | 25,249 |
| Income from operations | $ 55,095 | $ 37,188 | $ 55,338 | $ 41,214 | $ 42,331 | $ 35,398 |
| Non-financial data (in millions): | | | | | | |
| Merchant Services transactions | 2,338 | 2,184 | 2,301 | 2,029 | 2,001 | 1,875 |
| Financial Institutions Services transactions | 884 | 818 | 833 | 791 | 750 | 686 |
| Total transactions | 3,222 | 3,002 | 3,134 | 2,820 | 2,751 | 2,561 |

Our results of operations are subject to seasonal fluctuations in our revenue as a result of consumer spending patterns. Historically our revenues have been strongest in our third and fourth quarters and weakest in our first quarter. Furthermore, the quarters ending in 2011 and the last quarter of 2010 reflect the impact of the NPC acquisition.

**Liquidity and Capital Resources**

Our liquidity is funded primarily through cash provided by operations, debt and a line of credit, which is generally sufficient to fund our operations, planned capital expenditures, tax distributions made to our non-controlling interest holders, debt service and acquisitions. As of June 30, 2011, our principal sources of liquidity consisted of $255.8 million of cash and cash equivalents and $148.5 million of availability under the $150.0 million revolving portion of our senior secured credit facilities. Our total indebtedness, including capital leases, was $1.8 billion as of June 30, 2011.

Our principal needs for liquidity have been, and for the foreseeable future will continue to be, debt service, capital expenditures, working capital and acquisitions. The main portion of our capital expenditures have been related to establishing our ability to operate as a stand-alone business and to enhance our technology platform after our separation from Fifth Third Bank. In addition, Vantiv Holding may need cash to redeem Class B units from the Fifth Third investors if they opt to pay cash for such units. We believe that our cash flow from operations, available cash and cash equivalents and available borrowings under the revolving portion of our senior secured credit facilities will be sufficient to meet our liquidity needs. We anticipate that to the extent that we require additional liquidity, it will

be funded through the incurrence of other indebtedness, equity financings or a combination. We cannot assure you that we will be able to obtain this additional liquidity on reasonable terms, or at all. Additionally, our liquidity and our ability to meet our obligations and fund our capital requirements are also dependent on our future financial performance, which is subject to general economic, financial and other factors that are beyond our control. Accordingly, we cannot assure you that our business will generate sufficient cash flow from operations or that future borrowings will be available under our credit facilities or otherwise to meet our liquidity needs. Although we have no specific current plans to do so, if we decide to pursue one or more significant acquisitions, we may incur additional debt or sell additional equity to finance such acquisitions.

***Cash Flows***

The following table presents a summary of cash flows from operating, investing and financing activities for the six months ended June 30, 2011 and 2010, the year ended December 31, 2010, the year ended December 31, 2009 (non-GAAP combined) and the year ended December 31, 2008. Results for the year ended December 31, 2009 are presented on a non-GAAP combined basis containing the predecessor period in 2009 combined with the successor period in 2009 to enable a comparison with 2008 and 2010 on a full year basis. There were no other adjustments made to these non-GAAP combined results. The non-GAAP combined results do not purport to reflect the results that would have been obtained had the separation transaction occurred on January 1, 2009.

| | Six Months Ended June 30, 2011 | Six Months Ended June 30, 2010 | Year Ended December 31, 2010 | Non-GAAP combined Year Ended December 31, 2009(1) | Year Ended December 31, 2008 |
|---|---|---|---|---|---|
| | | | (in thousands) | | |
| Net cash provided by operating activities | $ 70,000 | $ 35,528 | $ 196,336 | $ 210,180 | $ 386,669 |
| Net cash used in investing activities | (32,604) | (12,915) | (697,151) | (31,120) | (5,508) |
| Net cash (used in) provided by financing activities | (18,077) | (20,354) | 448,158 | 110,107 | (381,169) |

(1) The following table shows the calculation of cash flows from operating, investing and financing activities for the year ended December 31, 2009:

| | Successor Six Months Ended December 31, 2009 | Predecessor Six Months Ended June 30, 2009 | Non-GAAP Combined Year Ended December 31, 2009 |
|---|---|---|---|
| | | (in thousands) | |
| Net cash provided by operating activities | $ 31,394 | $ 178,786 | $ 210,180 |
| Net cash used in investing activities | (11,698) | (19,422) | (31,120) |
| Net cash (used in) provided by financing activities | (30,462) | 140,569 | 110,107 |

*Cash Flow from Operating Activities*

Net cash provided by operating activities was $70.0 million for the six months ended June 30, 2011 as compared to $35.5 million for the six months ended June 30, 2010. The increase was primarily due to an increase in cash earnings from operations including an increase resulting from the impact of the NPC acquisition, which was partially offset by a decrease in the impact of the change in operating assets and liabilities, or working capital, principally due to a decrease in settlement obligations from the prior period end. Settlement obligations represent settlement funds received by us and not yet remitted

to our clients for the settlement of transactions we processed. Settlement obligations can fluctuate due to seasonality as well as the day of the month end.

Net cash provided by operating activities was $196.3 million for the year ended December 31, 2010 compared to $210.2 million for the year ended December 31, 2009 (non-GAAP combined) and $386.7 million for the year ended December 30, 2008. Cash flow from operations is driven by strong income from operations coupled with cash flow derived from changes in working capital. Net cash provided by operating activities was significantly higher in the year ended December 31, 2008 primarily due to a high level of settlement obligations resulting from the allocation of settlement obligations by Fifth Third Bank to its payment processing business unit in preparation for the separation transaction.

*Cash Flow from Investing Activities*

Net cash used in investing activities was $32.6 million for the six months ended June 30, 2011 as compared to $12.9 million for the six months ended June 30, 2010. The increase was primarily due to increased capital expenditures in connection with our separation from Fifth Third Bank and to support the growth of our business.

Net cash used in investing activities was $697.2 million for the year ended December 31, 2010 as compared to $31.1 million for the year ended December 31, 2009 (non-GAAP combined), which reflected the use of cash for the NPC and TNB acquisitions. Net cash used in investing activities was $5.5 million for the year ended December 31, 2008, primarily related to the acquisition of customer relationship intangible assets.

*Cash Flow from Financing Activities*

Net cash used in financing activities was $18.1 million for the six months ended June 30, 2011 compared to $20.4 million for the six months ended June 30, 2010. The decrease reflected approximately $6.3 million of debt issuance costs in connection with our debt refinancing in May 2011, which was offset by a decrease in tax distributions made to our non-controlling interest holders to $2.8 million during the six months ended June 30, 2011 from $10.8 million during the six months ended June 30, 2010 primarily due to lower estimated taxable income for the six months ended June 30, 2011 and the application of tax distributions made in prior periods.

During the year ended December 31, 2010, net cash provided by financing activities was $448.2 million primarily as a result of the incremental financing of $551.6 million used to fund the acquisition of NPC, offset by payment of $43.6 million of debt issuance costs and tax distributions to the non-controlling interest holders of $26.3 million. Net cash provided by financing activities was $110.1 million for the year ended December 31, 2009 (non-GAAP combined) compared to net cash used in financing activities of $381.2 million during the year ended December 31, 2008. Prior to June 30, 2009 we were a business unit of Fifth Third Bank, and cash generated by or required for our operations was applied to equity held by Fifth Third Bank. During 2009 we received funds of $140.6 million from Fifth Third Bank compared to 2008 when we provided funds to Fifth Third Bank of $381.2 million.

***Credit Facilities***

*Senior Secured Credit Facilities*

In connection with the separation transaction, we assumed a $1.3 billion senior secured note due to Fifth Third Bank. On November 3, 2010, we entered into a first lien and a second lien senior secured credit facility with a syndicate of banks to refinance the debt held by Fifth Third Bank and to fund the acquisition of NPC, which was subsequently refinanced on May 17, 2011. As of June 30, 2011, our senior credit facilities consisted of $1.6 billion in term B-1 loans, $150.0 million in term B-2 loans

and a $150.0 million revolving credit facility. The $150.0 million revolving credit facility includes a $50.0 million swing line facility and $40.0 million available for the issuance of letters of credit. As of June 30, 2011, there was one letter of credit outstanding totaling $1.5 million, which expired on July 1, 2011. The term B-1 loans and term B-2 loans mature in November 2016 and November 2017, respectively. The revolving credit facility matures in November 2015. Additionally, we may incur up to $350.0 million of additional debt pursuant to an incremental facility under our senior secured credit facilities, subject to certain terms and conditions.

The obligations under our senior secured credit facilities are unconditional and are guaranteed by Vantiv Holding and certain of our existing and subsequently acquired or organized domestic subsidiaries. The senior secured credit facilities and related guarantees are secured on a first-priority basis (subject to liens permitted under the loan agreement governing the senior secured credit facilities) in substantially all the capital stock (subject to a 65% limitation on pledges of capital stock of foreign subsidiaries and domestic holding companies of foreign subsidiaries) and personal property of the borrower and any obligors as well as any real property in excess of $5 million in the aggregate held by the borrower or any obligors (other than Vantiv Holding), subject to certain exceptions.

Interest on all loans under our senior secured credit facilities is payable quarterly. Borrowings under our senior credit facilities bear interest at a rate equal to, at our option, (1) in the case of term B-1 loans (i) LIBOR plus 325 basis points (with a floor of 125 basis points) or (ii) a base rate plus 225 basis points and (2) in the case of term B-2 loans, (i) LIBOR plus 350 basis points (with a floor of 150 basis points) or (ii) a base rate plus 250 basis points. Borrowings under our revolving credit facility accrue interest at rate equal to, at our option, a base rate or LIBOR plus an applicable margin. The applicable margin for loans under our revolving credit facility is based on our leverage ratio, ranging from 300 to 350 basis points in the case of LIBOR and 200 to 250 basis points in the case of the base rate.

As of June 30, 2011, the weighted average interest rate under our senior secured credit facilities was 4.6%, before the effect of our interest rate swap. At the rate in effect on June 30, 2011 and based on the outstanding balance of $1.8 billion as of June 30, 2011, our estimated debt service obligations for the next 12 months would be $98.1 million, consisting of $81.9 million in interest and $16.2 million of scheduled principal payments.

Subject to certain conditions and exceptions, we may make voluntary prepayments on the term B-1 and term B-2 loans at any time without premium or penalty. We are generally required to prepay borrowings under the senior secured credit facilities with (1) 100% of the net proceeds we receive from the incurrence of debt obligations other than specified debt obligations, (2) 100% of the net proceeds we receive from specified asset sales or as a result of a casualty or condemnation, subject to reinvestment provisions, and (3) beginning in April 2012, 50% (or, if our leverage ratio is equal to or less than 3.75 to 1.00 and greater than 3.25 to 1.00, 25%) of excess cash flow (as defined in the loan agreement) reduced by the aggregate amount of term loans optionally prepaid during the applicable fiscal year. Under the loan agreement, we are not required to prepay borrowings with excess cash flow if our leverage ratio is less than or equal to 3.25 to 1.00. Any mandatory payments will be applied first to outstanding term B-1 and term B-2 loans on a pro rata basis until paid in full, then the revolving loans until paid in full and then to swing line loans. We intend to use our net proceeds from the shares that we sell in this offering to repay $ million of outstanding debt under our senior secured credit facilities. See "Use of Proceeds."

The loan agreement requires us to maintain a maximum leverage ratio (based upon the ratio of total funded debt to consolidated EBITDA, as defined in the loan agreement) and a minimum interest coverage ratio (based upon the ratio of consolidated EBITDA to interest expense), which are tested

quarterly based on the last four fiscal quarters. The required financial ratios become more restrictive over time, with the specific ratios required by period set forth in the following table:

| Period | Leverage Ratio | Interest Coverage Ratio |
|---|---|---|
| January 1, 2011 to June 30, 2011 | 5.50 to 1.00 | 2.50 to 1.00 |
| July 1, 2011 to June 30, 2012 | 5.25 to 1.00 | 2.50 to 1.00 |
| July 1, 2012 to June 30, 2013 | 4.75 to 1.00 | 2.75 to 1.00 |
| July 1, 2013 to June 30, 2014 | 3.75 to 1.00 | 3.00 to 1.00 |
| Thereafter | 3.00 to 1.00 | 3.25 to 1.00 |

As of June 30, 2011, we were in compliance with these covenants with a leverage ratio of 3.74 to 1.00 and an interest coverage ratio of 3.77 to 1.00.

*Interest Rate Swaps*

In connection with our debt refinancing, on May 19, 2011, we amended our interest rate swap agreements to more closely align with the terms of the refinanced debt. We designated the amended interest rate swaps into new cash flow hedge relationships and prospectively discontinued hedge accounting on the original interest rate swaps as they no longer met the requirements for hedge accounting. During the six months ended June 30, 2011, such derivatives were used to hedge the variable cash flows associated with our variable-rate debt. As of June 30, 2011, the interest rate swaps had a total notional value of $887.5 million that were designated as cash flow hedges of interest rate risk. Under our interest rate swap agreements, we pay interest at 2.49% and receive the greater of 1.25% or three-month LIBOR. The interest rate swap agreements expire on November 19, 2015.

*Building Loan*

On July 12, 2011, our subsidiary executed a term loan agreement for approximately $10.1 million for the purchase of our corporate headquarters facility. The interest rate is fixed at 6.22%, with interest only payments required for the first 84 months. Thereafter, and until maturity, we will pay interest and principal based upon a 30 year amortization schedule, with the remaining principal amount due at maturity.

**Contractual Obligations**

The following table summarizes our contractual obligations and commitments as of December 31, 2010:

| | | Payments Due By Period | | | |
|---|---|---|---|---|---|
| | Total | Less than 1 year | 1 - 3 Years | 3 - 5 Years | More than 5 Years |
| | | | (in thousands) | | |
| Operating leases | $ 23,492 | $ 10,912 | $ 8,756 | $ 2,873 | $ 951 |
| Borrowings(a) | 2,388,703 | 119,976 | 237,601 | 233,804 | 1,797,322 |
| Purchase commitments(b) | 31,409 | 25,330 | 3,439 | 960 | 1,680 |
| Total | $ 2,443,604 | $ 156,218 | $ 249,796 | $ 237,637 | $ 1,799,953 |

(a) Represents principal and variable interest payments due under our first and second lien secured credit facilities as of December 31, 2010. Variable interest payments were calculated using interest rates as of December 31, 2010. See discussion above for terms of our debt agreements pursuant to our refinancing on May 17, 2011, as well as our interest rate swap agreements associated with such debt.

(b) Represents amounts due to Fifth Third Bank under the TSA and the Clearing, Settlement and Sponsorship Agreement as well as a third party data communications and network services agreement with required minimums.

In March 2011, we entered into an agreement to procure certain technology infrastructure support. In total, over a three year period beginning in June 2011, we will make payments of approximately $9.1 million, with payments of $1.9 million in 2011 and $7.2 million over the two years thereafter.

In July 2011, we entered into a third party agreement to lease computer hardware and purchase related software licenses, as well as to purchase maintenance agreements associated with both the hardware and software. In total, over a period of four years beginning on the agreement date, we will make payments related to the hardware, software and related maintenance agreements of approximately $56.8 million, with payments of $10.7 million in 2011, $42.6 million from 2012 to 2014 and $3.6 million in 2015.

**Critical Accounting Policies**

Our discussion and analysis of our financial condition and results of operations are based upon our financial statements, which have been prepared in accordance with GAAP. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses. On an ongoing basis, we evaluate our estimates including those related to revenue recognition, goodwill and intangible assets, derivative financial instruments, income taxes and share-based compensation. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances. Actual results may differ from these estimates under different assumptions or conditions.

The accounting policies we believe to be most critical to understanding our financial results and condition and that require complex and subjective management judgments are discussed below.

***Revenue Recognition***

We have contractual agreements with our clients that set forth the general terms and conditions of the relationship including line item pricing, payment terms and contract duration. Revenues are recognized as earned (i.e., for transaction based fees, when the underlying transaction is processed) in conjunction with Accounting Standards Codification, or ASC, 605, *Revenue Recognition*. ASC 605, *Revenue Recognition*, establishes guidance as to when revenue is realized or realizable and earned by using the following criteria: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the seller's price is fixed or determinable; and (4) collectibility is reasonably assured.

We follow guidance provided in ASC 605-45, *Principal Agent Considerations*. ASC 605-45 states that whether a company should recognize revenue based on the gross amount billed to a customer or the net amount retained is a matter of judgment that depends on the facts and circumstances of the arrangement and that certain factors should be considered in the evaluation. We recognize processing revenues net of interchange fees, which are assessed to our merchant clients on all processed transactions. Interchange rates are not controlled by us, in which we effectively act as a clearing house collecting and remitting interchange fee settlement on behalf of issuing banks, debit networks, credit card associations and its processing customers. All other revenue is reported on a gross basis, as we contract directly with the end customer, assume the risk of loss and have pricing flexibility.

***Goodwill and Intangible Assets***

Goodwill represents the excess consideration paid over fair value of net assets and liabilities acquired in business combinations. Our goodwill balance as of June 30, 2011 and December 31, 2010

was $1.5 billion; as of December 31, 2009, the goodwill balance was $1.0 billion. Our goodwill represents goodwill attributable to the separation transaction, as well as the acquisitions of NPC and TNB. Our intangible assets balance as of June 30, 2011, December 31, 2010 and December 31, 2009 was $974.3 million, $1.0 billion and $952.3 million, respectively. Our intangible assets consist primarily of acquired customer relationships and trade names.

In accordance with *ASC 350, Intangibles—Goodwill and Other*, we test goodwill for impairment for each reporting unit on an annual basis, or when events occur or circumstances change that would indicate the fair value of a reporting unit is below its carrying value. If the fair value of a reporting unit is less than its carrying value, than an impairment loss is recorded to the extent that fair value of the goodwill within the reporting unit is less than its carrying value. We performed our most recent annual goodwill impairment test as of July 31, 2010 using market data and discounted cash flow analyses, which indicated there was no impairment.

Our intangible assets consist primarily of acquired customer relationship intangible assets, which are amortized over their estimated useful lives. We also have an indefinite-lived trade name which is not subject to amortization. We review the acquired customer relationships for possible impairment whenever events or changes in circumstances indicate that the carrying amounts may not be recoverable. The indefinite-lived trade name is evaluated annually for impairment. As of June 30, 2011, there were no indications of impairment with regards to the customer relationship intangible assets or the trade name.

***Derivative Financial Instruments***

We use derivative financial instruments to manage our exposure to certain financial and market risks, primarily related to changes in interest rates. We have entered into interest rate swaps to manage interest rate risk associated with our variable-rate borrowings. We do not enter into derivative financial instruments for speculative purposes.

As required, derivative financial instruments are recognized in our statements of financial position at fair value. Our derivative financial instruments are not exchange listed, and therefore the fair values are determined based on models which contemplate the contractual terms of the instruments, observable inputs including interest rates and yield curves and the credit quality of our counterparties, along with our creditworthiness. All key assumptions and valuations are the responsibility of management.

Our interest rate swaps are designated as cash flow hedges of forecasted interest payments related to our variable-rate borrowings. These interest rate swaps qualify for hedge accounting under ASC 815, *Derivatives and Hedging.* As such, the effective portion of changes in fair value of the instruments is recorded in accumulated other comprehensive income and reclassified into earnings in the same period or periods during which the hedged transaction affects earnings. Any ineffectiveness associated with the instrument is recorded immediately in interest expense in the statements of income.

***Income Taxes***

We are taxed as a C corporation for U.S. income tax purposes and are therefore subject to both federal and state taxation at a corporate level.

Income taxes are computed in accordance with ASC 740, *Income Taxes*, and reflect the net tax effects of temporary differences between the financial reporting carrying amounts of assets and liabilities and the corresponding income tax amounts. We have deferred tax assets and liabilities and maintain valuation allowances where it is more likely than not that all or a portion of deferred tax assets will not be realized. To the extent we determine that we will not realize the benefit of some or all of our deferred tax assets, then these deferred tax assets will be adjusted through our provision for

income taxes in the period in which this determination is made. As of June 30, 2011 and December 31, 2010 and 2009, we had recorded no valuation allowances against any deferred tax assets.

Prior to June 30, 2009, our operations during the predecessor period were included in Fifth Third Bancorp's consolidated federal income tax return and the state income tax returns of certain subsidiaries of Fifth Third Bancorp. For the purpose of our financial statements, federal and state income taxes have been determined on a separate basis as if we were a separate, stand-alone taxable entity for the predecessor periods prior to June 30, 2009.

***Share-Based Compensation***

We expense employee share-based payments under the fair value method. ASC 718, *Compensation—Stock Compensation*, requires compensation cost for the fair value of share-based payments at the date they are granted to be recognized over the requisite service period. Further, the fair value of liability awards is required to be remeasured at the reporting date, with changes in fair value recognized as compensation cost over the requisite service period. We estimate the fair value of the share-based awards at the date they are granted using the Black-Scholes option pricing model.

Based on the vesting criteria and continued service requirements, compensation cost related to time awards is recognized on a straight-line basis over seven years. Compensation cost associated with time awards issued under the Management Phantom Equity Plan was $2.8 million and $0.6 million for the year ended December 31, 2010 and six months ended December 31, 2009, respectively. At December 31, 2010, there was approximately $28.5 million of share-based compensation expense related to non-vested time awards not yet recognized. The expense is expected to be recognized over a remaining weighted-average period of approximately 6.3 years.

The value of performance awards outstanding at December 31, 2010 and 2009 was approximately $15.6 million and $9.5 million, respectively. However, no compensation cost attributable to performance awards has been recognized as the achievement of such performance is not deemed probable.

Upon reclassification of awards from liability awards to equity awards on September 29, 2010, awards were remeasured to a weighted-average fair value of $7.22 per award.

The value of the time awards during the year ended December 31, 2010 and six months ended December 31, 2009 was estimated using the Black-Scholes option pricing model, which incorporates the weighted-average assumptions below:

| | 2010 | 2009 |
|---|---|---|
| Expected option life at grant (in years) | 7.0 | 7.0 |
| Expected option life at remeasurement (in years) | 6.3 | 6.7 |
| Expected volatility | 36.0% | 37.4% |
| Expected dividend yield | 0.0% | 0.0% |
| Risk-free interest rate | 1.7% | 3.3% |

The expected option life represents the requisite service period associated with time awards. Due to the lack of specific historical data, the expected volatility is based on the average historical and implied volatility of a peer group. The expected dividend yield reflects the assumption that dividends will not be paid by us to holders of time awards. The risk-free interest rate is based on the U.S. Treasury strip rate in effect at the time of grant or remeasurement.

**Off-Balance Sheet Arrangements**

We have no off-balance sheet financing arrangements.

**Qualitative and Quantitative Disclosure About Market Risk**

We are exposed to interest rate risk in connection with our senior secured credit facilities, which are subject to variable interest rates.

As of June 30, 2011, we had interest rate swaps on $887.5 million of our variable rate debt that converts it to fixed rates. The swaps expire in November 2015. As of June 30, 2011, we had approximately $879.5 million of variable rate debt not subject to a fixed rate swap.

Based on the amount outstanding under our senior secured credit facilities at June 30, 2011, a change in one percentage point in the applicable interest rate over the term B-1 LIBOR floor of 1.25%, after the effect of our interest rate swap, would cause an increase or decrease in interest expense of approximately $8.4 million on an annual basis.

**New Accounting Guidance**

In June 2011, the FASB issued ASU 2011-05, "Comprehensive Income (Topic 220): Presentation of Comprehensive Income," which revises the manner in which entities present comprehensive income in their financial statements. The amendments implemented under ASU 2011-05 give an entity the option to present the total of comprehensive income, the components of net income and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. In both choices, an entity is required to present each component of net income along with total net income, each component of other comprehensive income along with a total for other comprehensive income and a total amount for total comprehensive income. The ASU eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. The amendments in this ASU do not change the items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income. ASU 2011-05 should be applied retrospectively and is effective for nonpublic entities for fiscal years ending after December 15, 2011, with early adoption permitted. We adopted the guidance contained within ASU 2011-05 in June 2011. The guidance did not have a material effect on our financial position or results of operations.

In September 2011, the FASB issued ASU 2011-08, "Intangibles—Goodwill and Other (Topic 350) Testing Goodwill for Impairment," which revises the guidance on testing goodwill for impairment. Under the revised guidance, entities testing goodwill for impairment have the option to first assess qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not that the fair value of a reporting unit is less than its carrying amount. If, after assessing the totality of events or circumstances, an entity determines it is more likely than not that the fair value of a reporting unit is less than its carrying amount, then performing the two-step impairment test would be required. Under the amendments in this ASU, an entity has the option to bypass the qualitative assessment for any reporting unit in any period and proceed directly to performing the first step of the two-step goodwill impairment test. An entity may resume performing the qualitative assessment in any subsequent period. This ASU does not change how goodwill is calculated or assigned to reporting units, nor does it revise the requirement to test goodwill annually for impairment. In addition, this ASU does not amend the requirement to test goodwill for impairment between annual tests if events or circumstances warrant; however, it does revise the examples of events and circumstances that an entity should consider. The amendments within this ASU are effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011, with early adoption permitted. We adopted the guidance within this ASU in September 2011. The guidance did not have a material effect on our financial position or results of operations.

## BUSINESS

Vantiv is a leading, integrated payment processor differentiated by a single, proprietary technology platform. We are the third largest merchant acquirer and the largest PIN debit acquirer by transaction volume in the United States. We efficiently provide a suite of comprehensive services to merchants and financial institutions of all sizes. Our technology platform offers our clients a single point of service that is easy to connect to and use in order to access a broad range of payment services and solutions. Our integrated business and single platform also enable us to innovate, develop and deploy new services and provide us with significant economies of scale. Our varied and broad distribution provides us with diverse client base and channel partner relationships. We believe this combination of attributes provides us with competitive advantages and has enabled us to generate strong growth and profitability.

Our single, proprietary technology platform is differentiated from our competitors' multiple platform architectures. Because of our single point of service and ability to collect, manage and analyze data across the payment processing value chain, we can identify and develop new services more efficiently. Once developed, we can more cost-effectively deploy new solutions to our clients through our single platform. Our single scalable platform also enables us to efficiently manage, update and maintain our technology, increase capacity and speed and realize significant operating leverage.

We offer a broad suite of payment processing services that enable our clients to meet their payment processing needs through a single provider. We enable merchants of all sizes to accept and process credit, debit and prepaid payments and provide them supporting services, such as information solutions, interchange management and fraud management, as well as vertical-specific solutions in sectors such as grocery, pharmacy, retail, petroleum and restaurants/QSRs. We also provide mission critical payment services to financial institutions, such as card issuer processing, payment network processing, fraud protection, card production, prepaid program management, ATM driving and network gateway and switching services that utilize our proprietary Jeanie PIN debit payment network.

We provide small and mid-sized clients with the comprehensive solutions that we have developed to meet the extensive requirements of our large merchant and financial institution clients. We then tailor these solutions to the unique needs of our small and mid-sized clients. In addition, we take a consultative approach to providing services that helps our clients enhance their payments-related services. We are also well positioned to provide payment solutions for high growth markets, such as prepaid, ecommerce and mobile payment offerings, because we process payment transactions across the entire payment processing value chain.

Our capabilities differentiate us from other payment processors that focus primarily on just merchant acquiring, card issuer processing or network services and those that operate multiple businesses on disparate technology platforms. Through our integrated business, we believe we can manage our business more efficiently, benefiting both our merchant and financial institution clients and resulting in increased profitability. We are also well positioned to provide payment solutions for high growth markets, such as prepaid, ecommerce and mobile payment offerings, because we process payment transactions across the entire payment processing value chain on a single platform.

We distribute our services through direct and indirect distribution channels using a unified sales approach that enables us to efficiently and effectively target merchants and financial institutions of all sizes. Our direct channel includes a national sales force that targets financial institutions and national merchants, regional and mid-market sales teams that sell solutions to merchants and third-party reseller clients and a telesales operation that targets small and mid-sized merchants. Our indirect channel to merchants includes relationships with a broad range of independent sales organizations, or ISOs, merchant banks, value-added resellers and trade associations that target merchants, including difficult to reach small and mid-sized merchants. Our indirect channel to financial institutions includes relationships with third-party resellers and core processors.

We have a broad and diversified merchant and financial institution client base. Our merchant client base has low client concentration and is heavily weighted in non-discretionary everyday spend categories, such as grocery and pharmacy, and includes large national retailers, including nine of the top 25 national retailers by revenue in 2010, and over 200,000 small and mid-sized merchant locations. Our financial institution client base is also well diversified and includes over 1,300 financial institutions.

We generate revenues based primarily on transaction fees paid by merchants or financial institutions. Our revenue increased from $884.9 million for the year ended December 31, 2008 to $1.2 billion for the year ended December 31, 2010. Our revenue, less network fees and other costs, which we refer to as net revenue, increased from $451.4 million for the year ended December 31, 2008 to $566.1 million for the year ended December 31, 2010. Our net income decreased from $152.6 million in for the year ended December 31, 2008 to $54.9 million for the year ended December 31, 2010. Our adjusted EBITDA increased from $278.7 million for the year ended December 31, 2008 to $400.5 million in for the year ended December 31, 2010.

**Our History and Separation from Fifth Third Bank**

We have a 40 year history of providing payment processing services. We operated as a business unit of Fifth Third Bank until June 2009 when Advent acquired a majority interest in Fifth Third Bank's payment processing business unit with the goal of creating a separate stand-alone company. Since the separation, we established our own organization, headquarters, brand and growth strategy. As a stand-alone company, we have made substantial investments to enhance our single, proprietary technology platform, recruit additional executives with significant payment processing and operating experience, expand our sales force, reorganize our business to better align it with our market opportunities and broaden our geographic footprint beyond the markets traditionally served by Fifth Third Bank. In addition, we made three strategic acquisitions in 2010. We acquired NPC, to substantially enhance our access to small to mid-sized merchants, TNB, to broaden our market position with credit unions, and Springbok, to expand our prepaid processing capabilities.

We continue to benefit from our relationship with Fifth Third Bank. Fifth Third Bank is one of our largest financial institution clients, one of our sponsor banks for network membership and one of our most significant merchant bank referral partners. Our client contract with Fifth Third Bank as well as our sponsorship and referral agreements with Fifth Third Bank have terms through June 2019.

**Industry Background**

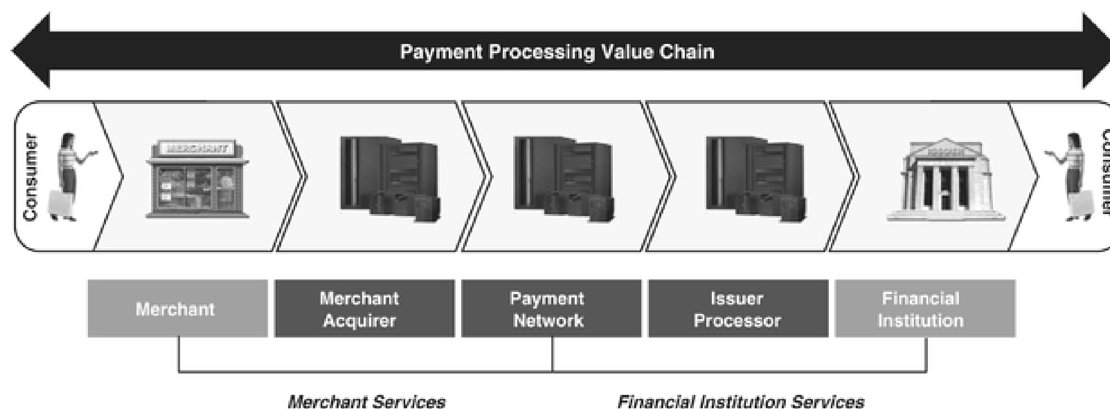
***Electronic Payments***

Over the past 60 years, electronic payments in the United States have evolved into a large and growing market with favorable secular trends that continue to increase the adoption and use of card-based payment services, such as those for credit, debit and prepaid cards. Electronic payments have historically involved (i) financial institutions that issue cards, (ii) merchants that accept cards for payment (iii) payment networks that route card transactions between the merchant's bank and the issuing financial institution, and (iv) payment processors that provide payment transaction processing services to merchants and financial institutions.

According to The Nilson Report, personal consumption expenditures in the United States using cards and other electronic payments reached $4.48 trillion in 2009 and are projected to reach $7.23 trillion in 2015, representing a compound annual growth rate of approximately 8% during that period. This growth will be driven by the shift from cash and checks towards card-based and other electronic payments due to their greater convenience, security, enhanced services and rewards and loyalty features. We believe changing demographics and emerging trends, such as the adoption of new technologies and business models, including ecommerce, mobile commerce and prepaid services, will also continue to drive growth in electronic payments.

***Payment Processing Industry***

The payment processing industry is comprised of various processors that create and manage the technology infrastructure that enables electronic payments. Payment processors help merchants and financial institutions develop and offer electronic payment solutions to their customers, facilitate the routing and processing of electronic payment transactions and manage a range of supporting security, value-added and back office services. In addition, many large banks manage and process their card accounts in-house. This is collectively referred to as the payment processing value chain and is illustrated below:




The payment processing value chain encompasses three key types of processing:

- *Merchant Acquiring Processing.* Merchant acquiring processors sell electronic payment acceptance, processing and supporting services to merchants and third-party resellers. These processors route transactions originated at a payment terminal at a merchant location or on a website to the appropriate payment networks for authorization, known as "front-end" processing, and then ensure that each transaction is appropriately cleared and settled into the merchant's bank account, known as "back-end" processing. Many of these processors also provide specialized reporting, back office support, risk management and other value-added services to merchants. Merchant acquirers charge merchants based on a percentage of the value of each transaction or per transaction. Merchant acquirers pay the payment network processors a routing fee per transaction and pass through interchange fees to the issuing financial institution.

- *Payment Network Processing.* Payment network processors, such as Visa, MasterCard and PIN debit payment networks, sell electronic payment network routing and support services to financial institutions that issue cards and merchant acquirers that provide transaction processing. Depending on their market position and network capabilities, these providers route credit, debit and prepaid card transactions from merchant acquiring processors to the financial institution that issued the card, and they ensure that the financial institution's authorization approvals are routed back to the merchant acquiring processor and that transactions are appropriately settled between the merchant's bank and the card-issuing financial institution. These providers also provide specialized risk management and other value-added services to financial institutions. Payment networks charge merchant acquiring processors and issuing financial institutions routing fees per transaction and monthly or annual maintenance fees and assessments.

- *Issuer Card Processing.* Issuer card processors sell electronic payment issuing, processing and supporting services to financial institutions. These providers authorize transactions received from the payment networks and ensure that each transaction is appropriately cleared and settled from the originating card account. These companies also provide specialized program management, reporting, outsourced customer service, back office support, risk management and other value-

added services to financial institutions. Card processors charge issuing financial institutions fees based on the number of transactions processed and the number of cards that are managed.

Many payment processors specialize in providing services in discrete areas of the payment processing value chain, which can result in merchants and financial institutions using payment processing services from multiple providers. A limited number of payment processors have capabilities or offer services in multiple parts of the payment processing value chain. Many processors that provide solutions targeting more than one part of the payment processing value chain utilize multiple, disparate technology platforms requiring their clients to access payment processing services through multiple points of contact.

Payment processing services are generally provided to merchants and financial institutions.

*Merchant Services*

The merchant services segment is highly fragmented with over 100 providers in the United States that sell merchant acquiring processing services to merchants of all sizes. The segment includes a small number of large-scale providers with proprietary processing platforms that provide merchant acquiring services directly through their own sales force and indirectly through resellers. This segment also includes a large number of other providers with direct and indirect distribution channels, but limited technology capabilities. These other providers include large banks that create processing joint ventures with the large-scale providers; mid-sized providers that typically outsource their back-end processing; agent banks that refer merchant acquiring solutions to their small business clients and outsource all or part of the related processing; and smaller, third-party resellers and ISOs with in-house sales forces that sell merchant acquiring solutions to smaller merchants and outsource the related processing.

The customer base for the merchant segment is also highly fragmented and, according to The Nilson Report, is comprised of over 8 million merchants of all sizes in the United States that currently accept electronic payments. Given their size, large merchants generally receive customized payment processing solutions and lower per transaction pricing. These merchants provide payment processors with significant operating scale efficiencies and recurring revenues, due to the large transaction volume that they generate under long-term contracts and high relative costs that would be incurred if they had to switch to another processor. Small and mid-sized merchants are more difficult to reach on an individual basis, but generally generate higher per transaction fees. Payment processors generally sell to the small merchant segment through partnerships and referral arrangements with agent banks, ISOs and other third-party resellers.

There is a significant opportunity to provide merchant services to existing merchants that do not accept electronic payments as well as non-merchant entities. We believe there are approximately 20 million small businesses and proprietorships in the United States that currently do not accept electronic payments, according to data provided by the U.S. Department of Commerce and The Nilson Report. In addition, non-merchant entities, such as local, state and federal governments, healthcare providers and educational institutions are beginning to accept electronic payments and will require payment processing services. Merchants are increasingly demanding lower-cost routing and interchange optimization services from payment network processing providers to lower their transaction costs. In addition, due to innovation, competition and new regulation, there has also been a shift from basic per transaction processing fees to the introduction of additional fees for ancillary and value-added services, such as security, compliance and enhanced information solution services. We believe there is a significant opportunity for payment processing that can successfully address these trends and market forces.

*Financial Institution Services*

The financial institution services segment includes specialized card issuer processors that either provide payment processing for a single type of card or broader solutions that enable financial institutions to manage and process multiple card types; core bank processors that offer outsourced payment processing services as part of their suite of bank technology solutions, which historically have focused on demand deposit account processing; software vendors and integrators that build custom solutions which enable larger banks to handle a portion of their payment processing in-house; and payment network processors, which provide a range of network products and services that can be sold discreetly or bundled together with card processing products and services.

The financial institution services client base is highly fragmented and, according to the FDIC, is comprised of approximately 7,500 FDIC insured banks and, according to the National Credit Union Administration, is comprised of over 7,000 credit unions of all sizes in the United States. These financial institutions rely on payment processing providers to provide network branding, acceptance and transaction routing for their card products and can choose to outsource some or all of their card program management and processing to card issuing processors. Large banks have a high share of card accounts in the United States, with the top 15 issuing banks in the U.S. accounting for 89.7% of total credit card purchase volume and 65.1% of total debit card purchase volume in 2010 respectively according to data provided by The Nilson Report. Given their scale, many large banks manage and process their card accounts in-house using their own systems or custom designed platforms. A few large banks and most mid-sized banks choose to outsource their card programs in order to lower their overall technology costs and benefit from the scale efficiencies, innovation, product development and custom services provided by financial institution payment processors. Smaller banks and credit unions generally do not have the scale or the internal technology infrastructure to manage and process their own card programs and represent a significant client base for outsourced payment processing services.

The financial institution services segment has also undergone significant change over the past few years. The segment has been impacted by the recent economic downturn, bank consolidations and regulatory reforms, which have slowed credit card issuance growth rates, placed pressure on certain processing fees and resulted in additional fees for consumers. However, certain of these factors have also created growth opportunities in other areas of the industry, for example, regulatory reforms may benefit PIN debit payment networks as new routing rules eliminate the exclusivity provisions of the larger networks. The segment is also benefiting from the increasing demand for and adoption of new card programs, such as payroll and gift cards, and card services, such as personalized security features, fraud detection and risk management services, advanced reporting and analytics services, and reward and incentive programs. Given changes in technology, payment processors in this segment may also benefit from the introduction of new payment accounts and services in the future, such as mobile payments and loyalty marketing services.

***Emerging Trends and Opportunities in the Payment Processing Industry***

The payment processing industry will continue to adopt new technologies, develop new products and services, evolve new business models and experience new market entrants and changes in the regulatory environment. In the near-term, we believe merchants and financial institutions will seek services that help them enhance their own offerings to consumers, provide additional information solution services to help them run their businesses more efficiently and develop new products and services that provide tangible, incremental revenue streams. To meet these demands, we believe that payment processors may seek to develop additional capabilities and expand across the payment processing value chain to capture additional data and provide additional value per transaction. To facilitate this expansion and deliver more robust service offerings, we believe that payment processors will need to develop and seek greater control over and integration of their proprietary technology processing platforms, to enable them to deliver and differentiate their offerings from other providers.

Over the medium to longer-term, we believe that emerging, alternative payment technologies, such as mobile payments, electronic wallets, mobile marketing offers and incentives and rewards services, will be adopted by merchants and other businesses. As a result, non-financial institution enterprises, such as telecommunications, internet, retail and social media companies, could become more active participants in the development of alternative electronic payments and facilitate the convergence of retail, online, mobile and social commerce applications, representing an attractive growth opportunity for the industry. We believe that payment processors that have an integrated business, provide solutions across the payment processing value chain and utilize broad distribution capabilities will have a significant market advantage, because they will be better able to provide processing services for emerging alternative electronic payment technologies and to successfully partner with new market entrants.

**Our Competitive Strengths**

We believe we have attributes that differentiate us from our competitors and have enabled us to become a leading payment processor in the United States and differentiate us in the payment processing industry. Our key competitive strengths include:

***Single, Proprietary Technology Platform***

Our single, proprietary technology platform provides our merchant and financial institution clients with differentiated payment processing solutions and provides us with significant strategic and operational benefits. Our clients access our processing solutions through a single point of access and service, which is easy to use and enables our clients to acquire additional services as their business needs evolve. Small and mid-sized merchants are able to easily connect to our technology platform using our application process interfaces, or APIs, software development kits, or SDKs, and other tools we make available to resellers, which we believe enhances our capacity to sell to such merchants. Our platform allows us to collect, manage and analyze data across both our Merchant Services and our Financial Institution Services segments that we can then package into information solutions for our clients. It also provides insight into market trends and opportunities as they emerge, which enhances our ability to innovate and develop new value-added services. Our single platform allows us to more easily deploy new solutions that span the payment processing value chain, such as prepaid, ecommerce and mobile, which are high growth market opportunities. Our single scalable platform also enables us to efficiently manage, update and maintain our technology, increase capacity and speed, and realize significant operating leverage. We believe our single, proprietary technology platform is a key differentiator from payment processors that operate on multiple technology platforms and provides us with a significant competitive advantage.

***Integrated Business***

We operate as a single integrated business using a unified sales and product development approach. Our integrated business and established client relationships across the payment processing value chain provide us with insight into our clients' needs. We believe this insight combined with our industry knowledge and experience with both merchants and financial institutions enables us to continuously develop new payment processing services and deliver substantial value to our clients. In addition, we believe this insight, knowledge and experience enhances our ability to cross-sell our services to existing clients. By operating as a single business, we believe we can manage our business more efficiently resulting in increased profitability. We believe our integrated business allows us to deliver better solutions and differentiates us from payment processors that are focused on discrete areas of the payment processing value chain or that operate multiple payment processing businesses.

***Comprehensive Suite of Services***

We offer a broad suite of payment processing services that enable our merchant and financial institution clients to address their payment processing needs through a single provider. Our solutions include traditional processing services as well as a range of innovative value-added services. We provide small and mid-sized clients with the comprehensive solutions originally developed for our large clients that we have adapted to meet the specific needs of our small and mid-sized clients. We have also developed industry specific merchant solutions with features and functionality to meet the specific requirements of various industry verticals, including grocery, petroleum, pharmacy, restaurant and retail. We offer our financial institutions a broad range of card issuing, processing and information solutions. As financial institutions seek to generate additional revenue, for example, we can offer our full suite of merchant acquiring solutions to banks and credit unions on a referral basis or as a customized "white-label" service marketed under our client's brand. In addition, our broad range of services provides us with numerous opportunities to generate additional revenues by cross-selling solutions to our existing clients.

***Diverse Distribution Channels***

We sell our services to merchants, financial institutions and third-party reseller clients of all types and sizes through diverse distribution channels. Our direct channel includes a national sales force that targets financial institutions and national retailers, regional and mid-market sales teams that sell solutions to merchants and third-party reseller clients and a telesales operation that target small and mid-sized merchants. Our indirect channel includes relationships with a broad range of ISOs, merchant banks, value-added resellers and trade associations that target merchants, including difficult to reach small and mid-sized merchants, as well as arrangements with core processors that sell our solutions to small and mid-sized financial institutions. We believe our diverse distribution channels enable us to effectively and efficiently market and sell our solutions to a wide range of potential clients and grow our business. Through our diversified distribution channels, we have developed a broad client base, which has resulted in low client concentration, consisting of over 400,000 merchant locations and over 1,300 financial institutions.

***Strong Execution Capabilities***

Our management team has significant experience in the payment processing industry and has demonstrated strong execution capabilities. Since we created a stand-alone company in 2009, we have invested substantial resources to enhance our technology platform, deepened our management organization, expanded our sales force to align it with our market opportunities, acquired NPC, TNB and Springbok, introduced several new services, launched the Vantiv brand and built out and moved into our new corporate headquarters. We executed all of these projects while delivering substantial revenue growth and strong profitability.

**Our Strategy**

We plan to grow our business by continuing to execute on the following key strategies:

***Increase Small to Mid-Sized Client Base***

We are focused on increasing our small to mid-sized client base to capitalize on the growth and margin opportunities provided by smaller merchants and financial institutions. Our small and mid-sized merchants and financial institutions are generally more profitable on a per transaction basis. In addition, smaller banks and credit unions generally do not have the scale or the internal technology infrastructure to manage and process their own card programs and consequently, outsource all or a significant portion of their payment processing requirements. We plan to continue to identify and reach

these small to mid-sized merchants and financial institutions through our direct sales force, ISOs, partnership and referral arrangements and third-party resellers and core processors.

***Develop New Services***

By leveraging our single technology platform, industry knowledge and client relationships across the payment processing value chain, we seek to develop additional payment processing services that address evolving client demands and provide additional cross-selling opportunities. For example, we intend to utilize our existing technology, combined with our acquisition of Springbok, to provide a flexible and scalable prepaid card payment processing platform for both merchants and financial institutions, including general purpose reloadable cards, incentive cards, rewards programs and payroll cards. In addition, we seek to expand our fraud management services to financial institutions and have developed a program that allows our clients to outsource this function to us. In the future, we intend to enhance our information solutions by analyzing data we capture across our platform and provide our clients with new opportunities to generate incremental revenue.

***Expand Into High Growth Segments and Verticals***

We believe there is a substantial opportunity for us to expand further into high growth payment segments, such as prepaid, ecommerce, mobile and information solutions, and attractive industry verticals, such as business-to-business, healthcare, government and education. To facilitate this expansion and capture market share within these segments and verticals, we intend to further develop our technology capabilities to handle specific processing requirements for these segments and verticals, add new services that address their needs and broaden our distribution channels to reach these potential clients. We believe that introducing new, complementary solutions that differentiate and enhance the value of our existing services can accelerate our expansion into these segments and verticals. Further, we will seek to penetrate these markets by leveraging our existing distribution channels and entering into new arrangements with complementary payment processing providers.

***Broaden and Deepen Our Distribution Channels***

We intend to broaden and deepen our direct and indirect distribution channels to reach potential clients and sell new services to our existing clients. We plan to grow our direct sales force, including telesales, add new referral partners, such as merchant banks, and our indirect channels through new ISOs, partnership and referral arrangements, third-party resellers and core processors. By enhancing our referral network and relationships with our partners, we will be able to reach more potential clients, enter into or increase our presence in various markets, segments and industry verticals and expand into new geographic markets. To establish new relationships and strengthen our existing relationships with various resellers and drive the implementation of our payment services, we intend to actively promote eSimilate, a web portal we launched recently that provides access to a variety of payment processing solutions with simple development tools, web service APIs, SDKs and documentation in common development languages. We will also continue to develop additional support services for our distribution channels, provide sales and product incentives and increase our business development resources dedicated to growing and promoting our distribution channels.

***Enter New Geographic Markets***

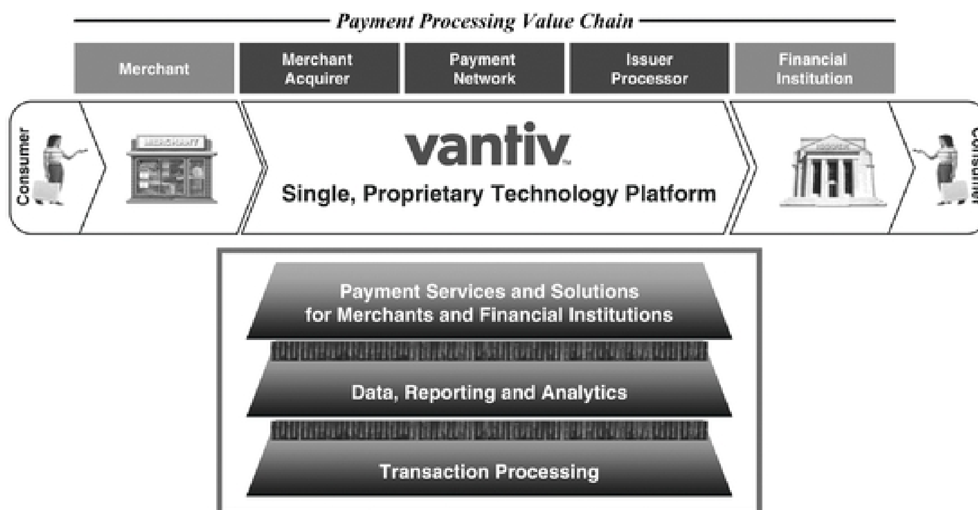
When we operated as a business unit of Fifth Third Bank we had a strong market position with large national merchants, and we focused on serving small to mid-sized merchants in Fifth Third Bank's core market in the Midwestern United States. We are expanding our direct and indirect distribution channels and leveraging our technology platform to target additional regions. In the future, we will also look to augment our U.S. business by selectively expanding into international markets through strategic partnerships or acquisitions that enhance our distribution channels, client base and service capabilities.

***Pursue Acquisitions***

We have recently completed three acquisitions, and we intend to continue to seek acquisitions that provide attractive opportunities. Acquisitions provide us with opportunities to increase our small to mid-sized client base, enhance our service offerings, target high growth payment segments and verticals, enter into new geographic markets and enhance and deepen our distribution channels. We also will consider acquisitions of discrete merchant portfolios that we believe would enhance our scale and client base and strengthen our market position in the payment processing industry. We believe our single technology platform and integrated business enhances our ability to successfully integrate acquisitions.

**Our Business**

We are a leading provider of payment processing services to merchants and financial institutions across the payment processing value chain. We provide our solutions through our single, proprietary technology platform, which we believe provides us with significant competitive advantages. Set forth below is a description of our technology platform and our merchant and financial institution clients and services.




***Single, Proprietary Technology Platform***

Our technology platform provides a single point of service to access our broad suite of solutions, is easy to connect to and use and enables us to innovate, develop and deploy new services and to produce our value-added information solutions, all while providing economies of scale.

- *Single Point of Service.* We provide our clients with a single point of service through which they can access our comprehensive suite of solutions across the payment processing value chain. For example, our financial institution clients can utilize our payment processing solutions, our

information solutions and our prepaid solutions all from a single Vantiv interface, which distinguishes us from our multi-platform competitors.

- *Ease of Connection and Delivery.* Both our merchant and financial institution clients can easily connect to and interact with our technology platform, which facilitates our ability to deliver services to our clients. In addition, our value-added resellers and other partners can connect using eSimilate to access and manage our services, which facilitates the delivery of our solutions to their customers. Our platform allows all of our clients to seamlessly add new services.

- *Ability to Innovate.* Our technology platform enhances our ability to identify and develop new services. For example, our platform allows us to identify client needs and inefficiencies in payment processing and then to quickly develop and bring solutions to those problems to market. Our technology platform also enables the development of new services for clients spanning the payment processing value chain, including in high growth segments, such as prepaid, ecommerce, mobile and information solutions.

- *Value-added Information Solutions.* Our technology platform allows us to collect, manage and analyze data across our Merchant and Financial Institution Services segments. We provide reporting and management tools to all of our clients through Vantiv Direct, our proprietary online interactive system for reporting, reconciliation, interfacing and exception processing. We provide data, reports and analytical tools to our financial institution clients to assist with card account, customer relationship, marketing program and fraud management. As the payment processing industry evolves and our clients require more data to serve their customers, we plan to use our single technology platform to provide information solutions and other data-rich services, such as marketing incentives, offers and loyalty programs to our clients.

- *Operating Leverage.* Our single, proprietary technology platform is highly scalable and efficient and provides strong operating margins. In connection with our separation from Fifth Third Bank, we made a substantial investment to enhance our single, proprietary technology platform. Through these enhancements, we increased the processing speed, efficiency and capacity of our platform and optimized our operations. We believe the scale and efficiency of our single platform is a key differentiator between us and our competitors who operate on multiple non-integrated platforms. For example, it enables us to make enhancements and regulatory updates across our platform simultaneously and with lower execution risk.

Our technology platform is reliable and secure. We have developed our technology platform to be highly resilient with redundant applications and servers and robust network connectivity and storage capacity. We have real-time synchronization between our primary and secondary data centers. Our four-tiered operating model is certified as PCI compliant and is secured through technical controls, policy controls, physical controls and asset protection. We have implemented additional security measures for our systems and data, such as end-to-end encryption and monitoring and logging all activity 24 hours a day seven days a week. These measures are evaluated regularly through internal and third party assessments.

***Merchant Services***

*Clients*

We are the third largest merchant acquirer and the largest PIN debit acquirer by transaction volume in the United States, serving a diverse set of merchants across a variety of end-markets, sizes and geographies. We authorize, clear, settle and provide reporting for electronic payment transactions for our merchant services clients. Our client base includes over 400,000 merchant locations, with an emphasis on the non-discretionary everyday spend categories where spending has been more resilient during economic downturns. We serve leading national retailers, including nine of the top 25, in 2010,

regional merchants and small to mid-sized business clients across many industries, such as grocery, pharmacy, retail, petroleum and restaurants/QSRs.

We have long-term relationships with many large national retailers. Given their size, these merchants generally receive customized payment processing solutions and lower per transaction pricing. These merchants provide us with significant operating scale efficiencies and recurring revenues, due to the large transaction volume that they generate. Smaller merchants are more difficult to reach on an individual basis, but generally generate higher per transaction fees. Our acquisition of NPC in 2010 expanded our client base by adding over 200,000 merchant locations of principally small to mid-sized merchants. Our key national merchant categories include retail, grocery, pharmacy and restaurants/QSRs.

While we will continue to serve virtually all major merchant categories, we are increasing our focus on several verticals, including business-to-business, education, government and healthcare industry verticals. We intend to focus on these industry verticals by continuing to enhance our offering of services, establishing relationships with value-added resellers and tailoring our sales approach for each vertical on a region-by-region basis. Our long-term client relationships, low client concentration and everyday spend merchant services clients make us less sensitive to changing economic conditions in the industries and regions in which our clients operate.

*Services*

We provide a comprehensive suite of payment processing services to merchants across the United States. We authorize, clear, settle and provide reporting for electronic payment transactions for our merchant services clients.

Our key Merchant Services segment offerings include:

| Service | Description |
| --- | --- |
| Integrated Acquiring and Processing | • Credit, debit and prepaid transaction authorization<br>• Integrated settlement and reconciliation<br>• Signature capture processing<br>• Chargeback processing<br>• Interchange qualification management<br>• Least cost routing<br>• Front-end processing to third parties: authorization and transaction processing<br>• Back-end servicing to third parties: customer service, chargeback processing, fraud management |
| Value-added Services | • Prepaid services, integrated card solutions, gift card solutions, card production and inventory management<br>• ATM driving and monitoring<br>• Fraud management<br>• Online data and reporting<br>• Data security support: PCI compliance, encryption and tokenization, breach assistance<br>• Dynamic currency conversion |
| Merchant Services for Banks and Credit Unions | • Referral: financial institution refers merchants to us<br>• White-label: we provide direct sales force to sell on behalf of and under our merchant bank client's brand |

*Integrated Acquiring and Processing.* We provide merchants with a full range of credit, debit and prepaid payment processing services. We give them the ability to accept and process Visa, MasterCard, American Express, Discover and PIN debit network cards. This service includes all aspects of card processing including authorization and settlement, customer service, chargeback and retrieval processing and interchange management. We take a consultative approach to providing these services and help our merchants minimize their interchange costs and integrate their settlement systems. We offer merchants the ability to customize routing preferences that help them minimize costs. We utilize a single message format for both credit and debit transactions, which simplifies the storage and processing of data and reduces costs for merchants. We also store data for settlement for all PIN debit transactions, which simplifies the settlement process for merchants and provides the flexibility to route transactions through a merchant's desired network, allowing for lower transaction costs.

*Value-added Services.* We offer value-added services that help our clients operate and manage their businesses and generating additional revenue from their customers and enhances our client retention. For example, we offer merchants the ability to create prepaid and gift card programs, enabling them to retain a greater share of their customers' transaction volume while building a more loyal customer base. We also provide services such as PCI compliance, encryption and tokenization, breach assistance and fraud management that help to protect our merchant services clients and their customers and minimize their losses. Our online data and reports provide merchants with detailed

transaction information that allows them to perform customer analytics to better understand their business.

*Merchant Services for Banks and Credit Unions.* In partnership with our financial institution clients, we offer our financial institutions a full suite of merchant services they can make available to their merchant customers. Depending on the size and need of the financial institution, we offer a referral option as well as a full white-label option. The referral option is targeted towards smaller financial institutions and allows them to simply refer their small businesses and merchant services customers to us, and we contract and provide services to the merchant while providing the financial institution referral revenue. Our white-label option allows the financial institution to provide their small business and merchant customers a fully branded merchant services offering that we manage.

***Financial Institution Services***

*Clients*

We serve a diverse set of financial institutions, including regional banks, community banks, credit unions and regional PIN debit networks. We focus on small to mid-sized institutions with less than $15 billion in assets. Smaller financial institutions, including many of our clients, generally do not have the scale or infrastructure typical of large banks and are more likely to outsource their payment processing needs. We provide a turnkey solution to such institutions to enable them to offer payment processing solutions. In 2010, we processed over 3 billion transactions for over 1,300 financial institutions. While the majority of our clients are small to mid-sized financial institutions, we do have several large bank clients, including Fifth Third Bank.

*Services*

We provide integrated card issuer processing, payment network processing and value-added services to financial institutions. Our services include a comprehensive suite of transaction processing capabilities, including fraud protection, card production, prepaid cards and ATM driving, and allow financial institutions to offer electronic payments solutions to their customers on a secure and reliable technology platform at a competitive cost. We provide these services using a consultative approach that helps our financial institution clients enhance their payments-related businesses.

Our key Financial Institution Services segment offerings include:

| Service | Description |
| --- | --- |
| Integrated Card Issuer Processing | • PIN and signature debit transaction processing and servicing<br>• Credit: issuer processing services, statement production, collections, inbound/outbound call centers<br>• ATM card processing |
| Value-added Services | • Prepaid: gift, general purpose reloadable, teen, campus and incentive<br>• ATM driving and monitoring<br>• Fraud mitigation<br>• Online data and reporting<br>• Card production<br>• Network gateway and switching services that utilize our proprietary Jeanie network<br>• Information solutions<br>• Campaign development and delivery<br>• Rewards and loyalty<br>• Prewards: merchant funded loyalty |
| Merchant Services for Banks and Credit Unions | • Referral: financial institution refers merchants to us White-label: we provide direct sales force to sell on behalf of and under our merchant bank client's brand |

*Integrated Card Issuer and Processing.* We process and service credit, debit and prepaid transactions. We process and provide statement production, collections and inbound/outbound call centers for credit transactions. Our card processing solution includes processing and other services such as card portfolio analytics, program strategy and support, fraud and security management and chargeback and dispute services. We also offer processing for specialized types of debit cards, such as business cards, home equity lines of credit and health savings accounts. We provide authorization support in the form of online or batch settlement, as well as real-time transaction research capability and archiving and daily and monthly cardholder reports for statistical analysis. Our call center handles inbound and outbound calls and billing issues for customers of our financial institution clients.

*Value-added Services.* We provide additional services to our financial institution clients that complement our issuing and processing services. Our prepaid card solutions include incentive, rebate and reward programs, college and university-partnered programs and teen card products. Our prepaid card solutions allow our clients to offer prepaid cards to their customers and generate additional revenue. We offer ATM support for a broad range of telecommunications, such as leased line, satellite and WAN networking, and software protocols, as well as foreign currency dispensing, mini statements, ATM cardholder preferences, image capture, electronic journal upload and software distribution. We also provide fraud detection services for signature and PIN transactions and cardholder alerts that help to minimize fraud losses for our clients and their customers. We offer a service known as Vantiv Direct which is a proprietary online interactive system for reporting, reconciliation, interfacing and exception processing. We also provide other services, including ATM enhancement, card production and activation and surcharging services. As part of our consultative approach, we provide value-added services such as information solutions, campaign development and delivery, rewards and loyalty

programs, and prewards or merchant funded loyalty programs, that help our clients to enhance revenue and profitability. We also provide network gateway and switching services that utilize our Jeanie PIN network.

Our Jeanie network offers real-time electronic payment, network bill payment, single point settlement, shared deposit taking and customer select PINs. Our Jeanie network includes approximately 7,500 ATMs, 15 million active cardholders and 700 member financial institution clients.

*Merchant Services for Banks and Credit Unions.* As described under Merchant Services, we offer our financial institution clients a full-suite of merchant services they can make available to their merchant customers through a referral option or a full white-label option.

**Sales and Marketing**

We distribute our services through direct and indirect distribution channels using a unified sales approach that we tailor to enable us to efficiently and effectively target merchants and financial institutions of all sizes. We believe our sales structure provides us with broad geographic coverage and access to various industries and verticals.

We have direct sales forces for each of our segments. Our Merchant Services direct sales force is comprised of a team that targets large national merchants, a regional and mid-market sales team that sells solutions to merchants and third-party reseller clients and a telesales operation that targets small and mid-sized merchants. Our regional sales teams in our Merchant Services business are responsible for our referral channel, including referrals from Fifth Third Bank and merchant banks. Our Financial Institution Services direct sales force focuses on small to mid-sized institutions with less than $15 billion in assets because smaller financial institutions typically do not have similar scale, breadth of services or infrastructure as large banks to process payment transactions as efficiently as large banks and are more likely to outsource their payment processing needs. In addition to generating new sales, we have in-house sales personnel who are responsible for managing key relationships, promoting client retention and generating cross-selling opportunities for both our merchant and financial institution clients. Our sales teams are paid a combination of base salary and commission. As of September 30, 2011, we had over 700 full-time employees participating in sales and marketing.

Our indirect channels for our Merchant Services segment include, ISOs, merchant banks, value-added resellers and trade associations that target merchants, including difficult to reach small and mid-sized merchants. Our ISO channel, which is comprised of approximately 300 third-party ISOs, primarily targets smaller merchants, including independent sales agents. We make residual payments to ISOs based on the business they refer to us. Our merchant bank referral program, which consisted of over 300 referral banks as of September 30, 2011, enables us to be the preferred processor for those banks, and the banks receive a referral fee. Through our relationships with certified valued added resellers and trade associations, we seek to expand our presence in high growth vertical segments, such as business-to-business, healthcare, government and education.

We also utilize a diverse group of indirect selling partners in our Financial Institution Services segment. This distribution channel utilizes multiple distribution strategies and leverages relationships with reseller partners and arrangements with core processors that sell our solutions to small and mid-sized financial institutions. We offer certain of our services on a white-label basis which enables them to be marketed under our client's brand. We select resellers that enhance our distribution channels and augment our services with complementary offerings. Our relationships with core processors are necessary for developing the processing environments required by our financial institution clients. As of September 30, 2011, we had relationships with approximately 60 core processing companies and 140 core processing platforms.

**Competition**

***Merchant Services***

Our Merchant Services segment competitors include Bank of America Merchant Services, Chase Paymentech Solutions, Elavon Inc. (a subsidiary of U.S. Bancorp), First Data Corporation, Global Payments, Inc., Heartland Payment Systems, Inc. and WorldPay Payment Services. Our competitors that are financial institutions or affiliates of financial institutions may not incur the sponsorship costs we incur for registration with the payment networks.

The most significant competitive factors in this segment are price, brand, breadth of features and functionality, scalability and service capability. Our Merchant Services segment has been and is expected to continue to be impacted by large merchant and large bank consolidation, card association business model expansion and the expansion of new payment methods and devices.

***Financial Institution Services***

Our Financial Institution Services segment competitors include Fidelity National Information Services, Inc., First Data Corporation, Fiserv, Inc., Total System Services, Inc. and Visa Debit Processing Service. In addition to competition with direct competitors, we also compete with larger potential clients that have historically developed their key payment processing applications in-house, and therefore weigh whether they should develop these capabilities in-house or acquire them from a third party.

The most significant competitive factors in this segment are price, system performance and reliability, breadth of services and functionality, data security, scalability, flexibility of infrastructure and servicing capability. Our Financial Institution Services segment has been and is expected to continue to be impacted by financial institution consolidation.

**Regulation**

Various aspects of our business are subject to U.S. federal, state and local regulation. Failure to comply with regulations may result in the suspension or revocation of licenses or registrations, the limitation, suspension or termination of services and/or the imposition of civil and criminal penalties, including fines. Certain of our services are also subject to rules set by various payment networks, such as Visa and MasterCard, as more fully described below.

***Dodd-Frank Act***

In July 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 was signed into law in the United States. The Dodd-Frank Act has resulted in significant structural and other changes to the regulation of the financial services industry. Among other things, the Dodd-Frank Act established the new CFPB to regulate consumer financial services, including many offered by our clients.

The Dodd-Frank Act provided two self-executing statutory provisions limiting the ability of payment card networks to impose certain restrictions that became effective in July 2010. The first provision allows merchants to set minimum dollar amounts (not to exceed $10) for the acceptance of a credit card (and allows federal governmental entities and institutions of higher education to set maximum amounts for the acceptance of credit cards). The second provision allows merchants to provide discounts or incentives to entice consumers to pay with cash, checks, debit cards or credit cards, as the merchant prefers.

Separately, the so-called Durbin Amendment to the Dodd-Frank Act provided that interchange fees that a card issuer or payment network receives or charges for debit transactions will now be

regulated by the Federal Reserve and must be "reasonable and proportional" to the cost incurred by the card issuer in authorizing, clearing and settling the transaction. Payment network fees, such as switch fees assessed by our Jeanie network, may not be used directly or indirectly to compensate card issuers in circumvention of the interchange transaction fee restrictions. In July 2011, the Federal Reserve published the final rules governing debit interchange fees. Effective in October 2011, debit interchange rates for card issuing financial institutions with more than $10 billion of assets are capped at $0.21 per transaction with an additional component of five basis points of the transaction's value to reflect a portion of the issuer's fraud losses plus, for qualifying issuing financial institutions, an additional $0.01 per transaction in debit interchange for fraud prevention costs. The debit interchange fee would be $0.24 per transaction on a $38 debit card transaction, the average transaction size for debit card transactions. The cap on interchange fees is not expected to have a material direct impact on our results of operations.

In addition, the new rules contain prohibitions on network exclusivity and merchant routing restrictions. Beginning in October 2011, (i) a card payment network may not prohibit a card issuer from contracting with any other card payment network for the processing of electronic debit transactions involving the issuer's debit cards and (ii) card issuing financial institutions and card payment networks may not inhibit the ability of merchants to direct the routing of debit card transactions over any card payment networks that can process the transactions. By April 2012, most debit card issuers will be required to enable at least two unaffiliated card payment networks on each debit card. These regulatory changes create both opportunities and challenges for us. Increased regulation may add to the complexity of operating a payment processing business, creating an opportunity for larger competitors to differentiate themselves both in product capabilities and service delivery. The ban on network exclusivity also will enhance competition to allow us to compete for additional business. At the same time, these regulatory changes may cause operating costs to increase as we adjust our activities in light of compliance costs and client requirements. The Dodd-Frank Act's overall impact on us is difficult to estimate as it will take some time for the market to react and adjust to the new regulations.

***Banking Regulation***

The Fifth Third investors currently beneficially own an equity interest representing approximately 48.93% of our voting power and equity interests, and, after the consummation of this offering, will continue to own an approximately 19.9% of our voting interests (through their ownership of our Class B common stock),     % of the economic interests in Vantiv Holding, LLC (through their ownership of Vantiv Holding, LLC's Class B units), and will have significant super majority voting and consent rights. Fifth Third Bank is an Ohio state-chartered bank and a member of the Federal Reserve System and is supervised and regulated by the Federal Reserve and the ODFI. Fifth Third Bank is a wholly-owned indirect subsidiary of Fifth Third Bancorp, which is a BHC which has elected to be treated as an FHC and is supervised and regulated by the Federal Reserve under the BHC Act.

Because of the size of Fifth Third Bank's voting and economic interest, we and Vantiv Holding are each deemed to be controlled by Fifth Third Bancorp and Fifth Third Bank under the BHC Act (including the regulations and interpretations promulgated thereunder) by the Federal Reserve and are therefore considered to be a subsidiary of Fifth Third Bancorp for purposes of the BHC Act and of Fifth Third Bank under relevant federal and state banking laws (including the regulations and interpretations promulgated thereunder).

Any company that is a direct or indirect subsidiary of or otherwise controlled by Fifth Third Bancorp for purposes of the BHC Act or of Fifth Third Bank for purposes of relevant federal and state banking laws is also subject to supervision and regulation by the Federal Reserve and the ODFI, as applicable. As such and although we do not engage in banking operations, we and Vantiv Holding are subject to regulation and supervision by the Federal Reserve and the ODFI.

After this offering, we will continue to be deemed to be controlled by Fifth Third Bancorp and Fifth Third Bank for bank regulatory purposes and, therefore, we will continue to be subject to supervision and regulation by the Federal Reserve under the BHC Act by the Federal Reserve and the ODFI under applicable federal and state banking laws. We will remain subject to this regulatory regime until Fifth Third Bancorp and Fifth Third Bank are no longer deemed to control us for bank regulatory purposes, which we do not generally have the ability to control and which will generally not occur until Fifth Third Bank has significantly reduced its equity interest in us, as well as certain other factors. The ownership level at which the Federal Reserve would consider us no longer controlled by Fifth Third Bank will generally depend on the circumstances at that time and could be less than 5%. The circumstances and other factors that the Federal Reserve will consider will include, among other things, the extent of our relationships with Fifth Third Bank, including the various agreements entered into at the time of the Investment and the Vantiv Holding Limited Liability Company Agreement.

Given our current business model, regulation by the Federal Reserve and the ODFI has not historically had a material effect on our operations, our ability to make acquisitions or the implementation of our business strategy more generally. Nevertheless, there can be no assurance that this will continue going forward, especially if we wish to make certain changes to our business model and related strategy. See "Risk Factors" above. The supervision and regulation of Fifth Third Bancorp, Fifth Third Bank and their subsidiaries under applicable banking laws is intended primarily for the protection of Fifth Third Bank's depositors, the deposit insurance fund of the FDIC, and the banking system as a whole, rather than for the protection of our stockholders, creditors or customers or the stockholders, creditors or customers of Fifth Third Bancorp or Fifth Third Bank.

For as long as we are deemed to be controlled by Fifth Third Bancorp and Fifth Third Bank, we are subject to regulation, supervision, examination and potential enforcement action by the Federal Reserve and the ODFI and to most banking laws, regulations and orders that apply to Fifth Third Bancorp and Fifth Third Bank. Fifth Third Bancorp and Fifth Third Bank are required to file reports with the Federal Reserve and the ODFI on our behalf, and we are subject to examination by the Federal Reserve and the ODFI for the purposes of determining, among other things, our financial condition, our risk management and the financial and operational risks that we pose to the safety and soundness of Fifth Third Bank and Fifth Third Bancorp, and our compliance with federal and state banking laws applicable to us and our relationship and transactions with Fifth Third Bancorp and Fifth Third Bank. The Federal Reserve has broad authority to take enforcement actions against us if it determines that we are engaged in or are about to engage in unsafe or unsound banking practices or are violating or are about to violate a law, rule or regulation, or a condition imposed by or an agreement with, the Federal Reserve. Enforcement actions can include a variety of informal and formal supervisory actions. The formal actions include cease and desist and other orders, enforceable written agreements, and removal and prohibition orders, which can remove certain management officials from office or disallow them from further involvement in the affairs of any regulated entity. Informal actions, which in many cases will not be publicly available, include memorandums of understanding, supervisory letters, and resolutions. For the most serious violations under federal banking laws, the Federal Reserve may impose civil money penalties and criminal penalties. Moreover, any restrictions placed on Fifth Third Bancorp or Fifth Third Bank as a result of any of these regulatory actions may apply to us or our activities in certain circumstances, even if these actions are unrelated to our conduct or business.

As long as we are deemed to be controlled by Fifth Third Bancorp, we generally may conduct only activities that are authorized for a BHC or an FHC under the BHC Act. BHCs may not engage, directly or indirectly, in activities other than banking, managing or controlling banks, furnishing services to its subsidiary banks, or activities the Federal Reserve has determined to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. BHCs are expressly authorized to engage in data, payment and information processing. BHCs that meet certain eligibility requirements may also elect to become FHCs. Fifth Third Bancorp has made such an election and may

be authorized to engage directly or indirectly in a broader range of activities than those permitted for a bank holding company under the BHC Act, which are activities that are (i) financial in nature or incidental to financial activities or (ii) complementary to a financial activity and do not pose a substantial risk to the safety and soundness of depository institutions or the financial system generally.

In addition to the activities restrictions of the BHC Act, as a subsidiary of Fifth Third Bank, our activities are generally limited to those that are permissible for a national bank. These activities are generally more limited than the BHC and FHC activities permitted under the BHC Act and include activities that are part of, or incidental to, the business of banking. Payment and information processing services are expressly authorized for a national bank. Further, as a condition to Fifth Third Bank's investment in us, we are required to limit our activities to those activities permissible for a national bank. Accordingly, under the Vantiv Holding Limited Liability Company Agreement and the Vantiv, Inc. Stockholders' Agreement: (i) we are required to notify Fifth Third Bank before we engage in any activity, by acquisition, investment, organic growth or otherwise, that may reasonably require Fifth Third Bank or an affiliate of Fifth Third Bank to obtain regulatory approval, so that Fifth Third Bank can determine whether the new activity is permissible, permissible subject to regulatory approval, or impermissible; and (ii) if a change in the scope of our business activities causes the ownership of our equity not to be legally permissible for Fifth Third Bank without first obtaining regulatory approvals, then Vantiv, Inc. and Vantiv Holding must use reasonable best efforts to assist Fifth Third Bank in obtaining the regulatory approvals, and if the change in the scope of our business activities is impermissible, then Vantiv, Inc. and Vantiv Holding will not engage in such activity. See "Certain Relationships and Related Party Transactions—Agreements Related to the Separation Transaction—Vantiv, Inc. Stockholders' Agreement" and "Description of Capital Stock—Vantiv Holding"

In certain circumstances, prior approval of the Federal Reserve or the ODFI may be required before Fifth Third Bancorp, Fifth Third Bank or their subsidiaries, including us, can engage in permissible activities. The Federal Reserve has broad powers to approve, deny or refuse to act upon applications or notices for us to conduct new activities, acquire or divest businesses or assets, or reconfigure existing operations. Federal Reserve approval may also be required before any subsidiary of Fifth Third Bancorp or Fifth Third Bank, including us, engages in activities abroad or invests in a non-U.S. company. Further, we may also be prohibited by the Federal Reserve from conducting any activity that, in the Federal Reserve's opinion, is unauthorized or constitutes an unsafe or unsound practice. Any such approval requirements may delay or limit the expansion of our business.

The CFPB, created by the Dodd-Frank Act, will assume most of the regulatory responsibilities currently exercised by the federal banking regulators and other agencies with respect to consumer financial products and services and will have additional powers granted by the Dodd-Frank Act. In addition to rulemaking authority over several enumerated federal consumer financial protection laws, the CFPB is authorized to issue rules prohibiting unfair, deceptive or abusive acts or practices by persons offering consumer financial products or services and those, such as us, who are service providers to such persons, and has authority to enforce these consumer financial protection laws and CFPB rules. We are subject to direct supervision and examination by the CFPB, because we are an affiliate of Fifth Third Bank (which is an insured depository institution with greater than $10 billion in assets), and as a service provider to insured depository institutions with assets of $10 billion or more in connection with their consumer financial products and to entities that are larger participants in markets for consumer financial products and services such as prepaid cards. CFPB rules and examinations may require us to adjust our activities and may increase our compliance costs.

***Collection Services State Licensing***

Ancillary to our credit card processing business, we are subject to the Fair Debt Collection Practices Act and various similar state laws. We are authorized in 18 states to engage in debt administration and debt collection activities on behalf of some of our card issuing financial institution

clients through calls and letters to the debtors in those states. We may seek licenses in other states to engage in similar activities in the future.

***Association and Network Rules***

While not legal or governmental regulation, we are subject to the network rules of Visa, MasterCard and other payment networks. The payment networks routinely update and modify their requirements. On occasion, we have received notices of non-compliance and fines, which have typically related to excessive chargebacks by a merchant or data security failures. Our failure to comply with the networks' requirements or to pay the fines they impose could cause the termination of our registration and require us to stop providing payment processing services.

***Privacy and Information Security Regulations***

We provide services that may be subject to privacy laws and regulations of a variety of jurisdictions. Relevant federal privacy laws include the Gramm-Leach-Bliley Act, which applies directly to a broad range of financial institutions and indirectly, or in some instances directly, to companies that provide services to financial institutions. These laws and regulations restrict the collection, processing, storage, use and disclosure of personal information, require notice to individuals of privacy practices and provide individuals with certain rights to prevent the use and disclosure of protected information. These laws also impose requirements for safeguarding and proper destruction of personal information through the issuance of data security standards or guidelines. In addition, there are state laws restricting the ability to collect and utilize certain types of information such as Social Security and driver's license numbers. Certain state laws impose similar privacy obligations as well as obligations to provide notification of security breaches of computer databases that contain personal information to affected individuals, state officers and consumer reporting agencies and businesses and governmental agencies that own data.

***Processing and Back-Office Services***

As a provider of electronic data processing and back-office services to financial institutions we are also subject to regulatory oversight and examination by the Federal Financial Institutions Examination Council, an interagency body of the FDIC, the Office of the Comptroller of the Currency, the Federal Reserve, the National Credit Union Administration and the CFPB. In addition, independent auditors annually review several of our operations to provide reports on internal controls for our clients' auditors and regulators. We are also subject to review under state laws and rules that regulate many of the same activities that are described above, including electronic data processing and back-office services for financial institutions and use of consumer information.

***Anti-Money Laundering and Counter Terrorist Regulation***

Our business is subject to U.S. federal anti-money laundering laws and regulations, including the Bank Secrecy Act, as amended by the USA PATRIOT Act of 2001, which we refer to collectively as the BSA. The BSA, among other things, requires money services businesses to develop and implement risk-based anti-money laundering programs, report large cash transactions and suspicious activity and maintain transaction records.

We are also subject to certain economic and trade sanctions programs that are administered by the Treasury Department's Office of Foreign Assets Control, or OFAC, that prohibit or restrict transactions to or from or dealings with specified countries, their governments and, in certain circumstances, their nationals, narcotics traffickers, and terrorists or terrorist organizations.

Similar anti-money laundering, counter terrorist financing and proceeds of crime laws apply to movements of currency and payments through electronic transactions and to dealings with persons

specified on lists maintained by organizations similar to OFAC in several other countries and which may impose specific data retention obligations or prohibitions on intermediaries in the payment process.

We have developed and are enhancing compliance programs to monitor and address legal and regulatory requirements and developments.

***Prepaid Services***

Prepaid card programs managed by us are subject to various federal and state laws and regulations, which may include laws and regulations related to consumer and data protection, licensing, consumer disclosures, escheat, anti-money laundering, banking, trade practices and competition and wage and employment. For example, most states require entities engaged in money transmission in connection with the sale of prepaid cards to be licensed as a money transmitter with, and subject to examination by, that jurisdiction's banking department. In the future, we may have to obtain state licenses to expand our distribution network for prepaid cards, which licenses we may not be able to obtain. Furthermore, the Credit Card Accountability Responsibility and Disclosure Act of 2009 created new requirements applicable to general-use prepaid cards, store gift cards and electronic gift certificates effective in August 2010, and the Federal Reserve amended Regulation E with respect to such cards and electronic certificates effective in August 2010. These laws and regulations are evolving, unclear and sometimes inconsistent and subject to judicial and regulatory challenge and interpretation, and therefore the extent to which these laws and rules have application to, and their impact on, us, financial institutions, merchants or others is in flux. At this time we are unable to determine the impact that the clarification of these laws and their future interpretations, as well as new laws, may have on us, financial institutions, merchants or others in a number of jurisdictions. Prepaid services may also be subject to the rules and regulations of Visa, MasterCard and other payment networks with which we and the card issuers do business. The programs in place to process these products generally may be modified by the payment networks in their discretion and such modifications could also impact us, financial institutions, merchants and others.

Furthermore, on July 26, 2011, the Financial Crimes Enforcement Network of the U.S. Department of the Treasury, or FinCEN, issued a final rule regarding the applicability of the Bank Secrecy Act's regulations to "prepaid access" products and services. This rulemaking clarifies the anti-money laundering obligations for entities, engaged in the provision and sale of prepaid services such as prepaid cards, including a requirement that will cause us to register with FinCEN as a "money services business—provider of prepaid access." We will become subject to examination and review by FinCEN, primarily with respect to anti-money laundering issues.

***Housing Assistant Tax Act***

The Housing Assistance Tax Act of 2008 included an amendment to the Code that requires information returns to be made for each calendar year by merchant acquiring entities and third-party settlement organizations with respect to payments made in settlement of electronic payment transactions and third-party payment network transactions occurring in that calendar year. This requirement to make information returns applies to returns for calendar years beginning in 2011. Reportable transactions are also subject to backup withholding requirements. We could be liable for penalties if our information return is not in compliance with the new regulations. In addition, these new regulations will require us to incur additional costs to modify our systems so that we may provide compliant services but may also provide opportunities for us to offer additional revenue producing services to our clients. This law will result in significant additional Form 1099 reporting requirements for us in the first half of 2012.

***Other***

We are subject to U.S. federal and state unclaimed or abandoned property (escheat) laws in the United States which require us to turn over to certain government authorities the property of others we hold that has been unclaimed for a specified period of time such as, in our Merchant Services business, account balances that are due to a merchant following discontinuation of its relationship with us.

In addition to the laws and regulations listed above, Transactive Ecommerce Solutions Inc., our Canadian subsidiary, which accounted for less than 1% of our net revenue in 2010 is subject to the laws and regulations of Canada, which may or may not be similar to the laws of the United States described above.

The foregoing list of laws and regulations to which we are subject is not exhaustive, and the regulatory framework governing our operations changes continuously. Although we do not believe that compliance with future laws and regulations related to the payment processing industry and our business will have a material adverse effect on our business, financial condition or results of operations, the enactment of new laws and regulations may increasingly affect the operation of our business, directly and indirectly, which could result in substantial regulatory compliance costs, litigation expense, adverse publicity, the loss of revenue and decreased profitability.

**Legal Proceedings**

From time to time, we are involved in various litigation matters arising in the ordinary course of our business. None of these matters, either individually or in the aggregate, currently is material to us.

**Intellectual Property**

Most of our services are based on proprietary software and related payment systems solutions. We rely on a combination of patent, copyright, trademark and trade secret laws, as well as employee and third-party non-disclosure, confidentiality and other types of contractual arrangements to establish, maintain and enforce our intellectual property rights in our technology, including with respect to our proprietary rights related to our products and services. In addition, we license technology from third parties.

As of September 30, 2011, we own approximately four U.S. issued patents and one U.S. pending patent application. These patents generally relate to systems and methods related to payment system functionality. We own a number of trademarks including "VANTIV", "NPC", "NATIONAL PROCESSING COMPANY" and "JEANIE". We also own other valuable trademarks and designs covering various brands, products, programs and services, including "OMNISHIELD", "RETRIEVER PAYMENT SYSTEMS", and "DESIGN IT! PHOTOCARD." We have a number of registered copyrights, most notably a copyright for software used for the authorization processing of merchant acquired card transactions.

**Properties**

Our principal place of business is our new corporate headquarters located at 8500 Governor's Hill Drive, Symmes Township, Cincinnati, Ohio 45249. We purchased our new corporate headquarters on July 12, 2011 for approximately $9.1 million, which was funded through a first mortgage loan from the seller with a principal balance of approximately $10.1 million. The proceeds of the loan in excess of the building purchase price were used to fund various improvements to the building. In connection with the purchase of our new corporate headquarters, we abandoned office space previously leased from Fifth Third Bank. At June 30, 2011, we had recorded an approximate $1.4 million reserve relating to the abandoned lease payments.

In addition to our new corporate headquarters and as of September 30, 2011, we leased operational, sales, and administrative facilities in Colorado, Florida, Indiana, Illinois, Kentucky and Texas. As of September 30, 2011, we leased data center facilities in Kentucky, Michigan and Florida and a communications hub in Ohio co-located with Fifth Third Bank. We believe that our facilities are suitable and adequate for our business as presently conducted, however, we periodically review our facility requirements and may acquire new space to meet the needs of our business or consolidate and dispose of facilities that are no longer required.

**Employees**

As of September 30, 2011, we had 2,489 employees. As of September 30, 2011, this included 593 Merchant Services employees, 117 Financial Institution Services employees, 531 IT employees, 894 operations employees and 354 general and administrative employees. None of our employees are represented by a collective bargaining agreement. We believe that relations with our employees are good.

**Additional Information**

We are a Delaware corporation. We were incorporated as Advent-Kong Blocker Corp. on March 25, 2009 and changed our name to Vantiv, Inc. on November 8, 2011. Our principal executive offices are located at 8500 Governor's Hill Drive, Symmes Township, Cincinnati, Ohio 45249. Our telephone number at our principal executive offices is (513) 900-5250. Our corporate website is *www.vantiv.com.* The information that appears on our website is not part of, and is not incorporated into, this prospectus.

## MANAGEMENT

### Executive Officers and Directors

The following table sets forth the names and ages, as of October 31, 2011, of the individuals who will serve as our executive officers and director at the time of the offering. We will appoint additional directors prior to this offering.

| Name | Age | Position |
|---|---|---|
| Charles D. Drucker | 48 | Chief Executive Officer, President and Director |
| Mark L. Heimbouch | 47 | Chief Financial Officer |
| Robert Bartlett | 48 | Chief Information Officer |
| Donald Boeding | 46 | President of Merchant Services |
| Royal Cole | 50 | President of Financial Institution Services |
| Adam Coyle | 45 | President of National Processing Company |
| Nelson F. Greene | 48 | Chief Legal Officer and Secretary |
| Robert Uhrig | 48 | Chief Operations Officer |
| William Weingart | 53 | Chief Product Officer |
| Theresa Zizzo | 54 | Human Capital Officer |

***Charles D. Drucker*** is our Chief Executive Officer and a Director, positions he has held since June 2009, and our President, a position he has held since June 2004. He was also Executive Vice President of Fifth Third Bancorp from June 2005 to June 2009. Mr. Drucker was selected to serve on the board of directors due to his service as our Chief Executive Officer, extensive senior management experience at a number of large corporations in the payments industry, deep industry experience and intimate knowledge of the operational, financial and strategic development of our company.

***Mark L. Heimbouch*** is our Chief Financial Officer, a position he has held since December 2009. Prior to joining us, Mr. Heimbouch was Chief Financial Officer of Trow Global Holdings since November 2008. Prior to that position, Mr. Heimbouch was Senior Executive Vice President and Chief Operating Officer of Jackson Hewitt Tax Service Inc. from October 2007 to November 2008. Mr. Heimbouch served as the Executive Vice President, Chief Financial Officer and Treasurer at Jackson Hewitt from June 2005 to October 2007.

***Robert Bartlett*** is our Chief Information Officer, a position he has held since January 1, 2010. Prior to this position, Mr. Bartlett was our Senior Vice President, Information Technology from January 2006 to December 2009. Mr. Bartlett joined Fifth Third Bank in 1984, holding various positions of increasing responsibility.

***Donald Boeding*** is our President of Merchant Services, a position he has held since January 2010. Prior to this position, Mr. Boeding was our Senior Vice President from September 2004 to December 2009.

***Royal Cole*** is our President of Financial Institutions Services, a position he has held since March 2010. Prior to joining us, Mr. Cole was the Executive Vice President and General Manager, Global Payment Services, at The Western Union Company from December 2005 to July 2009.

***Adam Coyle*** is the President of National Processing Company, our wholly-owned subsidiary, a position he has held since November 2010. Mr. Coyle joined us in March 2010 as our Executive Officer, Strategy and M&A. Prior to joining us, he was an Operating Partner at Advent International Corporation from February 2007 to September 2008. Prior to that position, Mr. Coyle was President, Integrated Payment Systems Group, at First Data Corporation from June 2002 to April 2006. Mr. Coyle is a member of the Colorado State Banking Board.

***Nelson F. Greene*** is our Chief Legal Officer and Secretary, a position he has held since July 2010. Prior to joining the Company, Mr. Greene was the Deputy General Counsel and Assistant Secretary from April 2010 to July 2010, the Vice President, Interim General Counsel and Secretary from July 2009 to April 2010 and was the Vice President, Deputy General Counsel and Assistant Secretary from 2007 to July 2009 of NCR Corporation. Mr. Greene joined NCR in 1992.

***Robert Uhrig*** is our Chief Operations Officer, a position he has held since July 2010. Prior to this position, Mr. Uhrig was our Chief Operations Officer, General Counsel and Secretary from July 2009 to July 2010. Previously, he was the Senior Vice President, General Counsel and Secretary from June 1992 to July 2009 of our predecessor. Mr. Uhrig joined Fifth Third Bank in May 1985.

***William Weingart*** is our Chief Product Officer, a position he has held since April 2010. Prior to this position, Mr. Weingart was the Chief Technology Officer, Merchant Services Division, at First Data Corporation from May 1983 to October 2009.

***Theresa Zizzo*** is our Human Capital Officer, a position she has held since January 2010. Prior to this position, she was our Director of Human Resources from September 2009 to December 2009. Prior to this position, Ms. Zizzo was the Vice President, Human Resources, at LexisNexis from 2008 to August 2009. From 2006 to 2008, she was a Senior Vice President, Human Resources, and from 2005 to 2006 she was a Vice President, Human Resources, at First Data Corporation. Prior to those positions, Ms. Zizzo held human resource leadership positions at numerous First Data subsidiaries, including Western Union, TeleCheck and Teleservices.

**Board of Directors**

Our business and affairs are managed under the direction of our board of directors. Our amended and restated bylaws provide that our board of directors will consist of between and directors. Upon the consummation of this offering, our board of directors will be composed of directors. Each member of the board of directors of Vantiv Holding serves pursuant to the terms of the Vantiv Holding amended and restated limited liability company agreement. Fifth Third Bank, through its ownership of our Class B common stock, will be entitled to elect a number of our directors equal to the percentage of the voting power of all of our outstanding common stock represented by the holders of our Class B common stock but not exceeding 19.9% and except as otherwise provided in our amended and restated certificate of incorporation or as required by law.

Our executive officers and key employees serve at the discretion of our board of directors.

**Director Independence**

Our board of directors has affirmatively determined that and are independent directors under the applicable rules of the NYSE and Nasdaq and as such term is defined in Rule 10A-3(b)(1) under the Exchange Act. In accordance with the NYSE and Nasdaq corporate governance rules, a majority of our directors will be independent within one year from the effective date of our registration statement for this offering.

**Board Committees**

Upon the consummation of this offering, our board of directors will have three committees: the audit committee, the compensation committee and the nominating and corporate governance committee. Each Committee will operate under a charter that will be approved by our board of directors. The charter and composition of each committee will be effective upon the consummation of this offering. The charter of each committee will be available on our website.

***Audit Committee***

The primary purpose of our audit committee is to assist the board's oversight of:

- the integrity of our financial statements;
- our internal financial reporting and compliance with our disclosure controls and procedures;
- the qualifications, engagement, compensation, independence and performance of our independent registered public accounting firm;
- our independent registered public accounting firm's annual audit of our financial statements and any engagement to provide other services;
- the performance of our internal audit function;
- our legal and regulatory compliance; and
- the application of our codes of business conduct and ethics as established by management and the board.

Upon the consummation of this offering, , and will serve on the audit committee. will serve as chairman of the audit committee and also qualifies as an "audit committee financial expert" as such term has been defined by the SEC in Item 401(h)(2) of Regulation S-K. Our board of directors has affirmatively determined that meets the definition of an "independent director" for the purposes of serving on the audit committee under applicable SEC and NYSE or Nasdaq rules, and we intend to comply with these independence requirements for all members of the audit committee within the time periods specified therein. The audit committee is governed by a charter that complies with the rules of NYSE or Nasdaq.

***Compensation Committee***

The primary purposes of our compensation committee are to:

- oversee our executive compensation policies and practices;
- review and determine the compensation of our executive officers (including our chief executive officer);
- provide oversight of our compensation policies, plans and benefit programs including reviewing, approving and administering all compensation and employee benefit plans, policies and programs; and
- produce, approve and recommend to the board for approval reports on compensation matters required to be included in our annual proxy statement or annual report.

Upon the consummation of this offering, , and will serve on the compensation committee, and will serve as the chairman. Our board of directors has affirmatively determined that meets the definition of an "independent director" for the purposes of serving on the compensation committee under applicable NYSE or Nasdaq rules, and we intend to comply with these independence requirements for all members of the compensation committee within the time periods specified therein. The compensation committee is governed by a charter that complies with the rules of NYSE or Nasdaq.

***Nominating and Corporate Governance Committee***

The primary purposes of our nominating and corporate governance committee are to:

- recommend to the board for approval the qualifications, qualities, skills and expertise required for board of directors membership;
- identify potential members of the board consistent with the criteria approved by the board and select and recommend to the board the director nominees for election at the next annual meeting of stockholders or to otherwise fill vacancies;
- evaluate and make recommendations regarding the structure, membership and governance of the committees of the board;
- develop and make recommendations to the board with regard to our corporate governance policies and principles; and
- oversee the annual review of the board's performance.

Upon the consummation of this offering, , and will serve on the nominating and corporate governance, and will serve as the chairman. Our board of directors has affirmatively determined that meets the definition of an "independent director" for the purposes of serving on the nominating and corporate governance committee under applicable NYSE or Nasdaq rules, and we intend to comply with these independence requirements for all members of the nominating and corporate governance committee within the time periods specified therein. The nominating and corporate governance committee is governed by a charter that complies with the rules of NYSE or Nasdaq.

**Compensation Committee Interlocks and Insider Participation**

None of the members of our compensation committee is or has at any time during the past year been one of our officers or employees. None of our executive officers currently serves or in the past year has served as a member of the board of directors or compensation committee of any entity that has one or more executive officers serving on our board of directors or compensation committee.

During the year ended December 31, 2010, Vantiv Holding's compensation committee consisted of Kevin Kabat, David Mussafer and Christopher Pike. Mr. Kabat is the chief executive officer and president of Fifth Third Bancorp. Mr. Mussafer is a managing partner and Mr. Pike is a managing director at Advent International Corporation. For a description of related party transactions between us and Advent and us and Fifth Third Bancorp, see "Certain Relationships and Related Person Transactions."

**Code of Business Conduct and Ethics**

We have adopted a code of business conduct and ethics that applies to all of our employees, officers and directors, including those officers responsible for financial reporting. These standards are designed to deter wrongdoing and to promote honest and ethical conduct. The code of business conduct and ethics will be available on our web site at *www.vantiv.com*. Any waiver of the code for directors or executive officers may be made only by our board of directors and will be promptly disclosed to our stockholders as required by applicable U.S. federal securities laws and the corporate governance rules of the NYSE or Nasdaq. Amendments to the code must be approved by our board of directors and will be promptly disclosed (other than technical, administrative or non-substantive changes). Any amendments to the code, or any waivers of its requirements, will be disclosed on our website.

**Corporate Governance Guidelines**

Our board of directors will adopt corporate governance guidelines in accordance with the corporate governance rules of the NYSE or Nasdaq, as applicable, that serve as a flexible framework within which our board of directors and its committees operate. These guidelines will cover a number of areas including the size and composition of the board, board membership criteria and director qualifications, director responsibilities, board agenda, roles of the Chairman of the Board, Chief Executive Officer and presiding director, meetings of independent directors, committee responsibilities and assignments, board member access to management and independent advisors, director communications with third parties, director compensation, director orientation and continuing education, evaluation of senior management and management succession planning. A copy of our corporate governance guidelines will be posted on our website.

**Indemnification of Officers and Directors**

Our amended and restated bylaws provide that we will indemnify our directors and officers to the fullest extent permitted by the Delaware General Corporation Law, or the DGCL. We have established directors' and officers' liability insurance that insures such persons against the costs of defense, settlement or payment of a judgment under certain circumstances.

Our amended and restated certificate of incorporation provides that our directors will not be liable for monetary damages for breach of fiduciary duty, except for liability relating to any breach of the director's duty of loyalty, acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, violations under Section 174 of the DGCL or any transaction from which the director derived an improper personal benefit.

## EXECUTIVE AND DIRECTOR COMPENSATION

*The following discussion and analysis of compensation arrangements should be read with the compensation tables and related disclosures set forth below. This discussion contains forward-looking statements that are based on our current plans and expectations regarding future compensation programs. Actual compensation programs that we adopt may differ materially from the programs summarized in this discussion.*

### Compensation Discussion and Analysis

This section explains the objectives and design of our executive compensation program and our compensation-setting process. It provides qualitative information regarding the manner in which compensation is earned by our executive officers and explains the decisions we made for compensation with respect to 2011 for each of the named executive officers listed below.

#### *Named Executive Officers*

For 2011, our named executive officers were:

- Charles D. Drucker, Chief Executive Officer and President
- Mark L. Heimbouch, Chief Financial Officer
-
-
-

Once the compensation of our executive officers has been determined for 2011, we will include the appropriate named executive officers and their 2011 compensation in the discussion and the tables below.

#### *Overview*

Since the separation transaction, the compensation committee of the board of directors of Vantiv Holding has overseen our executive compensation program and determined the compensation of our executive officers, including our named executive officers. The compensation committee of Vantiv Holding has consisted of three members, all of whom are nominees of Advent or Fifth Third Bank. Following this offering, a compensation committee of the board of directors of Vantiv, Inc. will oversee our executive compensation program. We also intend to develop and maintain a compensation framework that is appropriate and competitive for a publicly held company. Therefore, although we currently do not intend to alter our compensation objectives, other than as described herein, following this offering, the compensation committee of Vantiv, Inc. may establish executive compensation objectives and programs that are materially different from those currently in place.

#### *Objectives and Design*

We designed our existing executive compensation program to promote our strategic business initiatives and to link executive compensation to our financial performance and the creation of stockholder value. In addition, one of the significant specific objectives of our executive compensation program since the separation transaction has been to support the expansion of our senior executive team that could position us to operate both as a stand-alone company and ultimately, as a public reporting company.

The following are the principal objectives of our executive compensation program:

- attract, retain, and reward employees who drive our performance and help us achieve our annual and long-term business objectives;
- motivate our executive officers to consistently deliver outstanding performance;
- link executive compensation to the creation and maintenance of stockholder value;
- ensure that incentive compensation is linked to the achievement of specific financial and strategic objectives;
- create a culture of ownership among our executives to align their interests with the interests of our stockholders; and
- maintain competitive and fair compensation practices, both internally and as compared to our competitors.

To meet these objectives, our executive compensation program balances short-term and long-term financial performance and strategic goals and combines fixed compensation with compensation that is "at risk" and tied to the attainment of previously established financial and strategic objectives that are directly related to stockholder value and our overall performance.

***Principal Components of Compensation***

The principal components of our executive compensation program are:

- base salaries;
- annual performance-based cash incentives, which consist of cash awards under our annual incentive plan based on our performance relative to pre-established company-wide financial and strategic objectives and individual performance; and
- long-term equity-based incentive compensation, which consists of phantom equity units subject to time and performance-based vesting.

We believe that each component serves an important function in achieving the objectives of our executive compensation program. In determining the relevant amounts of each of these components, the compensation committee considers the objectives and principles discussed above and the additional factors discussed below. We have not adopted formal policies or guidelines for allocating compensation and the compensation committee has not affirmatively set out in any given year, or with respect to any given new executive officer, to apportion compensation in any specific ratio between cash and equity, or between long-term and short-term compensation. Rather, total compensation may be weighted more heavily toward either cash or equity, or short-term or long-term compensation, as a result of the factors described in this discussion. Ultimately, the committee's collective judgment and subjective analysis of these objectives, principles and factors has been the most important factor in setting compensation.

*Base Salaries.* Base salaries reflect the fixed component of the compensation for an executive officer's ongoing contribution to the operating performance of his or her area of responsibility. We strive to pay a base salary for each position that is competitive within our industry to attract and retain top-level talent in a highly competitive market. In determining base salary, the compensation committee considers a variety of factors, including performance, seniority, experience, responsibilities, length of service, our ability to replace the individual, other components of such executive officer's compensation, base salaries of our other executive officers and the base salaries that our competitors and peers pay to their executive officers in comparable positions. No particular weight is assigned to each factor. The compensation committee evaluates and sets the base salaries of our executive officers on an annual

basis following annual performance reviews, as well as upon a promotion or other change in responsibility.

*Annual Cash-Based Incentive Compensation.* Our annual incentive plan is designed to align each executive officer's efforts with our annual financial and strategic objectives. Payouts under the annual incentive plan in any given year are determined based on company performance relative to company-wide financial and strategic objectives that are established by the compensation committee for that year and individual performance assessments. Annual bonus targets for executive officers are expressed as a percentage of base salary, and the annual bonus target for each executive officer is set forth in his or her offer letter or employment agreement. The compensation committee, along with our chief executive officer, also evaluates and adjusts for individual performance on a discretionary basis to determine a particular executive officer's actual payout under the annual incentive plan. Payouts under the annual incentive plan are typically approved by the compensation committee and paid in the first quarter of each year for performance in the prior year. Annual incentive plan awards are paid in cash.

The compensation committee evaluates the allocation of financial and strategic objectives within the annual incentive plan on an annual basis and has the flexibility to decrease any award and/or adjust the structure including allocation percentages as needed in order to better align the incentives under the annual incentive plan, as well as to make other determinations under the plan, including whether and to what extent performance goals have been achieved. In addition to our annual incentive plan, the compensation committee may grant discretionary cash awards at any time.

*Long-Term Equity-Based Incentive Compensation.* The long-term incentive component of our executive compensation program, which consists of phantom equity units, is designed to provide a retention and performance incentive to our executive officers and to closely align their interests with the interests of our stockholders through vesting provisions. Because executive officers profit from phantom equity units only if and to the extent our stock price increases relative to the fair market value of our stock on the grant date, and because the phantom equity units are only exercisable after a vesting period which in most cases will continue beyond the completion of this offering, we believe granting phantom equity units provides meaningful incentives to executive officers to increase the value of our stock over time and promotes retention.

Generally, two-thirds of each award vest in full on the fifth anniversary of the date of the grant or the consummation of a change of control. We refer to these as time awards. The remaining one-third of each award vests only upon the occurrence of certain liquidity-related events, such as an initial public offering or change of control. We refer to these awards as performance awards. If there is an initial public offering prior to the fifth anniversary or a change of control, the time awards will convert into a number of shares of unrestricted stock and restricted stock based upon a formula in the phantom unit agreement. The restricted stock received in an initial public offering vest quarterly. If an initial public offering occurs before a change of control event, the performance-based portion of the award converts into restricted stock that vests over a period of three years. If a change of control occurs after the initial public offering, outstanding restricted stock will vest in full. The amount of time and performance awards and the respective vesting provisions are specified in each executive officer's phantom unit agreement.

The compensation committee determines the size of the awards and the allocation between time and performance-based awards, taking into account the recommendations of our chief executive officer and a number of other factors, including our needs, the particular skills of the executive officer, the uniqueness of those skills, the executive officer's responsibilities and competitive conditions in the market at the time of such executive officer's hire or promotion. Under the Vantiv, Inc. Stockholders' Agreement and the Vantiv Holding Amended and Restated Limited Liability Company Agreement, any increase in the number of units issued or reserved for issuance under the phantom equity plan in excess

of      % of the fully-diluted units held by our existing investors on June 30, 2009, is subject to approval by Advent and Fifth Third Bank.

In lieu of making annual awards, it has been the compensation committee's practice since the separation transaction to make awards that are intended to cover a multi-year period, in order to provide an attractive compensation package to a potential new employee, as well as an incentive for our executive officers to focus on long-term performance. These awards were generally made at or shortly after the executive officer's hire date. While we have not had a regular policy of making annual incremental grants, the compensation committee retains discretion to do so and to grant additional awards to an executive officer in connection with his or her promotion, increase in his or her responsibilities or other change in the nature of the executive officer's role within the management structure.

***Setting Executive Compensation***

Our current compensation program for executive officers reflects our stage of development as a company and is largely based on individual employment arrangements that were negotiated with each of our executive officers at the time he or she was hired. These arrangements generally reflect the outcome of a negotiated recruitment and hiring process in light of compensation paid by their prior employers or other opportunities available to such executive officer at the time of hiring. Therefore, some differences in compensation among our executive officers reflect the timing of their hiring and the specific circumstances at that time.

*Role of our Compensation Committee.* The compensation committee is responsible for overseeing our executive compensation program and setting compensation for our executive officers. While some of the terms of each executive officer's compensation are set forth in his or her employment agreement or offer letter, the compensation committee reviews the compensation and benefits for the executive officers on an annual basis, and when deemed appropriate, makes adjustments. In the beginning of each year, the committee determines the company-wide financial and strategic objectives of the annual incentive plan and any salary rate adjustments for the upcoming year, the cash incentive earned by each executive officer under the prior year's annual incentive plan, and whether to pay any additional bonuses or make any additional new grants of phantom equity units.

*Role of Management.* Our chief executive officer makes recommendations to the compensation committee on the base salary, annual incentive payments, and equity awards for each executive officer (other than himself), based on his assessment of each executive officer's performance during the year and his review of market and compensation data prepared by our compensation consultant. He also makes recommendations about performance metrics for the annual incentive plan, attends compensation committee meetings (except for sessions discussing his compensation), and generally has been and likely will continue to be involved in the determination of compensation of executive officers due to his day-to-day involvement with them.

*Role of our Compensation Consultant.* In early 2010, we engaged Aon Hewitt, a national compensation consulting firm, to evaluate our executive compensation program and executive officer compensation for 2011. Specifically, Aon Hewitt prepared an executive compensation assessment that analyzed our cash and equity compensation and benefits of our executive officers. Aon Hewitt also provides us with employee compensation and benefits consultation services.

The compensation committee, management and Aon Hewitt worked together to choose a peer group for benchmarking both executive compensation levels and our overall compensation program design. The primary criteria used to develop the peer group, included companies (or business segments) identified as competitors for talent, companies that fall into similar economic sectors, companies within a size range relevant to ours as measured primarily by annual revenue and companies

with a business model that leverages expertise in the same broad services and have readily available data. We did not target total compensation or individual components to a particular level relative to the market or our peers. We used peer group data as points of reference and general guidelines only.

Our peer group for purposes of determining 2011 compensation consisted of the following companies:

| | | |
|---|---|---|
| Alliance Data Systems | Broadridge Financial Solutions | Ceridian |
| Cybersource | Euronet Worldwide | Fidelity National |
| Fiserv | Global Payments | Heartland Payment Systems |
| iPayment | MasterCard | Moneygram International |
| Neustar | Paychex | Total Information Systems |
| US Bancorp (Total Payment Services) | Verifone Holdings | Visa |
| | Western Union | Wright Express |

In the fourth quarter of 2011, the compensation committee engaged Frederic W. Cook & Co. as its independent compensation consultant to assist it in evaluating our executive compensation program and to make recommendations with respect to appropriate levels and forms of compensation and benefits as we transition to becoming a public company. The objective of this evaluation will be to ensure that we remain competitive as a newly public company and that we develop and maintain a compensation framework that is appropriate for a public company. Frederic W. Cook & Co. does not provide any other services to us or to management.

***2011 Compensation Determinations***

*Base Salary.* In evaluating base salaries of our executive officers for 2011, our compensation committee considered the executive officer's position and responsibilities, our success in achieving our prior year financial and strategic objectives, the individual's contribution and performance during the prior year and market and peer group data. The compensation committee also considered the evaluations and recommendations of our chief executive officer (other than with respect to his own compensation). As discussed above, the compensation committee does not have a predefined framework that determines which factors may be more or less important, and the emphasis placed on specific factors varied among the named executive officers.

Annualized base salaries for our named executive officers were as follows:

| Name | 2010 | 2011 | % Change |
|---|---|---|---|
| Charles D. Drucker | | | |
| Mark L. Heimbouch | | | |

The following decisions were made regarding base salaries for 2011:

- The increase in Mr. Drucker's salary was based on the compensation committee's desire to recognize his overall contributions to our financial and strategic objectives, and his tenure. The compensation committee reviewed peer group data, but his salary was not set in reference to a specific benchmark.

- Mr. Heimbouch's salary was negotiated in connection with his hiring in December 2009 and as such primarily reflected individual negotiations and amounts we believed were necessary, when combined with equity compensation, to hire him, while considering internal pay equity among executive officers and the desire to limit cash compensation.

*Annual Incentive Plan Compensation.* For 2011, the annual incentive plan was 70% based upon the achievement of an adjusted EBITDA performance level goal, 15% based upon the achievement of new product and sales channel goals and 15% based upon the achievement of specified separation and integration goals. The compensation committee also set threshold, target and maximum payments for

each of the three performance goals under the annual incentive plan. Adjusted EBITDA, solely for purposes of the annual incentive plan, is defined by us as income (loss) before interest expense (net of interest income), income taxes, depreciation and amortization, non-controlling interests, gain or loss on the disposal of assets, equity method income, stock compensation, realized and unrealized gains or losses on investments, debt extinguishment costs, acquisition related expenses, impairment losses, expenses incurred in connection with investments and strategic initiatives, and discontinued operations, net of taxes. New product and sales channel goals relate to strategic initiatives and consist of a pre-established number of new products and revenue generated from the sale and distribution of those products. Separation and integration goals relate to our strategic initiatives with respect to the separation transaction and the integration of NPC.

For 2011, our named executive officers were eligible for annual incentive plan target award opportunities that ranged from 50% to 100% of their base salaries. The actual payment delivered to each named executive officer is determined in reference to the company's performance relative to the three performance goals. The compensation committee along with our chief executive officer also analyzes individual performance in meeting our corporate and strategic goals on a discretionary basis to determine a particular executive officer's award under the annual incentive plan. The compensation committee exercises its discretion with respect to evaluating individual performance and adjusting individual payouts to reflect the executive's individual contribution to and impact on achieving the company's financial and strategic performance goals.

We believe that the target payouts assigned to the financial and strategic goals under the annual incentive plan can be characterized as ambitious but attainable, meaning that based on historical performance this payout level is not assured but can reasonably be anticipated, while equally providing strong motivation for executives to strive to exceed the performance goals in a way that balances short and long-term stockholder value creation. The annual adjusted EBITDA financial target typically increases and the new product and sales channel and separation and integration goals typically change each year to promote annual growth objectives consistent with our business plan.

*Long-term Incentive Awards.* We grant significant phantom equity awards to newly hired executive officers and have not customarily made regular annual phantom equity awards to our executive officers. We did not make new phantom equity awards to our executive officers during fiscal 2011. The phantom equity awards held by each named executive officer at the end of 2011 are listed below under "—2011 Outstanding Equity Awards." Mr. Drucker and Mr. Heimbouch received and phantom units, respectively, when they were hired.

***Severance and Change in Control Arrangements***

Certain of our executive officers have terms in their employment agreements or offer letters that would provide severance benefits on specified terminations of employment. The terms and estimated amounts of these benefits are described below under "—Potential Payments Upon Termination and Change in Control." Most of these arrangements were negotiated when the executive officers were hired and have terms that we believed were reasonably necessary to hire and retain these individuals in our market for executive talent. Our phantom equity unit award agreements also contain provisions for accelerated vesting of equity in connection with a change in control, as further described under "—Potential Payments Upon Termination and Change in Control." We believe these provisions are reasonable because the possibility of a change in control could cause uncertainty among executive officers and concern over potential loss of equity awards (which has been a significant component of their compensation) and therefore could result in their departure or distraction to the detriment of our company and our stockholders.

Table of Contents

***Retirement and Other Benefits***

Our executive officers are eligible to participate in our employee benefit plans provided to other employees. These benefits include a 401(k) plan with a company matching contribution, group health insurance and short and long-term disability insurance.

In addition to the benefits offered to all employees, certain executive officers are provided additional benefits that are considered perquisites, which are deemed to be part of an executive officer's total compensation and treated as taxable income under the applicable tax laws. In 2011, perquisites for certain of our executive officers included tax planning services and commuting, housing and other living expenses. Detailed information about these perquisites is included below in the "All Other Compensation" column of the 2011 Summary Compensation Table.

***Tax and Accounting Considerations***

We recognize a charge to earnings for accounting purposes for equity awards over their vesting period. In the past, we have not considered the accounting impact as a material factor in determining the equity award amounts for our executive officers. However, as a public company, we expect that the compensation committee will consider the accounting impact of equity awards in addition to considering the impact to dilution and overhang when deciding on amounts and terms of equity awards. We do not require executive compensation to be tax deductible, but instead balance the cost and benefits of tax deductibility to comply with our executive compensation goals. For example, Section 162(m) of the Code, generally disallows a tax deduction to a publicly held corporation for compensation in excess of $1.0 million paid in any taxable year to its chief executive officer and certain other executive officers unless the compensation qualifies as "performance-based compensation" within the meaning of the Code. Under a special Section 162(m) exception, any compensation paid pursuant to a compensation plan in existence before the effective date of this initial public offering will generally not be subject to the $1.0 million limitation until the earliest of: (i) the expiration of the compensation plan, (ii) a material modification of the compensation plan (as determined under Section 162(m)), (iii) the issuance of all the employer stock and other compensation allocated under the compensation plan, or (iv) the first meeting of stockholders at which directors are elected after the close of the third calendar year following the year in which the public offering occurs. As a private company, we have not taken the deductibility limit of Section 162(m) into consideration in setting compensation for our executive officers because Section 162(m) did not apply to us. Once we are a public company, we expect that the compensation committee will consider the deductibility of compensation, but will be fully authorized to approve compensation that is not deductible when it believes that such payments are appropriate to attract and retain executive talent.

**2011 Summary Compensation Table**

The following table sets forth certain information with respect to compensation for the year ended December 31, 2011 earned by or paid to our named executive officers.

| Name and Principal Position | Year | Salary ($) | Non-Equity Incentive Plan Compensation ($)(1) | Option Awards ($)(2) | All Other Compensation ($)(3) | Total ($) |
|---|---|---|---|---|---|---|
| Charles D. Drucker<br>Chief Executive Officer | 2011 | | | | | |
| Mark L. Heimbouch<br>Chief Financial Officer | 2011 | | | | | |
| | | | | | | |

(1) Reflects cash awards earned by and paid to the named executive officers pursuant to our annual incentive plan.

(2) Represents the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with ASC 718, *Compensation—Stock Compensation*, but disregarding estimates of forfeitures related to service-based vesting conditions. See Note 11 to our audited financial statements.

(3) This column includes matching contributions made under our 401(k) plan, amounts paid pursuant to the terms of the FTPS Transition Deferred Compensation Plan and perquisites and other personal benefits, as follows:

| Name | 401(k) Match ($) | Transition Deferred Compensation Plan ($) | Tax Preparation Services ($) | Relocation Expenses ($)(a) | Commuting Expenses ($)(b) | Housing and Other Living Expenses ($)(c) |
|---|---|---|---|---|---|---|
| Charles D. Drucker | | | | | | |
| Mark L. Heimbouch | | | | | | |

(a) This column includes moving and related expenses due to relocation from outside the Cincinnati area.

(b) This column includes airfare for commuting from the executive's home to our former and current corporate headquarters.

(c) This column includes rent and related expenses for temporary housing near our corporate headquarters.

Table of Contents

**2011 Grants of Plan-Based Awards**

We did not make any grants of equity incentive awards to our named executive officers during fiscal 2011. As a result, the table below reflects only the annual incentive plan awards disclosed above.

| | | Estimated Future Payouts Under Non-Equity Incentive Plan Awards(1) | | | | | |
|---|---|---|---|---|---|---|---|
| Name | Grant Date | Threshold ($) | Target ($) | Maximum ($) | All Other Option Awards: Number of Shares of Units (#) | Exercise of Base Price of Option Awards ($/Sh) | Grant Date Fair Value of Stock and Option Awards ($) |
| Charles D. Drucker | | | | | | | |
| Mark L. Heimbouch | | | | | | | |

(1) Reflects cash awards pursuant to our annual incentive plan.

**2011 Outstanding Equity Awards**

The following table sets forth certain information with respect to outstanding equity awards held by our named executive officers at December 31, 2011.

| Name | Number of Securities Underlying Unvested Phantom Equity Units Unexercisable (#) | Market Value of Securities Underlying Unvested Phantom Equity Units ($)(1) |
|---|---|---|
| Charles D. Drucker | | |
| Time awards(2) | | |
| Performance awards(3) | | |
| Mark L. Heimbouch | | |
| Time awards(2) | | |
| Performance awards(3) | | |

(1) The market value of the unvested phantom units was determined as of December 31, 2011 assuming the reorganization transactions had occurred and that this offering was completed at an initial offering price of $ per share, the midpoint of the price range set forth on the cover of this prospectus.

(2) Time awards fully vest on the earliest of the fifth anniversary of the grant date, subject to the participant's continued service through the end of the seventh anniversary of the grant date, or the date of the consummation of a change of control, as defined in the Management Phantom Equity Plan or in part upon an IPO, as defined in the Management Phantom Equity Plan, or upon termination, subject to certain conditions.

(3) The performance awards contain certain vesting conditions that are triggered upon the earlier of the consummation of a change of control or an IPO.

***Options Exercised and Stock Vested in 2011***

No phantom equity units vested or were exercised in 2011.

**Pension Benefits**

In the year ended December 31, 2011, our named executive officers received no pension benefits and had no accumulated pension benefits.

**Nonqualified Deferred Compensation**

In the year ended December 31, 2011, our named executive officers received no nonqualified deferred compensation and had no deferred compensation balances.

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

The information below describes and quantifies certain compensation that would become payable under our executive compensation programs and each named executive officer's employment contract or offer letter if his employment had terminated on December 31, 2011. Due to the number of factors that affect the nature and amount of any benefits provided upon the events discussed below, any actual amounts paid or distributed may be different. Factors that could affect these amounts include the timing during the year of any such event.

The following table summarizes the potential payments to our named executive officers assuming that such events occurred as of December 31, 2011.

| Name | Severance Amounts ($) | Benefits ($) | Benefit Continuation ($) | Equity Incentive Payments ($) | Total ($) |
|---|---|---|---|---|---|
| Charles D. Drucker | | | | | |
| *Termination for cause or without good reason* | | | | | |
| *Termination without cause or with good reason* | | | | | |
| *Change of control* | | | | | |
| Mark L. Heimbouch | | | | | |
| *Termination for cause or without good reason* | | | | | |
| *Termination without cause or with good reason* | | | | | |
| *Change of control* | | | | | |

**Employment Agreements**

We entered into an employment agreement with Mr. Drucker on June 30, 2009. The term of the employment agreement is through June 30, 2013, and the agreement automatically renews for successive two year periods unless we provide notice at least 60 days prior to the expiration date. Mr. Drucker may terminate his employment upon 30 days notice at any time. Pursuant to the agreement, Mr. Drucker is entitled to an annual base salary and a contingent bonus with a minimum, maximum and target amount set as a percentage of his base salary. In addition, he was granted phantom equity units, a portion of which are time-based and a portion of which are performance-based. In connection with his employment, we loaned Mr. Drucker $1.5 million which was used to purchase units in Vantiv Holding and was subsequently forgiven. See "Certain Relationships and Related Person Transactions—Agreements Related to the Separation Transaction —JPDN Stock Purchase Agreement and Loan to Charles D. Drucker." Pursuant to Mr. Drucker's employment agreement he may put his units back to us, requiring us to purchase them upon his termination. Upon termination of Mr. Drucker without cause (as defined in the employment agreement) or his resignation for good reason (as defined in the employment agreement), Mr. Drucker will be entitled to (a) certain accrued rights (as defined in the employment agreement including, unreimbursed expenses, any unpaid bonus for the prior year, unused vacation days and any rights pursuant to his phantom equity agreement) (b) 18 months of base salary and (c) the amount of annual bonus he would have been entitled to receive within the fiscal year in which he is terminated.

We executed an offer letter with Mr. Heimbouch, on November 3, 2009. The letter entitles Mr. Heimbouch to a base salary and a contingent bonus with a target that is a percentage of his base salary. In addition, he was granted phantom equity units, a portion of which are time-based and a portion of which are performance-based. If we terminate Mr. Heimbouch's employment at any time

without cause or through constructive termination (as defined in the employment letter), we must provide him with (a) a lump sum payment equal to one year's base salary and (b) a lump sum equal to his current target bonus.

**Non-Competition, Non-Solicitation and Confidentiality**

Each of our executive officers has entered into non-competition, non-solicitation and confidentiality agreements with us. Pursuant to such agreements, each executive officer has agreed not to compete with us for a specified period following such executive officer's date of termination. In addition, each executive officer may not solicit any of our employees during the term of his employment or for a specified period thereafter or disclose any confidential information provided by our employment.

**2012 Equity Incentive Plan**

In connection with this offering, we intend to adopt the 2012 Vantiv, Inc. Equity Incentive Plan, which will be administered by our board of directors or, at its election, by one or more committees consisting of one or more members who have been appointed by the board. The plan will authorize us to grant options, restricted stock or other awards to our employees, directors and consultants. Shares of Class A common stock representing up to       % of our outstanding Class A common stock (calculated on a fully diluted basis) may be issued pursuant to awards under this plan. Awards will be made pursuant to agreements and may be subject to vesting and other restrictions as determined by the board of directors or the compensation committee.

**Director Compensation**

During 2011, our directors who were either our employees or affiliated with Advent or Fifth Third Bank did not receive any fees or other compensation for their services as our directors. We reimburse all of our directors for travel expenses and other out-of-pocket costs incurred in connection with attendance at meetings of the board.

During 2011, directors of Vantiv Holding who were either our employees or affiliated with Advent or Fifth Third Bank did not receive any fees or other compensation for their services as our directors. We reimburse all of our directors for travel expenses and other out-of-pocket costs incurred in connection with attendance at meetings of the board. A member of Vantiv Holding's board of directors, indirectly received shares of Vantiv, Inc. as consideration for success fees owed to her with respect to the separation transaction from us pursuant to a stock transfer agreement among certain affiliates of Advent and Pamela Patsley. See "Certain Relationships and Related Person Transactions—Agreements Related to the Separation Transaction—Stock Transfer Agreement."

The following table set forth all non-employee, non-affiliated compensation information for the directors of Vantiv Holding for the year ended December 31, 2011:

**2011 Director Compensation Table**

| Name | Fees Earned or Paid in Cash ($) | Option Awards ($) | Other Compensation ($) | Total Compensation ($) |
|---|---|---|---|---|
| Jeffrey Stiefler | | | | |
| Pamela Patsley | | | | |

## CERTAIN RELATIONSHIPS AND RELATED PERSON TRANSACTIONS

### Reorganization and Offering Transactions

In connection with this offering, the following reorganization transactions will occur:

- Vantiv, Inc. will amend and restate its certificate of incorporation and will have authorized capital stock consisting of shares of Class A common stock, shares of Class B common stock, and shares of undesignated preferred stock. We will conduct a to 1 stock split of our Class A common stock prior to the consummation of this offering.

- Vantiv Holding's limited liability company agreement will be amended and restated to, among other things, modify its capital structure to provide for Class A units and Class B units, with the Class A units held by Vantiv, Inc. and the Class B units held by the Fifth Third investors. Vantiv, Inc. will hold Class A units and will be the majority unitholder of Vantiv Holding and will operate and control Vantiv Holding, subject to the terms of the supermajority voting requirements and other provisions set forth in the Amended and Restated Vantiv Holding Limited Liability Company Agreement. See "Description of Capital Stock—Vantiv Holding." The Fifth Third investors will hold Class B units, which will be exchangeable for shares of Class A common stock. See c"Certain Relationships and Related Person Transactions—Reorganization and Offering Transactions—Exchange Agreement."

- Transactive's certificate of incorporation will be amended and restated to, among other things, modify its capital structure to provide for Class A common stock and Class B common stock, with the Class A common stock held by Vantiv, Inc. and the Class B common stock held by Fifth Third Financial.

- The stockholders of Vantiv, Inc., including Advent, will enter into the Vantiv, Inc. Stockholders' Agreement which will provide Fifth Third Bank with consent rights over certain significant matters. In addition to these consent rights, the Vantiv, Inc. Stockholders' Agreement will also provide for certain restrictions on the business activities of Vantiv, Inc. and Vantiv Holding to comply with banking regulations. The Vantiv, Inc. Stockholders' Agreement will also provide that any sale, merger or other business combination will be structured so that the Fifth Third investors receive the same consideration for their units as holders of our Class A common stock receive for their shares, subject to specified limitations. See "Certain Relationships and Related Person Transactions—Reorganization and Offering Transactions—Vantiv, Inc. Stockholders' Agreement."

- Vantiv, Inc. and the Fifth Third investors will enter into an exchange agreement, or the Exchange Agreement, under which the Fifth Third investors (or certain permitted transferees thereof) will have the right, subject to the terms of the Exchange Agreement, from time to time to exchange their Class B units in Vantiv Holding for shares of our Class A common stock on a one-for-one basis, subject to customary conversion rate adjustments, or, at Vantiv Holding's option, for cash. To the extent that we issue a share of Class A common stock upon the exchange of a Class B unit of Vantiv Holding, Vantiv Holding will issue a Class A unit to us and we will cancel a share of Class B common stock. See "Certain Relationships and Related Person Transactions—Reorganization and Offering Transactions—Exchange Agreement."

- We will enter into four tax receivable agreements, which will provide for payments by us to our existing shareholders equal to 85% of the amount of cash savings, if any, in U.S. federal, state and local income tax that we and NPC actually realize as a result of certain tax basis increases and NOLs. See "Certain Relationships and Related Person Transactions—Reorganization and Offering Transactions—Tax Receivable Agreements."

In addition, the Fifth Third investors will receive one share of our Class B common stock for each Class B unit of Vantiv Holding that they hold. The Class B common stock only carries voting rights and the right to appoint to a certain number of directors; it carries no economic rights. The shares of our

Class B common stock will entitle the holders of the Class B common stock collectively to up to 19.9% of the aggregate voting power of our outstanding common stock on a formulaic basis. To the extent that the Fifth Third investors hold more than 19.9% of the aggregate voting power of our outstanding common stock as a result of the ownership of both Class A and Class B common stock, the Fifth Third investors' voting power will be limited to 19.9%, other than in connection with a stockholder vote with respect to a change of control, in which event Fifth Third investors will have the right to that number of votes equal to the number of shares of Class A common stock they would own if they had converted all of their Class B units of Vantiv Holding. The Class B common stock, voting as a separate class, will also be entitled to elect a number of our directors equal to the percentage of the voting power of all of our outstanding common stock represented by the Class B common stock but not exceeding 19.9% of the board of directors. In addition (and except in connection with a change of control) to the extent that the Fifth Third investors hold Class A common stock and Class B common stock entitled to less than 19.9% of the voting power of the outstanding common stock, then the Fifth Third investors shall be entitled only to such lesser voting power determined on a formulaic basis.

Vantiv, Inc. will contribute the proceeds from this offering (after deducting underwriting discounts and commissions and expenses payable by Vantiv, Inc. in connection with the offering) (i) to Vantiv Holding which will use a portion of such net proceeds to redeem Class B units from the Fifth Third investors and (ii) to Transactive to redeem shares of its Class B common stock from Fifth Third Financial.

As a result of the reorganization transactions and this offering:

- the investors purchasing Class A common stock in this offering will collectively own shares of our Class A common stock (or shares of Class A common stock if the underwriters exercise in full their option to purchase additional shares of Class A common stock), and Vantiv, Inc. will hold Class A units of Vantiv Holding;

- the funds managed by Advent International Corporation will hold shares of Class A common stock (or shares of Class A common stock if the underwriters exercise in full their option to purchase additional shares of Class A common stock);

- the Fifth Third investors will hold shares of our Class B common stock and Class B units of Vantiv Holding (or shares of Class B common stock and Class B units of Vantiv Holding if the underwriters exercise in full their option to purchase additional shares of Class A common stock), which Class B units are exchangeable on a one-for-one basis for shares of our Class A common stock upon exercise by the Fifth Third investors of their put right;

- the investors purchasing Class A common stock in this offering will collectively have % of the voting power and % of the economic interest of the common stock of Vantiv, Inc. (or % if the underwriters exercise in full their option to purchase additional shares of Class A common stock);

- the funds managed by Advent International Corporation will have % of the voting power of the common stock of Vantiv, Inc. (or % if the underwriters exercise in full their option to purchase additional shares of Class A common stock);

- the Fifth Third investors will have 19.9% of the voting power of the common stock of Vantiv, Inc. and no economic interest in Vantiv, Inc.; and

- certain of our employees will receive shares of unrestricted Class A common stock and shares of unvested restricted Class A common stock that will continue to vest in accordance with its terms, assuming an initial public offering price of $ per share, pursuant to their Phantom Unit Agreements with Vantiv Holding.

After the completion of this offering, Fifth Third Bank will continue to have a warrant to purchase Class B units of Vantiv Holding or shares of Class A common stock at an exercise

price of approximately $ per unit or share, as applicable, subject to customary anti-dilution adjustments. Following this offering, the warrant will be (x) freely transferable and (y) freely exercisable for Class B units of Vantiv Holding or Class A common stock subject to (i) the receipt of a private ruling issued from the IRS stating that the exercise of the warrant will not cause a capital shift that causes a taxable event for the Vantiv Holding unitholders, (ii) final U.S. income tax regulations are enacted to clarify that no capital shift that causes a taxable event for Vantiv Holdings unitholders would be caused upon exercise of the warrant, or (iii) Fifth Third Bank providing an indemnity to us equal to 70% for any taxes due caused by the exercise of the warrant (except in certain circumstances including a change of control of Vantiv, Inc.). The warrant expires upon the earliest to occur of (i) June 30, 2029 and (ii) a change of control of Vantiv, Inc. (as defined in the revised Warrant Agreement) where the price paid per unit in such change of control minus the exercise price of the warrant is less than zero. See "Certain Relationships and Related Person Transactions—Agreements Related to the Separation Transaction—Warrant."

Our post-offering organizational structure will allow the Fifth Third investors to retain equity ownership in Vantiv Holding, an entity that is classified as a partnership for U.S. federal income tax purposes, in the form of units. In addition, the Fifth Third investors from time to time may acquire an economic interest in Vantiv, Inc. by exercising their right and acquiring Class A common stock. The Class B common stock will give voting rights to the Fifth Third investors. To the extent that the Fifth Third investors hold more than 19.9% of the aggregate voting power of the outstanding common stock as a result of the ownership of Class A common stock and Class B common stock, the Fifth Third investors' voting power will be limited to 19.9%, other than in connection with a stockholder vote with respect to a change of control, in which event the Fifth Third investors will have the right to that number of votes equal to the number of shares of Class A common stock they would own if they had converted all of their Class B units of Vantiv Holding. Investors in this offering will, by contrast, hold their equity ownership in Vantiv, Inc., a Delaware corporation that is a domestic corporation for U.S. federal income tax purposes, in the form of shares of Class A common stock. Vantiv, Inc. and Fifth Third Bank will incur U.S. federal, state and local income taxes on their proportionate share of any taxable income of Vantiv Holding.

Vantiv, Inc. is a holding company and its principal assets are equity interests in Vantiv Holding and Transactive. As the majority unitholder of Vantiv Holding and the majority stockholder of Transactive, we will operate and control the business and affairs of Vantiv Holding and Transactive, subject to certain supermajority voting requirements in the Amended and Restated Vantiv Holding Limited Liability Company Agreement and the consent rights in the Vantiv, Inc. Stockholders' Agreement. We will conduct our business through Vantiv Holding, Transactive, and their respective operating subsidiaries.

In addition, pursuant to our amended and restated certificate of incorporation, the Exchange Agreement and the Amended and Restated Vantiv Holding Limited Liability Company Agreement, the capital structure of Vantiv, Inc. and Vantiv Holding will generally replicate one another and will provide for customary antidilution mechanisms in order to maintain a one-for-one ratio between the Class B units of Vantiv Holding and the Vantiv Class A common stock, among other things. See "Description of Capital Stock—Common Stock," "Description of Capital Stock—Vantiv Holding" and "—Reorganization and Offering Transactions—Exchange Agreement."

Pursuant to the Amended and Restated Vantiv Holding Limited Liability Company Agreement in effect at the time of this offering, we will determine when distributions will be made to unitholders of Vantiv Holding and the amount of any such distributions, subject to certain supermajority voting requirements set forth in the Amended and Restated Vantiv Holding Limited Liability Company Agreement. If a distribution is authorized, such distribution, other than with respect to certain tax distributions, will be made to the unitholders of Vantiv Holding pro rata in accordance with the percentages of their respective limited liability company interests.

The unitholders of Vantiv Holding, including Vantiv, Inc. will incur U.S. federal, state and local income taxes on their proportionate share of any taxable income of Vantiv Holding. Net profits and net losses of Vantiv Holding will generally be allocated to its unitholders (including Vantiv, Inc.) pro rata in accordance with the percentages of their respective limited liability company interests. The Amended and Restated Vantiv Holding Limited Liability Company Agreement will provide for cash distributions, which we refer to as "tax distributions," to the holders of its units if Vantiv, Inc., as the majority unitholder of Vantiv Holding, determines that the taxable income of Vantiv Holding allocated to the relevant unitholder will give rise to taxable income for such holder. Generally, these tax distributions will be computed based on an estimate of the net taxable income of Vantiv Holding allocable to a holder of its units multiplied by an assumed tax rate equal to the highest effective marginal combined U.S. federal, state or local income tax rate prescribed for a corporate resident in New York, New York (taking into account the nondeductibility of certain expenses and the character of our income). Tax distributions will be made only to the extent all distributions from Vantiv Holding for the relevant year were insufficient to cover such tax liabilities and, other than distributions made pursuant to the tax receivable agreements, are subject to certain supermajority voting rights set forth in the Amended and Restated Vantiv Holding Limited Liability Company Agreement.

The Amended and Restated Vantiv Holding Limited Liability Company Agreement will also provide that substantially all expenses incurred by or attributable to Vantiv, Inc. (such as expenses incurred in connection with this offering, including expenses of each class of unitholder), but not including obligations incurred under the tax receivable agreements by Vantiv, Inc., income tax expenses of Vantiv, Inc. and payments on indebtedness incurred by Vantiv, Inc., will be borne by Vantiv Holding.

***Exchange Agreement***

We and the Fifth Third investors will enter into an exchange agreement, or the Exchange Agreement, under which the Fifth Third investors (or certain permitted transferees thereof) will have the right, subject to the terms of the Exchange Agreement, from time to time to exchange their Class B units in Vantiv Holding for shares of our Class A common stock or, at the option of Vantiv Holding, cash.

***Vantiv, Inc. Stockholders' Agreement***

In connection with the reorganization transactions and the offering, the stockholders of Vantiv, Inc. will enter into a stockholder's agreement which will require Fifth Third Bank's consent for certain significant matters, including but not limited to: subject to certain exceptions, (a) a change of control of Vantiv, Inc. until June 30, 2012 (and thereafter to the extent the implied equity value of Vantiv, Inc. is significantly lower than as of the date thereof below certain thresholds); (b) sales of assets in excess of $100 million; (c) acquisitions or entity investments in excess of $175 million; (d) retention, termination or replacement of Vantiv, Inc.'s auditor; (e) transactions with Advent or its affiliates if they are not on arm's-length terms or would require payments/incurrences of more than $1 million; (f) a material change to the strategic direction of Vantiv, Inc.; (g) incurrence of indebtedness in excess of $200 million; (h) changes to material terms of the Management Phantom Equity Plan; (i) changes to Vantiv Holding's credit facility; (j) capital expenditure contracts in excess of $25 million; (k) any distributions (subject to certain exceptions); (l) issuances of new securities constituting more than 20% of the value of all shares (excluding any shares issuable in connection with the warrant and phantom equity plan); (m) material tax elections; (n) submission of material tax returns; (o) changes to capitalization or organization of any subsidiary or any governance provisions of any subsidiary that would either circumvent the protections in the Vantiv, Inc. Stockholders' Agreement or materially and adversely affect any stockholder holding in excess of 15% of the shares outstanding in a manner differently or disproportionately than the other stockholders. Furthermore, consistent with the Amended and Restated Limited Liability Company Agreement of Vantiv Holding, we will be required to refrain from engaging in any business that would not be permissible for Fifth Third Bank or its

affiliates or that would reasonably require Fifth Third Bank or its affiliates to seek regulatory approval, whether under the BHC Act, Ohio law or other applicable federal or state law, without first providing notice to Fifth Third Bank and to use reasonable best efforts to assist Fifth Third Bank or its affiliates in obtaining such regulatory approval.

Upon the occurrence of a trigger event, which is defined as, (i) the transfer by Fifth Third Bank or its affiliates of at least 50% of their Class B units of Vantiv Holding (as of the date thereof), (ii) the acquisition of control of Fifth Third Bank or any of its parent companies by a competitor, (iii) either (y) a government entity acquires more than 20% of Fifth Third Bank or any of its parent companies or (x) a non-competitor acquires control of Fifth Third Bank or any of its parent companies and a certain number of Vantiv Holding board members are not appointed by Fifth Third Bank or its affiliates or (iv) Fifth Third Bank goes into bankruptcy, receivorship or conservatorship, the restrictions on the significant matters listed in (a), (c), (g) and (k) above will cease to be in effect.

Moreover, any sale, merger or other business combination will be structured so that the Fifth Third investors receive the same consideration for their units as holders of our Class A common stock receive for their shares, except that Fifth Third Bank will not be required to accept any equity securities (i) that it would not be permitted to hold under applicable banking laws, (ii) the ownership of which has been prohibited after Fifth Third Bank has sought regulatory approval, or (iii) that would cause Fifth Third Bank to be deemed to control any depository institution or depository institution holding company under the applicable banking law, including the BHC Act and the Federal Deposit Insurance Act.

***Tax Receivable Agreements***

Prior to the consummation of the offering, Vantiv, Inc. will enter into four tax receivable agreements with our existing investors. One tax receivable agreement will provide for the payment by us to the Fifth Third investors of 85% of the amount of cash savings, if any, in U.S. federal, state and local income tax that we actually realize as a result of the increases in tax basis that may result from the purchase of Vantiv Holding units from the Fifth Third investors or from the future exchange of units by the Fifth Third investors for cash or shares of our Class A common stock, as well as the tax benefits attributable to payments made under such tax receivable agreement, excluding in each case any tax benefits attributable to a deemed distribution to the Fifth Third investors as a result of a reduction of its share of Vantiv Holding's liabilities under Section 752 of the Code. Any actual increase in tax basis, as well as the amount and timing of any payments under the agreement, will vary depending upon a number of factors, including the timing of exchanges, the price of shares of our Class A common stock at the time of the exchange, the extent to which such exchanges are taxable, and the amount and timing of our income. The second of these tax receivable agreements will provide for the payment by us to Advent of 85% of the amount of cash savings, if any, in U.S. federal, state and local income tax that we actually realize as a result of our use of our tax attributes, as well as the tax benefits attributable to payments made under such tax receivable agreement. The third of these tax receivable agreements will provide for the payment by us to our existing investors of 85% of the amount of cash savings, if any, in U.S. federal, state and local income tax that NPC actually realizes as a result of its use of its NOLs and other tax attributes, as well as the tax benefits attributable to payments made under such tax receivable agreement, with any such payment being paid to Advent, the Fifth Third investors and JPDN according to their respective ownership interests in Vantiv Holding immediately prior to the reorganization transactions. The fourth of these tax receivable agreements will provide for the payment to JPDN of 85% of the amount of cash savings, if any, in U.S. federal, state and local income tax that we actually realize as a result in the increase in tax basis that may result from the Vantiv Holding units exchanged for our Class A common stock by JPDN, as well as the tax benefits attributable to payments made under such tax receivable agreement.

The payments we will be required to make under the tax receivable agreements could be substantial. Assuming no material changes in the relevant tax law, and that we earn sufficient taxable

income to realize all tax benefits that are subject to the tax receivable agreements, we expect future payments under the tax receivable agreements relating to the purchase by us of units in Vantiv Holding from existing members in connection with this offering and any of our tax attributes or NPC's NOLs and other tax attributes to aggregate $283 million and to range over the next 15 years from approximately $6.6 million to $28 million per year. Future payments to our existing investors in respect of subsequent exchanges would be in addition to these amounts and are expected to be substantial as well. The foregoing numbers are merely estimates, and the actual payments could differ materially. It is possible that future transactions or events, including changes in tax rates, could increase or decrease the actual tax benefits realized and the corresponding tax receivable agreement payments. There may be a material adverse effect on our liquidity if, as a result of timing discrepancies or otherwise, distributions to us by Vantiv Holding are not sufficient to permit us to make payments under the tax receivable agreements after we have paid taxes. The payments under the tax receivable agreements are not conditioned upon the continued ownership of us or Vantiv Holding by the other parties to that agreement.

***Management Phantom Equity Plan***

In connection with the separation transaction, Vantiv Holding established a Management Phantom Equity Plan whereby it entered into Phantom Unit Agreements granting certain members of management phantom units for both time and performance awards which vested either five years from the grant date or upon the occurrence of certain events, respectively. Upon amendment of the Management Phantom Equity Plan and upon consummation of the offering, a portion of the granted time awards will automatically vest and be converted into unrestricted shares of our Class A common stock and the remaining portion will be converted into restricted shares of Class A common stock which will continue to vest until five years from the date of the original grant, subject to the participant's continued service. Upon amendment and consummation of the offering, the performance awards will be converted to restricted shares of our Class A common stock which will vest over three years from the completion of this offering, subject to the participant's continued service. Under the Vantiv, Inc. Stockholders' Agreement and the Amended and Restated Vantiv Holding Limited Liability Company Agreement, any increase in the number of units issued or reserved for issuance under the phantom equity plan in excess of % of the fully-diluted units held by our existing investors on June 30, 2009, is subject to approval by Advent and Fifth Third Bank.

Certain of our named executive officers entered into Phantom Unit Agreements with Vantiv Holding. See "Executive and Director Compensation—Compensation Discussion and Analysis—2011 Compensation Determinations—Long Term Incentive Awards" for more information. Consequently, in connection with this offering, certain members of management will receive shares of unrestricted Class A common stock and shares of unvested restricted Class A common stock that will continue to vest in accordance with its terms, assuming an initial public offering price of $ per share, pursuant to their Phantom Unit Agreements with Vantiv Holding.

During 2010, Vantiv Holding granted 126,811 time awards and 63,406 performance awards, each at a base price of $11.00 per unit, under the Management Phantom Equity Plan to an operating partner of Advent International Corporation.

**Agreements Related to the Separation Transaction**

***Master Investment Agreement***

In connection with the separation transaction, on June 30, 2009, Fifth Third Bank, Fifth Third Financial, Vantiv, Inc. and Vantiv Holding and its wholly-owned subsidiary entered into the Master Investment Agreement and Fifth Third Bank sold a majority of the limited partnership interests in Vantiv Holding and Fifth Third Financial sold a majority of the common stock of Transactive to Vantiv, Inc. for a combination of cash and a warrant. Following the separation transaction, Vantiv, Inc. held approximately 50.93% and Fifth Third Bank and Fifth Third Financial retained approximately 49% of

the equity interests in Vantiv Holding and Transactive, respectively. Fifth Third Bank received distributions totaling $2.8 million, $26.1 million and $17.8 million, respectively, during the six months ended June 30, 2011, the year ended December 31, 2010 and the six months ended December 31, 2009. Vantiv, Inc. received distributions totaling $2.9 million, $27.1 million and $18.6 million, respectively, during the six months ended June 30, 2011, the year ended December 31, 2010 and the six months ended December 31, 2009.

Pursuant to the Amended and Restated Vantiv Holding Limited Liability Company Agreement, funds managed by Advent International Corporation received put rights, exercisable by Vantiv, Inc. under certain circumstances, that if exercised obligates Fifth Third Bank to repurchase Advent's acquired interest in Vantiv Holding and Fifth Third Financial to repurchase Advent's acquired interest in Transactive. The only put event remaining is if prior to October 31, 2013, a "competitor change of control" (as defined in the Vantiv Holding LLC Agreement) occurs at Fifth Third Bank. The put rights will terminate in connection with this offering. At the time of the separation transaction, the put rights were valued at $14.2 million. As time lapses and the probabilities of the occurrence of the events triggering the put rights change, the value of the put rights changes, accordingly, the put rights were valued at $0.7 million at June 30, 2011.

***Warrant***

In connection with the Master Investment Agreement, Fifth Third Bank received a warrant on June 30, 2009 to purchase units in Vantiv Holding at an exercise price of approximately $ per unit. Following this offering, the warrant will be (x) freely transferable and (y) freely exercisable for Class B units of Vantiv Holding or Class A common stock subject to (i) the receipt of a private ruling issued from the IRS stating that the exercise of the warrant will not cause a capital shift that causes a taxable event for Vantiv Holdings unitholders, (ii) final U.S. income tax regulations are enacted to clarify that no capital shift that causes a taxable event for Vantiv Holdings unitholders would be caused upon exercise of the warrant, or (iii) Fifth Third Bank providing an indemnity to us equal to 70% for any taxes due caused by a capital shift that may be caused by the exercise of the warrant (except in certain circumstances including a change of control of Vantiv, Inc.). The warrant expires upon the earliest to occur of (i) June 30, 2029 and (ii) a change of control of Vantiv, Inc. (as defined in the revised Warrant Agreement) where the price paid per unit in such change of control minus the exercise price of the warrant in less than zero. Securities issued upon exercise of the warrant will provide registration rights to Fifth Third Bank or any transferee.

***JPDN Stock Purchase Agreement and Loan to Charles D. Drucker***

Pursuant to a stock purchase agreement, dated as of June 29, 2009, JPDN Enterprises, LLC, an affiliate of Charles D. Drucker, our chief executive officer, purchased 69,545 Class A units and 66,818 Class B units, representing collectively 0.14% of Vantiv Holding, LLC for $1.5 million from Fifth Third Bank.

In connection with the separation transaction, Vantiv Holding loaned $1.5 million to Charles D. Drucker to contribute to JPDN in order for it to make the purchase described above. In 2009, this loan was forgiven, and the related income taxes of approximately $1.4 million were paid on behalf of Mr. Drucker by Vantiv Holding.

***Stock Transfer Agreement***

On June 30, 2009, funds managed by Advent International Corporation and Vantiv, Inc. entered into a stock transfer agreement to transfer 3,049 shares of common stock in Vantiv, Inc. and $2.3 million from the Advent funds to Pamela Patsley, a member of the board of directors of Vantiv Holding, in satisfaction of any success fees owed to her with respect to the separation transaction. In a side letter dated the same day, Ms. Patsley agreed to vote, transfer and take all other actions with

respect to her shares of Vantiv, Inc. in the same manner and proportion, and subject to the same terms and conditions as Advent and granted Advent an irrevocable proxy with respect to her shares.

***Vantiv Holding Limited Liability Company Agreement***

In connection with the separation transaction, Vantiv Holding entered into an amended and restated limited liability company agreement which provided for the issuance of Class A units and Class B units and Class C non-voting units. Pursuant to the Amended and Restated Vantiv Holding Limited Liability Company Agreement the board of directors of Vantiv Holding consisted of nine directors, five of whom are appointed by Class A unitholders and four of whom were appointed by Class B unitholders, provided that Fifth Third Bank could appoint three directors, as long as it held at least 20% of the Class B units. Certain matters, such as a change of control, sales and acquisitions of assets of certain amounts, termination or replacement of auditors, issuance of new securities and incurrence of debt, among others, require a supermajority of seven directors for approval. The agreement also gave Vantiv Holding's members certain rights of preemption, rights of first offer, drag along rights and tag along rights, with respect to the transfer of units. In connection with this offering, this agreement will be amended and restated. See "Description of Capital Stock—Vantiv Holding." Certain covenants in the Amended and Restated Vantiv Holding Limited Liability Company Agreement require that Vantiv Holding refrain from engaging in any business that would reasonably require Fifth Third Bank to seek regulatory approval, whether under the BHC Act, Ohio law or other applicable law, without first providing notice to Fifth Third Bank and to use reasonable best efforts to assist Fifth Third Bank in obtaining such regulatory approval.

***Registration Rights Agreement***

In connection with the separation transaction and pursuant to the Amended and Restated Vantiv Holding Limited Liability Company Agreement, registration rights were granted to all of its limited liability company members, which included Vantiv, Inc. and Fifth Third Bank. Under the terms of the Registration Rights Agreement, Vantiv Holding, among other things, agreed to use its best efforts to effect registered offerings upon request from the members and to grant incidental or "piggyback" registration rights with respect to any registrable securities held by the members.

The obligation to effect any demand for registration by the members was subject to certain conditions, including that (i) more than two demand registrations on a Form S-1 on behalf of the funds managed by Advent International Corporation, (ii) more than two demand registrations on Form S-1 on behalf of the other limited liability company members as a group, (iii) more than two demand registrations per calendar year (including any demand leading to an IPO), (iv) any demand registration if we have registered the subject securities in the 90 days preceding such demand and (v) any demand registration unless the anticipated aggregate market value of the offered securities is at least of $75 million need not be effected. In connection with any registration effected pursuant to the terms of the registration rights agreement, Vantiv Holding was required to pay for all of the fees and expenses incurred in connection with such registration, including registration fees, filing fees and printing fees. However, the underwriting discounts and selling commissions payable in respect of registrable securities included in any registration were to be paid by the persons including such registrable securities in any such registration. Vantiv Holding also agreed to indemnify the holders of registrable securities against all claims, losses, damages and liabilities with respect to each registration effected pursuant to the registration rights agreement.

In connection with this offering, the registration rights agreement will be terminated and Vantiv, Inc. will enter into a new registration rights agreement with the funds managed by Advent International Corporation and Fifth Third Bank with substantially the same terms as the registration rights agreement described above, with any changes necessary to reflect that Vantiv, Inc. is making this offering and not Vantiv Holding.

***Transition Services Agreement***

In connection with the separation transaction, Vantiv Holding entered into a Transition Services Agreement, or TSA, with Fifth Third Bank covering certain transition services required to support us as a stand-alone entity during the period following the separation transaction. These services involved IT services, back-office support, employee related services, product development, risk management, legal, accounting and general business resources. As of June 30, 2011 and December 31, 2010 and 2009, the amount due for services provided by Fifth Third Bank under the TSA was approximately $5.5 million, $9.0 million and $25.4 million, respectively.

Expenses related to these services were $17.4 million, $51.3 million and $76.9 million, respectively, for the six months ended June 30, 2011, the year ended December 31, 2010 and the six months ended December 31, 2009. Services provided by Fifth Third Bank under the transition services agreements include the following:

- *IT Services.* Fifth Third Bank provided information technology services to us, including information security services, network/provisioning services, end-user services, operating systems management, telecom services, and command center operations. In addition, Fifth Third Bank provided us with comparable access to, and usage of, Fifth Third Bank's hardware and software assets located in Fifth Third Bank's data centers. Furthermore, Fifth Third Bank provided us access and support services related to the online interactive system for reporting, reconciliation, interfacing and exception processing. Our costs for these services for the six months ended June 30, 2011, the year ended December 31, 2010 and the six months ended December 31, 2009 were $14.1 million, $43.5 million and $22.8 million, respectively.

- *Back-Office Support Services.* Fifth Third Bank provided various back-office support services, which included a dedicated inbound call center for customer inquiries, card production support and mail/postage services. Our costs for these services for the six months ended June 30, 2011, the year ended December 31, 2010 and the six months ended December 31, 2009 were $2.9 million, $6.9 million and $3.1 million, respectively.

- *Employee Related Services.* For the six months ended December 31, 2009, Fifth Third Bank provided employee related services, which included benefits administration services, compensation management services, incentive compensation administration, and training, learning and development services for our personnel. Furthermore, included within these services was an employment arrangement under which employees associated with the electronic payment processing business remained employees of Fifth Third Bank and were allocated back to us. This arrangement extended through December 31, 2009, at which point such employees were terminated by Fifth Third Bank and immediately hired by us. Costs for these services for the six month period ended December 31, 2009 were $50.7 million.

- *Other Services.* Fifth Third Bank provided various other services such as tax, accounting and internal audit services. Costs for these services for the six months ended June 30, 2011, the year ended December 31, 2010 and the six months ended December 31, 2009 were $0.3 million, $0.9 million and $0.3 million, respectively.

The TSA is expected to terminate on or before December 31, 2011.

***FTPS Deferred Compensation Transition Plans***

In connection with the separation transaction, Fifth Third Bank agreed to pre-fund certain deferred compensation payments to its former employees who became our employees. Fifth Third Bank paid us a lump sum of $0.5 million in respect of all unvested and unpaid awards granted prior to the separation transaction to its former employees who became our employees.

**Business Arrangements with Fifth Third Bank and Fifth Third Bancorp**

***Clearing, Settlement and Sponsorship Agreement and Treasury Management Agreement***

On June 30, 2009, Vantiv Holding entered into a Clearing, Settlement and Sponsorship Agreement with Fifth Third Bank. Fifth Third Bank acts as our member "sponsor" to the Visa, MasterCard and other payment network associations because non-financial institutions (such as payment processors, independent sales organizations, third party service providers, merchants, non-member financial institutions) must obtain the "sponsorship" of a member bank in order to participate. Under this agreement Fifth Third Bank transfers the responsibility for all card association requirements and fees to us as a "sponsored participant." Fifth Third Bank is the primary provider of our payment network sponsorship. This agreement has a term of 10 years and terminates in June 2019.

On June 30, 2009, Vantiv Holding and Fifth Third Bank entered into the Treasury Management Agreement which provides for our use of Fifth Third Treasury Management services. Services available under this agreement include, depository services, automated clearing house services, wire transfers and lockbox accounts.

Expenses associated with these services totaled $0.8 million, $1.3 million and $0.5 million for the six months ended June 30, 2011, the year ended December 31, 2010 and the six months ended December 31, 2009, respectively. Interest income on accounts held at Fifth Third Bank during the six months ended June 30, 2011, the year ended December 31, 2010 and the six months ended December 31, 2009 and June 30, 2009 was approximately $0.3 million, $1.0 million, $0.7 million and $0.1 million, respectively.

***Master Lease Agreement/Master Sublease Agreement***

On July 1, 2009, Vantiv Holding entered into a five-year Master Lease Agreement and a five-year Master Sublease Agreement with Fifth Third Bank and certain of its affiliates for the lease or sublease of a number of office and/or data center locations. Related party rent expense was approximately $3.3 million, $6.5 million and $3.2 million, respectively, for the six months ended June 30, 2011, the year ended December 31, 2010 and the six months ended December 31, 2009. In the past, we have paid approximately $0.6 million in rent per month under this agreement, however, that number is expected to be substantially reduced beginning in February of 2012 as a result of our exercise of termination rights, purchase and relocation to our new corporate headquarters and use of other non-Fifth Third Bank owned or leased space this year.

***Referral Agreement***

On June 30, 2009, Vantiv Holding entered into an exclusive referral arrangement with Fifth Third Bancorp. Commercial and retail merchant clients of Fifth Third Bancorp and its subsidiary depository institutions that request merchant (credit or debit card) acceptance services are referred exclusively to us. In return for these referrals and the resulting merchant relationships, we make ongoing incentive payments to Fifth Third Bancorp. The agreement also provides for our referral of prospective banking clients to Fifth Third Bank, in return for certain incentive payments. This agreement terminates in June 2019. Costs associated with this agreement totaled $0.1 million, $0.2 million and $0.1 million for the six months ended June 30, 2011, the year ended December 31, 2010 and the six months ended December 31, 2009, respectively.

***Services Agreements***

On June 30, 2009, Vantiv Holding entered into a Master Services Agreement with Fifth Third Bancorp and agreed to provide Fifth Third Bancorp and its subsidiary depository institutions with various electronic fund transfer, or EFT, services including debit card processing and ATM terminal driving services. This is an exclusive agreement which terminates June 2019. On January 7, 2003, a services agreement with Fifth Third Bank was entered into for the provision of certain card and check

processing services. The agreement had an initial term of three years with successive one year renewal periods thereafter. Revenue, including network fees and other, pursuant to these agreements was approximately $34.6 million, $63.1 million and $58.4 million for the six months ended June 30, 2011, the year ended December 31, 2010 and the year ended December 31, 2009, respectively.

**Agreements with Advent**

In connection with the separation transaction, on June 30, 2009, Vantiv Holding entered into a management agreement with Advent for management services including consulting and business development services related to sales and marketing activities, acquisition strategies, financial and treasury requirements and strategic planning. We were required to pay Advent $0.5 million the first year and $1.0 million annually thereafter. The fee is payable in full at the beginning of each year and is not subject to proration if the contract is terminated prior to year end. Accordingly we paid Advent $0.5 million in 2009 and $1.0 million in each of 2010 and 2011. This agreement terminates upon the effectiveness of the registration statement of which this prospectus forms a part.

**Senior Secured Credit Facilities**

On November 3, 2010, we entered into two senior secured credit facilities with a syndicate of banks in order to refinance our debt that was held entirely by Fifth Third Bank, which was assumed in connection with the separation transaction, and to fund the acquisition of NPC. Although Fifth Third Bank remained a lender under the senior secured credit facilities, indebtedness to Fifth Third Bank declined to $381.3 million as of December 31, 2010 from $1.2 billion at December 31, 2009 and our line of credit with Fifth Third Bank was reduced to $50 million as of December 31, 2010 from $125 million as of December 31, 2009. Fifth Third Bank recognized $4.0 million in syndication and other fees in 2010 associated with the senior secured credit facilities. On May 17, 2011, we refinanced the senior secured credit facilities with a substantially similar first lien credit facility, with the primary difference between the new first lien senior secured credit facilities and the original senior secured credit facilities being the combination of the first and second lien facilities to solely first lien facilities secured by substantially all the capital stock (subject to a 65% limitation on pledges of capital stock of foreign subsidiaries and domestic holding companies of foreign subsidiaries) and personal property of the borrower and any obligors as well as any real property in excess of $5 million in the aggregate held by the borrower or any obligors (other than Vantiv Holding), subject to certain exceptions. For the six months ended June 30, 2011, the year ended December 31, 2010 and the six months ended December 31, 2009 and June 30, 2009, interest expense associated with these arrangements was $10.1 million, $101.6 million, $59.7 million and $9.8 million, respectively, and commitment fees were $0.1 million, $0.6 million, $0.3 million and $25,000, respectively. No such fees were incurred during the year ended December 31, 2008.

At June 30, 2011, Fifth Third Bank held approximately 21% of our senior credit facilities. Additionally, a $1.5 million letter of credit issued by Fifth Third Bank was outstanding as of June 30, 2011. For further information regarding our credit facilities, see "Description of Certain Indebtedness."

**Interest Rate Swap**

In connection with our senior secured credit facilities, we entered into an interest rate swap agreement with Fifth Third Bank effective January 11, 2011. In connection with our debt refinancing, on May 19, 2011, we amended our interest rate swap agreement to more closely align with the terms of the refinanced debt. Under the interest rate swap agreement, we pay interest at 2.49% and receive the greater of 1.25% and the three-month LIBOR on the notional principal amount of $687.5 million until November 19, 2015. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Credit Facilities—Interest Rate Swaps."

**Transactions Prior to the Separation Transaction**

Prior to the separation transaction, Fifth Third Bank performed a number of functions on a centralized basis, including information technology, operational, administrative and interest rate management. The costs associated with these functions were allocated based on the following:

- *Shared Services Allocations.* Fifth Third Bank provided administrative support, including administrative and support staff and certain corporate overhead. Certain of these administrative support expenses were directly attributable to our predecessor's activities and were, therefore, fully allocated to our predecessor. Allocated expenses associated with these services were $13.3 million and $27.9 million for the six months ended June 30, 2009 and the year ended December 31, 2008, respectively.

- *IT Allocations.* Fifth Third Bank provided IT support, processing services and technology solutions. Allocated expenses associated with these services were $32.9 million and $70.1 million for the six months ended June 30, 2009 and the year ended December 31, 2008, respectively.

- *Centralized Operations Allocations.* Fifth Third Bank provided centralized operations including cash deposits and orders and customer service support. Allocated expenses associated with these services were $6.8 million and $16.9 million for the six months ended June 30, 2009 and the year ended December 31, 2008, respectively.

- *Funds Transfer Pricing.* Fifth Third Bank managed interest rate risk centrally at the corporate level by employing a funds transfer pricing, or FTP, methodology. The FTP methodology assigned charge rates and credit rates to classes of assets and liabilities, respectively. Allocated expenses associated with these services were $0.1 million and $5.6 million for the six months ended June 30, 2009 and the year ended December 31, 2008, respectively.

As described above, subsequent to the separation transaction on June 1, 2009, Fifth Third Bank continued to perform various functions for us. As such, certain expenses historically recorded as allocated expenses were recorded as direct expenses for the period from June 1, 2009 through June 30, 2009. Such expenses during June 2009 were approximately $6.4 million. Rent was also paid to Fifth Third Bank during June 2009 of approximately $0.6 million.

**Transactions of Securities**

On June 30, 2009, we issued and sold 509,305 shares of our common stock to certain funds managed by Advent International Corporation for approximately $1,134.86 per share.

**Board Compensation**

Upon the consummation of this offering, directors who are our employees or employees of our subsidiaries or affiliated with Fifth Third Bank or Advent will receive no compensation for their service as members of either our board of directors or the board of directors of Vantiv Holding.

**Employment Agreements**

We have entered into an employment agreement with Mr. Drucker and an offer letter with Mr. Heimbouch. For more information regarding these agreements, see "Executive and Director Compensation—Employment Agreements" and "Executive and Director Compensation—Potential Payments Upon Termination or Change of Control."

**Indemnification Agreements**

We intend to enter into indemnification agreements with each of our directors and executive officers. These agreements, among other things, require us to indemnify each director and executive

officer to the fullest extent permitted by Delaware law, including indemnification of expenses such as attorneys' fees, judgments, fines and settlement amounts incurred by the director or executive officer in any action or proceeding, including any action or proceeding by or in right of us, arising out of the person's services as a director or executive officer.

**Policies for Approval of Related Person Transactions**

In connection with this offering, we will adopt a written policy relating to the approval of related person transactions. Our audit committee will review and approve or ratify all relationships and related person transactions between us and (i) our directors, director nominees, executive officers or their immediate family members, (ii) any 5% record or beneficial owner of our common stock or (iii) any immediate family member of any person specified in (i) and (ii) above. Our compliance director will be primarily responsible for the development and implementation of processes and controls to obtain information from our directors and executive officers with respect to related party transactions and for determining, based on the facts and circumstances, whether we or a related person have a direct or indirect material interest in the transaction.

As set forth in the related person transaction policy, in the course of its review and approval or ratification of a related party transaction, the committee will consider:

- the nature of the related person's interest in the transaction;
- the availability of other sources of comparable products or services;
- the material terms of the transaction, including, without limitation, the amount and type of transaction; and
- the importance of the transaction to us.

Any member of the audit committee who is a related person with respect to a transaction under review will not be permitted to participate in the discussions or approval or ratification of the transaction. However, such member of the audit committee will provide all material information concerning the transaction to the audit committee.

## PRINCIPAL AND SELLING STOCKHOLDERS

The following table shows information regarding the beneficial ownership of our Class A and Class B common stock (1) immediately following the reorganization transactions, but prior to this offering and (2) as adjusted to give effect to the reorganization transactions and this offering by:

- each person or group who is known by us to own beneficially more than 5% of our common stock;
- each member of our board of directors and each of our named executive officers;
- all members of our board of directors and our executive officers as a group; and
- the selling stockholders.

For further information regarding material transactions between us and our selling stockholders, see "Certain Relationships and Related Person Transactions."

Beneficial ownership of shares is determined under rules of the SEC and generally includes any shares over which a person exercises sole or shared voting or investment power. Except as indicated by footnote, and subject to community property laws where applicable, we believe based on the information provided to us that the persons and entities named in the table below have sole voting and investment power with respect to all shares of our Class A and Class B common stock shown as beneficially owned by them. Percentage of beneficial ownership is based on shares of Class A and Class B common stock outstanding prior to the offering and shares of Class A and Class B common stock to be outstanding after the completion of this offering, assuming no exercise of the underwriters' option to purchase additional shares or shares, assuming full exercise of the underwriters' option to purchase additional shares. Shares of Class A common stock subject to options or warrants currently exercisable or exercisable within 60 days of the date of this prospectus are deemed to be outstanding and beneficially owned by the person holding the options or warrants for the purpose of computing the percentage of beneficial ownership of that person and any group of which that person is a member, but are not deemed outstanding for the purpose of computing the percentage of beneficial ownership for any other person. Except as otherwise indicated, the persons named in the table below have sole voting and investment power with respect to all shares

of capital stock held by them. Unless otherwise indicated, the address for each holder listed below is Vantiv, Inc., 8500 Governor's Hill Drive, Symmes Township, Ohio 45249.

| | Shares Beneficially Owned Before this Offering | | | | | Shares Beneficially Owned After this Offering | | | | Class A Shares Beneficially Owned After this Offering Assuming Full Exercise of the Underwriters' Option to Purchase Additional Shares | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Number of Shares | | Percentage | | Class A Shares Offered | Number of Shares | | Percentage | | Number of Shares | Percentage |
| **Name of Beneficial Owner** | **Class A** | **Class B** | **Class A** | **Class B** | | **Class A** | **Class B** | **Class A** | **Class B** | | |
| **5% Stockholders:** | | | | | | | | | | | |
| Funds managed by Advent International Corporation(1) | | | | | | | | | | | |
| Fifth Third Bancorp(2) | | | | | | | | | | | |
| **Named Executive Officers and Directors:** | | | | | | | | | | | |
| Charles D. Drucker(3) | | | | | | | | | | | |
| Mark L. Heimbouch | | | | | | | | | | | |
| Directors and Executive Officers as a group | | | | | | | | | | | |

(1) The funds managed by Advent International Corporation own 99.4% of Vantiv, Inc., prior to this offering, which in turn owns approximately 50.9% of Vantiv Holding, LLC. This 50.9% indirect ownership consists of shares held by Advent International GPE VI Limited Partnership, shares held by Advent GPE VI FT Co-Investment Limited Partnership, shares held by Advent International GPE VI-A Limited Partnership, shares held by Advent International GPE VI-B Limited Partnership, shares held by Advent International GPE VI-C Limited Partnership, shares held by Advent International GPE VI-D Limited Partnership, shares held by Advent International GPE VI-E Limited Partnership, shares held by Advent International GPE VI-F Limited Partnership, shares held by Advent International GPE VI-G Limited Partnership, shares held by Advent Partners GPE VI 2008 Limited Partnership, shares held by Advent Partners GPE VI 2009 Limited Partnership and shares held by Advent Partners GPE VI-A Limited Partnership. In this offering, each of the funds managed by Advent International Corporation will sell the following number of shares of common stock: Advent International GPE VI Limited Partnership, ; Advent GPE VI FT Co-Investment Limited Partnership, ; Advent International GPE VI-A Limited Partnership, ; Advent International GPE VI-B Limited Partnership, ; Advent International GPE VI-C Limited Partnership, ; Advent International GPE VI-D Limited Partnership, ; Advent International GPE VI-E Limited Partnership, ; Advent International GPE VI-F Limited Partnership, ; Advent International GPE VI-G Limited Partnership, ; and Advent Partners GPE VI 2008 Limited Partnership, ; Advent Partners GPE VI 2009 Limited Partnership, ; Advent Partners GPE VI -A Limited Partnership, . Advent International Corporation is the manager of Advent International LLC, which is the general partner of: Advent Partners GPE VI 2008 Limited Partnership; Advent Partners GPE VI 2009 Limited Partnership; Advent Partners GPE VI -A Limited Partnership; GPE VI FT Co-Investment GP Limited Partnership; GPE VI GP Limited Partnerships and GPE VI GP (Delaware) Limited Partnerships. GPE VI FT Co-Investment GP Limited Partnership is the general partner of GPE VI GP Limited Partnership. GPE VI GP Limited Partnership is the general partner of: Advent International GPE VI Limited Partnership; Advent International GPE VI-A Limited Partnership; Advent International GPE VI-B Limited Partnership; Advent International GPE VI-F Limited Partnership; and Advent International GPE VI-G Limited Partnership. GPE VI GP (Delaware) Limited Partnerships is the general partner of: Advent International GPE VI-C Limited Partnership; Advent International GPE VI-D Limited Partnership; and Advent International GPE VI-E Limited Partnership. Advent International Corporation exercises voting and investment power over the shares held by each of these entities and may be deemed to have beneficial ownership of these shares. With respect to the shares of our common stock held by funds managed by Advent International Corporation, a group of individuals currently composed of Ernest G. Bachrach, David M. Mussafer and Steven M. Tadler exercise voting and investment power over the shares beneficially owned by Advent International Corporation. Each of Mr. Bachrach, Mr. Mussafer and Mr. Tadler disclaims beneficial ownership of the shares held by funds managed by Advent International Corporation, except to the extent of their respective pecuniary interest therein. In addition, a director of Vantiv Holding owns 0.6% of Vantiv, Inc. Through a written agreement with this director Advent International Corporation has sole voting and investment power over these shares. The address of Advent International Corporation and each of the funds listed above is c/o Advent International Corporation, 75 State Street, Boston, MA 02109.

(2) Fifth Third Bank, a wholly owned indirect subsidiary of Fifth Third Bancorp, holds Class B units of Vantiv Holding, and FTPS Partners, LLC, a wholly owned subsidiary of Fifth Third Bank, holds Class B units of Vantiv Holding. These Class B units of Vantiv Holding are exchangeable for shares of Class A common stock on a one-for-one basis at the option of Fifth Third Bank and are represented in this table as shares of Class A common stock. The Fifth Third investors will also receive one share of Class B common stock for each Class B unit of Vantiv Holding that they hold upon the consummation of this offering and the coincident redemption of certain Class B units of Vantiv Holding. The Fifth Third investors are limited by the terms of the Class B common stock from exercising more than 19.9% of the aggregate voting power of our common stock through their ownership of Class A and Class B common stock (other than in a change of control), but this does not limit the amount of Class A common stock that the Fifth Third investors may acquire. The address of Fifth Third Bancorp, Fifth Third Bank and FTPS Partners, LLC is 38 Fountain Square Plaza, Cincinnati, Ohio 45263.

(3) Includes shares held by JPDN for which Mr. Drucker exercises sole voting and investment power.

## DESCRIPTION OF CERTAIN INDEBTEDNESS

### Senior Secured Credit Facilities

In connection with the separation transaction, we assumed a $1.3 billion senior secured note due to Fifth Third Bank. On November 3, 2010, we entered into a first lien and a second lien senior secured credit facility with a syndicate of banks to refinance the debt held by Fifth Third Bank and to fund the acquisition of NPC. On May 17, 2011, Vantiv Holding refinanced the first and second lien senior secured credit facilities. As of June 30, 2011, our senior credit facilities consisted of $1.6 billion in term B-1 loans, $150.0 million in term B-2 loans and a $150.0 million revolving credit facility. The $150.0 million revolving credit facility includes a $50.0 million swing line facility and $40.0 million available for the issuance of letters of credit. As of June 30, 2011, there was one letter of credit outstanding totaling $1.5 million, which expired on July 1, 2011. The term B-1 loans and term B-2 loans mature in November 2016 and November 2017, respectively. The revolving credit facility matures in November 2015. Additionally, we may incur up to $350.0 million of additional debt pursuant to an incremental facility under our senior secured credit facilities, subject to certain terms and conditions.

The obligations under our senior secured credit facilities are unconditional and are guaranteed by Vantiv Holding and certain of our existing and subsequently acquired or organized domestic subsidiaries. The senior secured credit facilities and related guarantees are secured on a first-priority basis (subject to liens permitted under the loan agreement governing the senior secured credit facilities) in substantially all the capital stock (subject to a 65% limitation on pledges of capital stock of foreign subsidiaries and domestic holding companies of foreign subsidiaries) and personal property of the borrower and any obligors as well as any real property in excess of $5 million in the aggregate held by the borrower or any obligors (other than Vantiv Holding), subject to certain exceptions.

Interest on all loans under our senior secured credit facilities is payable quarterly. Borrowings under our senior credit facilities bear interest at a rate equal to, at our option, (1) in the case of term B-1 loans (i) LIBOR plus 325 basis points (with a floor of 125 basis points) or (ii) a base rate plus 225 basis points and (2) in the case of term B-2 loans, (i) LIBOR plus 350 basis points (with a floor of 150 basis points) or (ii) a base rate plus 250 basis points. Borrowings under our revolving credit facility accrue interest at rate equal to, at our option, a base rate or LIBOR plus an applicable margin. The applicable margin for loans under our revolving credit facility is based on our leverage ratio, ranging from 300 to 350 basis points in the case of LIBOR and 200 to 250 basis points in the case of the base rate. The term B-2 loans are non-amortizing, with principal repayment due at maturity. As of June 30, 2011, the weighted average interest rate under our senior secured credit facilities was 4.6%, before the effect of our interest rate swap.

Subject to certain conditions and exceptions, we may make voluntary prepayments on the term B-1 and term B-2 loans at any time without premium or penalty. We are generally required to prepay borrowings under the senior secured credit facilities with (1) 100% of the net proceeds we receive from the incurrence of debt obligations other than specified debt obligations, (2) 100% of the net proceeds we receive from specified asset sales or as a result of a casualty or condemnation, subject to reinvestment provisions, and (3) beginning in April 2012, 50% (or, if our leverage ratio is equal to or less than 3.75 to 1.00 and greater than 3.25 to 1.00, 25%) of excess cash flow (as defined in the loan agreement) reduced by the aggregate amount of term loans optionally prepaid during the applicable fiscal year. Under the loan agreement, we are not required to prepay borrowings with excess cash flow if our leverage ratio is less than or equal to 3.25 to 1.00. Any mandatory payments will be applied first to outstanding term B-1 and term B-2 loans on a pro rata basis until paid in full, then the revolving loans until paid in full and then to swing line loans. We intend to use our net proceeds from the shares that we sell in this offering to repay $ million of outstanding debt under our senior credit facilities credit facilities. See "Use of Proceeds."

The loan agreement requires us to maintain a maximum leverage ratio (based upon the ratio of total funded debt to consolidated EBITDA, as defined in the loan agreement) and a minimum interest coverage ratio (based upon the ratio of consolidated EBITDA to interest expense), which are tested quarterly based on the last four fiscal quarters. The required financial ratios become more restrictive over time, with the specific ratios required by period set forth in the following table:

| Period | Leverage Ratio | Interest Coverage Ratio |
|---|---|---|
| January 1, 2011 to June 30, 2011 | 5.50 to 1.00 | 2.50 to 1.00 |
| July 1, 2011 to June 30, 2012 | 5.25 to 1.00 | 2.50 to 1.00 |
| July 1, 2012 to June 30, 2013 | 4.75 to 1.00 | 2.75 to 1.00 |
| July 1, 2013 to June 30, 2014 | 3.75 to 1.00 | 3.00 to 1.00 |
| Thereafter | 3.00 to 1.00 | 3.25 to 1.00 |

As of June 30, 2011, we were in compliance with these covenants with a Leverage Ratio of 3.74 to 1.00 and an Interest Coverage Ratio of 3.77 to 1.00.

**Interest Rate Swaps**

In connection with our debt refinancing, on May 19, 2011, we amended our interest rate swap agreements to more closely align with the terms of the refinanced debt. We designated the amended interest rate swaps into new cash flow hedge relationships and discontinued hedge accounting on the original interest rate swaps. During the six months ended June 30, 2011, such derivatives were used to hedge the variable cash flows associated with our variable-rate debt. As of June 30, 2011, the interest rate swaps had a total notional value of $887.5 million that were designated as cash flow hedges of interest rate risk. Under our interest rate swap agreements, we pay interest at 2.49% and receive the greater of 1.25% or three-month LIBOR. The interest rate swap agreements expire on November 19, 2015.

## DESCRIPTION OF CAPITAL STOCK

*The following is a description of the material terms of our amended and restated certificate of incorporation and amended and restated bylaws as they will be in effect following the reorganization transactions and at the time of this offering. We refer you to our amended and restated certificate of incorporation and amended and restated bylaws, copies of which will be filed as exhibits to the registration statement of which this prospectus is a part.*

### Authorized Capitalization

At the time of this offering, our authorized capital stock will consist of (i) shares of Class A common stock, par value $0.01 per share, of which shares will be issued and outstanding, (ii) shares of Class B common stock, par value $0.01 per share, of which shares will be issued and outstanding and (iii) shares of preferred stock, par value $0.01 per share, none of which shall be outstanding.

### Common Stock

#### *Class A Common Stock*

*Dividend Rights*

Holders of Class A common stock will share equally in any dividend declared by our board of directors, subject to the rights of the holders of any outstanding preferred stock.

*Liquidation Rights*

In the event of any voluntary or involuntary liquidation, dissolution and winding up of our affairs, holders of our Class A common stock would be entitled to share ratably in our assets that are legally available for distribution to stockholders after payment of liabilities. If we have any preferred stock outstanding at such time, holders of the preferred stock may be entitled to distribution and/or liquidation preferences. In either such case, we must pay the applicable distribution to the holders of our preferred stock before we may pay distributions to the holders of our Class A common stock.

*Other Rights*

Our stockholders have no preemptive or other rights to subscribe for additional shares. All holders of our Class A common stock are entitled to share equally on a share-for-share basis in any assets available for distribution to Class A common stockholders upon our liquidation, dissolution or winding up. All outstanding shares are, and all shares offered by this prospectus will be, when sold, validly issued, fully paid and non-assessable.

#### *Class B Common Stock*

In connection with this offering, the Fifth Third investors will receive one share of Class B common stock for each Class B unit of Vantiv Holding that they hold upon the consummation of this offering. If a holder of our Class B common stock exchanges any of its Class B units in Vantiv Holding for shares of our Class A common stock, or if any such holder's Class B units are redeemed or repurchased by Vantiv Holding, the number of shares of our Class B common stock held by such holder that correspond to such Class B units will automatically be cancelled. In connection with a transfer of Class B units of Vantiv Holding, an equal number of shares of Class B common stock must be transferred to the transferee of the Class B units.

Holders of our Class B common stock will not have any right to receive dividends or to receive a distribution upon a liquidation or winding up of Vantiv, Inc.

***Voting Rights***

Directors will be elected by a plurality of the votes entitled to be cast. Our stockholders will not have cumulative voting rights. Except as otherwise provided in our amended and restated certificate of incorporation or as required by law, all matters to be voted on by our stockholders other than matters relating to the election and removal of directors which must be approved by a majority of the shares present in person or by proxy at the meeting and entitled to vote on the subject matter.

The Class A and Class B common stock will vote together as a single class in all matters, except that the Class B stock, voting as a separate class, will be entitled to elect a number of our directors equal to the percentage of the voting power of all of our outstanding common stock represented by the Class B common stock but not exceeding 19.9% of the board of directors as determined on a formulaic basis, and except as otherwise provided in our amended and restated certificate of incorporation or as required by law.

Each share of Class A stock will entitle the holder to one vote in all matters.

The aggregate beneficial ownership, including the voting power, of the Class A common stock and the Class B common stock that the Fifth Third investors hold will be limited to 19.9% other than in connection with a stockholder vote with respect to a change of control, in which event Fifth Third will have the right to that number of votes equal to the number of shares of Class A common stock it would own if it had converted all its Class B units of Vantiv Holding.

**Preferred Stock**

Our board of directors is authorized to provide for the issuance of preferred stock in one or more series and to fix the preferences, powers and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, including the dividend rate, conversion rights, voting rights, redemption rights and liquidation preference and to fix the number of shares to be included in any such series without any further vote or action by our stockholders. Any preferred stock so issued may rank senior to our common stock with respect to the payment of dividends or amounts upon liquidation, dissolution or winding up, or both. In addition, any such shares of preferred stock may have class or series voting rights. As of the date of this prospectus, there are no outstanding shares of preferred stock.

**Registration Rights**

Vantiv Holding unitholders have certain registration rights with respect to our equity interests pursuant to a registration rights agreement. For further information regarding this agreement, see "Certain Relationships and Related Person Transactions—Agreements Related to the Separation Transaction—Registration Rights Agreement."

In addition, in connection with the reorganization transactions, Vantiv, Inc. will enter into a registration rights agreement with certain of its stockholders with substantially the same terms as the registration rights agreement described above.

**Vantiv, Inc. Stockholders' Agreement**

In connection with the reorganization transactions and the offering, the stockholders of Vantiv, Inc. will enter into a stockholder's agreement which will require Fifth Third Bank's consent for certain significant matters, including but not limited to: subject to certain exceptions, (a) a change of control of Vantiv, Inc. until June 30, 2012 (and thereafter to the extent the implied equity value of Vantiv, Inc. is significantly lower than as of the date thereof, below certain thresholds); (b) sales of assets in excess of $100 million; (c) acquisitions or entity investments in excess of $175 million; (d) retention, termination or replacement of Vantiv, Inc.'s auditor; (e) transactions with Advent or its affiliates if they are not on arm's-length terms or would require payments/incurrences of more than $1 million; (f) a material

change to the strategic direction of Vantiv, Inc.; (g) incurrence of indebtedness in excess of $200 million; (h) changes to material terms of the Management Phantom Equity Plan; (i) changes to Vantiv Holding's credit facility; (j) capital expenditure contracts in excess of $25 million; (k) any distributions (subject to certain exceptions); (l) issuances of new securities constituting more than 20% of the value of all shares (excluding any shares issuable in connection with the warrant and phantom equity plan); (m) material tax elections; (n) submission of material tax returns; (o) changes to capitalization or organization of any subsidiary or any governance provisions of any subsidiary that would either circumvent the protections in the Vantiv, Inc. Stockholders' Agreement or materially and adversely affect any stockholder holding in excess of 15% of the shares outstanding in a manner differently or disproportionately than the other stockholder. Furthermore, consistent with the Amended and Restated Limited Liability Company Agreement of Vantiv Holding, we will be required to refrain from engaging in any business that would not be permissible for Fifth Third Bank or its affiliates or that would reasonably require Fifth Third Bank or its affiliates to seek regulatory approval, whether under the BHC Act, Ohio law or other applicable federal or state law, without first providing notice to Fifth Third Bank and to use reasonable best efforts to assist Fifth Third Bank or its affiliates in obtaining such regulatory approval.

Upon the occurrence of a trigger event, which is defined as, (i) the transfer by Fifth Third Bank or its affiliates of at least 50% of their Class B units of Vantiv Holding (as of the date thereof), (ii) the acquisition of control of Fifth Third Bank or any of its parent companies by a competitor, (iii) either (y) a government entity acquires more than 20% of Fifth Third Bank or any of its parent companies or (x) a non-competitor acquires control of Fifth Third Bank or any of its parent companies and a certain number of Vantiv Holding board members are not appointed by Fifth Third Bank or its affiliates or (iv) Fifth Third Bank goes into bankruptcy, receivorship or conservatorship, the restrictions on the significant matters listed in (a), (c), (g) and (k) above will cease to be in effect.

Moreover, any sale, merger or other business combination will be structured so that the Fifth Third investors receive the same consideration for their units as holders of our Class A common stock receive for their shares, except that Fifth Third Bank will not be required to accept any equity securities (i) that it would not be permitted to hold under applicable banking laws, (ii) the ownership of which has been prohibited after Fifth Third Bank has sought regulatory approval, or (iii) that would cause Fifth Third Bank to be deemed to control any depository institution or depository institution holding company under the applicable banking law, including the BHC Act and the Federal Deposit Insurance Act.

**Vantiv Holding**

Vantiv Holding's limited liability company agreement will be amended and restated to, among other things, modify its capital structure to provide for Class A units and Class B units with the Class A units held by Vantiv, Inc. and the Class B units held by the Fifth Third investors. Vantiv, Inc. will hold Class A units and will be the majority unitholder of Vantiv Holding and will operate and control Vantiv Holding, subject to the terms of the supermajority voting requirements and other provisions set forth in the Amended and Restated Vantiv Holding Limited Liability Company Agreement. The Fifth Third investors will hold Class B units, which will be exchangeable for shares of Class A common stock (on a one-for-one basis, subject to customary conversion rate adjustments) pursuant to the Exchange Agreement.

The Amended and Restated Vantiv Holding Limited Liability Company Agreement contains supermajority voting provisions that require the approval of seven of the nine directors of Vantiv Holding for specified matters similar to those provided for in the Vantiv, Inc. Stockholder Agreement, and will therefore require the approval of directors who are appointed by Fifth Third Bank.

Following this offering, the Fifth Third investors will have a right to put their Class B units of Vantiv Holding to Vantiv Holding at any time, limited to tranches of less than 20% of the outstanding

units of Vantiv Holding. There will be no limits on sequential puts so long as the units being put represent more than 2% of the aggregate Class A common stock, on a fully diluted basis, assuming all units of Vantiv Holding have converted. If units are being put to Vantiv Holding that represent less 2% of the aggregate Class A common stock, on a fully diluted basis, the put rights may only be exercised once per calendar quarter. If the Fifth Third investors choose to put their Class B units of Vantiv Holding, the put right may be satisfied by either Vantiv, Inc. issuing a share of our Class A common stock for each unit being put to Vantiv Holding or Vantiv Holding paying an amount in cash equal to the average trading price of our Class A common stock for the 15 trading days immediately prior to the date of the put.

Pursuant to the Amended and Restated Vantiv Holding Limited Liability Company Agreement, Vantiv Holding will determine when distributions will be made to unitholders of Vantiv Holding, including Vantiv, Inc., and the amount of any such distributions, subject to the supermajority voting requirements described above (other than with respect to tax distributions made pursuant to the Amended and Restated Vantiv Holding Limited Liability Company Agreement and the tax receivable agreements which are not subject to such supermajority voting requirements). If a distribution is authorized, such distribution will be made to the unitholders of Vantiv Holding pro rata in accordance with the percentages of their respective limited liability company interests.

Upon a change of control after this offering, we will have the rights to require the Fifth Third Investors to participate in the proposed transaction with respect to the units held by the Fifth Third investors if (i) the change of control is approved pursuant to the supermajority requirement described above or (ii) the change of control has been approved by the stockholders of Vantiv, Inc. in which the Fifth Third investors were eligible to vote their entire equity interest in Vantiv, Inc. on a fully diluted basis (without giving effect to the exercise of the warrant held by Fifth Third Bank).

The Amended and Restated Vantiv Holding Limited Liability Company Agreement will also provide that substantially all expenses incurred by or attributable to Vantiv, Inc. (such as expenses incurred in connection with this offering, including expenses of each class of unitholder), but not including obligations incurred under the tax receivable agreements by Vantiv, Inc., income tax expenses of Vantiv, Inc. and payments on indebtedness incurred by Vantiv, Inc., will be borne by Vantiv Holding.

**Transactive**

In connection with this offering, Transactive's certificate of incorporation will be amended and restated to, among other things, modify its capital structure to provide for Class A common stock and Class B common stock, with the Class A common stock held by Vantiv, Inc. and the Class B common stock held by Fifth Third Financial.

**Anti-Takeover Effects of the DGCL and Our Certificate of Incorporation and Bylaws**

Our amended and restated certificate of incorporation and amended and restated bylaws contain provisions that may delay, defer or discourage another party from acquiring control of us. We expect that these provisions, which are summarized below, will discourage coercive takeover practices or inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with our board of directors, which we believe may result in an improvement of the terms of any such acquisition in favor of our stockholders. However, they also give our board the power to discourage acquisitions that some stockholders may favor.

***Undesignated Preferred Stock***

The ability to authorize undesignated preferred stock will make it possible for our board of directors to issue preferred stock with super voting, special approval, dividend or other rights or preferences on a discriminatory basis that could impede the success of any attempt to acquire us. These

and other provisions may have the effect of deferring, delaying or discouraging hostile takeovers, or changes in control or management of our company.

***Requirements for Advance Notification of Stockholder Meetings, Nominations and Proposals***

Our amended and restated bylaws provide that special meetings of the stockholders may be called only upon the request of not less than a majority of the combined voting power of the voting stock, upon the request of a majority of the board, or upon the request of the chief executive officer. Our amended and restated bylaws prohibit the conduct of any business at a special meeting other than as specified in the notice for such meeting. These provisions may have the effect of deferring, delaying or discouraging hostile takeovers, or changes in control or management of our company.

Our amended and restated bylaws establish advance notice procedures with respect to stockholder proposals and the nomination of candidates for election as directors, other than nominations made by or at the direction of the board of directors or a committee of the board of directors. In order for any matter to be "properly brought" before a meeting, a stockholder will have to comply with advance notice requirements and provide us with certain information. Additionally, vacancies and newly created directorships may be filled only by a vote of a majority of the directors then in office, even though less than a quorum, and not by the stockholders. Our amended and restated certificate of incorporation provides that removal of a director without cause requires approval by at least 75% of shares of common stock entitled to vote. Our amended and restated bylaws allow the presiding officer at a meeting of the stockholders to adopt rules and regulations for the conduct of meetings which may have the effect of precluding the conduct of certain business at a meeting if the rules and regulations are not followed. These provisions may also defer, delay or discourage a potential acquirer from conducting a solicitation of proxies to elect the acquirer's own slate of directors or otherwise attempting to obtain control of our company.

***Stockholder Action by Written Consent***

Pursuant to Section 228 of the DGCL, any action required 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, is 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 of our stock entitled to vote thereon were present and voted, unless the company's certificate of incorporation provides otherwise. Our amended and restated certificate of incorporation provides that any action required or permitted to be taken by our stockholders may be effected at a duly called annual or special meeting of our stockholders and may not be effected by consent in writing by such stockholders, unless such action is recommended by all directors then in office.

***Business Combinations under Delaware Law***

Our amended and restated certificate of incorporation expressly states that we have elected not to be governed by Section 203 of the DGCL, which prohibits a publicly held Delaware corporation from engaging in a "business combination" with an "interested stockholder" for a period of three years after the time the stockholder became an interested stockholder, subject to certain exceptions, including if, prior to such time, the board of directors approved the business combination or the transaction which resulted in the stockholder becoming an interested stockholder. "Business combinations" include mergers, asset sales and other transactions resulting in a financial benefit to the "interested stockholder." If the underwriters were to fully exercise the underwriters' option to purchase additional shares of our common stock, the percentage of shares of our common stock held by existing stockholders who are directors, officers or affiliated persons would be %, and the percentage of shares of our common stock held by new investors would be %. Subject to various exceptions, an

"interested stockholder" is a person who, together with his or her affiliates and associates, owns, or within three years did own, 15% or more of the corporation's outstanding voting stock. These restrictions generally prohibit or delay the accomplishment of mergers or other takeover or change-in-control attempts that are not approved by a company's board of directors. Although we have elected to opt out of the statute's provisions, we could elect to be subject to Section 203 in the future.

**Corporate Opportunities**

Our amended and restated certificate of incorporation provides that directors appointed by the funds managed by Advent International Corporation or Fifth Third Bank do not have any obligation to offer us an opportunity to participate in business opportunities presented to Advent or Fifth Third Bank even if the opportunity is one that we might reasonably have pursued (and therefore may be free to compete with us in the same business or similar businesses), and that neither the funds managed by Advent International Corporation nor Fifth Third Bank will be liable to us or our stockholders for breach of any duty by reason of any such activities unless, in the case of any person who is a director or officer of our company, such business opportunity is expressly offered to such director or officer in writing solely in his or her capacity as an officer or director of our company.

**Listing**

We intend to apply to have our Class A common stock listed on the NYSE or Nasdaq under the symbol "      ."

**Transfer Agent and Registrar**

The transfer agent and registrar for our Class A common stock is          .

## SHARES ELIGIBLE FOR FUTURE SALE

Prior to this offering, there was no public market for our Class A common stock.

### Sale of Restricted Securities

Upon consummation of this offering, we will have shares of our Class A common stock outstanding. Of these shares, the shares sold in this offering (or shares, if the underwriters exercise their option in full) will be freely tradable without further restriction or registration under the Securities Act, except that any shares purchased by our affiliates may generally only be sold in compliance with Rule 144, which is described below. The remaining shares will be deemed "restricted securities" under the Securities Act.

In addition, upon consummation of this offering, the Fifth Third investors will hold shares of our Class B common stock and Class B units in Vantiv Holding. The Fifth Third investors will have the right to exchange their Class B units in Vantiv Holding, at Vantiv Holding's option, for shares of our Class A common stock on a one-for-one basis, or for cash. If a holder of our Class B common stock exchanges any of its Class B units in Vantiv Holding for shares of our Class A common stock, or if any such holder's Class B units are redeemed or repurchased by Vantiv Holding or by us, the number of shares of our Class B common stock held by such holder that are attributable to such Class B units will automatically be cancelled. Shares of our Class A common stock issuable to our existing investors upon an exchange of Class B units in Vantiv Holding will be deemed "restricted securities" under the Securities Act.

Restricted securities may be sold in the public market only if they qualify for an exemption from registration under Rule 144 or any other applicable exemption.

### Lock-Up Arrangements and Registration Rights

In connection with this offering, we, each of our directors, executive officers and the selling stockholders have entered into lock-up agreements described under "Underwriting" that restrict the sale of our securities for up to 180 days after the date of this prospectus, subject to an extension in certain circumstances.

In addition, following the expiration of the lock-up period, certain stockholders will have the right, subject to certain conditions, to require us to register the sale of their shares of our Class A common stock under federal securities laws. If these stockholders exercise this right, our other existing stockholders may require us to register their registrable securities. By exercising their registration rights, and selling a large number of shares, the selling stockholders could cause the prevailing market price of our Class A common stock to decline.

Following the lock-up periods described above, all of the shares of our Class A common stock that are restricted securities or are held by our affiliates as of the date of this prospectus will be eligible for sale in the public market in compliance with Rule 144 under the Securities Act.

### Rule 144

The shares of our Class A common stock sold in this offering will generally be freely transferable without restriction or further registration under the Securities Act, except that any shares of our Class A common stock held by an "affiliate" of ours may not be resold publicly except in compliance with the registration requirements of the Securities Act or under an exemption under Rule 144 or otherwise. Rule 144 permits our Class A common stock that has been acquired by a person who is an

affiliate of ours, or has been an affiliate of ours within the past three months, to be sold into the market in an amount that does not exceed, during any three-month period, the greater of:

- one percent of the total number of shares of our Class A common stock outstanding; or

- the average weekly reported trading volume of our Class A common stock for the four calendar weeks prior to the sale.

Such sales are also subject to specific manner of sale provisions, a one-year holding period requirement, notice requirements and the availability of current public information about us.

Approximately shares of our Class A common stock that are not subject to lock-up arrangements described above will be eligible for sale under Rule 144 immediately upon the closing of this offering.

Rule 144 also provides that a person who is not deemed to have been an affiliate of ours at any time during the three months preceding a sale, and who has for at least six months beneficially owned shares of our Class A common stock that are restricted securities, will be entitled to freely sell such shares of our Class A common stock subject only to the availability of current public information regarding us. A person who is not deemed to have been an affiliate of ours at any time during the three months preceding a sale, and who has beneficially owned for at least one year shares of our Class A common stock that are restricted securities, will be entitled to freely sell such shares of our Class A common stock under Rule 144 without regard to the current public information requirements of Rule 144.

**Additional Registration Statements**

We intend to file one or more registration statements on Form S-8 under the Securities Act to register shares of our Class A common stock issued or reserved for issuance under our equity incentive plans, including the equity incentive plan we intend to adopt prior to the consummation of this offering. The first such registration statement is expected to be filed soon after the date of this prospectus and will automatically become effective upon filing with the SEC. Accordingly, shares registered under such registration statement will be available for sale in the open market, unless such shares are subject to vesting restrictions with us or the lock-up restrictions described above.

## MATERIAL U.S. FEDERAL INCOME AND ESTATE TAX CONSIDERATIONS FOR NON-U.S. HOLDERS

The following is a general discussion of the material U.S. federal income and estate tax consequences of the purchase, ownership and disposition of our Class A common stock that may be relevant to you if you are a non-U.S. Holder (as defined below), and is based upon the Code, the Treasury Department regulations promulgated thereunder, and administrative and judicial interpretations thereof, all as of the date hereof and all of which are subject to change, possibly with retroactive effect. This discussion is limited to non-U.S. Holders who hold shares of our Class A common stock as capital assets within the meaning of Section 1221 of the Code. Moreover, this discussion does not address all of the tax consequences that may be relevant to you in light of your particular circumstances, nor does it discuss special tax provisions, which may apply to you if you are subject to special treatment under U.S. federal income tax laws, such as certain financial institutions or financial services entities, insurance companies, tax-exempt entities, dealers in securities or currencies, entities that are treated as partnerships for U.S. federal income tax purposes, "controlled foreign corporations," "passive foreign investment companies," former U.S. citizens or long-term residents, persons deemed to sell Class A common stock under the constructive sale provisions of the Code, and persons that hold Class A common stock as part of a straddle, hedge, conversion transaction, or other integrated investment. Furthermore, this discussion does not address any state, local or foreign tax laws.

As used in this discussion, the term "non-U.S. Holder" means a beneficial owner of our Class A common stock that is not, for U.S. federal income tax purposes:

- any individual who is a citizen or resident of the United States;
- any corporation (or other entity taxable as a corporation for U.S. federal income tax purposes) that is created or organized in or under the laws of the United States, any state thereof or the District of Columbia;
- any estate the income of which is subject to U.S. federal income taxation regardless of its source; or
- any trust if (i) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons (as defined in the Code) have the authority to control all substantial decisions of the trust or (ii) it was in existence on August 20, 1996 and has a valid election in effect under applicable Treasury Department regulations to be treated as a domestic trust for U.S. federal income tax purposes.

If you are an individual, you generally will be deemed to be a resident alien, as opposed to a nonresident alien, by virtue of being present in the United States (1) for at least 183 days during the calendar year or (2) for at least 31 days in the calendar year and for an aggregate of at least 183 days during a three-year period ending in the current calendar year. For purposes of (2), all the days present in the current year, one-third of the days present in the immediately preceding year, and one-sixth of the days present in the second preceding year are counted. Resident aliens are subject to U.S. federal income tax as if they were U.S. citizens.

If a partnership, including any entity or arrangement treated as a partnership for U.S. federal income tax purposes, is a holder of our Class A common stock, the tax treatment of a partner in the partnership will generally depend upon the status of the partner, the activities of the partnership and certain determinations made at the partner level. A holder that is a partnership, and the partners in such partnership, should consult their own tax advisors regarding the tax consequences of the purchase, ownership and disposition of our Class A common stock.

EACH PROSPECTIVE PURCHASER OF OUR CLASS A COMMON STOCK IS ADVISED TO CONSULT A TAX ADVISOR WITH RESPECT TO CURRENT AND POSSIBLE FUTURE

TAX CONSEQUENCES OF PURCHASING, OWNING AND DISPOSING OF OUR CLASS A COMMON STOCK, AS WELL AS ANY TAX CONSEQUENCES THAT MAY ARISE UNDER THE LAWS OF ANY U.S. STATE, MUNICIPALITY OR OTHER TAXING JURISDICTION, IN LIGHT OF THE PROSPECTIVE PURCHASER'S PARTICULAR CIRCUMSTANCES.

**Dividends**

We do not anticipate making any distributions on our Class A common stock. See "Dividend Policy." If distributions are paid on shares of our Class A common stock, such distributions will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. If a distribution exceeds our current and accumulated earnings and profits, such excess will constitute a return of capital that reduces, but not below zero, a non-U.S. Holder's tax basis in our Class A common stock. Any remainder will constitute gain from the sale or exchange of our Class A common stock. Except as provided in the following paragraph, if dividends are paid, as a non-U.S. Holder, you will be subject to withholding of U.S. federal income tax at a 30% rate, or a lower rate as may be specified by an applicable income tax treaty, on the gross amount of the dividends paid to you. To claim the benefit of a lower rate under an income tax treaty, you must properly file with the payor an Internal Revenue Service Form W-8BEN, or other applicable form, claiming an exemption from or reduction in withholding under the applicable tax treaty. Such form must be provided to us or our paying agent prior to the payment of dividends and must be updated periodically. In addition, where dividends are paid to a non-U.S. Holder that is a partnership or other pass-through entity, persons holding an interest in the entity may need to provide certification claiming an exemption or reduction in withholding under the applicable treaty.

If dividends are considered effectively connected with the conduct of a trade or business by you within the United States and, if required by an applicable income tax treaty, are attributable to a United States permanent establishment of yours, those dividends will be subject to U.S. federal income tax on a net basis at applicable graduated individual or corporate rates but will not be subject to withholding tax, provided a properly executed Internal Revenue Service Form W-8ECI, or other applicable form, is filed with the payor. If you are a foreign corporation, any effectively connected dividends may, under certain circumstances, be subject to an additional "branch profits tax" at a rate of 30% or a lower rate as may be specified by an applicable income tax treaty.

You must comply with the certification procedures described above, or, in the case of payments made outside the United States with respect to an offshore account, certain documentary evidence procedures, directly or, under certain circumstances, through an intermediary, to obtain the benefits of a reduced rate under an income tax treaty with respect to dividends paid with respect to your Class A common stock. In addition, if you are required to provide an Internal Revenue Service Form W-8ECI or other applicable form, as discussed in the preceding paragraph, you must also provide your U.S. taxpayer identification number.

If you are eligible for a reduced rate of U.S. withholding tax pursuant to an income tax treaty, you may obtain a refund from the Internal Revenue Service of any excess amounts withheld by timely filing an appropriate claim for refund with the Internal Revenue Service.

**Gain on Disposition of Class A Common Stock**

As a non-U.S. Holder, you generally will not be subject to U.S. federal income or withholding tax on any gain recognized on a sale or other disposition of Class A common stock unless:

- the gain is considered effectively connected with the conduct of a trade or business by you within the United States and, if required by an applicable income tax treaty, is attributable to a United States permanent establishment of yours (in which case the gain will be subject to U.S.

federal income tax on a net basis at applicable individual or corporate rates and, if you are a foreign corporation, the gain may, under certain circumstances, be subject to an additional branch profits tax equal to 30% or a lower rate as may be specified by an applicable income tax treaty);

- you are an individual who is present in the United States for 183 or more days in the taxable year of the sale or other disposition and certain other conditions are met (in which case, except as otherwise provided by an applicable income tax treaty, the gain, which may be offset by U.S. source capital losses (provided you timely file a U.S. federal income tax return with respect to such losses), generally will be subject to a flat 30% U.S. federal income tax, even though you are not considered a resident alien under the Code); or

- we are or become a United States real property holding corporation ("USRPHC"). We believe that we are not currently, and are not likely not to become, a USRPHC. Even if we were to become a USRPHC, gain on the sale or other disposition of Class A common stock by you generally would not be subject to U.S. federal income tax provided:

  - the common stock was "regularly traded on an established securities market"; and

  - you do not actually or constructively own more than 5% of the Class A common stock during the shorter of (i) the five-year period ending on the date of such disposition or (ii) the period of time during which you held such shares.

**Federal Estate Tax**

Individuals, or an entity the property of which is includable in an individual's gross estate for U.S. federal estate tax purposes, should note that Class A common stock held at the time of such individual's death will be included in such individual's gross estate for U.S. federal estate tax purposes and may be subject to U.S. federal estate tax, unless an applicable estate tax treaty provides otherwise.

**Information Reporting and Backup Withholding Tax**

We must report annually to the Internal Revenue Service and to each of you the amount of dividends paid to you and the tax withheld with respect to those dividends, regardless of whether withholding was required. Copies of the information returns reporting those dividends and withholding may also be made available to the tax authorities in the country in which you reside under the provisions of an applicable income tax treaty or other applicable agreements.

Backup withholding is generally imposed (currently at a 28% rate) on certain payments to persons that fail to furnish the necessary identifying information to the payor. You generally will be subject to backup withholding tax with respect to dividends paid on your Class A common stock unless you certify to the payor your non-U.S. status. Dividends subject to withholding of U.S. federal income tax as described above in "—Dividends" would not be subject to backup withholding.

The payment of proceeds of a sale of Class A common stock effected by or through a United States office of a broker is subject to both backup withholding and information reporting unless you provide the payor with your name and address and you certify your non-U.S. status or you otherwise establish an exemption. In general, backup withholding and information reporting will not apply to the payment of the proceeds of a sale of Class A common stock by or through a foreign office of a broker. If, however, such broker is, for U.S. federal income tax purposes, a U.S. person, a controlled foreign corporation, a foreign person that derives 50% or more of its gross income for certain periods from the conduct of a trade or business in the United States or a foreign partnership that at any time during its tax year either is engaged in the conduct of a trade or business in the United States or has as partners one or more U.S. persons that, in the aggregate, hold more than 50% of the income or capital interest in the partnership, backup withholding will not apply but such payments will be subject to information

reporting, unless such broker has documentary evidence in its records that you are a non-U.S. Holder and certain other conditions are met or you otherwise establish an exemption.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules generally will be allowed as a refund or a credit against your U.S. federal income tax liability provided the required information is furnished in a timely manner to the Internal Revenue Service.

***Additional Withholding Requirements***

In addition to withholding taxes discussed above, legislation enacted in 2010 will generally impose a 30% U.S. federal withholding tax on dividends paid by U.S. issuers, and on the gross proceeds from the disposition of certain stock, paid to or through a "foreign financial institution" (as specially defined under these rules), unless such institution enters into an agreement with the U.S. Treasury to collect and provide to the U.S. Treasury substantial information regarding U.S. account holders, including certain account holders that are foreign entities with U.S. owners, with such institution. The legislation also generally imposes a U.S. federal withholding tax of 30% on the same types of payments to or through a non-financial foreign entity unless such entity provides the withholding agent with a certification that it does not have any substantial U.S. owners (as defined under these rules) or a certification identifying the direct and indirect substantial U.S. owners of the entity. This legislation would apply to dividends paid on our Class A common stock after December 31, 2013, and to the gross proceeds from sales or other dispositions of our Class A common stock after December 31, 2014. Under certain circumstances, a holder may be eligible for refunds or credits of such taxes. You should consult your tax advisor regarding the possible implications of this recently enacted legislation on your investment in our Class A common stock.

## UNDERWRITING

We and the selling stockholders are offering the shares of common stock described in this prospectus through a number of underwriters. J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, Goldman, Sachs & Co. and Deutsche Bank Securities Inc. are acting as joint book-running managers of the offering and J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC and Credit Suisse Securities (USA) LLC are acting as representatives of the underwriters. We and the selling stockholders have entered into an underwriting agreement with the underwriters. Subject to the terms and conditions of the underwriting agreement, we and the selling stockholders have agreed to sell to the underwriters, and each underwriter has severally agreed to purchase, at the public offering price less the underwriting discounts and commissions set forth on the cover page of this prospectus, the number of shares of Class A common stock listed next to its name in the following table:

| Name | Number of shares |
|---|---|
| J.P. Morgan Securities LLC | |
| Morgan Stanley & Co. LLC | |
| Credit Suisse Securities (USA) LLC | |
| Goldman, Sachs & Co. | |
| Deutsche Bank Securities Inc. | |
| Citigroup Global Markets Inc. | |
| UBS Securities LLC | |
| Jefferies & Company, Inc. | |
| Raymond James & Associates, Inc. | |
| William Blair & Company, L.L.C. | |
| Wells Fargo Securities, LLC | |
| Total | |

The underwriters are committed to purchase all shares offered by us and the selling stockholders if they purchase any shares. The underwriting agreement also provides that if an underwriter defaults, the purchase commitments of non-defaulting underwriters may also be increased or the offering may be terminated.

The underwriters propose to offer the shares directly to the public at the initial public offering price set forth on the cover page of this prospectus and to certain dealers at that price less a concession not in excess of $ per share. Any such dealers may resell shares to certain other brokers or dealers at a discount of up to $ per share from the initial public offering price. After the initial public offering of the shares, the offering price and other selling terms may be changed by the underwriters. Sales of shares made outside of the United States may be made by affiliates of the underwriters. The representatives have advised us that the underwriters do not intend to confirm discretionary sales in excess of 5% of the Class A common shares offered in this offering.

The underwriters have an option to buy up to additional shares of Class A common stock from us to cover sales of shares by the underwriters which exceed the number of shares specified in the table above. The underwriters have 30 days from the date of this prospectus to exercise this over-allotment option. If any shares are purchased with this over-allotment option, the underwriters will purchase shares in approximately the same proportion as shown in the table above. If any additional shares of Class A common stock are purchased, the underwriters will offer the additional shares on the same terms as those on which the shares are being offered.

The underwriting fee is equal to the public offering price per share of Class A common stock less the amount paid by the underwriters to us per share of Class A common stock. The underwriting fee is

$ per share. The following table shows the per share and total underwriting discounts and commissions to be paid to the underwriters assuming both no exercise and full exercise of the underwriters' option to purchase additional shares.

| | Per share | | Total | |
|---|---|---|---|---|
| | Without over-allotment exercise | With full over-allotment exercise | Without over-allotment exercise | With full over-allotment exercise |
| Underwriting discounts and commissions paid by us | $ | $ | $ | $ |
| Underwriting discounts and commissions paid by selling stockholders | $ | $ | $ | $ |

We estimate that the total expenses of this offering, including registration, filing and listing fees, printing fees and legal and accounting expenses, but excluding the underwriting discounts and commissions, will be approximately $ , and will be paid by us.

A prospectus in electronic format may be made available on the web sites maintained by one or more underwriters, or selling group members, if any, participating in the offering. The underwriters may agree to allocate a number of shares to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the representatives to underwriters and selling group members that may make Internet distributions on the same basis as other allocations.

For a period of 180 days after the date of this prospectus, we have agreed that we will not (i) offer, sell, contract to sell, pledge or otherwise dispose of, directly or indirectly, or file with the Securities and Exchange Commission a registration statement under the Securities Act relating to, any shares of our Class A common stock or securities convertible into or exchangeable or exercisable for any shares of our Class A common stock, or publicly disclose the intention to make any offer, sale, pledge, disposition or filing, or (ii) enter into any swap or other arrangement that transfers all or a portion of the economic consequences associated with the ownership of any shares of Class A common stock (regardless of whether any of these transactions are to be settled by the delivery of shares of Class A common stock, or such other securities, in cash or otherwise), in each case without the prior written consent of J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC and Credit Suisse Securities (USA) LLC, other than the shares of our common stock to be sold hereunder and certain other exceptions. Notwithstanding the foregoing, if (1) during the last 17 days of the 180-day restricted period, we issue an earnings release or material news or a material event relating to our company occurs; or (2) prior to the expiration of the 180-day restricted period, we announce that we will release earnings results during the 16-day period beginning on the last day of the 180-day period, the restrictions described above shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event.

Our directors and executive officers, Advent and the Fifth Third investors have entered into lock-up agreements with the underwriters prior to the commencement of this offering pursuant to which each of these persons or entities, with limited exceptions, for a period of 180 days after the date of this prospectus, may not, without the prior written consent of J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC and Credit Suisse Securities (USA) LLC, (1) offer, pledge, announce the intention to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly, any shares of our Class A common stock (including, without limitation, Class A common stock which may be deemed to be beneficially owned by such directors, executive officers and existing investors in accordance with the rules and regulations of the SEC and securities which may be issued upon exercise of a stock option or warrant) or (2) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Class A common

stock, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Class A common stock or such other securities, in cash or otherwise. Notwithstanding the foregoing, if (1) during the last 17 days of the 180-day restricted period, we issue an earnings release or material news or a material event relating to our company occurs; or (2) prior to the expiration of the 180-day restricted period, we announce that we will release earnings results during the 16-day period beginning on the last day of the 180-day period, the restrictions described above shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event.

Notwithstanding the foregoing agreements, Fifth Third Bank may transfer its warrant exercisable for shares of our Class A common stock during the 180-day restricted period if the transferee of the warrant agrees to the terms of the lock-up agreement to not dispose of any shares of Class A common stock issued upon exercise during such restricted period.

We and the selling stockholders have agreed to indemnify the underwriters and Deutsche Bank Securities Inc. in its capacity as qualified independent underwriter and their controlling persons against certain liabilities, including liabilities under the Securities Act of 1933. We will apply to have our Class A common stock approved for listing/quotation on the NYSE or Nasdaq under the symbol "        ."

In connection with this offering, the underwriters may engage in stabilizing transactions, which involves making bids for, purchasing and selling shares of Class A common stock in the open market for the purpose of preventing or retarding a decline in the market price of the Class A common stock while this offering is in progress. These stabilizing transactions may include making short sales of the Class A common stock, which involves the sale by the underwriters of a greater number of shares of Class A common stock than they are required to purchase in this offering, and purchasing shares of Class A common stock on the open market to cover positions created by short sales. Short sales may be "covered" shorts, which are short positions in an amount not greater than the underwriters' over-allotment option referred to above, or may be "naked" shorts, which are short positions in excess of that amount. The underwriters may close out any covered short position either by exercising their over-allotment option, in whole or in part, or by purchasing shares in the open market. In making this determination, the underwriters will consider, among other things, the price of shares available for purchase in the open market compared to the price at which the underwriters may purchase shares through the over-allotment option. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the Class A common stock in the open market that could adversely affect investors who purchase in this offering. To the extent that the underwriters create a naked short position, they will purchase shares in the open market to cover the position.

The underwriters have advised us that, pursuant to Regulation M of the Securities Act, they may also engage in other activities that stabilize, maintain or otherwise affect the price of the Class A common stock, including the imposition of penalty bids. This means that if the representatives of the underwriters purchase Class A common stock in the open market in stabilizing transactions or to cover short sales, the representatives can require the underwriters that sold those shares as part of this offering to repay the underwriting discount received by them.

These activities may have the effect of raising or maintaining the market price of the Class A common stock or preventing or retarding a decline in the market price of the Class A common stock, and, as a result, the price of the Class A common stock may be higher than the price that otherwise might exist in the open market. If the underwriters commence these activities, they may discontinue them at any time. The underwriters may carry out these transactions on the NYSE or Nasdaq, as applicable, in the over-the-counter market or otherwise.

Prior to this offering, there has been no public market for our Class A common stock. The initial public offering price will be determined by negotiations between us, the selling stockholders and the representatives of the underwriters. In determining the initial public offering price, we and the representatives of the underwriters expect to consider a number of factors including:

- the information set forth in this prospectus and otherwise available to the representatives;
- our prospects and the history and prospects for the industry in which we compete;
- an assessment of our management;
- our prospects for future earnings;
- the general condition of the securities markets at the time of this offering;
- the recent market prices of, and demand for, publicly traded common stock of generally comparable companies; and
- other factors deemed relevant by the underwriters and us.

Neither we nor the underwriters can assure investors that an active trading market will develop for our Class A common stock, or that the shares will trade in the public market at or above the initial public offering price.

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities. Certain of the underwriters and their affiliates have provided in the past to us and our affiliates and may provide from time to time in the future certain commercial banking, financial advisory, investment banking and other services for us and such affiliates in the ordinary course of their business, for which they have received and may continue to receive customary fees and commissions. For instance, affiliates of J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, Goldman, Sachs & Co., Deutsche Bank Securities Inc., Citigroup Global Markets Inc., UBS Securities LLC, Raymond James & Associates, Inc. and Wells Fargo Securities, LLC. are lenders under our senior secured credit facilities. In addition, in the ordinary course of their various business activities, the underwriters and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers, and such investment and securities activities may involve our securities and/or instruments. The underwriters and their respective affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or instruments and may at any time hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

**Selling Restrictions**

Other than in the United States, no action has been taken by us or the underwriters that would permit a public offering of the securities offered by this prospectus in any jurisdiction where action for that purpose is required. The securities offered by this prospectus may not be offered or sold, directly or indirectly, nor may this prospectus or any other offering material or advertisements in connection with the offer and sale of any such securities be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons into whose possession this prospectus comes are advised to inform themselves about and to observe any restrictions relating to the offering and the distribution of this prospectus. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities referred to by this prospectus in any jurisdiction in which such an offer or solicitation is unlawful.

***Dubai International Financial Centre***

This prospectus relates to an Exempt Offer in accordance with the Offered Securities Rules of the Dubai Financial Services Authority ("DFSA"). This prospectus is intended for distribution only to persons of a type specified in the Offered Securities Rules of the DFSA. It must not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The DFSA has not approved this prospectus or taken steps to verify the information set forth herein and has no responsibility for the prospectus. The securities to which this prospectus relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the securities offered should conduct their own due diligence on the securities. If you do not understand the contents of this prospectus, you should consult an authorized financial advisor.

***European Economic Area***

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "Relevant Member State"), an offer to the public of any shares which are the subject of the offering contemplated by this prospectus may not be made in that Relevant Member State, except that an offer to the public in that Relevant Member State of any shares may be made at any time under the following exemptions under the Prospectus Directive, if they have been implemented in that Relevant Member State:

(a) to any legal entity which is a qualified investor as defined in the Prospectus Directive;

(b) to fewer than 100, or, if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150, natural or legal persons (other than qualified investors as defined in the Prospectus Directive), as permitted under the Prospectus Directive, subject to obtaining the prior consent of the representatives for any such offer; or

(c) in any other circumstances falling within Article 3(2) of the Prospectus Directive, provided that no such offer of shares shall result in a requirement for the publication by us or any underwriter of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an "offer to the public" in relation to any shares in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and any shares to be offered so as to enable an investor to decide to purchase any shares, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State; the expression "Prospectus Directive" means Directive 2003/71/EC (and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State), and includes any relevant implementing measure in the Relevant Member State; and the expression "2010 PD Amending Directive" means Directive 2010/73/EU.

***France***

This offering document has not been prepared in the context of a public offering of securities in France *(offre au public)* within the meaning of Article L.411-1 of the French *Code monétaire et financier* and Articles 211-1 et seq. of the *Autorité des marchés financiers* (AMF) regulations and has therefore not been submitted to the AMF for prior approval or otherwise, and no prospectus has been prepared in relation to the securities.

The securities have not been offered or sold and will not be offered or sold, directly or indirectly, to the public in France, and neither this offering document nor any other offering material relating to the securities has been distributed or caused to be distributed or will be distributed or caused to be distributed to the public in France, except only to persons licensed to provide the investment service of

portfolio management for the account of third parties and/or to "qualified investors" (as defined in Article L.411-2, D.411-1 and D.411-2 of the French *Code monétaire et financier*) and/or to a limited circle of investors (as defined in Article L.411-2 and D.411-4 of the French *Code monétaire et financier*) on the condition that no such offering document nor any other offering material relating to the securities shall be delivered by them to any person or reproduced (in whole or in part). Such "qualified investors" and the limited circle of investors referred to in Article L.411-2II2 are notified that they must act in that connection for their own account in accordance with the terms set out by Article L.411-2 of the French *Code monétaire et financier* and by Article 211-3 of the AMF Regulations and may not re-transfer, directly or indirectly, the securities in France, other than in compliance with applicable laws and regulations and, in particular, those relating to a public offering (which are, in particular, embodied in Articles L.411-1, L.412-1 and L.621-8 et seq. of the French *Code monétaire et financier*).

You are hereby notified that in connection with the purchase of these securities, you must act for your own account in accordance with the terms set out by Article L.411-2 of the French *Code monétaire et financier* and by Article 211-3 of the AMF Regulations and may not re-transfer, directly or indirectly, the securities in France, other than in compliance with applicable laws and regulations and, in particular, those relating to a public offering (which are, in particular, embodied in Articles L.411-1, L.411-2, L.412-1 and L.621-8 et seq. of the French *Code monétaire et financier*).

***Hong Kong***

The shares have not been offered or sold and will not be offered or sold in Hong Kong, by means of any document, other than (a) to "professional investors" as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that Ordinance; or (b) in other circumstances which do not result in the document being a "prospectus" as defined in the Companies Ordinance (Cap. 32) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance.

No advertisement, invitation or document, whether in Hong Kong or elsewhere, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) has been issued or will be issued in Hong Kong or elsewhere, other than with respect to the shares which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" within the meaning of the Securities and Futures Ordinance and any rules made under that Ordinance.

WARNING

The contents of this document have not been reviewed by any regulatory authority in Hong Kong. You are advised to exercise caution in relation to the offer. If you are in any doubt about any of the contents of this document, you should obtain independent professional advice.

***Italy***

The offering of the shares has not been registered with the *Commissione Nazionale per le Società e la Borsa* (CONSOB), in accordance with Italian securities legislation. Accordingly, the shares may not be offered or sold, and copies of this offering document or any other document relating to the shares may not be distributed in Italy except to Qualified Investors, as defined in Article 34-*ter*, subsection 1, paragraph b of CONSOB Regulation no. 11971 of May 14, 1999, as amended (the Issuers' Regulation), or in any other circumstance where an express exemption to comply with public offering restrictions provided by Legislative Decree no. 58 of February 24, 1998 (the Consolidated Financial Act) or Issuers' Regulation applies, including those provided for under Article 100 of the Finance Law and Article 34-*ter* of the Issuers' Regulation; *provided, however,* that any such offer or sale of the shares or

distribution of copies of this offering document or any other document relating to the shares in Italy must (i) be made in accordance with all applicable Italian laws and regulations; (ii) be conducted in accordance with any relevant limitations or procedural requirements that CONSOB may impose upon the offer or sale of the shares; and (iii) be made only by (a) banks, investment firms or financial companies enrolled in the special register provided for in Article 107 of Legislative Decree no. 385 of September 1, 1993, to the extent duly authorized to engage in the placement and/or underwriting of financial instruments in Italy in accordance with the Consolidated Financial Act and the relevant implementing regulations; or (b) foreign banks or financial institutions (the controlling shareholding of which is owned by one or more banks located in the same EU Member State) authorized to place and distribute securities in the Republic of Italy pursuant to Articles 15, 16 and 18 of the Banking Act, in each case acting in compliance with all applicable laws and regulations.

***Japan***

The shares have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (the Financial Instruments and Exchange Law). Accordingly, no resident of Japan may participate in the offering of the shares, and each underwriter has agreed that it will not offer or sell any shares, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Law and any other applicable laws, regulations and ministerial guidelines of Japan.

***Singapore***

The offer or invitation which is the subject of this document is only allowed to be made to the persons set out herein. Moreover, this document is not a prospectus as defined in the Securities and Futures Act (Chapter 289) of Singapore (the "SFA"), and, accordingly, statutory liability under the SFA in relation to the content of the document will not apply.

As this document has not been and will not be lodged with or registered as a document by the Monetary Authority of Singapore, this document and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than: (i) to an institutional investor under Section 274 of the SFA; (ii) to a relevant person, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA; or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person who is:

(a) a corporation (which is not an accredited investor) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or

(a) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary is an accredited investor,

shares, debentures and units of shares and debentures of that corporation or the beneficiaries' rights and interest in that trust shall not be transferable for six months after that corporation or that trust has acquired the shares under Section 275 of the SFA except:

(1) to an institutional investor under Section 274 of the SFA or to a relevant person defined in Section 275(2) of the SFA, or to any person pursuant to an offer that is made on terms that such shares, debentures and units of shares and debentures of that corporation or such rights and interest in that trust are acquired at a consideration of not less than S$200,000 (or its equivalent foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets;

(2) where no consideration is given for the transfer; or

(3) by operation of law.

By accepting this document, the recipient hereof represents and warrants that he or she is entitled to receive such report in accordance with the restrictions set forth above and agrees to be bound by the limitations contained herein. Any failure to comply with these limitations may constitute a violation of law.

***Spain***

This offer of our shares has not been and will not be registered with the Spanish National Securities Market Commission (*Comisión Nacional del Mercado de Valores, or* "CNMV"), and, therefore, none of our shares may be offered, sold or distributed in any manner, nor may any resale of the shares be carried out in Spain except in circumstances which do not constitute a public offer of securities in Spain or are exempted from the obligation to publish a prospectus, as set forth in Spanish Securities Market Act (*Ley 24/1988, de 28 de julio, del Mercado de Valores*) and Royal Decree 1310/2005, of 4 November, and other applicable regulations, as amended from time to time, or otherwise without complying with all legal and regulatory requirements in relation thereto. Neither the prospectus nor any offering or advertising materials relating to our shares have been or will be registered with the CNMV, and, therefore, they are not intended for the public offer of our shares in Spain.

***Switzerland***

The shares may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange ("SIX") or on any other stock exchange or regulated trading facility in Switzerland.

This document has been prepared without regard to the disclosure standards for issuance prospectuses under article 652a or article 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under article 27 et seq. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this document nor any other offering or marketing material relating to the shares or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, the company or the shares have been or will be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of shares will not be supervised by, the Swiss Financial Market Supervisory Authority, FINMA, and the offer of shares has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes ("CISA"). The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of shares.

***United Arab Emirates***

This offering has not been approved or licensed by the Central Bank of the United Arab Emirates ("UAE"), Securities and Commodities Authority of the UAE and/or any other relevant licensing authority in the UAE, including any licensing authority incorporated under the laws and regulations of any of the free zones established and operating in the territory of the UAE, in particular the Dubai Financial Services Authority ("DFSA"), a regulatory authority of the Dubai International Financial Centre ("DIFC"). This offering does not constitute a public offer of securities in the UAE, DIFC and/or any other free zone in accordance with the Commercial Companies Law, Federal Law No 8 of 1984 (as amended), DFSA Offered Securities Rules and Nasdaq Dubai Listing Rules, accordingly, or otherwise. The shares may not be offered to the public in the UAE and/or any of the free zones.

The shares may be offered and issued only to a limited number of investors in the UAE or any of its free zones who qualify as sophisticated investors under the relevant laws and regulations of the UAE or the free zone concerned.

***United Kingdom***

Each underwriter has represented and agreed that:

(a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 ("FSMA")) received by it in connection with the issue or sale of the shares in circumstances in which Section 21(1) of the FSMA does not apply to us; and

(a) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the shares in, from or otherwise involving the United Kingdom.

**Conflicts of Interest**

We expect to use more than 5% of the net proceeds from the sale of the Class A common stock to repay indebtedness under our senior secured credit facilities owed by us to affiliates of certain of the underwriters. See "Description of Certain Indebtedness" for additional information regarding our senior secured credit facilities. Accordingly, the offering is being made in compliance with the requirements of Rule 5121 of the Financial Industry Regulatory Authority's conduct rules. This rule provides generally that if more than 5% of the net proceeds from the sale of securities, not including underwriting compensation, is paid to the underwriters or their affiliates, the initial public offering price of the Class A common stock may not be higher than that recommended by a "qualified independent underwriter" meeting certain standards. Deutsche Bank Securities Inc. is assuming the responsibilities of acting as the qualified independent underwriter in conducting due diligence.

## LEGAL MATTERS

Weil, Gotshal & Manges LLP, New York, New York, has passed upon the validity of the common stock offered hereby on behalf of us. Certain legal matters will be passed upon on behalf of the underwriters by Davis Polk & Wardwell LLP, New York, New York.

## EXPERTS

The consolidated financial statements of Vantiv, Inc. as of and for the year ended December 31, 2010 and as of and for the six month period ended December 31, 2009, included in this prospectus have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report appearing herein. Such financial statements have been so included in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

The combined financial statements of Vantiv Holding, LLC and Transactive Ecommerce Solutions Inc. for the six month period ended June 30, 2009 and the year ended December 31, 2008, included in this prospectus have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report appearing herein which report expresses an unqualified opinion on the combined financial statements and includes an explanatory paragraph referring to the fact that the combined financial statements of Vantiv Holding, LLC and Transactive Ecommerce Solutions Inc. have been derived from the historical records of Fifth Third Bancorp and reflect significant assumptions and allocations of certain expenses. Such combined financial statements have been so included in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

The financial statements for NPC Group, Inc. and its subsidiaries for the three years in the period ended December 31, 2009 included in this prospectus have been so included in reliance on the report of PricewaterhouseCoopers LLP, independent accountants, given on the authority of said firm as experts in auditing and accounting.

## WHERE YOU CAN FIND MORE INFORMATION

We have filed a registration statement on Form S-1 with the SEC for the stock we are offering by this prospectus. This prospectus does not include all of the information contained in the registration statement. You should refer to the registration statement and its exhibits for additional information. Whenever we make reference in this prospectus to any of our contracts, agreements or other documents, the references are not necessarily complete and you should refer to the exhibits attached to the registration statement for copies of the actual contract, agreement or other document. When we complete this offering, we will also be required to file annual, quarterly and current reports, proxy statements and other information with the SEC.

You can read our SEC filings, including the registration statement, over the Internet at the SEC's website at http://www.sec.gov. You may also read and copy any document we file with the SEC at its public reference facilities at 100 F Street, N.E., Room 1580, Washington, DC 20549. You may also obtain copies of the documents at prescribed rates by writing to the Public Reference Section at the SEC at 100 F Street, NE, Room 1580, Washington, DC 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference facilities.

You may obtain a copy of any of our filings, at no cost, by writing or telephoning us at:

Vantiv, Inc.
8500 Governor's Hill Drive
Symmes Township, Ohio 45249
Attn: Investor Relations
(513) 900-5250

## UNAUDITED PRO FORMA FINANCIAL INFORMATION

The unaudited pro forma financial information set forth below is derived from our historical statement of income, as adjusted to give pro forma effect to our acquisition of NPC as if it had occurred as of January 1, 2010. The unaudited pro forma statement of income for the year ended December 31, 2010 has been derived from the application of pro forma adjustments to our historical audited financial statements for the year ended December 31, 2010 and NPC's unaudited financial statements for the period ended November 3, 2010. Our operating results for periods subsequent to November 3, 2010 include the results of NPC. We have not included pro forma balance sheet information because our balance sheet, as of December 31, 2010, reflects the effect of the NPC acquisition.

The information shown in the column labeled "Vantiv, Inc." for the year ended December 31, 2010 is derived from our audited financial statements included elsewhere in this prospectus.

The acquisition of NPC has been accounted for in accordance with the authoritative guidance related to business combinations. Under the purchase method of accounting, the total estimated purchase price is allocated to the net tangible and intangible assets acquired, based on their estimated fair values.

The pro forma financial information has been prepared based upon available information and assumptions that we believe are reasonable. However, the pro forma financial information is presented for illustrative and informational purposes only and does not purport to represent what our results of operations or financial condition would have been if the acquisition had occurred on the assumed date nor are they necessarily indicative of our future performance.

You should read this unaudited pro form financial information together with "Capitalization," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our financial statements and related notes thereto included elsewhere in this prospectus.

**Unaudited Pro Forma Statement of Income**
**Year Ended December 31, 2010**

| | Vantiv, Inc. Year Ended December 31, 2010 | NPC January 1, 2010 to November 3, 2010 | Acquisition Adjustments | Pro Forma Vantiv, Inc. Year Ended December 31, 2010 |
|---|---|---|---|---|
| | (in thousands, except share data) | | | |
| Revenue: | | | | |
| External customers | $ 1,099,057 | $ 248,018 | $ — | $ 1,347,075 |
| Related party revenues | 63,075 | — | — | 63,075 |
| Total revenue | 1,162,132 | 248,018 | — | 1,410,150 |
| Network fees and other costs | 595,995 | 48,747 | — | 644,742 |
| Sales and marketing | 98,418 | 109,940 | — | 208,358 |
| Other operating costs | 124,383 | 12,695 | — | 137,078 |
| General and administrative | 58,091 | 13,185 | — | 71,276 |
| Depreciation and amortization | 110,964 | 20,618 | 6,113(1) | 137,695 |
| Income from operations | 174,281 | 42,833 | (6,113) | 211,001 |
| Interest expense—net | (116,020) | (46,123) | 48,717(2) | (113,426) |
| Non-operating expenses | (4,300) | — | — | (4,300) |
| Income before applicable income taxes | 53,961 | (3,290) | 42,604 | 93,275 |
| Income tax (benefit) expense | (956) | 7,555 | 15,274(3) | 21,873 |
| Net income (loss) | 54,917 | (10,845) | 27,330 | 71,402 |
| Less: (Net income) loss attributable to non-controlling interests | (32,924) | 5,322 | (13,411) | (41,013) |
| Net income (loss) attributable to Vantiv, Inc. | $ 21,993 | $ (5,523) | $ 13,919 | $ 30,389 |
| Net income (loss) per common share attributable to Vantiv, Inc. | | | | |
| Basic | | | — | $ 59.67 |
| Diluted | | | — | $ 59.67 |
| Shares used in computing net income (loss) per common share: | | | | |
| Basic | | | — | 509,305 |
| Diluted | | | — | 509,305 |

(1) Represents the impact of additional amortization expense related to the NPC acquisition as follows:

| | |
|---|---|
| Amortization of NPC historical intangible assets | $ (18,392) |
| Amortization of customer relationship intangible asset acquired with the NPC acquisition(a) | 24,505 |
| Additional amortization expense | $ 6,113 |

(a) Amortization of the customer relationship intangible asset acquired in connection with the NPC acquisition is based upon an estimated useful life of 10 years, applying an accelerated method of amortization which we believe reflects the overall economics and cash flows of the acquired customer portfolio.

(2) Reflects the impact during the full year of debt incurred under our senior secured credit facilities to finance the NPC acquisition and the related refinancing of our outstanding debt at the time of the NPC acquisition:

| | |
|---|---|
| Interest and amortization of deferred financing costs on debt under our senior secured credit facilities for the year ended December 31, 2010 at an interest rate of 5.9%, which is the weighted-average interest rates during 2010. A $^{1}/_{8}$% increase (decrease) in the interest rate on this debt would increase (decrease) interest expense by approximately $2.2 million | $ (113,426) |
| Elimination of historical interest and amortization of deferred financing costs on our debt. | 116,020 |
| Elimination of interest and amortization of deferring financing costs on NPC debt, which was repaid as part of the NPC acquisition | 46,123 |
| Total interest expense adjustment | $ 48,717 |

(3) Reflects an adjustment to income taxes using statutory tax rates.

## INDEX TO FINANCIAL STATEMENTS


| | Page |
|---|---|
| **Vantiv, Inc. and Subsidiaries** | |
| Report of Independent Registered Public Accounting Firm | F-2 |
| Report of Independent Registered Public Accounting Firm | F-3 |
| Statements of Financial Position as of December 31, 2010 and 2009 | F-4 |
| Statements of Income for the year ended December 31, 2010, the six months ended December 31, 2009, the six months ended June 30, 2009 and the year ended December 31, 2008 | F-5 |
| Statements of Equity for the year ended December 31, 2010 and the six months ended June 30, 2009 | F-6 |
| Statements of Cash Flows for the year ended December 31, 2010, the six months ended December 31, 2009, the six months ended June 30, 2009 and the year ended December 31, 2008 | F-7 |
| Notes to Financial Statements | F-8 |
| Consolidated Statements of Financial Position as of June 30, 2011 and December 31, 2010 | F-39 |
| Consolidated Statements of Income and Comprehensive Income for the six months ended June 30, 2011 and 2010 | F-40 |
| Consolidated Statements of Equity for the six months ended June 30, 2011 and 2010 | F-41 |
| Consolidated Statements of Cash Flows the six months ended June 30, 2011 and 2010 | F-42 |
| Notes to Consolidated Financial Statements | F-43 |
| **NPC Group, Inc. and Subsidiaries** | |
| Report of Independent Auditors | F-55 |
| Consolidated Statements of Operations and Comprehensive Loss for the nine months ended September 30, 2010 and 2009 (unaudited) and the years ended December 31, 2009, 2008 and 2007 | F-56 |
| Consolidated Statements of Cash Flows for the nine months ended September 30, 2010 and 2009 (unaudited) and the years ended December 31, 2009, 2008 and 2007 | F-57 |
| Notes to Consolidated Financial Statements | F-58 |

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors of
Vantiv, Inc.:

We have audited the accompanying consolidated statements of financial position of Vantiv, Inc. (formerly known as Advent-Kong Blocker Corp.) (the "Company") as of December 31, 2010 and 2009 and the related consolidated statements of income, equity, and cash flows for the year ended December 31, 2010 and the six month period ended December 31, 2009. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2010 and 2009, and the results of its operations and its cash flows for the year ended December 31, 2010 and the six month period ended December 31, 2009, in conformity with accounting principles generally accepted in the United States of America.

/s/ Deloitte & Touche LLP

Cincinnati, OH
November 9, 2011

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Boards of Directors of
Vantiv Holding, LLC and Transactive Ecommerce Solutions Inc.:

We have audited the accompanying combined statements of income and cash flows for the six month period ended June 30, 2009 and the year ended December 31, 2008 of Vantiv Holding, LLC (formerly known as FTPS Holding, LLC) and Transactive Ecommerce Solutions Inc. (collectively, the "Company"). These combined financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these combined financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such combined financial statements present fairly, in all material respects, the combined results of the Company's operations and its cash flows for the six month period ended June 30, 2009 and the year ended December 31, 2008, in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 1, the accompanying combined financial statements of the Company have been derived from the historical records of Fifth Third Bancorp and reflect significant assumptions and allocations of certain expenses. Such combined financial statements may not necessarily be indicative of the conditions that would have existed or the results of operations if the Company had been operated as an unaffiliated company.

/s/ Deloitte & Touche LLP

Cincinnati, OH
November 9, 2011

**Vantiv, Inc.**

**STATEMENTS OF FINANCIAL POSITION**

**(In thousands, except share data)**

| | December 31, 2010 | December 31, 2009 |
|---|---|---|
| **Assets** | | |
| Current assets: | | |
| Cash and cash equivalents | $ 236,512 | $ 289,169 |
| Accounts receivable—net | 344,371 | 262,367 |
| Related party receivable | 2,933 | 3,243 |
| Settlement assets | 29,044 | 17,617 |
| Prepaid expenses | 10,059 | 3,928 |
| Other | 8,031 | 3,528 |
| Total current assets | 630,950 | 579,852 |
| Customer incentives | 9,619 | 4,714 |
| Property and equipment—net | 81,056 | 51,853 |
| Intangible assets—net | 1,035,891 | 952,284 |
| Goodwill | 1,532,374 | 1,049,150 |
| Deferred taxes | 28,168 | 9,511 |
| Other assets | 52,459 | 14,633 |
| Total assets | $ 3,370,517 | $ 2,661,997 |
| **Liabilities and equity** | | |
| Current liabilities: | | |
| Accounts payable and accrued expenses | $ 163,380 | $ 84,465 |
| Related party payable | 12,466 | 28,778 |
| Settlement obligations | 229,131 | 126,232 |
| Current portion of note payable to related party | 3,813 | 18,750 |
| Current portion of note payable | 11,938 | — |
| Deferred income | 3,987 | 1,739 |
| Other | 112 | 238 |
| Total current liabilities | 424,827 | 260,202 |
| Long-term liabilities: | | |
| Note payable to related party | 377,437 | 1,218,750 |
| Note payable | 1,363,090 | — |
| Deferred taxes | 4,043 | 17,131 |
| Other | 6,407 | 3,272 |
| Total long-term liabilities | 1,750,977 | 1,239,153 |
| Total liabilities | 2,175,804 | 1,499,355 |
| Commitments and contingencies (See Note 9) | | |
| Equity: | | |
| Common stock, $.01 par value; 510,000 shares authorized; 509,305 issued and outstanding at December 31, 2010 and 2009 | 5 | 5 |
| Paid-in capital | 575,600 | 573,863 |
| Retained earnings (accumulated deficit) | 19,852 | (2,141) |
| Total Vantiv, Inc. equity | 595,457 | 571,727 |
| Non-controlling interests | 599,256 | 590,915 |
| Total equity | 1,194,713 | 1,162,642 |
| Total liabilities and equity | $ 3,370,517 | $ 2,661,997 |

See Notes to Financial Statements.

**Vantiv, Inc.**

**STATEMENTS OF INCOME**

**(In thousands, except share data)**

| | Successor | | Predecessor | |
|---|---|---|---|---|
| | Year Ended December 31, 2010 | Six Months Ended December 31, 2009 | Six Months Ended June 30, 2009 | Year Ended December 31, 2008 |
| Revenue: | | | | |
| External customers | $ 1,099,057 | $ 476,520 | $ 415,792 | $ 831,397 |
| Related party revenues | 63,075 | 29,482 | 28,932 | 53,521 |
| Total revenue | 1,162,132 | 506,002 | 444,724 | 884,918 |
| Network fees and other costs | 595,995 | 254,925 | 221,680 | 433,496 |
| Sales and marketing | 98,418 | 32,486 | 37,561 | 71,247 |
| Other operating costs | 124,383 | 48,275 | — | — |
| General and administrative | 58,091 | 38,058 | 8,468 | 8,747 |
| Depreciation and amortization | 110,964 | 49,885 | 2,356 | 2,250 |
| Allocated expenses | — | — | 52,980 | 114,892 |
| Income from operations | 174,281 | 82,373 | 121,679 | 254,286 |
| Interest expense—net | (116,020) | (58,877) | (9,780) | — |
| Non-operating expenses | (4,300) | (9,100) | (127) | (5,635) |
| Income before applicable income taxes | 53,961 | 14,396 | 111,772 | 248,651 |
| Income tax (benefit) expense | (956) | (191) | 36,891 | 96,049 |
| Net income | 54,917 | 14,587 | $ 74,881 | $ 152,602 |
| Less: Net income attributable to non-controlling interests | (32,924) | (16,728) | | |
| Net income (loss) attributable to Vantiv, Inc. | $ 21,993 | $ (2,141) | | |
| Net income (loss) per common share attributable to Vantiv, Inc.: | | | | |
| Basic | $ 43.18 | $ (4.20) | | |
| Diluted | $ 43.18 | $ (4.20) | | |
| Shares used in computing net income (loss) per common share: | | | | |
| Basic | 509,305 | 509,305 | | |
| Diluted | 509,305 | 509,305 | | |

See Notes to Financial Statements.

**Vantiv, Inc.**

**STATEMENTS OF EQUITY**

**(In thousands)**

| | | Vantiv, Inc. Equity | | | |
|---|---|---|---|---|---|
| | **Total** | **Common Stock** | **Paid-in Capital** | **Retained Earnings (Accumulated Deficit)** | **Non-controlling Interests** |
| Beginning Balance, July 1, 2009 | $ 1,165,896 | $ 5 | 573,863 | $ — | $ 592,028 |
| Net income (loss) | 14,587 | — | — | (2,141) | 16,728 |
| Distribution to non-controlling interests | (17,841) | — | — | — | (17,841) |
| **Ending Balance, December 31, 2009** | 1,162,642 | 5 | 573,863 | (2,141) | 590,915 |
| Net income | 54,917 | — | — | 21,993 | 32,924 |
| Distribution to non-controlling interests | (26,257) | — | — | — | (26,257) |
| Share-based compensation | 3,411 | — | 1,737 | — | 1,674 |
| **Ending Balance, December 31, 2010** | $ 1,194,713 | $ 5 | $ 575,600 | $ 19,852 | $ 599,256 |

See Notes to Financial Statements.

**Vantiv, Inc.**

**STATEMENTS OF CASH FLOWS**

**(In thousands)**

| | Successor | | Predecessor | |
|---|---|---|---|---|
| | Year Ended December 31, 2010 | Six Months Ended December 31, 2009 | Six Months Ended June 30, 2009 | Year Ended December 31, 2008 |
| Operating Activities: | | | | |
| Net income | $ 54,917 | $ 14,587 | $ 74,881 | $ 152,602 |
| Adjustments to reconcile net income to net cash provided by operating activities: | | | | |
| Depreciation expense | 12,483 | 3,957 | 1,089 | 1,277 |
| Amortization expense | 98,481 | 45,928 | 1,267 | 973 |
| Loss on derivative assets | 4,300 | 9,100 | — | — |
| Amortization of customer incentives | 1,619 | 472 | 4,767 | 7,595 |
| Amortization of debt issuance costs | 1,717 | — | — | — |
| Share-based compensation expense | 2,799 | 612 | 1,111 | 3,919 |
| Transaction costs paid by shareholder | — | 11,324 | — | — |
| Deferred taxes | (8,755) | (7,964) | 915 | (819) |
| Change in operating assets and liabilities, net of the effects of acquisitions: | | | | |
| (Increase) decrease in accounts receivable and related party receivable | (80,181) | (33,945) | 17,575 | (4,034) |
| Increase in net settlement assets and obligations | 91,472 | 29,394 | 23,242 | 222,651 |
| Increase in customer incentives | (6,524) | (5,185) | (5,062) | (10,986) |
| (Increase) decrease in prepaid and other assets | (4,911) | (6,027) | 998 | 86 |
| Increase (decrease) in accounts payable and accrued expenses | 46,371 | 30,848 | (10,046) | 9,081 |
| (Decrease) increase in payable to related party | (16,312) | (60,133) | 83,488 | — |
| (Decrease) increase in other liabilities | (1,140) | (1,574) | (15,439) | 4,324 |
| Net cash provided by operating activities | 196,336 | 31,394 | 178,786 | 386,669 |
| Investing Activities: | | | | |
| Purchases of property and equipment | (33,655) | (11,698) | (2,245) | (373) |
| Disposal of property and equipment | — | — | — | 143 |
| Acquisition of customer related intangible assets and residual buyouts | (985) | — | (1,677) | (4,965) |
| Cash used in acquisitions, net of cash acquired | (662,511) | — | (15,500) | (313) |
| Net cash used in investing activities | (697,151) | (11,698) | (19,422) | (5,508) |
| Financing Activities: | | | | |
| Net proceeds from issuance of long-term debt | 1,755,751 | — | — | — |
| Payment of debt issuance costs | (43,565) | — | — | — |
| Repayment of debt and capital lease obligations | (1,237,771) | (12,621) | (79) | — |
| Distribution to non-controlling interests | (26,257) | (17,841) | — | — |
| Increase (decrease) in Fifth Third's equity | — | — | 140,648 | (381,169) |
| Net cash provided by (used in) financing activities | 448,158 | (30,462) | 140,569 | (381,169) |
| Net (decrease) increase in cash and cash equivalents | (52,657) | (10,766) | 299,933 | (8) |
| Cash and cash equivalents—Beginning of period | 289,169 | 299,935 | 2 | 10 |
| Cash and cash equivalents—End of period | $ 236,512 | $ 289,169 | $ 299,935 | $ 2 |

See Notes to Financial Statements.

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS**

## 1. BASIS OF PRESENTATION

***Description of Business***

Vantiv, Inc., a Delaware corporation, is a holding company that conducts its operations through its majority-owned subsidiaries, Vantiv Holding, LLC ("Vantiv Holding") and Transactive Ecommerce Solutions Inc. ("Transactive"). Prior to changing its name on November 8, 2011, Vantiv, Inc. was known as Advent-Kong Blocker Corp. Vantiv, Inc., Vantiv Holding and Transactive are referred to collectively as the "Company."

The Company provides electronic payment processing services to merchants and financial institutions throughout the United States of America. The Company markets its services through diverse distribution channels, including a direct sales force, relationships with a broad range of independent sales organizations ("ISOs"), merchant banks, value-added resellers and trade associations as well as arrangements with core processors.

***Segments***

The Company's segments consist of the Merchant Services segment and the Financial Institution Services segment. The Company's Chief Executive Officer ("CEO"), who is the chief operating decision maker ("CODM"), evaluates the performance and allocates resources based on the operating results of each segment. Below is a summary of each segment:

- *Merchant Services*—Provides merchant acquiring and payment processing services to large national merchants, regional and small-to-mid sized businesses. Merchant services are sold to small to large businesses through both direct and indirect distribution channels. Merchant Services includes all aspects of card processing including authorization and settlement, customer service, chargeback and retrieval processing and interchange management.

- *Financial Institution Services*—Provides card issuer processing, payment network processing, fraud protection, card production, prepaid program management, automated teller machine ("ATM") driving and network gateway and switching services that utilize the Company's proprietary Jeanie PIN debit payment network to a diverse set of financial institutions, including regional banks, community banks, credit unions and regional personal identification number ("PIN") networks. Financial Institution Services also provides statement production, collections and inbound/outbound call centers for credit transactions, and other services such as credit card portfolio analytics, program strategy and support, fraud and security management and chargeback and dispute services.

***Principles of Consolidation***

The accompanying financial statements include the operations and accounts of the Company and all subsidiaries thereof. All intercompany balances and transactions with the Company's subsidiaries have been eliminated upon consolidation.

Vantiv, Inc. owns a 50.93% interest in Vantiv Holding. Fifth Third Bank, an indirect wholly-owned subsidiary of Fifth Third Bancorp, FTPS Partners, LLC, a wholly-owned subsidiary of Fifth Third Bank, and JPDN Enterprises, LLC ("JPDN") an affiliate of Charles D. Drucker, the Company's CEO, own interests in Vantiv Holding of 44.52%, 4.42% and 0.14%, respectively. Vantiv, Inc., Fifth Third Financial Corporation, a wholly-owned subsidiary of Fifth Third Bank ("Fifth Third Financial"), and

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**1. BASIS OF PRESENTATION (Continued)**

JPDN own interests in Transactive of 50.93%, 48.93% and 0.14%, respectively. See Note 8 for further discussion of interests in Vantiv Holding and Transactive.

The Company accounts for non-controlling interests in accordance with Accounting Standards Codification ("ASC") 810, *Consolidation*. Non-controlling interests represent the minority shareholders' share of net income or loss of and equity in consolidated subsidiaries. All of the Company's non-controlling interests are presented after Vantiv Holding and Transactive income tax expense or benefit in the statements of income as "Net income attributable to non-controlling interests." Non-controlling interests are presented as a component of equity in the statement of financial position and reflect the original investments by these non-controlling shareholders at fair value, along with their proportionate share of the earnings or losses of the subsidiaries, net of distributions.

***Sale Transaction***

On June 30, 2009, Vantiv, Inc. purchased a majority interest in Vantiv Holding from Fifth Third Bank (the "Transaction"). Under the sale agreement, Vantiv, Inc. acquired a 50.93% interest in Vantiv, with Fifth Third Bank retaining a 48.93% interest; JPDN acquired an interest of 0.14%. In addition, Vantiv, Inc., acquired a 50.93% interest in Transactive, with Fifth Third Financial retaining a 48.93% interest; JPDN acquired an interest of 0.14%. In conjunction with the Transaction, Fifth Third Bank received a warrant that allows Fifth Third Bank to purchase an incremental non-voting interest in Vantiv Holding. In connection with the Transaction, Blocker received put rights, exercisable by Vantiv, Inc., or Vantiv, Inc.'s stockholders, under certain circumstances, that if exercised obligate Fifth Third Bank to repurchase Vantiv, Inc.'s interest in Vantiv Holding. See Note 8 for additional disclosures regarding the warrant issued to Fifth Third Bank and Note 7 for additional disclosures related to Vantiv, Inc.'s put rights. Also, see Note 3 for discussion of purchase accounting applied to the Transaction.

***Basis of Presentation***

Prior to the Transaction, the Company's financial statements include the financial position and results of operations of Vantiv on a "carved-out" basis as it was operated as a business unit of Fifth Third Bank. Subsequent to the Transaction, the financial statements include the Company's consolidated financial position, results of operations and cash flows.

The acquisition of a majority interest in Vantiv Holding and Transactive by Vantiv, Inc. was accounted for under the acquisition method of accounting in accordance with ASC 805, *Business Combinations*. The Company's accompanying consolidated financial statements and certain note presentations as of and for the year ended December 31, 2010 and the six month period ended December 31, 2009 reflect a different basis of accounting from prior periods presented in the accompanying combined financial statements, which were "carved-out" from Fifth Third Bancorp's consolidated financial statements. Therefore, throughout these financial statements, the periods ended June 30, 2009 and December 31, 2008 have been labeled "Predecessor;" the periods ended December 31, 2010 and 2009 are labeled "Successor." Where a particular disclosure, or portion thereof, is unique to the Predecessor or Successor Company, the Company is designated as such throughout these footnotes. The accompanying financial statements include a black line division which indicates that, in certain aspects, the Predecessor and Successor reporting entities are not comparable.

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**1. BASIS OF PRESENTATION (Continued)**

The accompanying financial statements as of and for the six month period ended June 30, 2009 and the year ended December 31, 2008 are not necessarily indicative of the Predecessor Company had it been operated as stand-alone entity separate from Fifth Third Bank and may not be indicative of the future results of operations of the Company. Management believes the methodologies to allocate expenses to the Predecessor Company are reasonable and represent appropriate methods of determining the financial results of the Predecessor Company.

The accompanying financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

***Sponsorship***

In order to provide electronic payment processing services, Visa, MasterCard and other payment networks require sponsorship of non-financial institutions by a member clearing bank. In conjunction with the Transaction, the Company entered into a ten-year agreement with Fifth Third Bank (the "Sponsoring Member"), to provide sponsorship services to the Company. Also, the Company has agreements with additional third-party banks that provide the Company sponsorship into the card networks.

***Use of Estimates***

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. Actual results could differ from those estimates. Also, as discussed above and in Note 14, the accompanying statements of income for the six months ended June 30, 2009 and the year ended December 31, 2008 include allocations and estimates that are not necessarily indicative of the amounts that would have resulted if the Predecessor Company had been operating as a stand-alone entity during such periods.

**2. SUMMARY OF SIGNIFICANT ACCOUNTING AND REPORTING POLICIES**

***Revenue Recognition***

The Company has contractual agreements with its clients that set forth the general terms and conditions of the relationship including line item pricing, payment terms and contract duration. Revenues are recognized as earned (i.e., for transaction based fees, when the underlying transaction is processed) in conjunction with ASC 605, *Revenue Recognition*. ASC 605, *Revenue Recognition*, establishes guidance as to when revenue is realized or realizable and earned by using the following criteria: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the seller's price is fixed or determinable; and (4) collectibility is reasonably assured.

The Company follows guidance provided in ASC 605-45, *Principal Agent Considerations*. ASC 605-45 states that whether a company should recognize revenue based on the gross amount billed to a customer or the net amount retained is a matter of judgment that depends on the facts and circumstances of the arrangement and that certain factors should be considered in the evaluation. The Company recognizes processing revenues net of interchange fees, which are assessed to the Company's merchant customers on all processed transactions. Interchange rates are not controlled by the

Vantiv, Inc.

NOTES TO FINANCIAL STATEMENTS (Continued)

**2. SUMMARY OF SIGNIFICANT ACCOUNTING AND REPORTING POLICIES (Continued)**

Company, which effectively acts as a clearing house collecting and remitting interchange fee settlement on behalf of issuing banks, debit networks, credit card associations and its processing customers. All other revenue is reported on a gross basis, as the Company contracts directly with the end customer, assumes the risk of loss and has pricing flexibility.

The Company generates revenue primarily by processing electronic payment transactions. Set forth below is a description of the Company's revenue by segment.

*Merchant Services*

The Company's Merchant Services segment revenue is primarily derived from processing credit and debit card transactions. Merchant Services revenue is primarily comprised of fees charged to businesses, net of interchange fees, for payment processing services, including authorization, capture, clearing, settlement and information reporting of electronic transactions. The fees charged consist of either a percentage of the dollar volume of the transaction or a fixed fee, or both, and are recognized at the time of the transaction. Merchant Services revenue also includes a number of revenue items that are incurred by the Company and are reimbursable as the costs are passed through to and paid by the Company's clients. These items primarily consist of Visa, MasterCard and other payment network fees. In addition, for sales through ISOs and certain other referral sources in which the Company is the primary party to the contract with the merchant, the Company records the full amount of the fees collected from the merchant as revenue. The amount of such revenue that is the excess of the contractual transaction fee (plus any assessments) with the ISO or referral source is remitted to the ISO or referral source in the form of residual payments on a monthly basis and is recorded as sales and marketing expense. Merchant Services segment revenue also includes revenue from ancillary services such as fraud management, equipment sales and terminal rent. Merchant Services revenue is recognized as services are performed.

Included within Merchant Services revenue are fees received by the Company for merchant processing services provided on an outsourced basis for certain customers of Fifth Third Bank. In some cases such fees are collected by Fifth Third Bank from the end merchant and remitted to the Company. Revenues associated with such transactions were approximately $84.3 million, $38.5 million, $40.0 million and $50.4 million during the year ended December 31, 2010, the six months ended December 31, 2009 and June 30, 2009 and the year ended December 31, 2008, respectively.

*Financial Institution Services*

The Company's Financial Institution Services segment revenues are primarily derived from debit, credit and ATM card transaction processing, ATM driving and support, and PIN debit processing services. Financial Institution Services revenue associated with processing transactions includes per transaction and account related fees, card production fees and fees generated from the Company's Jeanie network. Financial Institution Services revenue related to card transaction processing is recognized when consumers use their client-issued cards to make purchases. Financial Institution Services revenue related to ATM driving and support is recognized in accordance with contractual agreements with the Company's clients.

In addition to the services discussed above, Financial Institution Services generates revenue through other services, including statement production, collections and inbound/outbound call centers for credit transactions and other services such as credit card portfolio analytics, program strategy and

support, fraud and security management and chargeback and dispute services. Related revenues are recognized as services are performed.

Financial Institution Services provides certain services to Fifth Third Bank. Revenues related to these services are included in the accompanying statements of income as related party revenues.

***Expenses***

Set forth below is a brief description of the components of the Company's expenses:

- *Network fees and other costs* consists of certain expenses incurred by the Company in connection with providing processing services to its clients, including Visa and MasterCard network association fees, payment network fees, card production costs, telecommunication charges, postage and other third party processing expenses.

- *Sales and marketing* expense primarily consists of salaries and benefits paid to sales personnel, sales management and other sales and marketing personnel, advertising and promotional costs and residual payments made to ISOs and other third party resellers.

- *Other operating costs* primarily consist of salaries and benefits paid to operational and IT personnel, costs associated with operating the Company's technology platform and data centers, information technology costs for processing transactions, product development costs, software consulting fees and maintenance costs.

- *General and administrative* expenses primarily consist of salaries and benefits paid to executive management and administrative employees, including finance, human resources, product development, legal and risk management, share-based compensation costs, equipment and occupancy costs and consulting costs.

***Share-Based Compensation***

The Company expenses employee share-based payments under ASC 718, *Compensation—Stock Compensation*, which requires compensation cost for the grant-date fair value of share-based payments to be recognized over the requisite service period. Further, the fair value of liability awards is required to be remeasured at the reporting date, with changes in fair value recognized as compensation cost over the requisite service period. The Company estimates the grant date fair value of the share-based awards issued using the Black-Scholes option pricing model.

***Earnings Per Share***

Basic earnings per share is computed by dividing net income attributable to Vantiv, Inc. by the weighted average shares outstanding during the period. Diluted earnings per share is computed by dividing net income attributable to Vantiv, Inc. by the weighted-average shares outstanding during the period and the impact of securities that would have a dilutive effect on earnings per share. Vantiv, Inc. does not have any securities that would have a dilutive effect on earnings per share. Share-based awards issued by and settled in shares of Vantiv Holding have an anti-dilutive effect on Vantiv Holding's earnings per share and have therefore been excluded from the calculation of the Company's diluted earnings per share. As such, there are no securities that have a dilutive effect on earnings per share and basic and diluted earnings per share are equal for each period presented.

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**2. SUMMARY OF SIGNIFICANT ACCOUNTING AND REPORTING POLICIES (Continued)**

***Income Taxes***

Vantiv, Inc. is taxed as a C corporation for U.S. income tax purposes and is therefore subject to both federal and state taxation at a corporate level.

Income taxes are computed in accordance with ASC 740, *Income Taxes*, and reflect the net tax effects of temporary differences between the financial reporting carrying amounts of assets and liabilities and the corresponding income tax amounts. The Company has deferred tax assets and liabilities and maintains valuation allowances where it is more likely than not that all or a portion of deferred tax assets will not be realized. To the extent the Company determines that it will not realize the benefit of some or all of its deferred tax assets, such deferred tax assets will be adjusted through the Company's provision for income taxes in the period in which this determination is made. As of December 31, 2010 and 2009, the Company had recorded no valuation allowances against any deferred tax assets.

Prior to June 30, 2009, the operations of the Predecessor Company were included in Fifth Third Bancorp's consolidated federal income tax return and the state income tax returns of certain subsidiaries of Fifth Third Bancorp. For the purpose of the Predecessor financial statements, federal and state income taxes have been determined on a separate basis as if the Predecessor Company was a separate, stand-alone taxable entity for periods prior to June 30, 2009.

See Note 12 for further discussion of income taxes.

***Cash and Cash Equivalents***

For the periods prior to June 1, 2009, Fifth Third Bank used a centralized approach to cash management. Cash receipts and payments of trade payables and other disbursements were processed through a centralized cash management system by Fifth Third Bank. All cash derived from or required for the Predecessor Company's operations was applied to or against Fifth Third Bank's consolidated cash balances.

Investments with original maturities of three months or less (that are readily convertible to cash) are considered to be cash equivalents and are stated at cost, which approximates fair value. Cash equivalents consist primarily of overnight EuroDollar investments. Such investments are maintained at reputable financial institutions with high credit quality and therefore are considered to bear minimal credit risk. Also included in cash equivalents in the accompanying statement of financial position as of December 31, 2009 are variable rate demand notes ("VRDNs"). VRDNs typically have long-term maturities; however, certain characteristics, such as the short-term rate-setting mechanism and liquidity features, permit the classification of such instruments as cash equivalents.

At December 31, 2010 and 2009, approximately $179.7 million and $178.7 million, respectively, was held on deposit at Fifth Third Bank.

***Accounts Receivable—net***

Accounts receivable primarily represent processing revenues earned but not collected. For a majority of its customers, the Company has the authority to debit the client's bank accounts through the Federal Reserve's Automated Clearing House; as such, collectibility is reasonably assured. The Company records a reserve for doubtful accounts when it is probable that the accounts receivable will

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**2. SUMMARY OF SIGNIFICANT ACCOUNTING AND REPORTING POLICIES (Continued)**

not be collected. The Company reviews historical loss experience and the financial position of its customers when estimating the allowance. As of December 31, 2010 and 2009, the allowance for doubtful accounts was not material to the Company's statements of financial position.

In addition to the reserve for doubtful accounts, the Company also maintains a reserve for refunds expected to be provided to customers. The reserve related to refunds was $3.3 million and $2.1 million as of December 31, 2010 and 2009, respectively, and is recorded within the accounts receivable reserve.

***Customer Incentives***

Customer incentives represent signing bonuses paid to customers. Customer incentives are paid in connection with the acquisition or renewal of customer contracts, and are therefore deferred and amortized using the straight-line method based on the contractual agreement. Related amortization is recorded as contra-revenue.

***Property and Equipment—net***

Property and equipment consists of furniture and equipment, software, leasehold improvements and construction in progress. These assets are depreciated on a straight-line basis over their respective useful lives, which are 2 to 10 years for furniture and equipment and leasehold improvements, and 3 to 5 years for software. Leasehold improvements are amortized over the lesser of the estimated useful life of the improvement or the term of lease.

The Company capitalizes certain costs related to computer software developed for internal use and amortizes such costs on a straight-line basis over an estimated useful life of 3 to 5 years. Research and development costs incurred prior to establishing technological feasibility are charged to operations as such costs are incurred. Once technological feasibility has been established, costs are capitalized until the software is placed in service.

***Goodwill and Intangible Assets***

In accordance with ASC 350, *Intangibles—Goodwill and Other*, the Company tests goodwill for impairment for each reporting unit on an annual basis, or when events occur or circumstances change that would indicate the fair value of a reporting unit is below its carrying value. If the fair value of a reporting unit is less than its carrying value, an impairment loss is recorded to the extent that fair value of the goodwill within the reporting unit is less than its carrying value. The Company performed its most recent annual goodwill impairment test as of July 31, 2010 using market data and discounted cash flow analyses, which indicated there was no impairment. As of December 31, 2010, there have been no indications of impairment.

Intangible assets consist primarily of acquired customer relationships amortized over their estimated useful lives and an indefinite lived trade name not subject to amortization. The Company reviews the acquired customer relationships for possible impairment whenever events or changes in circumstances indicate that carrying amounts may not be recoverable. The indefinite lived trade name is reviewed for impairment annually.

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**2. SUMMARY OF SIGNIFICANT ACCOUNTING AND REPORTING POLICIES (Continued)**

***Settlement Assets and Obligations***

Settlement assets and obligations result from financial institution services when funds are transferred from or received by the Company prior to receiving or paying funds to a different entity. This timing difference results in a settlement asset or obligation. The amounts are generally collected or paid the following business day.

The settlement assets and obligations recorded by Merchant Services represent intermediary balances due to differences between the amount the Sponsoring Member receives from the card associations and the amount funded to the merchants. Such differences arise from timing differences, interchange expenses, merchant reserves and exception items. In addition, certain card associations limit the Company from accessing or controlling merchant settlement funds and, instead, require that these funds be controlled by the Sponsoring Member. The Company follows a net settlement process whereby, if the settlement received from the card associations precedes the funding obligation to the merchant, the Company temporarily records a corresponding liability. Conversely, if the funding obligation to the merchant precedes the settlement from the card associations, the amount of the net receivable position is recorded by the Company, or in some cases, the Sponsoring Member may cover the position with its own funds in which case a receivable position is not recorded by the Company. Prior to June 1, 2009, Fifth Third Bank, as the Sponsoring Member, used its own funds and assessed a funding cost to the Company, which was included in non-operating expenses. Subsequent to June 1, 2009, net receivable positions are funded through the Company's cash or available line of credit.

***Derivatives***

The Company accounts for derivatives in accordance with ASC 815, *Derivatives and Hedging*. This guidance establishes accounting and reporting for derivative instruments, including certain derivative instruments embedded in other contracts, and for hedging activities. All derivatives, whether designated in hedging relationships or not, are required to be recorded on the statement of financial position at fair value. If the derivative is designated as a fair value hedge, the changes in the fair value of the derivative and the hedged item will be recognized in earnings. If the derivative is designated as a cash flow hedge, the effective portion of the change in the fair value of the derivative will be recorded in accumulated other comprehensive income (loss) and will be recognized in the statement of income when the hedged item affects earnings. For a derivative that does not qualify as a hedge ("free-standing derivative"), changes in fair value are recognized in earnings.

***New Accounting Pronouncements***

In June 2011, the FASB issued ASU 2011-05, "Comprehensive Income (Topic 220): Presentation of Comprehensive Income," which revises the manner in which entities present comprehensive income in their financial statements. The amendments implemented under ASU 2011-05 give an entity the option to present the total of comprehensive income, the components of net income, and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. In both choices, an entity is required to present each component of net income along with total net income, each component of other comprehensive income along with a total for other comprehensive income, and a total amount for total comprehensive income. The ASU eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. The amendments in this ASU do not change the items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income. ASU 2011-05 should be applied retrospectively and is

effective for nonpublic entities for fiscal years ending after December 15, 2011, with early adoption permitted. The Company adopted the guidance contained within ASU 2011-05 in June 2011. The guidance did not have a material effect on the Company's financial position or results of operations.

In September 2011, the FASB issued ASU 2011-08, "Intangibles—Goodwill and Other (Topic 350) Testing Goodwill for Impairment," which revises the guidance on testing goodwill for impairment. Under the revised guidance, entities testing goodwill for impairment have the option to first assess qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not that the fair value of a reporting unit is less than its carrying amount. If, after assessing the totality of events or circumstances, an entity determines it is more likely than not that the fair value of a reporting unit is less than its carrying amount, then performing the two-step impairment test would be required. Under the amendments in this ASU, an entity has the option to bypass the qualitative assessment for any reporting unit in any period and proceed directly to performing the first step of the two-step goodwill impairment test. An entity may resume performing the qualitative assessment in any subsequent period. This ASU does not change how goodwill is calculated or assigned to reporting units, nor does it revise the requirement to test goodwill annually for impairment. In addition, this ASU does not amend the requirement to test goodwill for impairment between annual tests if events or circumstances warrant; however, it does revise the examples of events and circumstances that an entity should consider. The amendments within this ASU are effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011, with early adoption permitted. The Company adopted the guidance within this ASU in September 2011. The guidance did not have a material effect on the Company's financial position or results of operations.

## 3. BUSINESS COMBINATIONS

### *Acquisition of NPC*

On November 3, 2010, the Company acquired all of the outstanding voting securities of NPC Group, Inc. ("NPC"). NPC is a provider of payment processing services focused on the small to mid-sized merchant processing market. The acquisition of NPC enhances the Company's access to small to mid-sized merchants. The acquisition was accounted for as a business combination under ASC 805, *Business Combinations*. The purchase price was allocated to the assets acquired and liabilities assumed based on the estimated fair value at the date of acquisition. The excess of the purchase price over the fair value of the net assets acquired was allocated to goodwill, approximately $240.0 million of which is deductible for tax purposes. Goodwill, assigned to Merchant Services, consists primarily of processing cost synergies between NPC and the Company and the acquired workforce, neither of which qualifies

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**3. BUSINESS COMBINATIONS (Continued)**

as an amortizable intangible asset. The preliminary purchase price allocation is as follows (in thousands):

| | |
|---|---|
| Current assets | $ 14,849 |
| Property and equipment | 8,031 |
| Non-current assets | 24,700 |
| Goodwill | 456,326 |
| Customer relationship intangible assets | 111,000 |
| Trade name | 41,000 |
| Current liabilities | (28,643) |
| Non-current liabilities | (7,280) |
| Total purchase price | $ 619,983 |

Revenue and net income attributable to NPC since the acquisition date of approximately $49.4 million and $3.3 million, respectively, is included in the accompanying statement of income for the year ended December 31, 2010.

The following unaudited pro forma results reflect the results of the Company for the year ended December 31, 2010 and the six months ended December 31, 2009, assuming the acquisition of NPC had occurred on July 1, 2009 (in thousands):

| | Year ended December 31, 2010 | Six Months Ended December 31, 2009 |
|---|---|---|
| Total revenue | $ 1,410,150 | $ 651,543 |
| Income from operations | 214,678 | 104,395 |
| Net income including non-controlling interests | 74,519 | 20,262 |
| Net income attributable to Vantiv, Inc. | 31,977 | 749 |

The Company incurred expenses of approximately $2.4 million in conjunction with the acquisition of NPC, which are included within general and administrative expenses on the accompanying statement of income.

***Acquisition of TNB Assets***

On July 6, 2010, the Company acquired certain assets of Town North Bank, N.A. ("TNB") to broaden the Company's market position with credit unions. The acquisition was accounted for under the acquisition method of accounting in accordance with ASC 805, *Business Combinations*. The purchase price was allocated to the assets acquired and liabilities assumed based on the estimated fair value at the date of acquisition. The excess of the purchase price over the fair value of the net assets acquired was allocated to goodwill, which is deductible for tax purposes. Goodwill is attributable primarily to growth opportunities, synergies and the acquired workforce, none of which qualifies as an amortizable intangible asset. Goodwill is included within Financial Institution Services. The preliminary purchase price allocation is as follows (in thousands):

| | |
|---|---|
| Current assets | $ 19,836 |
| Customer relationship intangible assets | 28,865 |
| Trade name | 238 |
| Goodwill | 26,898 |
| Current liabilities | (19,220) |
| Non-current liabilities | (4,175) |
| Total purchase price | $ 52,442 |

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**3. BUSINESS COMBINATIONS (Continued)**

The acquisition of TNB was not material to the Company's financial statements and accordingly, pro forma results have not been presented.

***Vantiv, Inc. Acquisition of Vantiv***

As discussed in Note 1, Vantiv, Inc. acquired a majority interest in Vantiv Holding from Fifth Third Bank and Transactive from Fifth Third Financial on June 30, 2009. The acquisition was accounted for under the acquisition method of accounting in accordance with ASC 805, *Business Combinations*. The primary items that generated goodwill are the value of the newly formed relationship between Vantiv Holding and Transactive and Advent International Corporation ("Advent"), the controlling stockholder of Vantiv, Inc., allowing Vantiv Holding and Transactive to leverage Vantiv, Inc.'s resources creating significant opportunities and incremental growth along with the acquired workforce, neither of which qualifies as an amortizable intangible asset. Goodwill attributable to the Transaction is not deductible for tax purposes. Approximately $501.2 million and $548.0 million of goodwill is included within Merchant Services and Financial Institution Services, respectively. The purchase price was allocated to the assets acquired and liabilities assumed based on the estimated fair value at the date of acquisition, as follows (in thousands):

| | |
|---|---|
| Current assets | $ 549,525 |
| Property and equipment | 36,858 |
| Non-current assets | 11,778 |
| Put rights | 14,200 |
| Goodwill | 1,049,150 |
| Customer relationship intangible assets | 998,230 |
| Note payable assumed | (1,250,000) |
| Liabilities assumed | (257,478) |
| Non-controlling interests | (592,028) |
| Total purchase price | $ 560,235 |

Approximately $16.3 million of transaction related expenses are recorded within general and administrative expenses in the accompanying statement of income for the six months ended December 31, 2009.

**4. PROPERTY AND EQUIPMENT**

A summary of the Company's property and equipment is as follows (in thousands):

| | Estimate Useful Life | As of December 31, 2010 | As of December 31, 2009 |
|---|---|---|---|
| Furniture and equipment | 2 - 10 years | $ 26,526 | $ 5,536 |
| Software | 3 - 5 years | 54,706 | 34,528 |
| Leasehold improvements | 2 - 10 years | 2,638 | 200 |
| Construction in progress | | 13,626 | 15,546 |
| Accumulated depreciation | | (16,440) | (3,957) |
| Total | | $ 81,056 | $ 51,853 |

Depreciation and amortization expense related to property and equipment was $12.5 million for the year ended December 31, 2010, $4.0 million and $1.1 million for the six months ended December 31, 2009 and June 30, 2009, respectively, and $1.3 million for the year ended December 31, 2008.

Vantiv, Inc.

NOTES TO FINANCIAL STATEMENTS (Continued)

## 5. GOODWILL AND INTANGIBLE ASSETS

A summary of changes in goodwill through December 31, 2010 is as follows (in thousands):

| Successor | Merchant Services | Financial Institution Services | Total |
|---|---|---|---|
| Goodwill attributable to the Transaction | $ 501,198 | $ 547,952 | $ 1,049,150 |
| Balance as of December 31, 2009 | 501,198 | 547,952 | 1,049,150 |
| Goodwill attributable to acquisition of TNB | — | 26,898 | 26,898 |
| Goodwill attributable to acquisition of NPC | 456,326 | — | 456,326 |
| Balance as of December 31, 2010 | $ 957,524 | $ 574,850 | $ 1,532,374 |

Intangible assets consist primarily of acquired customer relationships and trade names. The useful lives of customer relationships are determined based on forecasted cash flows, which include estimates for customer attrition associated with the underlying portfolio of customers acquired. Historically, this has resulted in amortization of customer relationships on a straight line basis over their estimated useful lives. The customer relationships acquired in conjunction with the acquisition of NPC, as discussed in Note 3, are amortized at an accelerated rate due largely to the pattern of attrition expected within the underlying portfolio. The trade name acquired in conjunction with the Company's acquisition of NPC is expected to remain in use for the foreseeable future and has therefore been deemed an indefinite lived intangible asset not subject to amortization. The trade name is reviewed for impairment on an annual basis. The Company reviews finite lived intangible assets for possible impairment whenever events or changes in circumstances indicate that carrying amounts may not be recoverable.

As of December 31, 2010 and 2009, intangible assets consisted of the following (in thousands):

| | 2010 | 2009 |
|---|---|---|
| Customer relationship intangible assets | $ 1,138,077 | $ 998,212 |
| Trade name | 41,238 | — |
| Other intangible assets | 985 | — |
| | 1,180,300 | 998,212 |
| Less accumulated amortization on: | | |
| Customer relationship intangible assets | 144,138 | 45,928 |
| Trade name | 238 | — |
| Other intangible assets | 33 | — |
| | 144,409 | 45,928 |
| | $ 1,035,891 | $ 952,284 |

As of December 31, 2010 and 2009, customer relationship intangible assets had estimated remaining weighted-average lives of 10 years and 11 years, respectively. Amortization expense on intangible assets was $98.5 million for the year ended December 31, 2010, $45.9 million and $1.3 million for the six months ended December 31, 2009 and June 30, 2009, respectively, and $1.0 million for the year ended December 31, 2008.

Vantiv, Inc.

NOTES TO FINANCIAL STATEMENTS (Continued)

**5. GOODWILL AND INTANGIBLE ASSETS (Continued)**

The estimated amortization expense of intangible assets as of December 31, 2010 for the next five years is as follows (in thousands):

| | |
|---|---|
| 2011 | $ 122,948 |
| 2012 | 115,903 |
| 2013 | 110,619 |
| 2014 | 106,656 |
| 2015 | 103,684 |

**6. DEBT**

***Debt Assumed in Connection with the Transaction***

In connection with the Transaction, the Company assumed a $1,250.0 million senior secured note due to Fifth Third Bank. The senior secured note had a term of seven years. In addition, the Company entered into a $125.0 million secured revolving credit facility with Fifth Third Bank. There were no draws against the revolving credit facility as of December 31, 2009. Both the senior secured note and the revolving credit facility were secured by certain assets of the Company. The interest rates on the senior secured note and the revolving credit facility were 9.5% and 7.75%, respectively. The commitment rate for the revolving credit facility was 0.50% per year.

***Debt Refinancing***

On November 3, 2010, the Company entered into two credit facilities with a syndicate of banks. The credit facilities were used to refinance the debt held by Fifth Third Bank and fund the acquisition of NPC, as discussed in Note 3. The revolving credit facility held by Fifth Third Bank was also terminated in conjunction with the refinancing. The refinanced credit facilities consisted of a first lien and second lien loan agreement.

***First Lien***

The first lien loan agreement consisted of a $1,575.0 million term loan and a revolving credit commitment of $150.0 million. The term loan was issued with an original term of six years, and requires quarterly principal payments equal to 0.25% of the original principal balance. At the Company's option, the term loan bears interest at a rate based on either LIBOR or the prime rate, plus an applicable margin. The weighted-average interest rate for the term loan during 2010 was 5.5%. The outstanding balance of the term loan as of December 31, 2010 was $1,575.0 million. At December 31, 2010, Fifth Third held approximately $381.3 million of the term loan, which is recorded within the current portion of note payable to related party and note payable to related party on the accompanying statement of financial position.

Term loan principal payments of $15.8 million are required each year during 2011 through 2015, with payments totaling $1.5 billion due in 2016. There is no prepayment penalty associated with the first lien loan agreement.

The revolving credit commitment was issued with a term of five years. Any draws on the revolving credit commitment are due at the maturity of the agreement, with interest payments due quarterly. At the Company's option, unpaid principal balances bear interest at a rate based on either LIBOR or the

**6. DEBT (Continued)**

prime rate, plus an applicable margin. The commitment fee rate for the unused portion of the revolving credit commitment is 0.50%. There were no draws on the revolving credit commitment as of December 31, 2010. Under the revolving credit commitment, the Company has $40.0 million available for the issuance of letters of credit and $50.0 million available for swing loans. At December 31, 2010, Fifth Third Bank held approximately 33% of the revolving credit commitment. Additionally, a $1.5 million letter of credit, issued by Fifth Third Bank, was outstanding as of December 31, 2010, which reduces the availability under the revolving credit commitment.

***Second Lien***

The second lien loan agreement consists of a $200.0 million term loan with an original term of seven years. No principal payments are required on the term loan until termination of the agreement. The Company may make prepayments; however, prepayments made during the first year of the loan term will be subject to a premium equal to 2% of the prepayment amount, and prepayments made during the second year of the loan term will be subject to a premium equal to 1% of the prepayment amount. The loan bears interest, at the Company's option, at a rate based on either LIBOR or the prime rate, plus an applicable margin. The weighted-average rate for the term loan during 2010 was 8.25%. The outstanding balance as of December 31, 2010 was $200.0 million.

***Guarantees and Security***

The obligations under the first lien and second lien loan agreements are unconditional and are guaranteed by Vantiv Holding and certain of its existing and subsequently acquired or organized domestic subsidiaries. The first lien credit facility and related guarantees are secured on a first-priority basis and the second lien credit facility and related guarantees are secured on a second-priority basis (subject to liens permitted under the first lien and second lien loan agreements) in substantially all the capital stock (subject to a 65% limitation on pledges of capital stock of foreign subsidiaries and domestic holding companies of foreign subsidiaries) and personal property of the borrower and any obligors as well as any real property in excess of $5 million in the aggregate held by the borrower or any obligors (other than Vantiv Holding), subject to certain exceptions.

***Covenants***

There are certain financial and non-financial covenants contained in the first and second lien loan agreements. The Company was in compliance with these covenants as of December 31, 2010. The terms of the loan agreements also require the Company, within 180 days from the date of the agreement, to enter into a hedging relationship such that at least 50% of the aggregate balance of the first and second lien term loans is subject to either a fixed interest rate or interest rate protection. See Note 16 for further discussion of the hedge instruments entered into subsequent to December 31, 2010.

***Original Issue Discount and Fees***

In conjunction with the first and second lien debt issuances, the Company incurred approximately $62.8 million of fees, including $19.3 million in original issue discount ("OID"). Such costs, excluding OID, were capitalized as deferred financing fees and are included within the other assets line in the accompanying statement of financial position. OID is included within note payable in the accompanying

statement of financial position as of December 31, 2010. OID and debt issuance costs are being amortized on a straight-line basis over six years, which approximates the effective interest method.

See Note 16 for further discussion concerning the Company's debt subsequent to December 31, 2010.

## 7. DERIVATIVE FINANCIAL INSTRUMENT

In conjunction with the Transaction discussed in Note 1, Vantiv, Inc. received put rights, exercisable by Vantiv, Inc., or Vantiv, Inc.'s stockholders, at its option, from Fifth Third Bank. The put rights are accounted for under ASC 815, *Derivatives and Hedging*, as free-standing derivatives with changes in fair value recorded in earnings in the period of change. The put rights are contingently exercisable in the event of three scenarios occurring prior to an IPO (as defined in the Amended and Restated Limited Liability Company Agreement of Vantiv Holding), each described below:

- *Scenario 1*—During the first 12 months following the effective date of the Transaction, either a government investment or a non-competitor change of control occurs at Fifth Third Bank; or
- *Scenario 2*—During the first 54 months following the effective date of the Transaction, a competitor change of control occurs at Fifth Third Bank; or
- *Scenario 3*—During the first two years following the effective date of the Transaction, a bankruptcy event occurs for Fifth Third Bank.

Management believes that the probability of occurrence of these scenarios is remote and has considered them as such in estimating the fair value of the put rights.

The following table reflects the notional amount and fair value of the put rights included within other non-current assets in the accompanying statements of financial position as of December 31 (in thousands):

| | 2010 | | 2009 | |
|---|---|---|---|---|
| | Notional Amount | Fair Value Derivative Asset | Notional Amount | Fair Value Derivative Asset |
| Free-standing put rights | $ 870,402 | $ 800 | $ 870,402 | $ 5,100 |

The net losses recorded as a component of non-operating expenses within the statements of income related to the put rights are summarized in the following table (in thousands):

| | Year Ended December 31, 2010 | Six Months Ended December 31, 2009 |
|---|---|---|
| Free-standing put rights | $ (4,300) | $ (9,100) |

## 8. CONTROLLING AND NON-CONTROLLING INTERESTS IN VANTIV

On June 30, 2009, in conjunction with the Transaction, 111.6 million units ("Units") of Vantiv Holding were authorized to be issued, of which 51.0 million were designated as Class A Units, 49.0 million were designated as Class B Units, and 11.6 million were designated as Class C Non-Voting

**8. CONTROLLING AND NON-CONTROLLING INTERESTS IN VANTIV (Continued)**

Units. Except for the non-voting nature of Class C Units, all Units have identical rights and privileges. As a result of the Transaction, all Class A and B Units were issued. The table below presents total member interests in Class A and Class B Units as of December 31, 2010 and 2009 (in thousands):

| | December 31, 2010 | December 31, 2009 |
|---|---|---|
| Class A Units | $ 588.0 | $ 581.6 |
| Class B Units | 564.9 | 558.8 |
| | $ 1,152.9 | $ 1,140.4 |

The liability of individual holders of beneficial interests in Vantiv Holding cannot exceed (i) the amount of their individual capital contributions, if any, (ii) their individual share of any assets and undistributed profits of Vantiv Holding and (iii) the amount of any distributions wrongfully distributed.

In connection with the Transaction, Fifth Third Bank received a warrant that allows for the purchase of up to 11.6 million Class C Non-Voting Units of Vantiv Holding. The warrant is exercisable in any period that Vantiv Holding is not treated as a partnership for U.S. federal income tax purposes, upon the earlier to occur of a change of control or an IPO, both as defined in the warrant agreement. In addition, the warrant is exercisable if Fifth Third Bank delivers an opinion of counsel to Vantiv Holding that concludes, based on any Treasury regulations or guidance then in effect, that the exercise of the warrant will not cause an immediate taxable event to the other members of Vantiv Holding. The warrant expires upon the earliest to occur of (i) the 20th anniversary of the issue date, (ii) 60 days following an exercise by Vantiv, Inc. of its put rights (refer to Note 7), subject to extension in specified circumstances, and (iii) a change of control where the price paid per unit in such change of control minus the exercise price of the warrant in less than zero. Fifth Third Bank is entitled to purchase the underlying Units of the warrant at a price of $28.09 per unit. The warrant was valued at approximately $65.4 million at June 30, 2009, the issuance date, using a Black-Scholes option valuation model using probability weighted scenarios, assuming expected terms of 10 to 20 years, expected volatilities of 37.5% to 44.4%, risk free rates of 4.03% to 4.33% and expected dividend rates of 0%. The expected volatilities were based on historical and implied volatilities of comparable companies assuming similar expected terms. The warrant is recorded as a component of the non-controlling interest as of December 31, 2010 and 2009.

On September 29, 2010, Vantiv Holding authorized for issuance approximately 8.7 million Class D Non-Voting units ("Class D Units"). The Class D Units were authorized for the settlement of awards issued under Vantiv Holding's Management Phantom Equity Plan (the "Phantom Equity Plan"). As such, upon authorization of such Units, outstanding share-based awards made under the Phantom Equity Plan were eligible for treatment as equity awards, and therefore were reclassified from other long-term liabilities to paid-in capital. As of December 31, 2010, paid-in capital and non-controlling interests included $1.7 million and $1.7 million, respectively, related to share-based payments. See Note 11 for further discussion of the Phantom Equity Plan and related reclassification of awards.

The Amended and Restated Limited Liability Company Agreement of Vantiv Holding requires certain tax distributions to be made if and when Vantiv has taxable income. Other distributions are required to be made in proportion to the members' respective membership interests.

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**9. COMMITMENTS, CONTINGENCIES AND GUARANTEES**

***Leases***

The Company leases office space under non-cancelable operating leases that expire between June 2011 and June 2017. Future minimum commitments under these leases are as follows (in thousands):

| Year Ended December 31, | |
|---|---|
| 2011 | $ 10,912 |
| 2012 | 5,097 |
| 2013 | 3,659 |
| 2014 | 2,113 |
| 2015 | 760 |
| Thereafter | 951 |
| Total | $ 23,492 |

Rent expense was approximately $7.8 million for the year ended December 31, 2010, $3.6 million and $0.3 million for the six months ended December 31, 2009 and June 30, 2009, respectively, and $0.7 million for the year ended December 31, 2008. Rent expense for the year ended December 31, 2010 and six months ended December 31, 2009 primarily reflects the lease agreement between the Company and Fifth Third Bank entered into on July 1, 2009. For the six months ended June 30, 2009 and the year ended December 31, 2008, costs associated with office space occupied by the Predecessor Company were included in allocated expenses.

***Headquarters Relocation***

On December 1, 2010, the Company entered into an agreement to purchase a building for the relocation of its corporate headquarters. Under the terms of the purchase agreement, the Company will purchase the building for approximately $9.1 million in the third quarter of 2011. The purchase will be funded through a first mortgage loan issued by the sellers of the building. In connection with this purchase agreement, on December 1, 2010, the Company entered into a ground lease to lease the land on which the building is located for an initial term of 35 years. The Company does not take possession of the land until the closing date of the building purchase. Beginning in June 2011, the ground lease requires the Company to pay annual rent of $0.3 million, payable in equal consecutive monthly installments.

In connection with the relocation of the corporate headquarters, the Company provided Fifth Third Bank with written notice as required by the lease agreement of its intent to terminate the current lease of office space. Accordingly, the lease commitments above do not reflect lease payments subsequent to 2011.

See Note 16 for further discussion concerning the Company's headquarters relocation.

***Legal Reserve***

From time to time, the Company is involved in various litigation matters arising in the ordinary course of its business. While it is impossible to ascertain the ultimate resolution or range of financial liability with respect to these contingent matters, management believes none of these matters, either individually or in the aggregate, would have a material effect upon the Company's financial statements.

Vantiv, Inc.

NOTES TO FINANCIAL STATEMENTS (Continued)

## 10. EMPLOYEE BENEFIT PLANS

The Company offers a defined contribution savings plan to virtually all Company employees. The plan provides for elective, tax-deferred participant contributions, Company matching contributions and discretionary Company contributions.

Expenses associated with the defined contribution savings plan for the year ended December 31, 2010, six months ended December 31, 2009 and June 30, 2009 and year ended December 31, 2008 were $5.1 million, $2.4 million, $1.0 million and $1.8 million, respectively.

## 11. SHARE-BASED COMPENSATION

### *Phantom Equity*

Effective June 30, 2009, Vantiv Holding established the Phantom Equity Plan for certain employees. The aggregate number of Units that may be issued under the Phantom Equity Plan is limited to approximately 8.7 million. Awards under the Phantom Equity Plan vest upon either the occurrence of certain events ("Time Awards") or the achievement of specified performance goals ("Performance Awards"). Time Awards fully vest on the earliest of the fifth anniversary of the grant date, subject to the participant's continued service through the end of the seventh anniversary of the grant date, or the date of the consummation of a change of control. The Performance Awards contain certain vesting conditions that are triggered upon the earlier of the consummation of a change of control or an initial public offering. Vantiv Holding has the choice to settle both Time Awards and Performance Awards in either cash or equity shares.

As discussed in Note 8, on September 29, 2010, Vantiv Holding authorized for issuance approximately 8.7 million Class D Units to be used for the settlement of Time Awards and Performance Awards. The authorization of such Units permitted Vantiv Holding to account for share-based payments as equity awards. Prior to the authorization, Time Awards and Performance Awards were accounted for as liability awards, with changes in fair value of Time Awards recognized as compensation cost over the requisite service period. Upon authorization of the Class D Units, Vantiv Holding remeasured the existing awards to fair value, with the adjustment recorded in the year ended December 31, 2010 as compensation cost.

The table below includes a summary of Time Award and Performance Award transactions during the year ended December 31, 2010:

| | Time Awards | | Performance Awards | |
|---|---|---|---|---|
| | Shares | Weighted-Average Exercise Price | Shares | Weighted-Average Exercise Price |
| Outstanding, beginning of period | 2,372,869 | $ 11.00 | 1,935,784 | $ 11.00 |
| Granted | 2,274,147 | 11.07 | 1,272,135 | 11.00 |
| Exercised | — | — | — | — |
| Forfeited or expired | 283,623 | 11.00 | 141,812 | 11.00 |
| Outstanding, end of period | 4,363,393 | $ 11.04 | 3,066,107 | $ 11.00 |
| Exercisable, end of period | — | — | — | — |

There were no exercisable Time Awards or Performance Awards outstanding at December 31, 2010 or 2009.

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**11. SHARE-BASED COMPENSATION (Continued)**

ASC 718, *Compensation—Stock Compensation*, requires compensation cost for the grant-date fair value of share-based payments to be recognized over the requisite service period. Further, the fair value of liability awards is required to be remeasured at the reporting date, with changes in fair value recognized as compensation cost over the requisite service period. Based on the vesting criteria and continued service requirements, compensation cost related to Time Awards is recognized on a straight-line basis over seven years. Compensation cost associated with Time Awards issued under the Phantom Equity Plan was $2.8 million and $0.6 million for the year ended December 31, 2010 and six months ended December 31, 2009, respectively. At December 31, 2010, there was approximately $28.5 million of share-based compensation expense related to non-vested Time Awards not yet recognized. The expense is expected to be recognized over a remaining weighted-average period of approximately 6.3 years.

The value of Performance Awards outstanding at December 31, 2010 and 2009 was approximately $15.6 million and $9.5 million, respectively. However, no compensation cost attributable to Performance Awards has been recognized as the achievement of such performance is not deemed probable.

The table below presents the number and weighted-average grant-date fair value of non-vested Time Awards at the beginning and ending of the year, as well as those granted, vested and forfeited during the year ended December 31, 2010 and the six months ended December 31, 2009:

| | 2010 | | 2009 | |
|---|---|---|---|---|
| | Number | Fair Value | Number | Fair Value |
| Nonvested, beginning of period | 2,372,869 | $ 6.52 | — | $ — |
| Granted | 2,274,147 | 6.65 | 2,372,869 | 6.52 |
| Vested | — | — | — | — |
| Forfeited | 283,623 | 6.44 | — | — |
| Nonvested, end of period | 4,363,393 | $ 6.58 | 2,372,869 | $ 6.52 |

Upon reclassification of awards from liability awards to equity awards on September 29, 2010, awards were remeasured to a weighted-average fair value of $7.22 per award.

The remeasured value of the Time Awards during the year ended December 31, 2010 and six months ended December 31, 2009 was estimated using the Black-Scholes option pricing model, which incorporates the weighted-average assumptions below:

| | 2010 | 2009 |
|---|---|---|
| Expected option life at grant (in years) | 7.0 | 7.0 |
| Expected option life at remeasurement (in years) | 6.3 | 6.7 |
| Expected volatility | 36.0% | 37.4% |
| Expected dividend yield | 0.0% | 0.0% |
| Risk-free interest rate | 1.7% | 3.3% |

The expected option life represents the requisite service period associated with Time Awards. Due to the lack of Company-specific historical data, the expected volatility is based on the average historical and implied volatility of the Company's peer group. The expected dividend yield reflects the

**11. SHARE-BASED COMPENSATION (Continued)**

assumption that dividends will not be paid by the Company to holders of Time Awards. The risk-free interest rate is based on the U.S. Treasury strip rate in effect at the time of grant or remeasurement.

During 2010, 126,811 Time and 63,406 Performance Awards were granted to a non-employee. The grant-date fair value of the Time Awards was $7.24, resulting in total expense of $0.9 million, which was recorded in current year earnings. No expense has been recorded for the Performance Awards as related performance measures are not deemed probable. The information presented throughout the above discussion incorporates these awards.

***Stock Options, Stock Appreciation Rights and Restricted Stock***

Prior to the Transaction, certain employees of the Predecessor Company participated in stock-based compensation plans of Fifth Third Bancorp. Stock-based awards issued and outstanding under Fifth Third Bancorp plans were forfeited in conjunction with the termination by Fifth Third Bank of Vantiv employees on January 1, 2010.

Under Fifth Third Bancorp plans, certain employees were granted Fifth Third Bancorp stock-based awards. These awards primarily included stock options, stock appreciation rights ("SARs") and restricted shares. Stock options, issued at fair market value based on the closing price of Fifth Third Bancorp's common stock on the date of grant, had up to 10-year terms and vested and became fully exercisable ratably over a three or four year period of continued employment. SARs, issued at fair market value based on the closing price of Fifth Third Bancorp's common stock on the date of grant, had up to ten-year terms and vested and became exercisable either ratably or fully over a four year period of continued employment. All SARs outstanding were to be settled with stock. Fifth Third Bancorp did not grant discounted stock options or SARs, re-price previously granted stock options or SARs or grant reload stock options. Restricted share grants vested fully either after four years or ratably after three, four, and five years of continued employment and included dividend and voting rights.

The Predecessor Company applied the fair value provisions of ASC 718, *Compensation—Stock Compensation*, in accounting for stock-based compensation plans and recognized compensation expense for the grant-date fair value of stock-based compensation issued over its requisite service period. Compensation expense associated with the stock compensation plan allocated to the Predecessor Company was $1.1 million for the six months ended June 30, 2009 and $2.3 million for the year ended December 31, 2008 and was included in the allocated expense line in the statements of income. No grants of stock options, SARs or restricted shares occurred in 2010 or 2009. The grant date fair value of stock options and SARs was measured using the Black-Scholes option-pricing model. The following assumptions were used for grants in 2008:

| | |
|---|---|
| Expected option (in years) | 6.0 |
| Expected volatility | 30.0% |
| Expected dividend yield | 8.7% |
| Risk-free interest rate | 3.3% |

The expected option life was derived from historical exercise patterns and represented the amount of time options granted expected to be outstanding. The expected volatility was based on the combination of the historical and implied volatilities of Fifth Third Bancorp's common stock. The expected dividend yield was based on the annual dividends divided by Fifth Third Bancorp's stock

**11. SHARE-BASED COMPENSATION (Continued)**

price. The risk-free interest rate was based on the U.S. Treasury yield curve in effect at the time of grant.

As of July 1, 2009, there were approximately 1.3 million stock options and SARs outstanding with a weighted-average option price of $40.44 and 186,000 restricted shares outstanding with a weighted-average option price of $27.53. There were no grants made or options exercised after July 1, 2009.

Subsequent to the Transaction, the Company entered into an employment arrangement with Fifth Third Bank under which employees associated with the Successor Company remained employees of Fifth Third Bank and were allocated to the Company. This arrangement extended through December 31, 2009, at which point such employees were terminated by Fifth Third Bank and immediately hired by the Company. In connection with the termination of the employees from Fifth Third Bank, all outstanding stock options, SARs and restricted shares were forfeited at that time.

The weighted-average grant-date fair value of stock options and SARs granted as of December 31, 2008 was $2.09. There were no stock options exercised for the year ended December 31, 2010, the six months ended December 31, 2009 or June 30, 2009 or the year ended December 31, 2008.

The total grant-date fair value of restricted shares that vested was $1.5 million as of June 30, 2009 and $0.4 million as of December 31, 2008.

**12. INCOME TAXES**

In accordance with ASC Topic 740, *Income Taxes*, income taxes are recognized for the amount of taxes payable for the current year and for the impact of deferred tax liabilities and assets, which represent future tax consequences of events that have been recognized differently in the financial statements than for tax purposes. Deferred tax assets and liabilities are established using the enacted statutory tax rates and are adjusted for any changes in such rates in the period of change. During the six months ended June 30, 2009 and year ended December 31, 2008, tax expense and deferred tax assets and liabilities were estimated based on the Company operating as a business unit of Fifth Third Bank. The Successor Company was established as a C Corporation, which is subject to both federal and state taxation at a corporate level. Therefore, tax expense (benefit) and deferred tax assets and liabilities reflect such status.

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**12. INCOME TAXES (Continued)**

The following is a summary of applicable income taxes (in thousands):

| | Successors | | Predecessor | |
|---|---|---|---|---|
| | Year Ended December 31, 2010 | Six Months Ended December 31, 2009 | Six Months Ended June 30, 2009 | Year Ended December 31, 2008 |
| Current income tax expense: | | | | |
| U.S. income taxes | $ 5,364 | $ 6,111 | $ 32,484 | $ 87,929 |
| State and local income taxes | 2,435 | 1,662 | 3,492 | 8,939 |
| Total current tax expense | 7,799 | 7,773 | 35,976 | 96,868 |
| Deferred income tax expense (benefit): | | | | |
| U.S. income taxes | 4,261 | (7,022) | 852 | (746) |
| State and local income taxes | (13,016) | (942) | 63 | (73) |
| Total deferred tax (benefit) expense | (8,755) | (7,964) | 915 | (819) |
| Applicable income tax (benefit) expense | $ (956) | $ (191) | $ 36,891 | $ 96,049 |

The deferred income tax benefit for state and local income taxes in 2010 is primarily related to the recording of a deferred income tax benefit for the reduction of the state and local tax rate on future reversal of deferred tax liabilities as a result of the relocation of the Company's headquarters to a lower tax jurisdiction. The deferred income tax benefit for federal taxes in 2009 is primarily related to the purchase of Vantiv Holding and Transactive and the capitalized transaction costs that were derived from the transaction.

A reconciliation of the U.S. income tax rate and the Company's effective tax rate for all periods is provided below:

| | Successor | | Predecessor | |
|---|---|---|---|---|
| | Year Ended December 31, 2010 | Six Months Ended December 31, 2009 | Six Months Ended June 30, 2009 | Year Ended December 31, 2008 |
| Federal statutory tax rate | 35.0% | 35.0% | 35.0% | 35.0% |
| Effect of conversion to partnership | — | — | (5.2) | — |
| State taxes—net of federal benefit | 3.3 | 6.2 | 3.2 | 3.6 |
| Change in state and local tax rates | (23.1) | — | — | — |
| Non-controlling interest | (16.9) | (48.7) | — | — |
| Decrease in partnership basis | — | 6.2 | — | — |
| Other—net | (0.1) | — | — | 0.1 |
| Effective tax rate | (1.8)% | (1.3)% | 33.0% | 38.7% |

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**12. INCOME TAXES (Continued)**

Deferred income tax assets and liabilities are comprised of the following as of December 31 (in thousands):

| | 2010 | 2009 |
|---|---|---|
| Deferred tax assets | | |
| Net operating losses | $ 42,414 | $ — |
| Goodwill | — | 317 |
| Employee benefits | 491 | — |
| Other assets | 382 | 156 |
| Partnership basis | 7,380 | 11,425 |
| Other accruals and reserves | 1,518 | — |
| Deferred tax assets | 52,185 | 11,898 |
| Deferred tax liabilities | | |
| Prepaids | — | (20) |
| Property and equipment | (306) | (449) |
| Goodwill and intangible assets | (25,050) | (18,332) |
| Other | — | (593) |
| Deferred tax liability | (25,356) | (19,394) |
| Deferred tax asset (liability)—net | $ 26,829 | $ (7,496) |

As part of the acquisition of NPC, the Company acquired federal and state tax loss carryforwards. As of December 31, 2010, the cumulative federal and state tax loss carryforwards were approximately $125.6 million. These loss carryforwards will expire between 2011 and 2030.

A provision for state and local income taxes has been recorded on the statements of income for the amounts of such taxes the Company is obligated to pay or amounts refundable to the Company. At December 31, 2010 and 2009, the Company recorded an income tax receivable of approximately $2.9 million and $3.0 million, respectively.

The Company accounts for uncertainty in income taxes under ASC 740, *Income Taxes*. As of December 31, 2010 and 2009, the Company had no material uncertain tax positions. If a future liability does arise related to uncertainty in income taxes, the Company has elected an accounting policy to classify interest and penalties, if any, as income tax expense. Accordingly, a loss contingency is recognized when it is probable that a liability has been incurred as of the date of the financial statements and the amount of the loss can be reasonably estimated. Any amount recognized would be subject to estimate and management judgment with respect to the likely outcome of each uncertain tax position. The amount that is ultimately sustained for an individual uncertain tax position or for all uncertain tax positions in the aggregate could differ from the amount recognized.

**13. FAIR VALUE MEASUREMENTS**

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The Company uses the hierarchy prescribed in ASC 820, *Fair Value Measurement*, based upon the available inputs to

**13. FAIR VALUE MEASUREMENTS (Continued)**

the valuation and the degree to which they are observable or not observable in the market. The three levels in the hierarchy are as follows:

- *Level 1 Inputs*—Quoted prices (unadjusted) for identical assets or liabilities in active markets that are accessible as of the measurement date.

- *Level 2 Inputs*—Inputs other than quoted prices within Level 1 that are observable either directly or indirectly, including but not limited to quoted prices in markets that are not active, quoted prices in active markets for similar assets or liabilities and observable inputs other than quoted prices such as interest rates or yield curves.

- *Level 3 Inputs*—Unobservable inputs reflecting the Company's own assumptions about the assumptions that market participants would use in pricing the asset or liability, including assumptions about risk.

The following table summarizes assets measured at fair value on a recurring basis at December 31, 2010 and 2009 (in thousands):

| | 2010 | | | 2009 | | |
|---|---|---|---|---|---|---|
| | Fair Value Measurements Using | | | | | |
| | Level 1 | Level 2 | Level 3 | Level 1 | Level 2 | Level 3 |
| Assets: | | | | | | |
| VRDNs(1) | $ — | $ — | $ — | $ — | $ 100,324 | $ — |
| Free-standing put rights | — | — | 800 | — | — | 5,100 |

(1) VRDNs were included within cash and cash equivalents in the accompanying consolidated statement of financial position as of December 31, 2009. The company sold the VRDNs during the year ended December 31, 2010

In connection with the Transaction, Vantiv, Inc. received put rights, exercisable by Vantiv, Inc., or Vantiv, Inc.'s stockholders at its option, under certain circumstances, as discussed in Note 7. The Company values the put rights by applying Black-Scholes option valuation models using probability weighted scenarios. As the put rights are valued based upon models with significant unobservable market parameters, they are classified within Level 3 of the fair value hierarchy. The assumptions utilized in the Black-Scholes valuation models are summarized in the following table as of December 31:

| | 2010 | 2009 |
|---|---|---|
| Expected term (in years) | 0.5 - 3.0 | 0.5 - 4.0 |
| Expected volatility | 25.6 - 44.6% | 31.3 - 50.2% |
| Risk free rate | 0.23 - 1.05% | 0.27 - 2.23% |
| Expected dividend rate | 0% | 0% |

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**13. FAIR VALUE MEASUREMENTS (Continued)**

The following table is a reconciliation of assets measured at fair value on a recurring basis using significant unobservable inputs (Level 3) (in thousands):

| | Year Ended December 31, 2010 | Six Months Ended December 31, 2009 |
|---|---|---|
| Beginning balance | $ 5,100 | $ 14,200 |
| Losses included in earnings | (4,300) | (9,100) |
| Ending balance | $ 800 | $ 5,100 |

The following table summarizes carrying amounts and estimated fair values for assets and liabilities, excluding assets and liabilities measured at fair value on a recurring basis, as of December 31, 2010 and 2009 (in thousands):

| | 2010 | | 2009 | |
|---|---|---|---|---|
| | Carrying Amount | Fair Value | Carrying Amount | Fair Value |
| Assets: | | | | |
| Cash and cash equivalents | $ 236,512 | $ 236,512 | $ 289,169 | $ 289,169 |
| Settlement assets | 29,044 | 29,044 | 17,617 | 17,617 |
| Liabilities: | | | | |
| Settlement obligations | 229,131 | 229,131 | 126,232 | 126,232 |
| Note payable | 1,756,278 | 1,799,938 | 1,237,500 | 1,237,500 |

Due to the short-term nature of cash and cash equivalents and settlement assets and obligations, the carrying values approximate fair value. The fair value of notes payable was estimated based on rates currently available to the Company for bank loans with similar terms and maturities.

**14. RELATED PARTY TRANSACTIONS**

The Company provides services directly to Fifth Third Bank. As of December 31, 2010 and 2009, receivables related to these related party transactions were approximately $2.9 million and $3.0 million, respectively.

As discussed in Note 6, the Company had certain debt arrangements outstanding and available from Fifth Third Bank. For the year ended December 31, 2010 and the six months ended December 31, 2009 and June 30, 2009, interest expense associated with these arrangements was $101.6 million, $59.7 million and $9.8 million, respectively, and commitment fees were $0.6 million, $0.3 million and $25,000, respectively. No such fees were incurred during the year ended December 31, 2008.

In connection with the Transaction, it was determined that approximately $11.6 million of assets included in the sale would be transferred from Fifth Third Bank to the Company subsequent to the transaction date. As of December 31, 2010 and 2009, $9.1 million and $9.3 million, respectively, of this amount remained outstanding and was recorded on the accompanying statements of financial position within other assets.

Vantiv, Inc.

NOTES TO FINANCIAL STATEMENTS (Continued)

**14. RELATED PARTY TRANSACTIONS (Continued)**

As discussed in Note 2, the Company holds certain cash and cash equivalents on deposit at Fifth Third Bank. At December 31, 2010 and 2009, approximately $179.7 million and $178.7 million, respectively, was held on deposit at Fifth Third Bank. Interest income on such amounts during year ended December 31, 2010 and the six months ended December 31, 2009 and June 30, 2009 was approximately $1.0 million, $0.7 million and $0.1 million, respectively.

Certain related party transactions were unique to the Company as the Successor Company and as the Predecessor Company. Such transactions associated with the Company as the Successor and the Predecessor are as follows:

***Successor Transactions***

As discussed in Note 1, Fifth Third Bank is a member of the Visa, MasterCard and other payment network associations. Fifth Third Bank is the Company's primary sponsor into the respective card associations. Fifth Third Bank also provides access to certain cash and treasury management services to the Company. For the year ended December 31, 2010 and the six months ended December 31, 2009, the Company paid Fifth Third Bank approximately $1.3 million and $0.5 million, respectively, for this sponsorship.

In conjunction with the Transaction, the Company entered into a transition services agreement ("TSA") with Fifth Third Bank. Under the TSA, Fifth Third Bank provided services that were required to support the Company as a stand-alone entity during the period following the Transaction. These services involved IT services, back-office support, employee related services, product development, risk management, legal, accounting and general business resources. Pursuant to the TSA, services are phased out in stages over the duration of the agreement, which the Company expects will terminate in the fourth quarter of 2011. Services provided by Fifth Third Bank under the TSA include the following:

- *IT Services.* Fifth Third Bank provided information technology services to the Company, including information security services, network/provisioning services, end-user services, operating systems management, telecom services, and command center operations. In addition, Fifth Third Bank provided the Company with comparable access to, and usage of, Fifth Third Bank's hardware and software assets located in Bank's data centers. Furthermore, Fifth Third Bank provided the Company access and support services related to the Company's online interactive system for reporting, reconciliation, interfacing and exception processing. The Company's costs for these services for the year ended December 31, 2010 and the six months ended December 31, 2009 were $43.5 million and $22.8 million, respectively.

- *Back-Office Support Services.* Fifth Third Bank provided various back-office support services to the Company, which included a dedicated inbound call center for customer inquiries, card production support and mail/postage services. The Company's costs for these services for the year ended December 31, 2010 and the six months ended December 31, 2009 were $6.9 million and $3.1 million, respectively.

- *Employee Related Services.* For the six months ended December 31, 2009, Fifth Third Bank provided employee related services to the Company, which included benefits administration services, compensation management services, incentive compensation administration and training, learning and development services for Company personnel. Furthermore, included within these services was an employment arrangement under which employees associated with

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**14. RELATED PARTY TRANSACTIONS (Continued)**

the electronic payment processing business remained employees of Fifth Third Bank and were allocated back to the Company. This arrangement extended through December 31, 2009, at which point such employees were terminated by Fifth Third Bank and immediately hired by the Company, as explained in Note 11. The Company's costs for these services for the six months ended December 31, 2009 were $50.7 million.

- *Other Services.* Fifth Third Bank provided various other services to the Company such as tax, accounting and internal audit services. The Company's costs for these services for the year ended December 31, 2010 and the six months ended December 31, 2009 were approximately $0.9 million and $0.3 million, respectively. Additionally, on July 1, 2009, the Company entered into five-year master lease and sublease agreements with Fifth Third Bank for office space and/or data center locations. Related party rent expense was approximately $6.5 million and $3.2 million, respectively, for the year ended December 31, 2010 and the six months ended December 31, 2009.

As of December 31, 2010 and 2009, the amount due for services provided by Fifth Third Bank under the TSA was approximately $9.0 million and $25.4 million, respectively.

In connection with the Transaction, the Company entered into a management agreement with Advent for management services including consulting and business development services related to sales and marketing activities, acquisition strategies, financial and treasury requirements and strategic planning. The Company was required to pay Advent $0.5 million the first year and $1.0 million annually thereafter. The fee is payable in full the beginning of each year and is not subject to proration if the contract is terminated prior to year end. The Company paid Advent $1.0 million during the year ended December 31, 2010 and $0.5 million during the six months ended December 31, 2009.

In connection with the Transaction, the Company loaned $1.5 million to the CEO to contribute to JPDN in order for JPDN to make its investment in Vantiv Holding, as discussed in Note 1. During the six months ended December 31, 2009, this loan was forgiven resulting in an income tax liability of approximately $1.4 million to the CEO, which was paid by the Company. The amount of the loan and related taxes were included in general and administrative expenses during the period.

***Predecessor Transactions***

Prior to the Transaction, Fifth Third Bank performed a number of functions on a centralized basis, including information technology, operational, administrative and interest rate management. The costs associated with these functions were allocated to the Company based on the following and were included in the allocated expense line in the statements of income:

- *Shared Services Allocations.* Fifth Third Bank provided administrative support, including costs for administrative and support staff and certain corporate overhead. Certain of these administrative support expenses were directly attributable to the activities of the Predecessor Company and were, therefore, fully allocated to the Predecessor Company. Other administrative expenses that were not solely attributable to the Predecessor Company were allocated based upon the primary cost driver deemed most appropriate for the type of expense allocated. The cost driver is typically the number of full-time equivalent ("FTE") employees.

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**14. RELATED PARTY TRANSACTIONS (Continued)**

- *IT Allocations.* Fifth Third Bank provided IT support, processing services and technology solutions. IT costs were typically allocated to the Predecessor Company based on CPU usage and the number of FTE employees.

- *Centralized Operations Allocations.* Fifth Third Bank provided centralized operations including cash deposits and orders and customer service support. Such costs were allocated to the Predecessor Company based upon the underlying cost driver deemed most appropriate for the type of expense allocated.

- *Funds Transfer Pricing.* Fifth Third Bank managed interest rate risk centrally at the corporate level by employing a funds transfer pricing ("FTP") methodology. The FTP methodology assigned charge rates and credit rates to classes of assets and liabilities, respectively. The primary driver of FTP for the Predecessor Company related to the net funding position attributable to the funding of receivables. These allocations were included in the non-operating expense line in the statements of income.

A summary of the allocations included in the accompanying statements of income for the six months ended June 30, 2009 and the year ended December 31, 2008 is as follows (in thousands):

| | Six Months Ended June 30, 2009 | Year Ended December 31, 2008 |
|---|---|---|
| Shared services | $ 13,291 | $ 27,874 |
| IT | 32,897 | 70,115 |
| Centralized operations | 6,792 | 16,903 |
| Allocated expenses | $ 52,980 | $ 114,892 |
| Fund transfer pricing | $ 127 | $ 5,635 |

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

## 15. SUPPLEMENTAL CASH FLOW INFORMATION

Supplemental cash flow information and non-cash transactions for the year ended December 31, 2010, the six months ended December 31, 2009 and June 30, 2009 and the year ended December 31, 2008 is summarized as follows (in thousands):

| | Successor | | Predecessor | |
|---|---|---|---|---|
| | Year Ended December 31, 2010 | Six Months Ended December 31, 2009 | Six Months Ended June 30, 2009 | Year Ended December 31, 2008 |
| CASH PAYMENTS: | | | | |
| Interest (including funds transfer pricing) | $ 101,137 | $ 59,484 | $ 10,327 | $ 5,635 |
| Taxes (considered remitted to Fifth Third in the period record) | — | — | 36,891 | 96,867 |
| Taxes | 7,745 | 10,716 | — | — |
| NONCASH ITEMS: | | | | |
| Transfers in of fixed assets, net | $ 146 | $ 2,646 | $ 8,659 | $ — |
| Assumptions of debt and interest payable from Fifth Third | — | — | 1,250,976 | — |
| Liabilities transferred from Fifth Third | — | — | 6,195 | — |
| Liabilities assumed by Fifth Third | — | — | 3,579 | — |
| Receivables transferred to Fifth Third | — | — | 68,817 | — |
| Deferred tax assets transferred to Fifth Third | — | — | 2,581 | — |

## 16. SUBSEQUENT EVENTS

The Company has evaluated subsequent events through November 9, 2011, the date the financial statements were issued.

Pursuant to the requirements of the debt discussed in Note 6, on January 13, 2011, the Company executed two interest rate swap agreements with a total notional balance of $887.5 million, which was equal to 50% of the outstanding debt balance. The interest rate swaps, designated as cash flow hedges, qualified for hedge accounting treatment under ASC Topic 815, *Derivatives and Hedging*.

On May 17, 2011, the Company refinanced approximately $1,771.1 million of debt outstanding under the existing first and second lien loan agreements. At the date of the refinancing, outstanding debt under the first and second lien loan agreements was $1,571.1 million and $200.0 million, respectively. The first and second lien loan agreements were refinanced with a single first lien loan agreement consisting of two tranches, "term B-1 loans" and "term B-2 loans" and a $150.0 million revolving credit facility. At the date of the refinancing, term B-1 loans had a balance of $1,621.1 million while term B-2 loans carried a non-amortizing balance of $150 million. The $150.0 million revolving credit facility includes a $50.0 million swing line facility and $40.0 million available for the issuance of letters of credit. The second lien loan agreement was repaid in connection with the refinancing. The term B-1 loans and term B-2 loans mature in November 2016 and November 2017, respectively. The revolving credit facility matures in November 2015. The primary change under the refinanced debt was the rate at which it bears interest.

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**16. SUBSEQUENT EVENTS (Continued)**

In connection with the debt refinancing on May 17, 2011, the Company amended its interest rate swap agreements. The Company designated the amended interest rate swap agreements into new cash flow hedging relationships and prospectively discontinued the hedge accounting on the original interest rate swap agreements as they no longer met the requirements for hedge accounting.

On June 25, 2011, the Company entered into an agreement with a vendor to lease equipment and purchase related software maintenance and support. Under the agreement, the Company has committed to spend approximately $56.8 million over the period beginning July 2011 and ending July 2015.

On July 12, 2011, the Company purchased a building to serve as its new corporate headquarters, as discussed in Note 9. The Company paid approximately $9.1 million for the building, which was funded through a first mortgage loan from the seller with a principal balance of approximately $10.1 million. The proceeds of the loan in excess of the building price were meant to fund various improvements to the building.

**17. SEGMENT INFORMATION**

Segment operating results are presented below (in thousands). The results reflect revenues and expenses directly related to each segment. The Company does not evaluate performance or allocate resources based on segment asset data, and therefore such information is not presented.

Segment profit reflects total revenue less network fees and other costs and sales and marketing costs of the segment. The Company's CODM evaluates this metric in analyzing the results of operations for each segment.

| | Successor | | | |
|---|---|---|---|---|
| | Year Ended December 31, 2010 | | | |
| | Merchant Services | Financial Institution Services | General Corporate/Other | Total |
| Total revenue | $ 756,930 | $ 405,202 | $ — | $ 1,162,132 |
| Network fees and other costs | 476,932 | 119,063 | — | 595,995 |
| Sales and marketing | 73,441 | 22,964 | 2,013 | 98,418 |
| Segment profit | 206,557 | 263,175 | (2,013) | 467,719 |

| | Six Months Ended December 31, 2009 | | | |
|---|---|---|---|---|
| | Merchant Services | Financial Institution Services | General Corporate/Other | Total |
| Total revenue | $ 320,355 | $ 185,647 | $ — | $506,002 |
| Network fees and other costs | 207,008 | 47,917 | — | 254,925 |
| Sales and marketing | 24,410 | 8,076 | — | 32,486 |
| Segment profit | 88,937 | 129,654 | — | 218,591 |

**Vantiv, Inc.**

**NOTES TO FINANCIAL STATEMENTS (Continued)**

**17. SEGMENT INFORMATION (Continued)**

| | Predecessor | | | |
|---|---|---|---|---|
| | Six Months Ended June 30, 2009 | | | |
| | Merchant Services | Financial Institution Services | General Corporate/Other | Total |
| Total revenue | $ 264,224 | $ 180,500 | $ — | $ 444,724 |
| Network fees and other costs | 171,570 | 50,110 | — | 221,680 |
| Sales and marketing | 26,497 | 11,064 | — | 37,561 |
| Segment profit | 66,157 | 119,326 | — | 185,483 |

| | Year Ended December 31, 2008 | | | |
|---|---|---|---|---|
| | Merchant Services | Financial Institution Services | General Corporate/Other | Total |
| Total revenue | $ 532,283 | $ 352,635 | $ — | $ 884,918 |
| Network fees and other costs | 331,443 | 102,053 | — | 433,496 |
| Sales and marketing | 47,010 | 24,237 | — | 71,247 |
| Segment profit | 153,830 | 226,345 | — | 380,175 |

A reconciliation of total segment profit to the Company's income before applicable income taxes is as follows (in thousands):

| | Successor | | Predecessor | |
|---|---|---|---|---|
| | Year Ended December 31, 2010 | Six Months Ended December 31, 2009 | Six Months Ended June 30, 2009 | Year Ended December 31, 2008 |
| Total segment profit | $ 467,719 | $ 218,591 | $ 185,483 | $ 380,175 |
| Less: Other operating costs | (124,383) | (48,275) | — | — |
| Less: General and administrative | (58,091) | (38,058) | (8,468) | (8,747) |
| Less: Depreciation and amortization | (110,964) | (49,885) | (2,356) | (2,250) |
| Less: Allocated expenses | — | — | (52,980) | (114,892) |
| Less: Interest expense—net | (116,020) | (58,877) | (9,780) | — |
| Less: Non-operating expenses | (4,300) | (9,100) | (127) | (5,635) |
| Income before applicable income taxes | $ 53,961 | $ 14,396 | $ 111,772 | $ 248,651 |

**Vantiv, Inc.**

**CONSOLIDATED STATEMENTS OF FINANCIAL POSITION**

**Unaudited**

**(In thousands, except share data)**

| | June 30, 2011 | December 31, 2010 |
|---|---|---|
| **Assets** | | |
| Current assets: | | |
| Cash and cash equivalents | $ 255,831 | $ 236,512 |
| Accounts receivable—net | 315,448 | 344,371 |
| Related party receivable | 3,694 | 2,933 |
| Settlement assets | 31,970 | 29,044 |
| Prepaid expenses | 11,447 | 10,059 |
| Other | 9,302 | 8,031 |
| Total current assets | 627,692 | 630,950 |
| Customer incentives | 15,220 | 9,619 |
| Property and equipment—net | 108,457 | 81,056 |
| Intangible assets—net of accumulated amortization of $206,681 and $144,409 respectively | 974,327 | 1,035,891 |
| Goodwill | 1,532,374 | 1,532,374 |
| Deferred taxes | 31,303 | 28,168 |
| Other assets | 46,509 | 52,459 |
| Total assets | $ 3,335,882 | $ 3,370,517 |
| **Liabilities and equity** | | |
| Current liabilities: | | |
| Accounts payable and accrued expenses | $ 150,593 | $ 163,380 |
| Related party payable | 7,575 | 12,466 |
| Settlement obligations | 186,337 | 229,131 |
| Current portion of note payable to related party | 3,480 | 3,813 |
| Current portion of note payable | 12,730 | 11,938 |
| Deferred income | 7,695 | 3,987 |
| Current maturities of capital lease obligations | 6,248 | 112 |
| Total current liabilities | 374,658 | 424,827 |
| Long-term liabilities: | | |
| Note payable to related party | 375,946 | 377,437 |
| Note payable | 1,358,900 | 1,363,090 |
| Capital lease obligations | 5,079 | — |
| Deferred taxes | 4,043 | 4,043 |
| Other | 15,484 | 6,407 |
| Total long-term liabilities | 1,759,452 | 1,750,977 |
| Total Liabilities | 2,134,110 | 2,175,804 |
| Commitment and Contingencies (See Note 5) | | |
| Equity: | | |
| Common stock, $.01 par value; 510,000 shares authorized; 509,305 issued and outstanding at June 30, 2011 and December 31, 2010 | 5 | 5 |
| Paid-in capital | 576,309 | 575,600 |
| Retained earnings | 28,731 | 19,852 |
| Accumulated other comprehensive loss | (2,486) | — |
| Total Vantiv, Inc. equity | 602,559 | 595,457 |
| Non-controlling interests | 599,213 | 599,256 |
| Total equity | 1,201,772 | 1,194,713 |
| Total Liabilities and Equity | $ 3,335,882 | $ 3,370,517 |

See Notes to Consolidated Financial Statements.

**Vantiv, Inc.**

**CONSOLIDATED STATEMENTS OF INCOME AND COMPREHENSIVE INCOME**

**Unaudited**

**(In thousands, except share data)**

| | Six Months Ended June 30, 2011 | Six Months Ended June 30, 2010 |
|---|---|---|
| Revenue: | | |
| External customers | $ 739,377 | $ 480,042 |
| Related party revenues | 34,633 | 31,193 |
| Total revenue | 774,010 | 511,235 |
| Network fees and other costs | 367,910 | 265,345 |
| Sales and marketing | 115,789 | 36,822 |
| Other operating costs | 72,720 | 54,509 |
| General and administrative | 49,607 | 26,005 |
| Depreciation and amortization | 75,701 | 50,825 |
| Income from operations | 92,283 | 77,729 |
| Interest expense—net | (59,573) | (57,691) |
| Non-operating expenses | (13,799) | (3,000) |
| Income before applicable income taxes | 18,911 | 17,038 |
| Income tax expense | 2,551 | 3,269 |
| Net income | 16,360 | 13,769 |
| Less: Net income attributable to non-controlling interests | (7,481) | (9,173) |
| Net income attributable to Vantiv, Inc. | 8,879 | 4,596 |
| Other comprehensive loss, net of tax: | | |
| Unrealized loss on hedging activities | (7,902) | — |
| Comprehensive income | 8,458 | 13,769 |
| Less: Comprehensive income attributable to non-controlling interests. | (2,065) | (9,173) |
| Comprehensive income attributable to Vantiv, Inc. | $ 6,393 | $ 4,596 |
| Net income per common share attributable to Vantiv, Inc.: | | |
| Basic | $ 17.43 | $ 9.02 |
| Diluted | $ 17.43 | $ 9.02 |
| Shares used in computing net income per common share: | | |
| Basic | 509,305 | 509,305 |
| Diluted | 509,305 | 509,305 |

See Notes to Consolidated Financial Statements.

**Vantiv, Inc.**

**CONSOLIDATED STATEMENTS OF EQUITY**

**Unaudited**

**(In thousands)**

| | Total | Vantiv, Inc. Equity: Common Stock | Paid-in Capital | Retained Earnings (Accumulated Deficit) | Accumulated Other Comprehensive Loss | Non-controlling Interests |
|---|---|---|---|---|---|---|
| Beginning Balance, January 1, 2010 | $ 1,162,642 | $ 5 | $ 573,863 | $ (2,141) | $ — | $ 590,915 |
| Net income | 13,769 | — | — | 4,596 | — | 9,173 |
| Distribution to non-controlling interests | (10,848) | — | — | — | — | (10,848) |
| **Ending Balance, June 30, 2010** | 1,165,563 | 5 | 573,863 | 2,455 | — | 589,240 |
| Beginning Balance, January 1, 2011 | 1,194,713 | 5 | 575,600 | 19,852 | — | 599,256 |
| Net income | 16,360 | — | — | 8,879 | — | 7,481 |
| Unrealized loss on hedging activities, net of tax | (7,902) | — | — | — | (2,486) | (5,416) |
| Distribution to non-controlling interests | (2,792) | — | — | — | — | (2,792) |
| Share-based compensation | 1,393 | — | 709 | — | — | 684 |
| **Ending Balance, June 30, 2011** | $ 1,201,772 | $ 5 | $ 576,309 | $ 28,731 | $ (2,486) | $ 599,213 |

See Notes to Consolidated Financial Statements.

**Vantiv, Inc.**

**CONSOLIDATED STATEMENTS OF CASH FLOWS**

**Unaudited**

**(In thousands)**

| | Six Months Ended June 30, 2011 | Six Months Ended June 30, 2010 |
|---|---|---|
| Operating Activities: | | |
| Net income | $ 16,360 | $ 13,769 |
| Adjustments to reconcile net income to net cash provided by operating activities: | | |
| Depreciation expense | 13,401 | 4,895 |
| Amortization expense | 62,300 | 45,930 |
| Loss on derivative assets | 100 | 3,000 |
| Amortization of customer incentives | 1,648 | 425 |
| Amortization of debt issuance costs | 5,028 | — |
| Share based compensation expense | 1,393 | 1,188 |
| Write-off of debt issuance costs | 9,698 | — |
| Other non-cash items | 662 | — |
| Change in operating assets and liabilities: | | |
| Decrease in accounts receivable and related party receivable | 28,162 | 12,820 |
| Decrease in net settlement assets and obligations | (45,720) | (10,606) |
| Increase in customer incentives | (7,249) | (3,094) |
| Decrease (increase) in prepaid and other assets | 809 | (1,612) |
| Decrease in accounts payable and accrued expenses | (12,787) | (15,000) |
| Decrease in payable to related party | (4,891) | (16,664) |
| Increase in other liabilities | 1,086 | 477 |
| Net cash provided by operating activities | 70,000 | 35,528 |
| Investing Activities: | | |
| Purchases of property and equipment | (28,568) | (12,915) |
| Residual buyouts | (736) | — |
| Purchase of investments | (3,300) | — |
| Net cash used in investing activities | (32,604) | (12,915) |
| Financing Activities: | | |
| Payment of debt issuance costs | (6,276) | — |
| Repayment of debt and capital lease obligations | (9,009) | (9,506) |
| Distribution to non-controlling interests | (2,792) | (10,848) |
| Net cash used in financing activities | (18,077) | (20,354) |
| Net increase in cash and cash equivalents | 19,319 | 2,259 |
| Cash and cash equivalents—Beginning of period | 236,512 | 289,169 |
| Cash and cash equivalents—End of period | $ 255,831 | $ 291,428 |
| Cash Payments: | | |
| Interest | $ 55,830 | $ 58,198 |
| Taxes | 5,718 | 2,988 |
| Noncash Items: | | |
| Assets acquired under capital lease obligations | $ 12,234 | $ — |

See Notes to Consolidated Financial Statements.

**Vantiv, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**(UNAUDITED)**

## 1. BASIS OF PRESENTATION

***Description of Business***

Vantiv, Inc., a Delaware corporation, is a holding company that conducts its operations through its majority-owned subsidiaries, Vantiv Holding, LLC ("Vantiv Holding") and Transactive Ecommerce Solutions Inc. ("Transactive"). Prior to changing its name on November 8, 2011, Vantiv, Inc. was known as Advent-Kong Blocker Corp. Vantiv, Inc., Vantiv Holding and Transactive are referred to collectively as the "Company".

The Company provides electronic payment processing services to merchants and financial institutions throughout the United States of America. The Company markets its services through diverse distribution channels, including a direct sales force, relationships with a broad range of independent sales organizations ("ISOs"), merchant banks, value-added resellers and trade associations as well as arrangements with core processors.

***Segments***

The Company's segments consist of the Merchant Services segment and the Financial Institution Services segment. The Company's Chief Executive Officer ("CEO"), who is the chief operating decision maker ("CODM"), evaluates the performance and allocates resources based on the operating results of each segment. Below is a summary of each segment:

- *Merchant Services*—Provides merchant acquiring and payment processing services to large national merchants, regional and small-to-mid sized businesses. Merchant services are sold to small to large businesses through both direct and indirect distribution channels. Merchant Services includes all aspects of card processing including authorization and settlement, customer service, chargeback and retrieval processing and interchange management.

- *Financial Institution Services*—Provides card issuer processing, payment network processing, fraud protection, card production, prepaid program management, automated teller machine ("ATM") driving and network gateway and switching services that utilize the Company's proprietary Jeanie PIN debit payment network to a diverse set of financial institutions, including regional banks, community banks, credit unions and regional personal identification number ("PIN") networks. Financial Institution Services also provides statement production, collections and inbound/outbound call centers for credit transactions, and other services such as credit card portfolio analytics, program strategy and support, fraud and security management and chargeback and dispute services.

***Principles of Consolidation***

The accompanying consolidated financial statements include the operations and accounts of the Company and all subsidiaries thereof. All intercompany balances and transactions with the Company's subsidiaries have been eliminated upon consolidation.

Vantiv, Inc. owns a 50.93% interest in Vantiv Holding. Fifth Third Bank, an indirect wholly-owned subsidiary of Fifth Third Bancorp, FTPS Partners, LLC, a wholly-owned subsidiary of Fifth Third Bank, and JPDN Enterprises, LLC an affiiliate of Charles D. Drucker, the Company's CEO, own interests in Vantiv of 44.52%, 4.42% and 0.14%, respectively. Vantiv, Inc., Fifth Third Financial Corporation, a

**Vantiv, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**(UNAUDITED)**

**1. BASIS OF PRESENTATION (Continued)**

wholly-owned subsidiary of Fifth Third Bank, and JPDN own interests in Transactive of 50.93%, 48.93% and 0.14%, respectively.

The Company accounts for non-controlling interests in accordance with Accounting Standards Codification ("ASC") 810, *Consolidation*. Non-controlling interests represent the minority shareholders' share of net income or loss of and equity in consolidated subsidiaries. All of the Company's non-controlling interests are presented after Vantiv Holding and Transactive income tax expense in the consolidated statements of income as "Net income attributable to non-controlling interests." Non-controlling interests are presented as a component of equity in the consolidated statement of financial position and reflect the original investments by these non-controlling shareholders, along with their proportionate share of the earnings or losses of the subsidiaries, net of distributions.

***Basis of Presentation***

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). The accompanying consolidated financial statements should be read in conjunction with the Company's 2010 audited financial statements. Significant accounting policies discussed therein have not changed. The results of operations for the interim periods reported are not necessarily indicative of the results of operations that may be expected for any future interim periods or for the full fiscal year.

The accompanying consolidated financial statements are unaudited; however, in the opinion of management they include all normal recurring adjustments necessary for a fair presentation of the financial position of the Company as of June 30, 2011, the results of its operations, cash flows, changes in shareholder's equity and income for the six months ended June 30, 2011 and 2010.

***Use of Estimates***

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. Actual results could differ from those estimates.

***New Accounting Pronouncements***

In June 2011, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2011-05, "Comprehensive Income (Topic 220): Presentation of Comprehensive Income," which revises the manner in which entities present comprehensive income in their financial statements. The amendments implemented under ASU 2011-05 give an entity the option to present the total of comprehensive income, the components of net income, and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. In both choices, an entity is required to present each component of net income along with total net income, each component of other comprehensive income along with a total for other comprehensive income, and a total amount for total comprehensive income. The ASU eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. The amendments in this ASU do not change the items

that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income. ASU 2011-05 should be applied retrospectively and is effective for public entities for fiscal years, and interim periods within those years, beginning after December 15, 2011, with early adoption permitted. The Company adopted the guidance contained within ASU 2011-05 in June 2011. The guidance did not have a material effect on the Company's consolidated financial position or results of operations.

In September 2011, the FASB issued ASU 2011-08, "Intangibles—Goodwill and Other (Topic 350) Testing Goodwill for Impairment", which revises the guidance on testing goodwill for impairment. Under the revised guidance, entities testing goodwill for impairment have the option to first assess qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not that the fair value of a reporting unit is less than its carrying amount. If, after assessing the totality of events or circumstances, an entity determines it is more likely than not that the fair value of a reporting unit is less than its carrying amount, then performing the two-step impairment test would be required. Under the amendments in this ASU, an entity has the option to bypass the qualitative assessment for any reporting unit in any period and proceed directly to performing the first step of the two-step goodwill impairment test. An entity may resume performing the qualitative assessment in any subsequent period. This ASU does not change how goodwill is calculated or assigned to reporting units, nor does it revise the requirement to test goodwill annually for impairment. In addition, this ASU does not amend the requirement to test goodwill for impairment between annual tests if events or circumstances warrant; however, it does revise the examples of events and circumstances that an entity should consider. The amendments within this ASU are effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011, with early adoption permitted. The Company adopted the guidance within this ASU in September 2011. The guidance did not have a material effect on the Company's financial position or results of operations.

**2. CAPITAL LEASES**

On March 31, 2011, the Company entered into various lease agreements for equipment that are classified as capital leases. The cost of equipment under capital leases, approximately $12.2 million, is included on the accompanying consolidated statement of financial position as of June 30, 2011 within property and equipment. Depreciation expense associated with such capital leases was $1.5 million for the six months ended June 30, 2011.

**Vantiv, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**(UNAUDITED)**

**2. CAPITAL LEASES (Continued)**

The future minimum lease payments required under capital leases and the present value of net minimum lease payments as of June 30, 2011 are as follows (in thousands):

| | Amount |
|---|---|
| Six Months Ending December 31, 2011 | $ 3,662 |
| Year Ending December 31, 2012 | 6,243 |
| Year Ending December 31, 2013 | 2,086 |
| Total minimum lease payments | $ 11,991 |
| Less: Amount representing interest | (664) |
| Present value of minimum lease payments | $ 11,327 |
| Less: Current maturities of capital lease | (6,248) |
| Long-term capital lease obligations | $ 5,079 |

**3. DEBT**

On May 17, 2011, the Company refinanced $1,771.1 million of debt outstanding under the existing first and second lien loan agreements ("original debt"). Outstanding debt under the original first and second lien loan agreements was $1,571.1 million and $200.0 million, respectively, and matured in November 2016 and 2017, respectively.

The original debt was refinanced into a single first lien loan agreement ("refinanced debt") consisting of two tranches, "term B-1" and "term B-2," and a $150.0 million revolving credit facility. As of the date of refinancing, term B-1 had a balance of $1,621.1 billion, while term B-2 carried a non-amortizing balance of $150.0 million. The original second lien loan agreement was repaid in connection with the refinancing. The maturity dates of term B-1 and term B-2 are November 3, 2016 and 2017, respectively. The revolving credit facility matures on November 3, 2015. The primary change under the refinanced debt was the rate at which it bears interest. Interest is payable quarterly and the following table summarizes the applicable interest rates on the original debt as compared to the refinanced debt:

| | Original Debt | Refinanced Debt |
|---|---|---|
| **First Lien/Term B-1** | LIBOR + 400 bps; floor of 150 bps | LIBOR + 325 bps; floor of 125 bps |
| **Second Lien/Term B-2** | LIBOR + 675 bps; floor of 150 bps | LIBOR + 350 bps; floor of 150 bps |

During the six months ended June 30, 2011, the Company made a principal payment of $4.1 million on term B-1. The outstanding balance of the refinanced debt as of June 30, 2011 was $1,767.0 million. At June 30, 2011, Fifth Third held approximately $379.4 million of term B-1.

***Deferred Financing Fees***

Based on the changes in the composition of the syndicate of lenders participating in the refinanced debt, a component of the refinancing was accounted for as a debt extinguishment under ASC 470, *Debt*. As such, the Company wrote off approximately $4.6 million of unamortized deferred financing fees related to the original debt. Further, the Company paid approximately $6.3 million in underwriting and

legal fees associated with the debt refinancing, of which approximately $5.1 million was recorded as expense on the date of the refinancing. Both the write-off of unamortized deferred financing fees and the expense associated with fees incurred in connection with the refinancing are recorded as a component of non-operating expenses in the accompanying consolidated statement of comprehensive income for the six months ended June 30, 2011.

The Company capitalized approximately $1.2 million of debt issuance costs associated with the debt refinancing. Such costs are recorded as a component of other non-current assets in the accompanying consolidated statement of financial position as of June 30, 2011. Additionally, approximately $36.4 million of unamortized debt issuance costs and $16.0 million of original issue discount related to the original debt remained capitalized subsequent to the debt refinancing. Debt issuance costs and original issue discount are included as a component of other non-current assets and note payable, respectively, in the accompanying consolidated statement of financial position as of June 30, 2011.

***Other Fees***

In connection with the repayment of the original second lien loan agreement, the Company paid a call premium of $4.0 million, which is included within non-operating expenses in the accompanying consolidated statement of comprehensive income for the six months ended June 30, 2011.

***Guarantees and Security***

The obligations under the loan agreement for the refinanced debt are unconditional and are guaranteed by Vantiv Holding and certain of its existing and subsequently acquired or organized domestic subsidiaries. The refinanced debt is secured on a first-priority basis (subject to liens permitted under the loan agreement governing the refinanced debt) in substantially all the capital stock (subject to a 65% limitation on pledges of capital stock of foreign subsidiaries and domestic holding companies of foreign subsidiaries) and personal property of the borrower and any obligors as well as any real property in excess of $5 million in the aggregate held by the borrower or any obligors (other than Vantiv Holding), subject to certain exceptions.

***Covenants***

There are certain financial and non-financial covenants contained in the loan agreement for the refinanced debt. The Company was in compliance with these covenants as of June 30, 2011.

**Vantiv, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**(UNAUDITED)**

**4. DERIVATIVES AND HEDGING ACTIVITIES**

***Risk Management Objective of Using Derivatives***

The Company entered into derivative financial instruments to manage differences in the amount, timing, and duration of its known or expected cash payments related to its variable-rate debt. As of June 30, 2011, the Company's derivative instruments consist of interest rate swaps, which hedge the variable cash flows associated with its existing variable-rate debt by converting floating-rate payments to fixed-rate payments. Additionally, in conjunction with Vantiv, Inc.'s acquisition of a controlling interest in Vantiv Holding, Vantiv, Inc. received put rights, exercisable by Vantiv, Inc., or Vantiv, Inc.'s stockholders, at its option, from Fifth Third Bank. The Company does not enter into derivative financial instruments for speculative purposes.

***Accounting for Derivative Instruments***

The Company recognizes derivatives in other non-current assets or liabilities in the accompanying consolidated statements of financial position at their fair values. Refer to Note 7 for a detailed discussion of the fair values of its derivatives. The Company has designated its interest rate swaps as cash flow hedges of forecasted interest rate payments related to its variable-rate debt. The Company accounts for the put rights as free-standing derivatives.

The Company formally documents all relationships between hedging instruments and underlying hedged items, as well as its risk management objective and strategy for undertaking hedge transactions. This process includes linking all derivatives that are designated as cash flow hedges to forecasted transactions. A formal assessment of hedge effectiveness is performed both at inception of the hedge and on an ongoing basis to determine whether the hedge is highly effective in offsetting changes in cash flows of the underlying hedged item. Hedge effectiveness is assessed using a regression analysis. If it is determined that a derivative ceases to be highly effective during the term of the hedge, the Company will discontinue hedge accounting prospectively for such derivative.

The Company's interest rate swaps qualify for hedge accounting under ASC 815, *Derivatives and Hedging*. Therefore, the effective portion of changes in fair value are recorded in accumulated other comprehensive loss and reclassified into earnings in the same period during which the hedged transaction affects earnings.

***Cash Flow Hedges of Interest Rate Risk***

In connection with the debt refinancing discussed in Note 3, the Company amended its interest rate swap agreements. The Company designated the amended interest rate swap agreements into new cash flow hedging relationships and prospectively discontinued the hedge accounting on the original interest rate swap agreements as they no longer met the requirements for hedge accounting. The Company continues to report the net unrealized loss related to the discontinued cash flow hedges in accumulated other comprehensive loss in the accompanying consolidated statement of equity for the six months ended June 30, 2011, which is being reclassified into earnings during the remaining contractual term of the hedge agreements. During the six months ended June 30, 2011, $0.2 million in losses were reclassified into earnings associated with the discontinued cash flow hedges.

As part of the Company's interest rate risk management strategy, the interest rate swap agreements add stability to interest expense and manage exposure to interest rate movements. During

the six months ended June 30, 2011, such derivatives were used to hedge the variable cash flows associated with existing variable-rate debt. As of June 30, 2011, the interest rate swaps designated as cash flow hedges of interest rate risk had a total notional value of $887.5 million. Included within this total notional value is $687.5 million to which Fifth Third Bank is the counterparty. The interest rate swap agreements expire on November 19, 2015.

The table below presents the fair value of the Company's derivative financial instruments designated as cash flow hedges included within the accompanying consolidated statement of financial position as of June 30, 2011 (in thousands):

| | Consolidated Statement of Financial Position Location | June 30, 2011 |
|---|---|---|
| Interest rate swaps | Other non-current liabilities | $ 11,699 |

As of June 30, 2011 the Company estimates that an additional $10.8 million will be reclassified to interest expense during the next twelve months. Any ineffectiveness associated with such derivative instruments is recorded immediately as interest expense in the accompanying consolidated statements of comprehensive income. The tables below present the effect of the Company's interest rate swaps on the consolidated statements of comprehensive income for the six months ended June 30, 2011 and 2010 (in thousands):

| | Six Months Ended June 30, | |
|---|---|---|
| | 2011 | 2010 |
| **Derivatives in cash flow hedging relationships:** | | |
| Amount of loss recognized in OCI (effective portion)(1) | $ (12,712) | $ — |
| Amount of loss reclassified from accumulated OCI into earnings (effective portion)(2) | (1,674) | — |
| Amount of loss recognized in earnings (ineffective portion)(2) | (3,388) | — |

(1) "OCI" represents other comprehensive income.

(2) Loss is recognized in "Interest expense—net" in the Consolidated Statements of Comprehensive Income.

***Credit Risk Related Contingent Features***

The Company has agreements with each of its derivative counterparties that contain a provision where the Company could be declared in default on its derivative obligations if repayment of the underlying indebtedness is accelerated by the lender due to the Company's default on the indebtedness. Under such scenario, the Company could be required to settle its obligation under the agreement at the termination value of the interest rates swaps, which was approximately $13.5 million as of June 30, 2011. As of June 30, 2011, the Company was in compliance with all related debt covenants.

**Vantiv, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**(UNAUDITED)**

**4. DERIVATIVES AND HEDGING ACTIVITIES (Continued)**

***Free-standing Derivative***

On June 30, 2009, Vantiv, Inc. completed the acquisition of a majority interest in Vantiv Holding from Fifth Third Bank (the "Transaction"). In conjunction with the Transaction, Vantiv, Inc. received put rights, exercisable prior to an IPO (as defined in the Amended and Restated Limited Liability Company Agreement of Vantiv Holding) by Vantiv, Inc., or Vantiv, Inc.'s stockholders at its option, from Fifth Third Bank. The put rights are accounted for under ASC 815, *Derivatives and Hedging*, as free-standing derivatives with changes in fair value recorded in earnings in the period of change. The following table reflects the notional amount and fair value of the put rights included within other non-current assets in the consolidated statements of financial position as of June 30, 2011 and December 31, 2010 (in thousands):

| | June 30, 2011 | | December 31, 2010 | |
|---|---|---|---|---|
| | Notional Amount | Fair Value Derivative Asset | Notional Amount | Fair Value Derivative Asset |
| Free-standing put rights | $ 875,495 | $ 700 | $ 870,402 | $ 800 |

The net losses recorded as a component of non-operating expenses in the consolidated statements of comprehensive income related to the put rights are summarized in the following table (in thousands):

| | Six Months Ended June 30, | |
|---|---|---|
| | 2011 | 2010 |
| Free-standing put rights | $ (100) | $ (3,000) |

**5. COMMITMENTS AND CONTINGENCIES**

On June 25, 2011, the Company entered into an agreement with a vendor to lease equipment and purchase related software and maintenance support. Under the agreement, the Company has committed to spend approximately $56.8 million over the period beginning July 2011 and ending in July 2015.

**6. INCOME TAXES**

The Company's consolidated interim effective tax rate is based upon expected annual income from operations, statutory tax rates and tax laws in the various jurisdictions in which the Company operates. Significant or unusual items, including adjustments to accruals for tax uncertainties, are recognized in the quarter in which the related event occurs.

The Company's effective tax rates were 13.5% and 19.2%, respectively, for the six months ended June 30, 2011 and 2010. The effective rate for each period reflects the impact of the Company's non-controlling interests. Further, the effective rate during the six months ended June 30, 2011 reflects a $2.5 million benefit recognized as a result of a reduction in a state income tax rate.

**Vantiv, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**(UNAUDITED)**

## 7. FAIR VALUE MEASUREMENTS

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The Company uses the hierarchy prescribed in ASC 820, *Fair Value Measurement*, based upon the available inputs to the valuation and the degree to which they are observable or not observable in the market. The three levels in the hierarchy are as follows:

- *Level 1 Inputs*—Quoted prices (unadjusted) for identical assets or liabilities in active markets that are accessible as of the measurement date.
- *Level 2 Inputs*—Inputs other than quoted prices within Level 1 that are observable either directly or indirectly, including but not limited to quoted prices in markets that are not active, quoted prices in active markets for similar assets or liabilities and observable inputs other than quoted prices such as interest rates or yield curves.
- *Level 3 Inputs*—Unobservable inputs reflecting the Company's own assumptions about the assumptions that market participants would use in pricing the asset or liability, including assumptions about risk.

The following table summarizes assets and liabilities measured at fair value on a recurring basis as of June 30, 2011 and December 31, 2010 (in thousands):

| | June 30, 2011 | | | December 31, 2010 | | |
|---|---|---|---|---|---|---|
| | Fair Value Measurements Using | | | | | |
| | Level 1 | Level 2 | Level 3 | Level 1 | Level 2 | Level 3 |
| Assets: | | | | | | |
| Free-standing put rights | $ — | $ — | $ 700 | $ — | $ — | $ 800 |
| Liabilities: | | | | | | |
| Interest rate swaps | — | 11,699 | — | — | — | — |

***Interest Rate Swaps***

The Company uses interest rate swaps to manage interest rate risk. The fair value of interest rate swaps are determined using the market standard methodology of netting the discounted future fixed cash receipts (or payments) and the discounted expected variable cash payments (or receipts). The variable cash payments (or receipts) are based on the expectation of future interest rates (forward curves) derived from observed market interest rate curves. In addition, to comply with the provisions of ASC 820, *Fair Value Measurements*, credit valuation adjustments, which consider the impact of any credit enhancements to the contracts, are incorporated in the fair values to account for potential nonperformance risk. In adjusting the fair value of its interest rate swaps for the effect of nonperformance risk, the Company has considered any applicable credit enhancements such as collateral postings, thresholds, mutual puts, and guarantees.

Although the Company has determined that the majority of the inputs used to value its interest rate swaps fall within Level 2 of the fair value hierarchy, the credit valuation adjustments associated with its interest rate swaps utilize Level 3 inputs, such as estimates of current credit spreads to evaluate the likelihood of default by itself and its counterparties. However, as of June 30, 2011, the Company

**Vantiv, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**(UNAUDITED)**

**7. FAIR VALUE MEASUREMENTS (Continued)**

has assessed the significance of the impact of the credit valuation adjustments on the overall valuation of its interest rate swaps and has determined that the credit valuation adjustment is not significant to the overall valuation of its interest rate swaps. As a result, the Company classifies its interest rate swap valuations in Level 2 of the fair value hierarchy. See Note 4 for further discussion of the Company's interest rate swaps.

***Free-standing Derivative***

The Company values the put rights by applying Black-Scholes option valuation models using probability weighted scenarios. As the put rights are valued based upon models with significant unobservable market parameters, they are classified within Level 3 of the fair value hierarchy. The assumptions utilized in the Black-Scholes valuation models are summarized in the following table as of June 30, 2011 and December 31, 2010:

| | June 30, 2011(a) | December 31, 2010 |
|---|---|---|
| Expected term (in years) | 2.5 | 0.5 - 3.0 |
| Expected volatility | 35.3% | 25.6 - 44.6% |
| Risk free rate | 0.68% | 0.23 - 1.05% |
| Expected dividend rate | 0% | 0% |

(a) A total of three scenarios have historically been used to estimate the fair value of the put right. Two of the scenarios' terms expired as of June 30, 2011. Therefore, the assumptions for the current period include one scenario.

The following table is a reconciliation of the Company's free-standing put rights, which are measured at fair value on a recurring basis using significant unobservable inputs (Level 3) (in thousands):

| | Six Months Ended June 30, | |
|---|---|---|
| | 2011 | 2010 |
| Beginning balance | $ 800 | $ 5,100 |
| Total losses included in earnings | (100) | (3,000) |
| Ending balance | $ 700 | $ 2,100 |

**Vantiv, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**(UNAUDITED)**

**7. FAIR VALUE MEASUREMENTS (Continued)**

The following table summarizes carrying amounts and estimated fair values for assets and liabilities, excluding assets and liabilities measured at fair value on a recurring basis, as of June 30, 2011 and December 31, 2010 (in thousands):

| | June 30, 2011 | | December 31, 2010 | |
|---|---|---|---|---|
| | Carrying Amount | Fair Value | Carrying Amount | Fair Value |
| Assets: | | | | |
| Cash and cash equivalents | $ 255,831 | $ 255,831 | $ 236,512 | $ 236,512 |
| Settlement assets | 31,970 | 31,970 | 29,044 | 29,044 |
| Liabilities: | | | | |
| Settlement obligations | 186,337 | 186,337 | 229,131 | 229,131 |
| Note payable | 1,751,056 | 1,767,000 | 1,756,278 | 1,799,938 |

Due to the short-term nature of cash and cash equivalents and settlement assets and obligations, the carrying values approximate fair value. The fair value of notes payable was estimated based on rates currently available to the Company for bank loans with similar terms and maturities.

**8. ACCUMULATED OTHER COMPREHENSIVE LOSS**

The activity of the components of accumulated other comprehensive loss was as follows for the six months ended June 30, 2011 (in thousands):

| | Accumulated Other Comprehensive Loss | | |
|---|---|---|---|
| | Pretax Activity | Tax Effect | Net Activity |
| Unrealized loss on hedging activities | $ 11,037 | $ (3,135) | $ 7,902 |

**9. SUBSEQUENT EVENT**

The Company has evaluated subsequent events through November 9, 2011, the date the financial statements were issued.

On July 12, 2011, the Company purchased a building to serve as its new corporate headquarters. The Company paid approximately $9.1 million for the building, which was funded through a first mortgage loan from the seller with a principal balance of approximately $10.1 million. The proceeds of the loan in excess of the building purchase price funded various improvements to the building.

**10. SEGMENT INFORMATION**

Segment operating results for the six months ended June 30, 2011 and 2010 are presented below (in thousands). The results reflect revenues and expenses directly related to each segment. The Company does not evaluate performance or allocate resources based on segment asset data, and therefore such information is not presented.

Vantiv, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

(UNAUDITED)

**10. SEGMENT INFORMATION (Continued)**

Segment profit reflects total revenue less network fees and other costs and sales and marketing costs of the segment. The Company's CODM evaluates this metric in analyzing the results of operations for each segment.

| | Six Months Ended June 30, 2011 | | | |
|---|---|---|---|---|
| | Merchant Services | Financial Institution Services | General Corporate/Other | Total |
| Total revenue | $ 554,421 | $ 219,589 | $ — | $ 774,010 |
| Network fees and other costs | 298,484 | 69,426 | — | 367,910 |
| Sales and marketing | 101,515 | 13,311 | 963 | 115,789 |
| Segment profit | 154,422 | 136,852 | (963) | 290,311 |

| | Six Months Ended June 30, 2010 | | | |
|---|---|---|---|---|
| | Merchant Services | Financial Institution Services | General Corporate/Other | Total |
| Total revenue | $ 327,298 | 183,937 | $ — | $ 511,235 |
| Network fees and other costs | 215,615 | 49,730 | — | 265,345 |
| Sales and marketing | 25,700 | 10,808 | 314 | 36,822 |
| Segment profit | 85,983 | 123,399 | (314) | 209,068 |

A reconciliation of total segment profit to the Company's consolidated income before applicable income taxes is as follows (in thousands):

| | Six Months Ended June 30, | |
|---|---|---|
| | 2011 | 2010 |
| Total segment profit | $ 290,311 | $ 209,068 |
| Less: Other operating costs | (72,720) | (54,509) |
| Less: General and administrative | (49,607) | (26,005) |
| Less: Depreciation and amortization | (75,701) | (50,825) |
| Less: Interest expense—net | (59,573) | (57,691) |
| Less: Non-operating expenses | (13,799) | (3,000) |
| Income before applicable income taxes | $ 18,911 | $ 17,038 |

**Report of Independent Auditors**

To Board of Directors and Stockholders of Vantiv, LLC

In our opinion, the consolidated statements of operations and comprehensive loss and consolidated statements of cash flows of NPC Group, Inc. and its subsidiaries present fairly, in all material respects, the results of their operations and their cash flows for the three years in the period ended December 31, 2009, in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Company's management; our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with auditing standards generally accepted in the United States of America, which require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

/s/ PricewaterhouseCoopers LLP

PricewaterhouseCoopers LLP
Houston, Texas
April 27, 2010

**NPC Group, Inc.**

**CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS**

**(In thousands)**

| | Nine Months Ended September 30, | | Year Ended December 31, | | |
|---|---|---|---|---|---|
| | 2010 | 2009 | 2009 | 2008 | 2007 |
| | (Unaudited) | | | | |
| **Revenues** | $ 220,028 | $ 213,672 | $ 285,440 | $ 284,261 | $ 274,588 |
| **Expenses** | | | | | |
| Processing costs | 28,775 | 26,097 | 34,682 | 33,535 | 34,350 |
| Independent sales group commissions | 82,628 | 78,465 | 106,497 | 103,176 | 92,519 |
| Other cost of services and goods | 9,986 | 10,666 | 14,235 | 14,398 | 14,948 |
| Provision for merchant losses | 3,863 | 3,598 | 4,845 | 5,693 | 5,264 |
| Depreciation and amortization expense | 18,383 | 22,133 | 28,120 | 30,926 | 29,103 |
| Selling, other operating, general and administrative expenses | 38,928 | 36,373 | 49,035 | 50,992 | 52,219 |
| Total expenses | 182,563 | 177,332 | 237,414 | 238,720 | 228,403 |
| Income from operations | 37,465 | 36,340 | 48,026 | 45,541 | 46,185 |
| Interest income | 22 | 71 | 102 | 920 | 1,224 |
| Interest expense | (41,780) | (30,549) | (45,504) | (47,311) | (50,430) |
| Write-off of deferred financing costs and bank fees | — | (11,880) | (11,880) | — | — |
| Loss before income taxes and noncontrolling interest | (4,293) | (6,018) | (9,256) | (850) | (3,021) |
| Income tax expense | 7,008 | 8,479 | 10,846 | 9,597 | 9,502 |
| Net loss | (11,301) | (14,497) | (20,102) | (10,447) | (12,523) |
| Net (income) loss attributable to noncontrolling interest | 244 | 110 | (108) | (113) | 92 |
| Net loss attributable to NPC Group, Inc. | (11,057) | (14,387) | (20,210) | (10,560) | (12,431) |
| Unrealized income (loss) on derivative financial instruments, net of tax | — | 6,118 | 6,118 | (15,286) | (12,869) |
| Comprehensive loss | $ (11,057) | $ (8,269) | $ (14,092) | $ (25,846) | $ (25,300) |

**NPC Group, Inc.**

**CONSOLIDATED STATEMENTS OF CASH FLOWS**

**(In thousands)**

| | Nine Months Ended September 30, | | Year Ended December 31, | | |
|---|---|---|---|---|---|
| | 2010 | 2009 | 2009 | 2008 | 2007 |
| | (Unaudited) | | | | |
| **Cash flows from operating activities** | | | | | |
| Net loss | $ (11,301) | $ (14,497) | $ (20,102) | $ (10,447) | $ (12,523) |
| Adjustments to reconcile net loss to net cash provided by operating activities | | | | | |
| Depreciation and amortization | 18,383 | 22,133 | 28,120 | 30,926 | 29,102 |
| Provision for uncollectible accounts | 205 | 287 | 403 | 440 | 365 |
| Amortization of deferred financing costs | — | 1,510 | 1,510 | 2,036 | 2,062 |
| Write-off deferred financing costs | — | 11,880 | 11,880 | — | — |
| Noncash interest expenses related to interest rate swap | 3,063 | — | 1,235 | — | — |
| Provision for merchant losses | 3,863 | 3,598 | 4,845 | 5,693 | 5,264 |
| Deferred income taxes | 6,943 | 7,032 | 9,281 | 9,010 | 9,084 |
| Changes in assets and liabilities | | | | | |
| Accounts receivable | 2,826 | 13,060 | 10,196 | 2,095 | (1,818) |
| Inventory | 142 | 180 | 166 | 358 | (323) |
| Prepaid expenses and other assets | (692) | 1,344 | 1,763 | 295 | 589 |
| Deposits | 50 | 1,332 | 1,332 | (1,029) | (180) |
| Accounts payable | 852 | (450) | (1,654) | 538 | 967 |
| Accrued liabilities | (6,747) | (260) | 5,952 | 1,822 | 5,728 |
| Other liabilities | (2,900) | (2,544) | (3,556) | (6,150) | (4,510) |
| Net cash provided by operating activities | 14,687 | 44,605 | 51,371 | 35,587 | 33,807 |
| **Cash flows from investing activities** | | | | | |
| Acquisitions, net of cash acquired | — | (25) | (25) | (168) | (177) |
| Purchases of property, equipment and computer software and hardware | (907) | (3,714) | (4,049) | (2,715) | (6,371) |
| Merchant portfolios acquired | (5,542) | (2,230) | (3,418) | (6,982) | (5,678) |
| Net cash used in investing activities | (6,449) | (5,969) | (7,492) | (9,865) | (12,226) |
| **Cash flows from financing activities** | | | | | |
| Principal payments on long-term debt and revolver | (5,000) | (34,000) | (35,000) | (35,000) | (12,700) |
| Proceeds from long-term debt and revolver | — | 2,000 | 2,000 | — | — |
| Sale of common stock | — | — | — | — | 25 |
| Repurchase of common stock | — | — | — | — | (10) |
| Dividends paid | — | — | (653) | — | — |
| Contribution to deferred financing costs | — | — | — | — | (74) |
| Cash paid in connection with financing agreement amendment | — | (3,263) | (3,263) | — | — |
| Net cash used in financing activities | (5,000) | (35,263) | (36,916) | (35,000) | (12,759) |
| Net increase (decrease) in cash and cash equivalents | 3,238 | 3,373 | 6,963 | (9,278) | 8,822 |
| **Cash and cash equivalents** | | | | | |
| Beginning of year | 13,250 | 6,287 | 6,287 | 15,565 | 6,743 |
| End of year | $ 16,488 | $ 9,660 | $ 13,250 | $ 6,287 | $ 15,565 |
| **Supplemental disclosure of cash flow information** | | | | | |
| Cash paid during the year for | | | | | |
| Interest | $ 44,971 | $ 35,685 | $ 40,245 | $ 46,902 | $ 40,374 |
| Income taxes | 121 | 268 | 292 | 92 | 1,069 |

**NPC Group, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

## 1. BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

***Description of Business***

NPC Group, Inc. ("NPC" or the "Company"), a Delaware corporation, is engaged in providing a broad range of credit card transaction processing services. It provides its services to small and medium-sized merchants, as well as community banks, financial institutions and state and local governments located throughout the United States. The Company offers integrated transaction processing support for all major credit and debit cards including Visa, MasterCard, American Express and Discover.

The Company's services enable merchants to accept credit and debit cards as payment for their merchandise and services by providing processing, transaction reporting, merchant assistance, POS terminal support, risk management, chargeback services, and packaging of ancillary payment products and services. The Company relies on third party processors to provide card authorization and settlement, and banks to sponsor the Company for membership in the Visa and MasterCard associations. The Company markets and sells its services primarily through independent sales organizations and agents.

***Sale of Business***

On November 3, 2010, all of the issued and outstanding capital stock of the Company was acquired by Fifth Third Processing Solutions, LLC ("FTPS"). In connection with the acquisition, all outstanding debt and related accrued interest was repaid and the revolving credit facility was terminated. Additionally, the interest rate swap agreement related to the debt was terminated and all outstanding positions were settled with the related counterparties.

***Organizational Structure***

The Company was a majority owned subsidiary of National Processing Holdings, LLC ("NPC Holdings") through the November 3, 2010, date of sale of the Company to FTPS. GTCR Fund VIII, LP, GTCR Fund VIII/B, LP, and GTCR Co-Invest II, LP (collectively, "GTCR," private equity firm) was the majority owner of NPC Holdings.

***Basis of Presentation***

Effective January 1, 2005, the Company entered into a Services Agreement with National Processing Management Company ("NPC Management Co.") a 100% owned subsidiary of NPC Holdings and an affiliated entity of the Company. Under the Services Agreement, NPC Management Co. provides general management, consulting, and other advisory services to the Company for a period of 10 years. Fees paid are based on actual costs incurred by NPC Management Co. plus 5%, and are to be allocated to the entities to which it provided services. The Company is the only entity which NPC Management Co. provides services. As a consequence of this agreement, NPC Management Co. is considered a variable interest entity and is consolidated with the Company. The net income (loss) attributable to noncontrolling interest included in the Consolidated Statements of Operations and Comprehensive Loss represents the net operating results of NPC Management Co.

The accompanying consolidated financial statements include the accounts of the Company, its wholly owned subsidiaries and NPC Management Co. All significant intercompany balances and transactions have been eliminated in consolidation.

**NPC Group, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

***Nine Months Ended September 30, 2010 and 2009 Unaudited Consolidated Financial Statements***

The unaudited consolidated financial statements for the nine months ended September 30, 2010 and 2009, reflect all adjustments (consisting of normal recurring adjustments) necessary for a fair statement of the interim periods. The results of operations for the interim periods are not necessarily indicative of the results of operations to be expected for the full year.

***Sponsorship Agreement***

As a nonbank merchant processor, the Company must be sponsored by a financial institution that is a member of the Visa and MasterCard associations. Two unrelated banks (the "Sponsor Banks") act as the Company's primary sponsors pursuant to sponsorship agreements.

The Company retains full responsibility for performance of its services to merchants. Certain indemnification provisions are also contained in the sponsorship agreements, under which the Company will indemnify the Sponsor Banks against merchant losses, claims or other amounts in accordance with the terms of the sponsorship agreements.

***Use of Estimates***

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management of the Company to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements as well as reported amounts of revenues and expenses during the reported period. Actual results could differ from these estimates.

***Cash and Cash Equivalents***

Cash and cash equivalents consist primarily of cash and highly liquid investments with an original maturity date of three months or less. The carrying value of cash and cash equivalents approximates its fair value. At various times, the Company maintains cash at financial institutions in excess of Federally insured limits, however the Company has not experienced any losses in the past.

***Accounts Receivable***

Accounts receivable are primarily comprised of amounts due from our Sponsor Banks for merchant revenues, net of interchange, assessment and bank processing fees paid by the Sponsor Banks. Such balances are typically received from the Sponsor Banks within 30 days following the end of each month.

The allowance for uncollectible accounts represents the Company's best estimate of the amount of probable credit losses existing in the Company's accounts receivable. Significant account balances and account balances over 90 days outstanding are reviewed individually for collectibility. Receivables are written off against the allowance when determined to be uncollectible.

***Provision for Merchant Losses***

Disputes between a cardholder and a merchant periodically arise due to cardholder dissatisfaction with merchandise quality or a merchant's services. These disputes may not be resolved in the merchant's favor and in some cases, the transaction is "charged back" to the merchant and the purchase price refunded to the cardholder by Visa or MasterCard. In the case of merchant insolvency, bankruptcy or other nonpayment as described above, the Company may be liable for any such charges

disputed by cardholders. The Company believes the diversification of its merchants and its risk management practices reduce its risk of loss. In addition, the Company has the contractual right to withhold certain settlement funds due merchants.

The merchant loss exposure results from the Company's Indemnification of the Sponsor Banks for merchant losses. The Company recognizes a liability for merchant losses based on the fair value of what is considered a guarantee to the consumer in the event the merchant is unable to perform as described above. The Company's current policy for accruing for merchant losses is based on the estimated amounts for merchant payments unlikely to be collected and a provision for chargeback losses incurred but not reported. The reserves are primarily determined by performing a historical analysis of chargeback loss experience.

***Inventory***

Inventories consist primarily of credit card authorization equipment and processing supplies and are recorded at the lower of cost or market. Cost is determined by the first-in, first-out method.

***Property and Equipment***

Property and equipment are recorded at historical cost. Depreciation is calculated using the straight-line method based on the estimated useful lives of the related assets as follows:

| Description | Useful Lives *(in years)* |
| --- | --- |
| Furniture and other equipment | 5–7 |
| Leasehold improvements | 3–7 |

Leasehold improvements are depreciated over the shorter of the useful life of the asset or the term of the lease. When assets are sold or retired, the cost and related accumulated depreciation are removed from the accounts and the resulting gain or loss is included in operations. Maintenance and repair expenses that do not extend the useful life of the asset are charged to expense when incurred.

***Computer Software and Hardware***

Computer software and hardware consist primarily of externally purchased and internally developed software. Computer software and hardware are amortized using the straight-line method based on the estimated useful lives of the software product and hardware as follows:

| Description | Useful Lives *(in years)* |
| --- | --- |
| Software | 3–5 |
| Hardware | 3–7 |

***Goodwill and Other Intangible Assets***

Goodwill represents the excess consideration paid over the fair value of the net assets and liabilities acquired in business combinations accounted for as purchases. Goodwill is not amortized. Goodwill is assessed for impairment at least annually. Additional impairment tests are required when triggering events occur, which call into question the realization of goodwill and other intangible assets.

**NPC Group, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

As of September 30, 2010 and December 31, 2009, management does not believe any impairment exists relating to the Company's goodwill or other intangible assets.

Intangible assets consist primarily of customer relationships arising from the acquisitions and the costs of the Company's purchased merchant portfolios. Customer relationships and purchased merchant portfolios are amortized on a straight-line basis over the expected life of the asset. In addition to customer relationships, intangible assets includes trade names which are also amortized on a straight-line basis over the expected life of the asset. The estimated useful lives of the intangible assets are as follows:

| Description | Useful Lives *(in years)* |
|---|---|
| Customer relationships and purchased merchant portfolios | 2–5 |
| Trade names | 25 |
| Residual buyouts | 3 |

***Deferred Financing Costs***

Costs incurred in obtaining long-term financing are deferred and are amortized over the life of the related loan using the interest method. Amortization is included in interest expense and was $0, $1,510, $1,510, $2,036 and $2,062, for the nine months ended September 30, 2010 and 2009 and for the years ended December 31, 2009, 2008 and 2007, respectively. All unamortized deferred financing costs of $8,617 were written off in 2009 in connection with certain modifications of the Company's long-term debt (Note 5).

***Revenue and Cost Recognition***

Revenues earned from processing merchant credit card and payment transactions are recognized at the time merchant transactions are processed. These revenues include the full discount rate and fees collected from the merchant, and are reported net of certain costs not controlled by the Company. Such costs consist of interchange fees charged by the card issuing banks and assessments charged by the card associations. Other related expenses for front and back-end processing costs (authorizations, captures and settlements), card processing and independent sales group commissions (residuals) are reflected as expenses in the statements of operations.

In November 2008, the Company initiated a new service offering designed to assist merchants in becoming compliant with the Payment Card Industry Data Security Standard ("PCI DSS") standards. PCI DSS was developed by the credit card associations as a mechanism to prevent the occurrence of large scale compromises of credit card data. At the election of the merchant, the Company will bill these fees on either a monthly or annual basis. For those merchants billed on an annual basis, the revenues as well as all associated costs are deferred and recognized over the twelve month service period of the offering.

Costs associated with the PCI DSS offering are expensed as incurred, including management's estimate of the Company's liability related to indemnification provided to merchants that complete all of the steps to become compliant with the PCI DSS standards. The indemnification provided by the Company is up to $50 per merchant.

***Income Taxes***

The Company accounts for income taxes under the liability method, which requires recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the financial statements or income tax returns. Under this method, deferred tax assets and liabilities are determined based upon differences between the financial statement and tax bases of assets and liabilities using enacted income tax rates in effect for the year in which the differences are expected to reverse. The Company provides a valuation allowance to reduce deferred tax assets if it is more likely than not that some portion or all of the deferred tax assets will not be realized.

On January 1, 2009, the Company adopted the accounting guidance issued for accounting for uncertainty in income taxes which was issued to create a single model to address accounting for uncertainty in tax positions. This guidance clarifies the accounting for income taxes, by prescribing a minimum recognition threshold a tax position is required to meet before being recognized in the financial statements and also provides guidance on derecognition, measurement, classification, interest and penalties, disclosures and transition. Accordingly, the Company records a liability for unrecognized tax benefits resulting from uncertain tax positions taken or expected to be taken in the tax return. The Company also recognizes interest and penalties, if any, related to unrecognized tax benefits in income tax expense. The adoption of the new accounting guidance did not have a significant impact on the Company's consolidated statements of operations and comprehensive loss or cash flows.

***Restructuring***

The Company historically used two vendors for its merchant accounting ("back-end") process. During the fourth quarter of 2008, the Company initiated a restructuring related to the integration of these two into one vendor. In 2008, the Company incurred a $750 early contract termination fee assessed by the vendor terminated by the Company and accrued severance in the amount of $539 as a result of a reduction in force related to the cost efficiencies of the consolidation. The Company also expensed $1,128 as a result of space abandonment of a portion of the leased office space in the Houston location. These fees were included in the accompanying statements of operations under selling, other operating, general and administrative expenses.

A rollforward of the restructuring reserve is as follows:

| | |
|---|---|
| **Restructuring reserve at December 31, 2008** | $ 2,417 |
| Lease payments | (538) |
| Severance payments | (539) |
| Early termination payments | (750) |
| **Restructuring reserve at December 31, 2009** | 590 |
| Lease payments | (408) |
| **Restructuring reserve at September 30, 2010** | $ 182 |

**NPC Group, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

***Hedging Activities***

The Company utilizes an interest rate swap which has been designated as a cash flow hedge, as a means of hedging exposure to interest rate risks. The Company is the end-user and did not utilize this instrument for speculative purposes. The counter party to the swap was a major financial institution who also participates in the Company's bank credit facilities. The swap is recorded at fair market value.

During the term of the swap, the effective portion of changes in fair value are recognized as unrealized gains or losses within other comprehensive income and reclassified into earnings in the same periods during which the hedged item affects earnings. Any ineffectiveness of the cash flow hedge would be recognized in the Consolidated Statement of Operations during the period of change. In the event the interest rate swap no longer qualifies as a hedge for accounting purposes, the future change in the fair value of the derivative will be immediately recognized in the Consolidated Statement of Operations as interest expense.

***Stock-Based Compensation***

Stock-based compensation expenses are recognized over the requisite service period for the award. The determination of the fair value of stock options was estimated using a Black-Scholes option-pricing model and required the use of subjective assumptions related to the volatility of the Company's common stock. No compensation expense was recorded in the consolidated financial statements for any periods as the stock options had a negligible fair value as of the grant dates. Historically, the Company has not paid any dividends on its common stock and does not foresee paying dividends in the future.

***Self Insurance Programs***

The Company is partially self insured for employee health and welfare coverage. The Company records a liability for losses based upon an estimate of payments to be made for individual reported losses and an estimate of incurred but not reported losses.

***Financial Instruments***

Management believes the carrying amounts of financial instruments as of September 30, 2010 and December 31, 2009, including cash and cash equivalents, accounts receivable, accounts payable and accrued expenses approximate fair value due to their short maturities. Management believes the carrying amounts of loans payable to financial and lending institutions approximate fair value based on interest rates that are currently available to the Company for issuance of debt with similar terms and maturities.

***Fair Value of Financial Instruments***

The Company measures at fair value certain financial assets and liabilities, including cash equivalents and derivative instruments. Fair value is based on a hierarchy of valuation techniques based on whether the inputs to those valuation techniques are observable or unobservable. Observable inputs reflect market data obtained from independent sources, while unobservable inputs reflect the Company's market assumptions. These two types of inputs are reflected in the following fair-value hierarchy:

- Level 1 – Quoted prices for identical instruments in active markets;

- Level 2 – Quoted prices for similar instruments in active markets, quoted prices identical or similar instruments in markets that are not active, and model-derived valuations in which all significant inputs and significant value drivers are observable in active markets; and

- Level 3 – Valuations derived from valuation techniques in which one or more significant inputs or significant value drivers are unobservable.

The Company does not have any assets or liabilities classified within Level 3 of the fair value hierarchy.

## 2. PROPERTY AND EQUIPMENT

Depreciation of property and equipment was $482, $511, $675, $686 and $488, for the nine months ended September 30, 2010 and 2009 and for the years ended December 31, 2009, 2008 and 2007, respectively.

## 3. COMPUTER SOFTWARE AND HARDWARE

Depreciation and amortization of computer software and hardware was $1,362, $1,678, $2,105, $2,014 and $1,602, for the nine months ended September 30, 2010 and 2009 and for the years ended December 31, 2009, 2008 and 2007, respectively.

## 4. INTANGIBLE ASSETS

Amortization expense of intangible assets was $16,539, $19,944, $25,340, $28,226 and $27,012, for the nine months ended September 30, 2010 and 2009 and for the years ended December 31, 2009, 2008 and 2007, respectively.

Estimated future amortization of intangible assets as of December 31, 2009 is as follows:

| | |
|---|---|
| 2010 | $ 20,862 |
| 2011 | 15,779 |
| 2012 | 2,157 |
| 2013 | 1,615 |
| 2014 | 1,312 |
| Thereafter | 18,031 |
| | $ 59,756 |

## 5. NOTES PAYABLE AND LONG-TERM DEBT

| | September 30, 2010 | December 31, 2009 |
|---|---|---|
| First Lien Term Loan, payable in quarterly principal payments of $877 plus interest through July 2013, repaid on November 3, 2010 | $ 306,000 | $ 311,000 |
| New Second Lien Term Loan, interest payable quarterly, repaid on November 3, 2010 | 140,000 | 140,000 |
| | $ 446,000 | $ 451,000 |

**NPC Group, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

In September 2009, the Company modified its long-term debt to change certain financial covenants. In connection therewith, the interest rates were increased by the lenders resulting in a debt extinguishment for accounting purposes. As a result, all of the unamortized deferred financing costs of $8,617 were written-off in 2009 as well as the bank fees of $3,263 incurred in connection with the modifications to the long-term debt.

The Company had a Senior Secured Credit Facility ("Credit Agreement") consisting of a $390,000 First Lien Term Loan Facility ("First Lien Term Loan"), a $140,000 Second Lien Term Loan Facility ("Second Lien Term Loan") and a $40,000 revolving credit facility. The First Lien Term loan bears interest payable quarterly at either LIBOR plus 2.0% base plus 5.0% per year ("LIBOR Rate") or Prime plus 4.0% per year ("Prime Rate"), at the election of the Company. As of September 30, 2010, the Company elected to utilize the LIBOR Rate of 0.25% (7.0% interest rate in total). The Second Lien Term Loan bears interest at either LIBOR plus 2.0% base plus 8.75% per year or Prime plus 4.0% per year, at the election of the Company. As of September 30, 2010, the Company elected to utilize the LIBOR Rate of 0.25% (10.75% interest rate in total). The Credit Agreement provides for mandatory repayments based on excess cash flow.

In addition, the Credit Agreement includes provisions for revolving loans ("Revolving Loans") subject to borrowing base calculations. Revolving Loans are subject to the same interest rate terms and elections as the First Lien Term Loan Facility. The Company did not have any outstanding revolving loans at September 30, 2010 or December 31, 2009. The Company had $40,000 available under its revolving loans as of September 30, 2010 and December 31, 2009. The Revolving Loans are subject to an unused line fee of 0.5% per year. Such fees totaled $152, $192, $243, $254 and $253, for the nine months ended September 30, 2010 and 2009 and for the years ended December 31, 2009, 2008 and 2007, respectively.

The Credit Agreement provides for affirmative and negative covenants that restrict, among other things, the Company's ability to incur indebtedness, sell or lease assets, purchase assets or investments, or declare dividends. In addition, the Credit Agreement includes certain restrictive financial covenants, the most restrictive of which are an interest coverage ratio, a total debt to adjusted EBITDA ratio, and a senior debt to adjusted EBITDA ratio. All Company assets are pledged as collateral under the Credit Agreement.

At December 31, 2009, the maturities of long-term debt are as follows for the year ending December 31:

| | |
|---|---|
| 2010 | $ 3,508 |
| 2011 | 3,508 |
| 2012 | 3,508 |
| 2013 | 300,476 |
| 2014 | 140,000 |
| | $ 451,000 |

Under the terms of the Credit Agreement, the Company was required to enter into an interest rate protection agreement, providing interest rate protection for a portion of the long-term debt. In connection with this requirement, in September 2006, the Company entered into a LIBOR-based forward interest rate swap agreement, which effectively converted $450 million of its variable-rate debt outstanding under the credit facility at that date to a fixed rate. The swap agreement expired September 29, 2011. The $450 million notional amount declines by $50 million each year. Under this

agreement, payments are made based on an annual fixed rate of 5.019%, which the Company set in September 2006 based on the market for a financial instrument of this type at that date. The Company has classified the swap agreement as a cash-flow hedge, in which the Company is hedging the variability of cash flows related to its variable-rate debt. The Company determined that there was no ineffectiveness in the hedge agreement at the date of the modification in 2009. In connection with the debt modification in 2009, the swap became ineffective for financial reporting purposes. As a result, the fair value of the swap of $22,151 at the date of the debt modification is being amortized to the statement of operations as additional interest expense over the remaining term of the swap. Changes in the fair value of the swap after the date of the debt modification are recorded as interest expense. Noncash interest expense related to the swap of $3,063 and $1,235 was recorded during the nine months ended September 30, 2010 and the year ended December 31, 2009, respectively.

## 6. CLASS A PREFERRED STOCK AND STOCKHOLDERS' EQUITY

### *Class A Preferred Stock*

The Class A preferred stock accrues dividends at 10% per year on the liquidation value of the shares (defined as $1 per share) plus any accrued and unpaid dividends thereon, compounded quarterly. The preferred stock is convertible into common stock upon an initial public offering of the Company's common stock based on the offering price of such common stock. The preferred stock may be redeemed at the option of the Company for its liquidation value plus accrued and unpaid dividends. The preferred stock carries no voting rights. In the event of liquidation, holders are entitled to a liquidation preference equal to the liquidation value plus any accrued and unpaid dividends.

### *Restricted Common Stock*

Certain of the common shares owned by management vest ratably on a quarterly basis over a four-year period. All unvested shares immediately vest upon the sale of the Company. In the event of separation of employment, all management owned common shares are subject to repurchase at the option of the Company at the lesser of original cost or fair market value if unvested or fair market value if vested (shares not subject to vesting may be repurchased at fair market value). During 2010 and 2009, respectively, the Company redeemed 273 and 118 shares of common stock for $0. As of September 30, 2010, and December 31, 2009 common shares totaling 527 and 311, respectively, held by management remained unvested.

Additionally, through September 30, 2010, the Company issued 391 shares of common stock to employees. The stock vests ratably on a quarterly basis over a five-year period. The fair value of the common stock at date of grant was estimated by management to be nominal.

### *Stock Option Plan*

The Company's stock option plan (the "Plan") is intended to be a "compensatory benefit plan" within the meaning of such term under Rule 701 of the Securities Act of 1933, as amended and all options granted under the Plan are intended to qualify for an exemption from the registration requirements under the Act pursuant to Rule 701 thereof. Options granted under the Plan are nonqualified stock options and are not intended to be "incentive stock options" within the meaning of Section 422 of the Internal Revenue Code or any successor provision.

A committee of the Board of Directors administers the Plan. The committee has broad discretion in selecting Plan participants and determining the vesting period and other terms applicable to awards granted under the Plan. All awards have a maximum 10-year term. Options vest ratably on a quarterly basis over a five-year period. A maximum of 909 shares may be granted under the Plan. Shares of common stock issued upon exercise of an option are subject to repurchase by the Company in the event of employment termination.

**NPC Group, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

The Company determines the grant date fair value of stock options using the Black-Scholes option pricing model. No compensation expense was recorded in the consolidated financial statements as the stock options had negligible fair value as of the grant dates. The assumptions used to estimate the grant date fair value of $0.14 per option for stock options granted in 2007 are as follows:

- Volatility of 30% was based on similar issues for comparable public companies.
- Expected term of 6 years was based on management's expectations of future liquidity.
- Dividend yield of 0% was based on the Company's expectation of not paying dividends over the remaining term of the options.
- Risk-free interest rate of 4.45% was based on the yield on a U.S. Government Bond with a maturity equal to the expected term of the grant.

A summary of option transactions is as follows:

| | |
|---|---|
| **Options outstanding at December 31, 2006** | 509 |
| Options granted | 130 |
| Options forfeited | (91) |
| **Options outstanding at December 31, 2007** | 548 |
| Options granted | - |
| Options forfeited | (219) |
| **Options outstanding at December 31, 2008** | 329 |
| Options granted | - |
| Options forfeited | (56) |
| **Options outstanding at December 31, 2009** | 273 |
| Options granted | - |
| Options forfeited | - |
| **Options outstanding at September 30, 2010** | 273 |

The exercise price for the options is $2.00 per share.

**NPC Group, Inc.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

## 7. INCOME TAXES

Income tax expense (benefit) is comprised of the following:

| | Nine Months Ended September 30, | | Year Ended December 31, | | |
|---|---|---|---|---|---|
| | **2010** | **2009** | **2009** | **2008** | **2007** |
| **Current** | | | | | |
| Federal | $ (10) | $ 1,214 | $ 1,244 | $ 367 | $ 332 |
| State and local | 75 | 233 | 321 | 220 | 86 |
| Total current expense | 65 | 1,447 | 1,565 | 587 | 418 |
| **Deferred** | | | | | |
| Federal | (1,006) | (2,761) | (3,995) | (767) | (1,320) |
| State and local | (87) | (238) | (349) | (75) | (118) |
| Net change in valuation allowance | 8,036 | 10,031 | 13,625 | 9,852 | 10,522 |
| Total deferred expense | 6,943 | 7,032 | 9,281 | 9,010 | 9,084 |
| | $ 7,008 | $ 8,479 | $ 10,846 | $ 9,597 | $ 9,502 |

The provisions for income taxes as reported are different from the provisions computed by applying the statutory federal income tax rate. The differences are reconciled as follows:

| | Nine Months Ended September 30, | | Year Ended December 31, | | |
|---|---|---|---|---|---|
| | **2010** | **2009** | **2009** | **2008** | **2007** |
| Federal income tax benefit at statutory rate | $ (1,460) | $ (2,047) | $ (3,147) | $ (289) | $ (1,027) |
| Nondeductible meals and entertainment | 14 | 13 | 24 | 23 | 53 |
| State income taxes (benefit) | (12) | (3) | (30) | 136 | (22) |
| Other | 430 | 485 | 374 | (125) | (24) |
| Net change in valuation allowance | 8,036 | 10,031 | 13,625 | 9,852 | 10,522 |
| | $ 7,008 | $ 8,479 | $ 10,846 | $ 9,597 | $ 9,502 |

A valuation allowance for the NPC deferred tax assets was provided for all periods, due to the uncertainty of realization of the future tax benefits associated with the deferred tax assets. NPC Management Co. is not included in NPC's Consolidated Tax Group.

As of December 31, 2009, the Company had estimated federal and state net operating loss carryforwards totaling approximately $78.6 million which begin to expire in 2022. The Company also has available to it future deductions associated with the carryforward of NPC's tax basis in its goodwill. Any future changes in control of the Company could, under certain circumstances, result in a limitation

of the net operating loss carryforwards. These loss carryforwards are subject to annual limitation as a result of previous ownership changes.

## 8. EMPLOYEE BENEFIT PLANS

### *401(k) Plan*

The Company sponsors a defined contribution plan under Section 401(k) of the Internal Revenue Code (the "401(k) Plan") that covers all employees with no specific eligibility requirements. Employees are eligible to enroll in the 401(k) Plan on the first day of any calendar month after employment. Employees may contribute up to 15% (subject to certain ERISA limitations) of their eligible compensation on a pre-tax basis. The Company will match 50% of the participant's before-tax contributions up to 6% of the participant's taxable wages or salary. Employer contributions to the 401(k) Plan become 25% vested after two years of employment and continue to vest on an annual basis and became fully vested after an employee has completed five years of service starting January 1, 2000, or thereafter. The Company expensed contributions to the 401(k) Plan of approximately $195, $192, $228, $353 and $335, for the nine months ended September 30, 2010 and 2009 and for the years ended December 31, 2009, 2008 and 2007, respectively.

### *Employee Health Plan*

The Company sponsors an employee health plan which provides major medical, dental, life and short-term disability insurance to employees. Under the Plan, the Company generally pays all qualified claims up to $50 per person, per year. Any qualified claims incurred during a plan year in excess of $50 are insured by an outside insurance company up to a specified amount each year. The Company's expense for this plan was approximately $1,988, $1,975, $2,554, $2,285, and $3,303, for the nine months ended September 30, 2010 and 2009 and for the years ended December 31, 2009, 2008 and 2007, respectively.

## 9. RELATED PARTY TRANSACTIONS

The Company has entered into a Services Agreement with NPC Management Co. Total fees for general management, consulting and other advisory services under the Services Agreement were $1,370, $1,639, $2,184, $2,047, and $1,730, for the nine months ended September 30, 2010 and 2009 and for the years ended December 31, 2009, 2008 and 2007, respectively. Because NPC Management Co. is a consolidated subsidiary, all expenses paid and related payables under the agreement were eliminated in consolidation.

NPC Management Co. has a Professional Services Agreement ("PSA") with GTCR. Pursuant to the terms of the PSA, NPC Management Co. pays a $250 annual management fee to GTCR. The PSA also provides for a 1% placement fee on certain issues of NPC Holdings equity financings. No placement fees are due to GTCR until the aggregate amount exceeds $1,185. At that time, certain additional equity financings will be subject to the 1% placement fee. There were no placement fees paid to GTCR for any of the periods presented. The PSA was cancelled in November 2010 in connection with the sale of the Company to FTPS.

NPC Group, Inc.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## 10. COMMITMENTS AND CONTINGENCIES

***Leases***

The Company has noncancelable operating lease agreements to rent office space. At December 31, 2009, the minimum future rental payments due under all operating leases for the remainder of the lease terms were as follows:

| Year Ending December 31 | |
|---|---|
| 2010 | $ 2,333 |
| 2011 | 943 |
| 2012 | 854 |
| 2013 | 616 |
| 2014 | 530 |
| Thereafter | 1,280 |
| | $ 6,556 |

Total rent expense incurred under operating leases was $1,103, $1,193, $1,550, $3,352 and $2,404, for the nine months ended September 30, 2010 and 2009 and for the years ended December 31, 2009, 2008 and 2007, respectively. The Company has straight-lined rental expense over the term of the leases.

***Minimum Processing Commitments***

The Company has nonexclusive agreements with several processors to provide services related to transaction processing and various reporting tools. Certain of these agreements require the Company to submit a minimum number of transactions for processing over the term of the agreements.

One of the Company's sponsorship agreements ("the Agreement") extends until December 2012, with a possible two year extension if certain minimum transaction levels are not met. Under the Agreement, the Sponsor Bank is to provide the Company sponsorship and processing services with respect to certain of the Company's merchant contracts on a specified number of transactions and for a specified fee per transaction processed. The Company is also charged a recovery fee of 10% of all funds recovered related to any unpaid charges to merchants processed by the Sponsor Bank under this agreement. Amounts incurred related to the Agreement are included in the accompanying statements of operations under processing costs. If the Company fails to provide the minimum required transactions, the Company will incur a Minimum Termination Fee equal to the difference between the contracted minimum number of transactions and the gross transactions that have been processed, including the transactions during the potential two year contract extension, multiplied by the rates defined by the Agreement. In the event of early termination by the Company, the Company will pay $1,500 if termination occurs in 2010 or 2011 and $1,000 if it occurs in 2012.

Under other agreements, the Sponsor Bank provides the Company technical, software and system services; certain accounting and administrative services; certain services relating to the MAP source code being licensed to the Company; and assistance as it relates to risk management and establishing risk policy, guidelines, practices and processes.

Effective January 1, 2006, the Company entered into a Master Services Agreement ("MSA") for front-end processing services. The MSA term extends until December 2010, with possible successive two-year extensions if certain minimum transaction levels are not met. Additionally, if the Company

fails to provide the minimum required transactions, the Company will incur a Termination Fee equal to the difference between the contracted minimum number of transactions and the gross transactions that have been processed, including any transactions processed during potential two-year extensions, multiplied by the rates defined by the MSA. In the event of early termination by the Company, the Company will pay the greater of $1,000 or the Termination Fee if the termination occurs in 2010.

***Legal Matters***

The Company is subject to certain other legal proceedings, claims and disputes which arise in the ordinary course of its business. Although the Company cannot predict the outcomes of these legal proceedings, the Company's management does not believe these actions will have a material adverse effect on the Company's financial position, results of operations or liquidity.

Table of Contents

**Shares**

vantiv™

**Class A Common Stock**

**Prospectus**

| | | |
|---|---|---|
| **J.P. Morgan** | **Morgan Stanley** | **Credit Suisse** |
| **Goldman, Sachs & Co.** | | **Deutsche Bank Securities** |

| | | |
|---|---|---|
| **Citigroup** | **UBS Investment Bank** | **Jefferies** |
| **Raymond James** | **William Blair & Company** | **Wells Fargo Securities** |

***, 2012***

## PART II
## INFORMATION NOT REQUIRED IN PROSPECTUS

### ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.

The expenses, other than underwriting commissions, expected to be incurred by us, or the Registrant, in connection with the issuance and distribution of the securities being registered under this Registration Statement are estimated to be as follows:

| | |
|---|---|
| SEC Registration Fee | $ 11,460 |
| Financial Industry Regulatory Authority, Inc. Filing Fee | 10,500 |
| NYSE or Nasdaq Listing Fee | * |
| Printing and Engraving | * |
| Legal Fees and Expenses | * |
| Accounting Fees and Expenses | * |
| Transfer Agent and Registrar Fees | * |
| Miscellaneous | * |
| Total | $ * |

* To be completed by amendment.

### ITEM 14. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

The Registrant is governed by the Delaware General Corporation Law, or DGCL. Section 145 of the DGCL provides that a corporation may indemnify any person, including an officer or director, who was or is, or is threatened to be made, a party to any threatened, pending or completed legal action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of such corporation), by reason of the fact that such person was or is an officer, director, employee or agent of such corporation or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided such officer, director, employee or agent acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the corporation's best interest and, for criminal proceedings, had no reasonable cause to believe that such person's conduct was unlawful. A Delaware corporation may indemnify any person, including an officer or director, who was or is, or is threatened to be made, a party to any threatened, pending or contemplated action or suit by or in the right of such corporation, under the same conditions, except that such indemnification is limited to expenses (including attorneys' fees) actually and reasonably incurred by such person, and except that no indemnification is permitted without judicial approval if such person is adjudged to be liable to such corporation. Where an officer or director of a corporation is successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to above, or any claim, issue or matter therein, the corporation must indemnify that person against the expenses (including attorneys' fees) which such officer or director actually and reasonably incurred in connection therewith.

The Registrant's amended and restated bylaws will authorize the indemnification of its officers and directors, consistent with Section 145 of the Delaware General Corporation Law, as amended. The Registrant intends to enter into indemnification agreements with each of its directors and executive officers. These agreements, among other things, will require the Registrant to indemnify each director and executive officer to the fullest extent permitted by Delaware law, including indemnification of expenses such as attorneys' fees, judgments, fines and settlement amounts incurred by the director or

executive officer in any action or proceeding, including any action or proceeding by or in right of the Registrant, arising out of the person's services as a director or executive officer.

Reference is made to Section 102(b)(7) of the DGCL, which enables a corporation in its original certificate of incorporation or an amendment thereto to eliminate or limit the personal liability of a director for violations of the director's fiduciary duty, except (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174 of the DGCL, which provides for liability of directors for unlawful payments of dividends of unlawful stock purchase or redemptions or (iv) for any transaction from which a director derived an improper personal benefit.

The Registrant expects to maintain standard policies of insurance that provide coverage (i) to its directors and officers against loss rising from claims made by reason of breach of duty or other wrongful act and (ii) to the Registrant with respect to indemnification payments that it may make to such directors and officers.

The proposed form of Underwriting Agreement to be filed as Exhibit 1.1 to this Registration Statement provides for indemnification to the Registrant's directors and officers by the underwriters against certain liabilities.

**ITEM 15. RECENT SALES OF UNREGISTERED SECURITIES.**

On June 30, 2009, Vantiv, Inc. issued and sold 509,305 shares of its common stock to certain funds managed by Advent International Corporation for approximately $1,134.86 per share in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act of 1933, as it was a transaction by an issuer that did not involve a public offering of securities.

The shares of common stock in all of the transactions listed above were issued in reliance on Section 4(2) of the Securities Act of 1933, as amended, as the sale of the security did not involve a public offering. Appropriate legends were affixed to the share certificate issued in each transaction. The information presented above does not give effect to the reorganization transactions as described the prospectus.

**ITEM 16. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES**

(a) Exhibits

| Exhibit Number | Description of Exhibits |
|---|---|
| 1.1* | Form of Underwriting Agreement. |
| 2.1 | Master Investment Agreement among Fifth Third Bank, Fifth Third Financial Corporation, Advent-Kong Blocker Corp., FTPS Holding, LLC and Fifth Third Processing Solutions, LLC dated March 27, 2009 and as amended June 30, 2009. |
| 2.2 | Agreement and Plan of Merger by and among NPC Group, Inc., FTPS-BG Acquisition Corp., Fifth Third Processing Solutions, LLC, and National Processing Holdings, LLC dated September 15, 2010. |
| 3.1* | Form of Amended and Restated Certificate of Incorporation of Vantiv, Inc. to be in effect prior to the consummation of the offering made under this Registration Statement. |
| 3.2* | Form of Amended and Restated Bylaws of Vantiv, Inc. to be in effect prior to the consummation of the offering being made under this Registration Statement. |
| 4.1* | Form of Common Stock Certificate. |
| 5.1* | Opinion of Weil, Gotshal & Manges LLP. |
| 10.1* | Amended and Restated Limited Liability Company Agreement of Vantiv Holding, LLC. |
| 10.2 | First Lien Loan Agreement, dated as of November 3, 2010, among Vantiv Holding, LLC, Goldman Sachs Lending Partners LLC as administrative and collateral agent, Bank of America, N.A., Credit Suisse Securities, Morgan Stanley Senior Funding, Inc., Fifth Third Bank SunTrust Bank and the other lenders party thereto. |
| 10.3 | First Amendment to the First Lien Loan Agreement, dated as of January 19, 2011, among Vantiv Holding, LLC, Goldman Sachs Lending Partners LLC as administrative and collateral agent, and the other lenders party thereto. |
| 10.4 | Second Amendment to the First Lien Loan Agreement, dated as of May 17, 2011, among Vantiv Holding, LLC, Goldman Sachs Lending Partners LLC as administrative and collateral agent, and the other lenders party thereto. |
| 10.5 | Security Agreement, dated as of November 3, 2010, as amended and restated, among Vantiv Holding, LLC and certain of its subsidiaries and Goldman Sachs Lending Partners LLC as collateral agent. |
| 10.6 | First Lien Guaranty Agreement, dated as of November 3, 2010, among Vantiv Holding, LLC and certain of its subsidiaries and Goldman Sachs Lending Partners LLC as administrative agent for the Guaranteed Creditors. |
| 10.7* | Stock Purchase Agreement, dated as of June 29, 2009, among Fifth Third Bank, Fifth Third Financial Corporation and JPDN Enterprises, LLC. |
| 10.8 | Management Agreement, dated June 30, 2009, between Fifth Third Processing Solutions, LLC and Advent International Corporation. |
| 10.9* | Registration Rights Agreement, dated June 30, 2009, among Fifth Third Bank, Advent-Kong Blocker Corp., JPDN Enterprises, LLC, FTPS Partners, LLC and FTPS Holding, LLC. |
| 10.10* | Warrant dated June 30, 2009 issued by FTPS Holding, LLC to Fifth Third Bank. |

| Exhibit Number | Description of Exhibits |
| --- | --- |
| 10.11* | Transition Service Agreement, dated June 30, 2009, between Fifth Third Bank and Fifth Third Processing Solutions, LLC. |
| 10.12* | Referral Agreement, dated June 30, 2009, by and between Fifth Third Processing Solutions, LLC and Fifth Third Bancorp. |
| 10.13* | Master Services Agreement, dated as of June 30, 2009, between Fifth Third Bancorp and Fifth Third Processing Solutions, LLC. |
| 10.14* | Clearing, Settlement and Sponsorship Services Agreement, dated June 30, 2009, by and between Fifth Third Processing Solutions, LLC and Fifth Third Bank. |
| 10.15* | Vantiv Holding, LLC Management Phantom Equity Plan. |
| 10.16* | Form of Phantom Equity Award Agreement. |
| 10.17* | Stock Transfer Agreement, dated as of June 30, 2009, among certain investment funds affiliated with Advent International Corporation, Advent-Kong Blocker Corp. and Pamela Patsley. |
| 10.18* | Side Letter, dated June 30, 2009, by and between Pamela Patsley and certain investment funds affiliated with Advent International Corporation. |
| 11.1 | Statement re computation of per share earnings (incorporated by reference to Notes to the Financial Statements included in Part I of this Registration Statement). |
| 21.1 | Subsidiaries of the Registrant. |
| 23.1 | Consent of Deloitte & Touche LLP, Independent Registered Public Accounting Firm, relating to Vantiv, Inc. |
| 23.2 | Consent of Deloitte & Touche LLP, Independent Registered Public Accounting Firm, relating to Vantiv Holding, LLC and Transactive Ecommerce Solutions Inc. |
| 23.3 | Consent of PricewaterhouseCoopers LLP, Independent Auditors, relating to NPC Group, Inc. |
| 23.4* | Consent of Weil, Gotshal & Manges LLP (included in the opinion filed as Exhibit 5.1 hereto). |
| 24.1 | Power of Attorney (included on signature page). |

* To be filed by amendment

**ITEM 17. UNDERTAKINGS.**

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreements, certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the provisions referenced in Item 14 of this registration statement, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered hereunder, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Cincinnati, State of Ohio, on November 9, 2011.

Vantiv, Inc.

By: /s/ CHARLES D. DRUCKER

Name: Charles D. Drucker
Title: *Chief Executive Officer and President*

## POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each of the undersigned constitutes and appoints each of Charles D. Drucker, Mark L. Heimbouch and Nelson F. Greene, or any of them, each acting alone, his true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for such person and in his name, place and stead, in any and all capacities, to sign this Registration Statement on Form S-1 (including all pre-effective and post-effective amendments and registration statements filed pursuant to Rule 462(b) under the Securities Act of 1933), and to file the same, with all exhibits thereto, and other documents in connection therewith, with the SEC, granting unto said attorneys-in-fact and agents, each acting alone, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming that any such attorney-in-fact and agent, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated on November 9, 2011.

| Signature | Title |
| --- | --- |
| /s/ CHARLES D. DRUCKER<br>Charles D. Drucker | Chief Executive Officer, President and Director (Principal Executive Officer) |
| /s/ MARK L. HEIMBOUCH<br>Mark L. Heimbouch | Chief Financial Officer (Principal Financial and Accounting Officer) |

## EXHIBIT INDEX

| Exhibit Number | Description of Exhibits |
|---|---|
| 1.1* | Form of Underwriting Agreement. |
| 2.1 | Master Investment Agreement among Fifth Third Bank, Fifth Third Financial Corporation, Advent-Kong Blocker Corp., FTPS Holding, LLC and Fifth Third Processing Solutions, LLC dated March 27, 2009 and as amended June 30, 2009. |
| 2.2 | Agreement and Plan of Merger by and among NPC Group, Inc., FTPS-BG Acquisition Corp., Fifth Third Processing Solutions, LLC, and National Processing Holdings, LLC dated September 15, 2010. |
| 3.1* | Form of Amended and Restated Certificate of Incorporation of Vantiv, Inc. to be in effect prior to the consummation of the offering made under this Registration Statement. |
| 3.2* | Form of Amended and Restated Bylaws of Vantiv, Inc. to be in effect prior to the consummation of the offering being made under this Registration Statement. |
| 4.1* | Form of Common Stock Certificate. |
| 5.1* | Opinion of Weil, Gotshal & Manges LLP. |
| 10.1* | Amended and Restated Limited Liability Company Agreement of Vantiv Holding, LLC. |
| 10.2 | First Lien Loan Agreement, dated as of November 3, 2010, among Vantiv Holding, LLC, Goldman Sachs Lending Partners LLC as administrative and collateral agent, Bank of America, N.A., Credit Suisse Securities, Morgan Stanley Senior Funding, Inc., Fifth Third Bank SunTrust Bank and the other lenders party thereto. |
| 10.3 | First Amendment to the First Lien Loan Agreement, dated as of January 19, 2011, among Vantiv Holding, LLC, Goldman Sachs Lending Partners LLC as administrative and collateral agent, and the other lenders party thereto. |
| 10.4 | Second Amendment to the First Lien Loan Agreement, dated as of May 17, 2011, among Vantiv Holding, LLC, Goldman Sachs Lending Partners LLC as administrative and collateral agent, and the other lenders party thereto. |
| 10.5 | Security Agreement, dated as of November 3, 2010, as amended and restated, among Vantiv Holding, LLC and certain of its subsidiaries and Goldman Sachs Lending Partners LLC as collateral agent. |
| 10.6 | First Lien Guaranty Agreement, dated as of November 3, 2010, among Vantiv Holding, LLC and certain of its subsidiaries and Goldman Sachs Lending Partners LLC as administrative agent for the Guaranteed Creditors. |
| 10.7* | Stock Purchase Agreement, dated as of June 29, 2009, among Fifth Third Bank, Fifth Third Financial Corporation and JPDN Enterprises, LLC. |
| 10.8 | Management Agreement, dated June 30, 2009, between Fifth Third Processing Solutions, LLC and Advent International Corporation. |
| 10.9* | Registration Rights Agreement, dated June 30, 2009, among Fifth Third Bank, Advent-Kong Blocker Corp., JPDN Enterprises, LLC, FTPS Partners, LLC and FTPS Holding, LLC. |
| 10.10* | Warrant dated June 30, 2009 issued by FTPS Holding, LLC to Fifth Third Bank. |
| 10.11* | Transition Service Agreement, dated June 30, 2009, between Fifth Third Bank and Fifth Third Processing Solutions, LLC. |
| 10.12* | Referral Agreement, dated June 30, 2009, by and between Fifth Third Processing Solutions, LLC and Fifth Third Bancorp. |

| Exhibit Number | Description of Exhibits |
|---|---|
| 10.13* | Master Services Agreement, dated as of June 30, 2009, between Fifth Third Bancorp and Fifth Third Processing Solutions, LLC. |
| 10.14* | Clearing, Settlement and Sponsorship Services Agreement, dated June 30, 2009, by and between Fifth Third Processing Solutions, LLC and Fifth Third Bank. |
| 10.15* | Vantiv Holding, LLC Management Phantom Equity Plan. |
| 10.16* | Form of Phantom Equity Award Agreement. |
| 10.17* | Stock Transfer Agreement, dated as of June 30, 2009, among certain investment funds affiliated with Advent International Corporation, Advent-Kong Blocker Corp. and Pamela Patsley. |
| 10.18* | Side Letter, dated June 30, 2009, by and between Pamela Patsley and certain investment funds affiliated with Advent International Corporation. |
| 11.1 | Statement re computation of per share earnings (incorporated by reference to Notes to the Financial Statements included in Part I of this Registration Statement). |
| 21.1 | Subsidiaries of the Registrant. |
| 23.1 | Consent of Deloitte & Touche LLP, Independent Registered Public Accounting Firm, relating to Vantiv, Inc. |
| 23.2 | Consent of Deloitte & Touche LLP, Independent Registered Public Accounting Firm, relating to Vantiv Holding, LLC and Transactive Ecommerce Solutions Inc. |
| 23.3 | Consent of PricewaterhouseCoopers LLP, Independent Auditors, relating to NPC Group, Inc. |
| 23.4* | Consent of Weil, Gotshal & Manges LLP (included in the opinion filed as Exhibit 5.1 hereto). |
| 24.1 | Power of Attorney (included on signature page). |

* To be filed by amendment

**Exhibit 2.1**

***Execution Copy***

# MASTER INVESTMENT AGREEMENT

among

FIFTH THIRD BANK,

FIFTH THIRD FINANCIAL CORPORATION,

ADVENT-KONG BLOCKER CORP.,

FTPS HOLDING, LLC

and

FIFTH THIRD PROCESSING SOLUTIONS, LLC

Dated March 27, 2009
As amended June 30, 2009

## TABLE OF CONTENTS


ARTICLE I

DEFINITIONS AND TERMS

| | | |
|---|---|---|
| Section 1.1 | Certain Definitions | 4 |
| Section 1.2 | Other Terms | 21 |
| Section 1.3 | Other Definitional and Interpretational Provisions | 21 |

ARTICLE II

RECAPITALIZATION AND PURCHASE AND SALE OF LLC INTERESTS

| | | |
|---|---|---|
| Section 2.1 | Amendment and Recapitalization | 22 |
| Section 2.2 | Assumption of Liabilities; Excluded Liabilities | 24 |
| Section 2.3 | Purchase and Sale of LLC Interests and the Canadian Sub | 25 |
| Section 2.4 | Pre-Closing Adjustments | 26 |
| Section 2.5 | Post-Closing True-Up | 27 |
| Section 2.6 | Closing | 28 |
| Section 2.7 | Deliveries by Buyer | 29 |
| Section 2.8 | Deliveries by Seller and FTFC | 29 |
| Section 2.9 | Deliveries by Opco and Holdco | 31 |
| Section 2.10 | Nonassignability of Assets | 31 |
| Section 2.11 | Transferred Contracts Adjustment | 32 |
| Section 2.12 | Asset Identification Process | 34 |

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF SELLER

| | | |
|---|---|---|
| Section 3.1 | Organization and Qualification; Capitalization | 35 |
| Section 3.2 | Authorization | 38 |
| Section 3.3 | Consents and Approvals | 38 |
| Section 3.4 | Non-Contravention | 39 |
| Section 3.5 | Binding Effect | 39 |
| Section 3.6 | Financial Statements | 39 |
| Section 3.7 | Litigation and Claims | 40 |
| Section 3.8 | Employees and Employee Benefits | 41 |
| Section 3.9 | Compliance with Laws | 42 |





| | | |
|---|---|---|
| Section 3.10 | Intellectual Property | 42 |
| Section 3.11 | Labor | 46 |
| Section 3.12 | Transferred Contracts | 46 |
| Section 3.13 | Absence of Changes | 47 |
| Section 3.14 | Sufficiency of Assets | 48 |
| Section 3.15 | Title to Property | 48 |
| Section 3.16 | Absence of Liabilities | 48 |
| Section 3.17 | Finders' Fees | 48 |
| Section 3.18 | Taxes | 48 |
| Section 3.19 | Environmental Matters | 50 |
| Section 3.20 | Customers | 51 |
| Section 3.21 | Suppliers | 52 |
| Section 3.22 | Ownership and Operations of the Companies | 52 |
| Section 3.23 | Related Party Transactions | 53 |
| Section 3.24 | Regulatory Matters; Security Breaches; Outages | 53 |
| Section 3.25 | Master Lease Agreement | 54 |
| Section 3.26 | Transition Service Agreement | 54 |
| Section 3.27 | Master Services Agreement | 54 |
| Section 3.28 | Reserved | 54 |
| Section 3.29 | Referral Agreement | 54 |
| Section 3.30 | Sponsorship Agreement | 54 |
| Section 3.31 | Representations under the Ancillary Agreements | 55 |
| Section 3.32 | Insurance | 55 |
| Section 3.33 | Solvency | 55 |
| Section 3.34 | No Other Representations or Warranties | 55 |

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF BUYER


| | | |
|---|---|---|
| Section 4.1 | Organization and Qualification | 55 |
| Section 4.2 | Authorization | 56 |
| Section 4.3 | Consents and Approvals | 56 |
| Section 4.4 | Non-Contravention | 56 |




---

**Table of Contents**
(Continued)


| | | |
|---|---|---|
| Section 4.5 | Binding Effect | 56 |
| Section 4.6 | Finders’ Fees | 57 |
| Section 4.7 | Litigation and Claims | 57 |
| Section 4.8 | Equity Commitments | 57 |
| Section 4.9 | No Other Representations or Warranties | 57 |


ARTICLE V

COVENANTS


| | | |
|---|---|---|
| Section 5.1 | Access and Information | 57 |
| Section 5.2 | Conduct of Business | 58 |
| Section 5.3 | Reasonable Best Efforts; Transition Plan; HSR | 61 |
| Section 5.4 | Tax Matters | 62 |
| Section 5.5 | Employee and Benefits Matters | 65 |
| Section 5.6 | Ancillary Agreements | 69 |
| Section 5.7 | Non-Solicitation; Non-Compete | 69 |
| Section 5.8 | Further Assurances | 71 |
| Section 5.9 | Licensed Intellectual Property | 71 |
| Section 5.10 | Confidentiality | 71 |
| Section 5.11 | Notification | 71 |
| Section 5.12 | Financial Statements | 72 |
| Section 5.13 | Applicable Contracts | 73 |
| Section 5.14 | Transition Service | 73 |
| Section 5.15 | Equity Commitments | 73 |
| Section 5.16 | Capital Leases | 73 |
| Section 5.17 | Canadian Sub | 73 |
| Section 5.18 | Certain Actions | 74 |


ARTICLE VI

CONDITIONS TO CLOSING


| | | |
|---|---|---|
| Section 6.1 | Conditions to the Obligations of the Parties | 74 |
| Section 6.2 | Conditions to the Obligations of Buyer | 75 |

Section 6.3 Conditions to the Obligations of Seller, FTFC and the Companies 75



**Table of Contents**
(Continued)

ARTICLE VII

SURVIVAL; INDEMNIFICATION; CERTAIN REMEDIES


| | | |
|---|---|---|
| Section 7.1 | Survival | 76 |
| Section 7.2 | Indemnification by Seller | 76 |
| Section 7.3 | Indemnification by Buyer | 78 |
| Section 7.4 | Indemnification by the Companies | 78 |
| Section 7.5 | Third-Party Claim Indemnification Procedures | 79 |
| Section 7.6 | Direct Claims | 80 |
| Section 7.7 | Consequential Damages | 80 |
| Section 7.8 | Adjustments to Losses | 81 |
| Section 7.9 | Payments | 81 |
| Section 7.10 | Characterization of Indemnification Payments | 82 |
| Section 7.11 | Mitigation | 82 |
| Section 7.12 | Remedies | 82 |


ARTICLE VIII

TERMINATION


| | | |
|---|---|---|
| Section 8.1 | Termination | 82 |
| Section 8.2 | Effect of Termination | 83 |


ARTICLE IX

MISCELLANEOUS


| | | |
|---|---|---|
| Section 9.1 | Specific Performance | 83 |
| Section 9.2 | Notices | 83 |
| Section 9.3 | Amendment; Waiver | 86 |
| Section 9.4 | No Assignment or Benefit to Third Parties | 86 |
| Section 9.5 | Entire Agreement | 87 |
| Section 9.6 | Fulfillment of Obligations | 87 |
| Section 9.7 | Public Disclosure | 87 |
| Section 9.8 | Expenses | 87 |
| Section 9.9 | Personal Liability | 87 |
| Section 9.10 | Schedules | 88 |




**Table of Contents**
(Continued)

| | | |
|---|---|---|
| Section 9.11 | Governing Law; Submission to Jurisdiction; Selection of Forum; Waiver of Trial by Jury | 88 |
| Section 9.12 | Counterparts | 88 |
| Section 9.13 | Headings | 88 |
| Section 9.14 | Severability | 88 |




---

**Table of Contents**
(Continued)

[Exhibits and Schedules have been omitted pursuant to Item 601(b)(2) of Regulation S-K. The exhibits and schedules will be provided to the SEC upon request.]


EXHIBITS AND SCHEDULES

Exhibits

| | | |
|---|---|---|
| Exhibit 1.1(a)(A) | - | Form of BIN/ICA Sponsorship Agreement |
| Exhibit 1.1(a)(B) | - | Form of LLC Agreement |
| Exhibit 1.1(a)(C) | - | Form of IP License Agreement |
| Exhibit 1.1(a)(D) | - | Form of Master Services Agreement |
| Exhibit 1.1(a)(E) | - | Form of Master Lease Agreement |
| Exhibit 1.1(a)(F) | - | Form of Master Sublease Agreement |
| Exhibit 1.1(a)(G) | - | Form of Loan Agreement |
| Exhibit 1.1(a)(H) | - | Form of Referral Agreement |
| Exhibit 1.1(a)(I) | - | Form of Registration Rights Agreement |
| Exhibit 1.1(a)(J) | - | Form of Trademark License Agreement |
| Exhibit 1.1(a)(K) | - | Form of Transition Service Agreement |
| Exhibit 1.1(a)(L) | - | Form of Warrant |
| Exhibit 1.1(a)(M) | - | Form of TransActive Shareholders’ Agreement |
| Exhibit 2.4(a) | - | Applicable Accounting Principles;<br>Closing Working Capital Calculation |
| Exhibit 5.2(a) | - | Capital Expenditure Plan |

Schedules

| | | |
|---|---|---|
| Schedule A | - | Services Not Performed for Seller by FTPS Division or CMC |
| Schedule 1.1(a) | - | Assumed Liabilities |
| Schedule 1.1(b) | - | Base Working Capital |
| Schedule 1.1(c) | - | Excluded Assets |
| Schedule 1.1(d) | - | Excluded Services |
| Schedule 1.1(e) | - | Seller’s Knowledge |
| Schedule 1.1(f) | - | Transferred Copyrights |
| Schedule 1.1(g) | - | Transferred Patents |
| Schedule 1.1(h) | - | Transferred Software |
| Schedule 1.1(i) | - | Transferred Trademarks |
| Schedule 2.11 | - | Certain Definitions |
| Schedule 2.12 | - | Asset Identification Plan |
| Schedule 3.3(a) | - | Seller Required Approvals |
| Schedule 3.3(b) | - | Company Required Approvals |
| Schedule 3.3(c) | - | Other Consents and Approvals |
| Schedule 3.6(a) | - | Financial Statements |
| Schedule 3.6(b) | - | Two-Month Financials |
| Schedule 3.6(c) | - | Cost Allocation Methods |
| Schedule 3.6(d) | - | Off-Balance Sheet Transactions |
| Schedule 3.7 | - | Litigation and Claims |
| Schedule 3.8(a) | - | Benefit Plans |
| Schedule 3.8(d) | - | Benefit Plans with Post-Employment Benefits |
| Schedule 3.8(e) | - | Benefit Plans Affected by Transactions |
| Schedule 3.9 | - | Compliance with Laws |




---

**Table of Contents**
(Continued)


| | | |
|---|---|---|
| Schedule 3.10(a) | - | Intellectual Property |
| Schedule 3.10(b) | - | Late or Delinquent Intellectual Property Filings |
| Schedule 3.10(e) | - | Agreements Limiting Transferability of Intellectual Property |

| | | |
|---|---|---|
| Schedule 3.10(f) | - | Intellectual Property and Technology Affected by Transactions |
| Schedule 3.10(j) | - | Transferred Software |
| Schedule 3.10(l) | - | Security Breaches |
| Schedule 3.10(m) | - | Privacy Policies |
| Schedule 3.12 | - | Transferred Contract Matters |
| Schedule 3.13 | - | Absence of Changes |
| Schedule 3.14(a) | - | Sufficiency of Assets |
| Schedule 3.14(b) | - | Certain Transferred Assets |
| Schedule 3.16 | - | Absence of Liabilities |
| Schedule 3.20(a) | - | Customers |
| Schedule 3.20(b) | - | Customer Termination Notices |
| Schedule 3.20(c) | - | Customer Acquisition/Renewal Costs |
| Schedule 3.21(a) | - | Suppliers |
| Schedule 3.21(b) | - | Supplier Termination Notices |
| Schedule 3.23 | - | Related Party Transactions |
| Schedule 3.24(a) | - | Regulatory Matters |
| Schedule 3.24(b) | - | Security Breaches |
| Schedule 3.24(c) | - | Security Breaches Requiring Notification |
| Schedule 3.32 | - | Loss Run for Certain Insurance Claims |
| Schedule 4.3 | - | Buyer Required Approvals |
| Schedule 4.7 | - | Buyer Litigation and Claims |
| Schedule 5.2(b)(ii) | - | Interim Period Acquisition or Disposition of Transferred Assets |
| Schedule 5.3(b)(i) | - | Transition Plan Term Sheet |
| Schedule 5.3(b)(ii) | - | Steering Committee Designees |
| Schedule 5.3(b)(iii) | - | Holdco Board of Directors Designees |
| Schedule 5.3(b)(iv) | - | Seller's Replacement Designees |
| Schedule 5.5(a) | - | Applicable Employees |
| Schedule 5.16 | - | Capital Leases |
| Schedule 7.2 | - | Certain Liabilities |



---

MASTER INVESTMENT AGREEMENT, dated March 27, 2009, as amended June 30, 2009, among (i) Fifth Third Bank, a bank chartered under the laws of the State of Ohio ("Seller"), (ii) Fifth Third Financial Corporation, a corporation organized under the laws of the State of Ohio ("FTFC"), (iii) Advent-Kong Blocker Corp., a corporation organized under the laws of the State of Delaware ("Buyer"), (iv) FTPS Holding, LLC (f/k/a Fifth Third Processing Solutions, LLC), a limited liability company formed under the laws of the State of Delaware ("Holdco"), and (v) Fifth Third Processing Solutions, LLC (f/k/a FTPS Opco, LLC), a limited liability company formed under the laws of the State of Delaware ("Opco") (the "Agreement"). Holdco and Opco are referred to in this Agreement collectively as the "Companies." Other capitalized terms used in this Agreement are defined in Section 1.1 below.

W I T N E S S E T H:

WHEREAS, Seller is, directly and indirectly through its wholly owned subsidiary, Card Management Corporation, an Indiana corporation and wholly-owned subsidiary of Seller ("CMC"), engaged in the Fifth Third Processing Solutions division of Seller and CMC, including (i) merchant processing services (including payment authorization, clearing and settlement for credit, debit, check authorization and truncation), (ii) gift, private label, stored value and prepaid card processing, (iii) electronic funds transfer services to business customers (including debt and ATM card processing and driving services, PIN and signature debit transaction authorization, settlement and exception processing), (iv) payment and ATM network switching services (including the Jeanie network), (v) credit and debit card production, activation, replacement and related management services (including on an outsourced basis), (vi) certain payments-related reselling services, (vii) other value added services (including fraud detection, prevention and management services) relating to the foregoing, (viii) promotional messaging service relating to the foregoing, (ix) debit portfolio management services related to the foregoing, and (x) certain data processing services (collectively, the "Processing Business") (the Processing Business together with the business conducted by FTFC indirectly through the Canadian Sub, and other than (i) underwriting and issuing credit cards branded by Seller and (ii) such services as are provided by Seller to itself and/or its customers and which are either (A) not performed for Seller by the Fifth Third Processing Solutions division of Seller or CMC as of the date of this Agreement and set forth on Schedule A or (B) not reflected as services provided by the Fifth Third Processing Solutions division of Seller in the Historical Financial Statements, is referred to in this Agreement collectively as the "Business");

WHEREAS, prior to the original execution of this Agreement:

(i) Seller formed Holdco on December 11, 2008, Opco on March 25, 2009 and FTPS Partners, LLC, a limited liability company organized under the laws of the State of Delaware ("FTPS Partners") on February 24, 2009;

(ii) On February 24, 2009, Seller contributed $9,800,000 of cash to Holdco in exchange for 98% of the limited liability company interests therein and CMC contributed $200,000 of cash to Holdco in exchange for 2% of the limited liability company interests therein, and each of Seller and CMC entered into a limited liability company agreement of Holdco (the "Preclosing Holdco LLC Agreement");

---

(iii) On March 3, 2009, Seller contributed $100,000 of cash to FTPS Partners in exchange for 100% of the interests in FTPS Partners;

(iv) Seller, FTPS Partners and CMC entered into a contribution agreement pursuant to which Seller shall contribute 100% of the equity interest in CMC to FTPS Partners, thereafter CMC shall distribute its interest in Holdco to FTPS Partners and thereafter CMC shall be converted into an Indiana limited liability company ("CMC LLC") (the "CMC Contribution Agreement");

(v) Seller, FTPS Partners and Holdco entered into a contribution agreement (the "Holdco Contribution Agreement") pursuant to which:

(A) Seller agreed to contribute all of the equity interests in Opco and cash in an aggregate amount equal to $89,175,000, taking into account all cash previously contributed by Seller and CMC to Holdco (the "Cash Contribution"), to Holdco including (A) $5,000,000, which Holdco will at Closing pay to Buyer as reimbursement for a portion of Buyer's transaction expenses (the "Transaction Expenses Contribution"), and (B) $75,000,000 to be used for any costs associated with establishing Holdco as a stand-alone entity and any other matters covered by the Transition Plan, including costs related to separate facilities, systems and infrastructure, redundancy costs or costs associated with hiring new personnel, and any cash needs associated with daily working capital and cash settlement requirements (the "Transition Infrastructure Contribution");

(B) FTPS Partners agreed to contribute 100% of the equity interests in CMC LLC to Holdco; and

(C) After Seller has contributed Opco to Holdco, Holdco agreed to contribute 100% of the equity interests in CMC LLC to Opco, along with all of the cash held by Holdco, other than the Transaction Expenses Contribution, with the Transition Infrastructure Contribution remaining in a segregated separate account to be used solely for any costs associated with establishing the Companies as stand-alone entities and any other matters covered by the Transition Plan until the end of the Transition Period, at which time, Holdco may use any amounts remaining in such account for its general corporate purposes;

(v) Seller contributed $100,000 in cash to Opco in exchange for membership interests therein, entered into the limited liability company agreement of Opco (the "Preclosing Opco LLC Agreement"); and

(vi) Seller entered into a contribution agreement pursuant to which it agreed to contribute Business-related assets to Opco (the "Opco Contribution Agreement," and together with the Holdco Contribution Agreement and the CMC Contribution Agreement, the "Contribution Agreements").

WHEREAS, after execution of this Agreement, but at least one day prior to Closing:

(i) Seller shall borrow $1.25 billion under the Notes;



---

(ii) Seller shall contribute its Business-related assets (which, for the sake of clarity, do not include assets of the Canadian Sub) to Opco and Opco shall assume Seller's obligations under the Note;

(iii) Seller shall contribute 100% of its interests in Opco (collectively, the "Opco LLC Interests") and the cash amount described above to Holdco;

(iv) Seller shall contribute 100% of the equity interests in CMC to FTPS Partners, and thereafter CMC shall distribute its interest in Holdco to FTPS Partners and thereafter CMC shall be converted into CMC LLC;

(v) FTPS Partners shall contribute 100% of the equity interests in CMC LLC to Holdco;

(vi) Holdco shall contribute the equity interests in CMC LLC it received from FTPS Partners and the cash it received from Seller (other than the Transaction Expenses Contribution) to Opco;

WHEREAS, as part of and at the Closing, *inter alia*:

(i) Seller and FTPS Partners shall cause the Preclosing Holdco LLC Agreement to be amended and restated in its entirety in the form of the Holdco LLC Agreement;

(ii) Holdco shall cause the Preclosing Opco LLC Agreement to be amended and restated in its entirety in the form of the Opco LLC Agreement;

(iii) Seller shall sell, transfer and convey to Buyer, and Buyer shall purchase from Seller, 50,930,455 Class A Units; and

(iv) FTFC shall sell, transfer and convey to Buyer, and Buyer shall purchase from FTFC, 50,930,455 shares of common stock of TransActive Ecommerce Solutions Inc., a corporation organized under the federal laws of Canada (the "Canadian Sub");

WHEREAS, Holdco is classified as a partnership for U.S. federal income tax purposes and Opco is properly disregarded as an entity separate from Seller for U.S. federal income tax purposes; and

WHEREAS, Buyer desires to purchase from Seller, and Seller desires to sell to Buyer, a 50.93% interest in Holdco, as more particularly set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual representations, warranties, covenants and undertakings contained in this Agreement, and for other good and valuable consideration, the parties agree as follows:



---

## ARTICLE I

## DEFINITIONS AND TERMS

Section 1.1 Certain Definitions. As used in this Agreement, the following terms have the meanings set forth below (including for purposes of the Recitals):

"2008 Net Revenues" means, with respect to a Transferred Contract, (i) the Net Revenue generated by a Customer that is the counterparty to such Transferred Contract during calendar year 2008, or (ii) with respect to any Customer that was a counterparty to such Transferred Contract that was not a Customer for the entirety of the 2008 calendar year, the annualized Net Revenue generated by such Customer during calendar year 2008.

"A Note" has the meaning set forth in the definition of "Notes."

"A Note Amount" means $950,000,000 or such other amount as Seller determines prior to the consummation of the transactions described in Section 2.1(a).

"Absent Employee" has the meaning set forth in Section 5.5(a).

"Acceptable Adjustments" has the meaning set forth in Section 3.25.

"Acceptable Increases" has the meaning set forth in Section 3.25.

"Adjustment Date" has the meaning set forth in Section 2.11(a).

"Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person as of the date on which, or at any time during the period for which, the determination of affiliation is being made (it being understood and agreed that, for purposes of this Agreement, the Companies, CMC LLC and the Canadian Sub shall only be deemed to be Affiliates of Seller and FTFC with respect to the period occurring on or prior to the Closing and with respect to the period occurring thereafter shall be deemed to be Affiliates of Buyer). For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

"Aggregate Price Adjustment" has the meaning set forth in Section 2.11(c).

"Agreement" means this Master Investment Agreement, as amended or supplemented from time to time in accordance with its terms.

"Allocated Services and Assets" means those services, occupancy, employees, capital charges and assets used by the Business and covered by the "Allocated Expense" line item in the Audited Financial Statements, other than such services, occupancy, employees, capital charges and assets that were excluded in Schedule 3.6(c).



"Ancillary Agreements" means collectively those agreements, substantially in the form or consistent with the term sheet, as the case may be, attached hereto as Exhibits 1.1(a)(A) — (M), respectively, to be entered into at Closing.

"Applicable Accounting Principles" has the meaning set forth in Section 2.4(a).

"Applicable Contract" has the meaning set forth in Section 2.11(a).

"Applicable Employees" means the employees of the Business as identified by name, job title and job site location on Schedule 5.5(a), which schedule also sets forth the current base salary or annual wages, as applicable, annual cash bonus opportunity plans, as applicable, stock based incentive plans and years of credited service with Seller and its Affiliates for each such Applicable Employee; provided, that Seller shall furnish to Buyer an updated Schedule 5.5(a) not later than five Business Days prior to the Closing Date, which schedule shall indicate any newly hired employee of the Business and any employee of the Business whose employment has terminated following the date hereof.

"Applicable Renegotiation Price Adjustment" has the meaning set forth in Section 2.11(b)(iii).

"Applicable Termination Price Adjustment" has the meaning set forth in Section 2.11(a)(ii).

"Approved Replacement" has the meaning set forth in Section 5.3(b).

"Asset Identification Process" has the meaning set forth in Section 2.12.

"Assumed Liabilities" means (i) all current liabilities of Seller or any of its Affiliates included in the calculation of the Closing Working Capital to the extent of the amounts that are set forth on or reserved for on the face of the Closing Statement, other than any Liabilities for Taxes (except for Taxes for which the Companies are expressly responsible pursuant to Section 5.4), (ii) all Liabilities of the Business under the Transferred Contracts (excluding the Transferred Contracts of the Canadian Sub), other than those relating to or arising from any obligation under any such Transferred Contract by Seller or its Affiliates that arose prior to the Closing (regardless of whether such Liabilities are discovered and/or identified prior to or after the Closing), except to the extent such obligation has been reflected in the Historical Financial Statements or is included in the calculation of Closing Working Capital, (iii) any other Liabilities of the Business set forth on Schedule 1.1(a) and (iv) any other Liabilities of the Business that the Companies have expressly assumed or agreed to assume under this Agreement and the Ancillary Agreements, provided, however, that Assumed Liabilities shall not include any Canadian Liabilities.

"Audited Financial Statements" has the meaning set forth in Section 3.6.

"B Note" has the meaning set forth in the definition of "Notes."

"B Note Amount" means $1,250,000,000, minus the A Note Amount.

"Base Working Capital Value" means the applicable amount corresponding to the month in which the Closing occurs set forth on Schedule 1.1(b).

"Benefit Plans" means each "employee benefit plan" (as defined in Section 3(3) of ERISA) and each other material profit-sharing, bonus, stock option, stock purchase, restricted stock units/shares, stock ownership, pension, retirement, severance, deferred compensation, excess benefit, supplemental unemployment, post-retirement medical or life insurance, welfare, incentive, sick leave or other leave of absence, short- or long-term disability, salary continuation, medical, hospitalization, life insurance, other insurance plan, or other employee benefit plan, program or arrangement, including individual employment, severance, change of control or similar agreements, maintained, sponsored or contributed to (or for which a contribution obligation exists) by Seller or its Affiliates (including affiliates within the meaning of Code Sections 414(b), (c) and (m)).

"BIN/ICA Sponsorship Agreement" means that certain Clearing, Settlement and Sponsorship Services Agreement, substantially in the form attached hereto as Exhibit 1.1(a)(A).

"Business" has the meaning set forth in the Recitals.

"Business Day" means any day other than a Saturday, a Sunday or a day on which banks in Cincinnati, Ohio or New York, New York are authorized or obligated by Law or executive order to close.

"Buyer" has the meaning set forth in the Preamble.

"Buyer Indemnified Parties" has the meaning set forth in Section 7.2(a).

"Buyer Required Approvals" means all consents, approvals, waivers, authorizations, notices and filings from or with a Government Entity that are required to be and are listed on Schedule 4.3.

"Canadian Financial Statements" has the meaning set forth in Section 5.12(d).

"Canadian Liabilities" means Liabilities of the Canadian Sub.

"Canadian Non-Indemnifiable Liabilities" means (i) all Canadian Liabilities consisting of Liabilities under any agreements, contracts, leases and subleases, purchase orders, arrangements, commitments and licenses that are (A) primarily related to the Business as of the Closing or (B) related to any Intellectual Property or Technology primarily used, held for use or acquired or developed for use in the Business as currently conducted and proposed to be conducted by Seller and its Affiliates, other than those relating to or arising from any performance that occurred prior to the Closing, (ii) all Canadian Liabilities arising out of, relating to or otherwise in respect of the Canadian Sub's business following the Closing, and (iii) all Liabilities for Taxes on the earnings of the Canadian Sub from April 1, 2009 through the Closing (provided such earnings were not distributed out to its shareholders during such period).

"Canadian Sub" has the meaning set forth in the Recitals.



"Canadian Sub Cash Purchase Price" has the meaning set forth in Section 2.3(f).

"Cap" has the meaning set forth in Section 7.2(b).

"Capital Lease" has the meaning set forth in Section 5.16.

"Cash" means the amount of cash and bank deposits as reflected in the bank statements, and certificates of deposit, less escrowed amounts or other restricted cash balances and less the amounts of any unpaid checks, drafts and wire transfers issued on or prior to the date of determination, in each case, calculated in accordance with the Applicable Accounting Principles.

"Cash Contribution" has the meaning set forth in the Recitals.

"Cash Purchase Price" has the meaning set forth in Section 2.3(f).

"Catastrophic Data Breach" means any actual breach of security of, or unauthorized access to or acquisition, use, loss, destruction, compromise or disclosure of any personal information, confidential or proprietary data or any other such information maintained or stored by, the Business (other than with respect to any such breaches occurring in systems maintained by customers of the Business or other third parties (other than vendors or contractors engaged or retained by the Business) for which the Business is not at fault) involving data of customers, suppliers, consumers or other similarly situated individuals that affects more than 1 million individuals or individual accounts.

"Chosen Courts" has the meaning set forth in Section 9.11.

"Claim Notice" has the meaning set forth in Section 7.5(a).

"Class A Units" has the meaning set forth in the Holdco LLC Agreement.

"Class B Units" has the meaning set forth in the Holdco LLC Agreement.

"Closing" means the closing of the Sale Transaction.

"Closing Date" means the date on which the Closing occurs.

"Closing Statement" has the meaning set forth in Section 2.5(a).

"Closing Working Capital" means the difference between (i) the current assets of the Business that constitute Transferred Assets, *minus* (ii) the current liabilities of the Business (for the avoidance of doubt, which do not include any liabilities for Taxes) other than the current liabilities of the Canadian Sub, in each case, as of the close of business on the Closing Date and calculated in accordance with the Applicable Accounting Principles, except with respect to vacation accruals, as set forth in Section 2.5(a).

"CMC" has the meaning set forth in the Recitals.



---

"CMC Business" means, prior to the conversion of CMC into CMC LLC, CMC, and following such conversion, CMC LLC.

"CMC Contribution Agreement" has the meaning set forth in the Recitals.

"CMC LLC" has the meaning set forth in the Recitals.

"CMC LLC Agreement" means the Limited Liability Company of CMC LLC.

"CMC LLC Interests" means the limited liability company interests of CMC LLC.

"COBRA Coverage" means the health continuation coverage required by Section 4980B of the Code and Part 6 of Title I of ERISA and the relevant provisions of the American Recovery and Reinvestment Act of 2009.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commitment" has the meaning set forth in Section 4.8.

"Companies" have the meanings set forth in the Preamble.

"Company Plans" has the meaning set forth in Section 5.5(b).

"Company Required Approvals" means all consents, approvals, waivers, authorizations, notices and filings from or with a Government Entity that are required to be and are listed on Schedule 3.3(b).

"Confidentiality Agreement" means the Confidentiality Agreement between Seller and a certain Affiliate of Buyer, dated July 17, 2008.

"Consent Payment" has the meaning set forth in Section 2.11(e).

"Consideration" has the meaning set forth in Section 5.4(f).

"Contribution" has the meaning set forth in Section 2.1(b).

"Contribution Agreements" has the meaning set forth in the Recitals.

"Copyrights" has the meaning set forth in the "Intellectual Property" definition.

"CPA Firm" means an internationally recognized "Big Four" firm of independent certified public accountants designated jointly by Seller and Buyer.

"Customer" means a Person who is a customer of the Business.

"Deductible" has the meaning set forth in Section 7.2(b).

"Direct Claim" has the meaning set forth in Section 7.6.



---

"Disclosing Party" has the meaning set forth in Section 5.10.

"EFT Business" has the meaning set forth in Section 3.6.

"Encumbrance" means any lien, pledge, charge, claim, encumbrance, security interest, option, mortgage, easement, lease, license, right of first refusal, proxy, voting trust, transfer restriction or other restriction of any kind.

"Environmental Claim" has the meaning set forth in Section 3.19(b).

"Environmental Laws" has the meaning set forth in Section 3.19(a).

"Equipment Assets" means any infrastructure asset (including all forms of hardware, information technology systems, mainframes, servers, PCs, computer systems, networking and telecommunications equipment, routers, switches, storage devices (SAN, NAS), tape and back-up devices, printers and other peripherals, mail-related equipment, power supplies, cabling, firewalls, security hardware and the like), other than any Intellectual Property.

"Equity Commitments" has the meaning set forth in Section 4.8.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder.

"Excluded Assets" means (i) all furniture, furnishings, equipment, computers, tools and other tangible personal property listed on Schedule 1.1(c), (ii) all trade accounts and notes receivable and other miscellaneous receivables of the Business listed on Schedule 1.1(c), (iii) all agreements, contracts, leases and subleases, purchase orders, arrangements, commitments and licenses listed on Schedule 1.1(c), (iv) Seller's and its Affiliates' rights under this Agreement, the Ancillary Agreements and those agreements governing Seller Leased Property, (v) all Intellectual Property listed on Schedule 1.1(c), (vi) (A) all books, ledgers, files, reports, plans, records, manuals and other materials (in any form or medium) other than the Transferred Books and Records and (B) Seller's corporate organizational records and documents, (vii) all of Seller's and its Affiliates' rights under insurance policies, (viii) all rights in connection with and assets of Benefit Plans, (ix) all assets specifically excluded from the definition of Transferred Assets by virtue of the explicit limitations contained therein and (x) any other items listed on Schedule 1.1(c); it being understood that any assets identified through the Asset Identification Process as not being those that remain Excluded Assets shall, at the time of transfer pursuant to this Agreement or the Transition Plan, cease to be Excluded Assets and shall thereafter become Transferred Assets under this Agreement for all purposes.

"Excluded Liabilities" has the meaning set forth in Section 2.2(b).

"Excluded Services" means the services and corporate allocations set forth on Schedule 1.1(d).



"Financial/EFT Contracts" means those Transferred Contracts with Customers of the EFT Business that require the consent of such Customers to transfer such contract to the Companies in connection with the Transactions and that are set forth on Schedule 3.3(c).

"Financial/EFT Percentage" has the meaning set forth in Schedule 2.11.

"FTFC" has the meaning set forth in the Preamble.

"FTFC's Knowledge" or any similar phrase means the actual knowledge of any of persons set forth on Schedule 1.1(e), after due inquiry of the employees primarily responsible for the subject matter in question.

"Fundamental Representations" has the meaning set forth in Section 7.1.

"GAAP" means United States generally accepted accounting principles.

"Government Antitrust Entity" means any Government Entity with jurisdiction over the enforcement of any Antitrust Law.

"Government Entity" means any federal, state, local or foreign government, governmental subdivision, administrative body or other governmental or quasi-governmental agency, tribunal, court or other entity with competent jurisdiction, including any Government Antitrust Entity.

"Governmental Authorizations" means all licenses, permits, certificates and other authorizations and approvals related to the Transferred Assets or the Business and issued by or obtained from a Government Entity or Self-Regulatory Organization.

"Historical Financial Statements" has the meaning set forth in Section 3.6.

"Holdco" has the meaning set forth in the Preamble.

"Holdco Cash Purchase Price" has the meaning set forth in Section 2.3(d).

"Holdco Contribution" has the meaning set forth in Section 2.1(a)(C).

"Holdco Contribution Agreement" has the meaning set forth in the Recitals.

"Holdco LLC Agreement" means the Amended and Restated Limited Liability Company Agreement of Holdco substantially consistent with the term sheet attached hereto as Exhibit 1.1(a)(B).

"Holdco LLC Interests" means, collectively, the Class A Units, the Class B Units and, upon issuance pursuant to the Warrant, the Class C Units.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"Indemnified Parties" has the meaning set forth in Section 7.2(a).



"Indemnifying Party" has the meaning set forth in Section 7.5(a).

"Indemnity Amount" has the meaning set forth in Section 7.9.

"Intellectual Property" means all intellectual property rights, whether protected, created or arising under the Laws of the United States or any other jurisdiction or under any international convention, including all: (i) trademarks, service marks, brand names, Internet domain names, logos, symbols, trade dress, trade names, all applications and registrations for the foregoing, including all renewals and extensions of same, and all goodwill associated therewith and symbolized thereby (collectively, "Trademarks"), (ii) patents and the issuances, registrations, invention disclosures and applications therefor, including divisions, continuations, continuations-in-part, provisionals, renewal applications, and renewals, extensions, reexaminations and reissues and any patents issuing on any of the foregoing (collectively, "Patents"), (iii) trade secrets, know how and similar confidential information protected by the Uniform Trade Secrets Act or similar legislation (collectively, "Trade Secrets"), (iv) works of authorship in any media and the copyrights therein and thereto (including Software and other compilations of information), the registrations and applications therefor, and renewals, extensions, restorations and reversions thereof (collectively, "Copyrights"), (v) all intellectual property rights arising from or in respect of Technology, and (vi) all income, royalties, proceeds and rights to damages and other payments now or hereafter due or payable or able to be asserted under and with respect to any of the foregoing, including all rights to sue and recover at law or in equity for any past, present and future infringement, misappropriation, dilution, violation or other impairment thereof.

"IP/Software License Agreement" means the IP/Software License Agreement substantially in the form attached hereto as Exhibit 1.1(a)(C).

"Law" means any law, statute, ordinance, rule, regulation, code, Order, judgment, injunction or decree enacted, issued, promulgated, enforced or entered by a Government Entity or Self-Regulatory Organization (including, for the sake of clarity, any policy statement or interpretation that has the force of law with respect to any of the foregoing, and including common law).

"Legal Proceeding" means any judicial, administrative or arbitral actions (whether civil, criminal, administrative or otherwise), suits, demands, mediations, arbitrations, hearings, investigations, inquiries, investigations, proceedings or claims (including counterclaims) by or before a Government Entity.

"Liabilities" means any and all debts, guarantees, claims, damages, costs, expenses, the obligation to make a payment based on future earnings in connection with an acquisition, fines, penalties, liabilities, commitments and obligations of any kind, whether direct or indirect, whether fixed, contingent or absolute, matured or unmatured, liquidated or unliquidated, accrued or not accrued, asserted or not asserted, known or unknown, determined, determinable or otherwise, whenever or however arising (including, whether arising out of any contract or tort based on negligence or strict liability) and whether or not the same would be required by GAAP to be reflected in financial statements or disclosed in the notes thereto.



---

"LLC Agreements" means the Holdco LLC Agreement and the Opco LLC Agreement, collectively.

"Losses" has the meaning set forth in Section 7.2(a).

"Master Lease Agreement" means the lease agreement between Opco and Seller pursuant to which Opco shall lease real property from Seller, substantially in the form attached hereto as Exhibit 1.1(a)(E).

"Master Services Agreement" means the agreement (including all addenda and schedules thereto) between Seller, as customer, and Opco, as service provider, substantially in the form attached hereto as Exhibit 1.1(a)(D).

"Master Sublease Agreement" means the sublease agreement between Opco and Seller pursuant to which Opco shall sublease real property from Seller, substantially in the form attached hereto as Exhibit 1.1(a)(F).

"Material Adverse Effect" means (a) any effect that is, or is reasonably likely to be, materially adverse to the business, assets, financial condition or results of operations of the Business or the Companies, taken as a whole, (b) the execution of any definitive agreement to consummate, or the consummation of, any change of control of Seller, any of its parent corporations or any of its depository institution Affiliates or any significant discussions or negotiations relating thereto except to the extent that the successor party thereto agrees in writing to assume all of the obligations of Seller or Seller's Affiliate that is party to such transaction or such obligations are assumed as a matter of law, (c)(i) the execution of any definitive agreement to consummate, or the consummation of, any one or more transactions that results in any Government Entity owning, directly or indirectly, in the aggregate more than 20% of the Seller, any of its parent corporations or any of its depository institution Affiliates, and (ii) a change in (A) two of the Seller's four designees to Holdco's Board of Directors or (B) two of the Seller's three designees to the Steering Committee that, in each case of (A) and (B), unless (I) such change is due to the death or disability of such designee, (II) such change is due to a voluntary resignation that occurs more than 9 months from the event described in clause (c)(i), or (III) any of the two Approved Replacements is designated to the Holdco's Board of Directors or the Steering Committee, as applicable, (d) the occurrence of a Catastrophic Data Breach or the discovery thereof, (e) any commencement of bankruptcy, insolvency or receivership proceedings (whether voluntary or involuntary) of Seller, any of its parent corporations or any of its depository institution Affiliates or (f) any effect that is, or is reasonably likely to be, materially adverse to Seller's ability to provide in the aggregate the services contemplated by the Ancillary Agreements; provided, that none of the following (or the effects or results thereof) shall be included in determining whether there shall have occurred a Material Adverse Effect: (i) any change in Law or accounting standards or interpretations thereof applicable to the Business or the Companies that does not materially and disproportionately adversely affect the business, assets, financial condition or results of operations of the Business or the Companies, taken as a whole, compared to businesses or entities operating in the same industry in which the Business or the Companies operate; (ii) general changes in economic, business or political conditions that do not materially and disproportionately adversely affect the business, assets, financial condition or results of operations of the Business or the Companies, taken as a whole, compared to



---

businesses or entities operating in the same industry in which the Business or the Companies operate; (iii) general changes in the securities, credit or financial markets or in the banking industry that do not disproportionately adversely affect the business, assets, financial condition or results of operations of the Business or the Companies, taken as a whole, compared to businesses or entities operating in the same industry in which the Business or the Companies operate; (iv) general changes in the electronic funds transfer, debit, credit and/or merchant transaction processing, ATM network operations and/or other data processing industries that do not disproportionately adversely affect the business, assets, financial condition or results of operations of the Business or the Companies, taken as a whole, compared to businesses or entities operating in the same industry in which the Business or the Companies operate; (v) the taking of any action required or permitted by this Agreement or consented to or requested, in each case, in writing, by Buyer; (vi) any acts of war, terrorism,

insurrection or civil disobedience; (vii) any items disclosed as of the date hereof on any of Seller's Disclosure Schedules to this Agreement, but only to the extent such effect is reasonably apparent from the reading of the specific disclosure set forth therein, and (viii) any adverse effect to the business, assets, financial condition or results of operations of the Business or the Companies as a result of the execution of this Agreement or the announcement of the Transactions contemplated hereby. For the sake of clarity, the foregoing proviso is not applicable to clauses (b) and (c) of this definition.

"Merchant Contracts" means those Transferred Contracts with Customers of the Merchant Processing Business that require the consent of such Customers to transfer such contract to the Companies in connection with the Transactions and that are set forth on Schedule 3.3(c).

"Merchant Percentage" has the meaning set forth in Schedule 2.11.

"Merchant Processing Business" has the meaning set forth in Section 3.6.

"Necessary Employee" has the meaning set forth in Section 5.5(a).

"Net Revenue" means, on an aggregate basis, net revenue (net of interchange) determined in accordance with GAAP consistently applied and consistent with Seller's past practices and as reported in the Historical Financial Statements, and:

(i) with respect to Transferred Contracts with Customers of the EFT Business, revenues based on billing data from the FTPS (XAA) billing systems and includes the revenues defined on customer service invoices as FTPS generated "Processing" fees but excludes fees billed to customers through such billing system related to pass-through fees and PIN interchange, mark-ups on pass-through fees, revenues and reductions to revenues based on manual entries to the ledger, and the amortization of signing bonuses provided to customers as part of any conversion or renewal;

(ii) with respect to Transferred Contracts with Customers of the Merchant Business, revenues based on billing data from the FTPS (XAA) billing system and the bankcard settlement system and includes FTPS generated processing fees for signature, PIN and other products and services provided but excludes interchange and other network pass-through related



fees and revenues not billed to specific customers through such billing systems, such as draft retrieval, association rebates, signing bonus amortization and other extraordinary items and excludes third party processing costs, debit network expense, gift card and plastics expense, equipment and supplies, marketing rebates, telecommunications and postage; and

(iii) with respect to Transferred Contracts with Customers of the CMC Business, the sum of (A) revenues based on billing data from the CMC Business billing system and includes CMC fees for services provided to support credit, debit, pre-paid, and private label card programs per the Services Agreements with the CMC Business's clients and (B) administrative service fee revenue paid to the CMC Business by First Data Resources for client aggregation/administration (based on a percentage of aggregated processing volume) but, in either case, shall exclude pass-through related processing fees.

"Network Rules" has the meaning set forth in Section 3.24(a).

"Non-Governmental Authorizations" means all licenses, permits, certificates and other authorizations and approvals other than Governmental Authorizations that are either (i) (a) held by Seller or its Affiliates and (b) related to the Transferred Assets, or (ii) related to the business of the Canadian Sub.

"Notes" means, collectively, (i) a Secured Term Loan Agreement (including all exhibits, annexes and schedules thereto) substantially in the form attached as Exhibit 1.1(a)(G) with an original aggregate outstanding principal amount payable thereunder by Opco following the Opco Contribution equal to the A Note Amount (the "A Note"), and (ii) a Secured Term Loan Agreement (including all exhibits, annexes and schedules thereto) substantially in the form attached as Exhibit 1.1(a)(G) with an original aggregate outstanding principal amount payable thereunder by Opco following the Opco Contribution equal to the B Note Amount (the "B Note").

"Notes Amount" means $1,250,000,000.

"Notice Period" has the meaning set forth in Section 7.5(a).

"Opco 401(k) Plan" has the meaning set forth in Section 5.5(e).

"Opco Contribution" has the meaning set forth in Section 2.1(a)(B).

"Opco Contribution Agreement" has the meaning set forth in the Recitals.

"Opco" has the meaning set forth in the Preamble.

"Opco LLC Agreement" means the Amended and Restated Limited Liability Company Agreement of Opco that will be agreed between Buyer and Seller prior to the Closing and will be substantially consistent with the Holdco LLC Agreement, except that Holdco shall be the only Member.

"Opco LLC Interests" means has the meaning set forth in the Recitals.



"Order" means any order, injunction, judgment, decree, writ or other enforcement action of a Government Entity.

"Ordinary Course" means the ordinary and usual conduct of normal day-to-day operations of the Business and/or use of the Transferred Assets consistent with, and in accordance with, Seller's, the Canadian Sub's or the CMC Business's, as applicable, historical customs, practices and

procedures.

"Party" means any of Buyer, Seller, FTFC and the Companies, and "Parties" means, collectively, each of Buyer, Seller, FTFC and the Companies.

"Patents" has the meaning set forth in the "Intellectual Property" definition.

"Permitted Encumbrances" means (i) Encumbrances reflected or reserved against or otherwise disclosed in the Historical Financial Statements, (ii) mechanics', materialmen's, warehousemen's, carriers', workers', or repairmen's liens or other similar common law or statutory Encumbrances arising or incurred in the Ordinary Course and that are not material in amount or effect on the Business, (iii) liens for current Taxes, assessments and other governmental charges that are (a) not yet due and payable, (b) due but not delinquent or (c) being contested in good faith by appropriate Legal Proceedings, and that in each case have been sufficiently reflected or reserved against on the face of the balance sheets contained in the Historical Financial Statements or related to a period after such Historical Financial Statements; in each case, in an amount that would not be material, (iv) Encumbrances incurred in the Ordinary Course since the date of the Historical Financial Statements and that are not material in amount or effect on the Business, (v) Encumbrances that would not materially impair the conduct of the Business, or the use or value of the relevant Transferred Assets or any assets of the Canadian Sub that are material to the Business and (vi) Encumbrances under the Notes.

"Person" means an individual, a corporation, a partnership, an association, a limited liability company, a joint venture, a Government Entity, a trust or other entity or organization.

"Preclosing Holdco LLC Agreement" means Holdco's initial limited liability company agreement effective as of the date hereof, a true and correct copy of which has been provided to Buyer on or before the date hereof.

"Preclosing LLC Agreements" means the Preclosing Holdco LLC Agreement and the Preclosing Opco LLC Agreement, collectively.

"Preclosing Opco LLC Agreement" means Opco's initial limited liability company agreement effective as of the date hereof, a true and correct copy of which has been provided to Buyer on or before the date hereof.

"Processing Business" has the meaning set forth in the Recitals.

"Purchase Consideration" means the Cash Purchase Price.

"Receiving Party" has the meaning set forth in Section 5.10.



"Reference Date" has the meaning set forth in Section 2.11(b).

"Reference Statement" has the meaning set forth in Section 2.4(a).

"Reference Working Capital" means the difference, as set forth on the Reference Statement, between (i) the estimated current assets of the Business that constitute Transferred Assets, *minus* (ii) the estimated current liabilities of the Business other than the current liabilities of the Canadian Sub, in each case, as of the close of business on the Closing Date and calculated in accordance with the Applicable Accounting Principles provided that such Reference Statement shall not include any vacation accrual.

"Reference Working Capital Adjustment Amount" has the meaning set forth in Section 2.4(b).

"Referral Agreement" means the agreement between Seller and Opco substantially in the form attached hereto as Exhibit 1.1(a)(H).

"Registration Rights Agreement" means the Registration Rights Agreement substantially consistent with the term sheet attached hereto as Exhibit 1.1(a)(I).

"Related Persons" has the meaning set forth in Section 3.23.

"Sale Transaction" has the meaning set forth in Section 2.3(c).

"Self-Regulatory Organization" means the Financial Industry Regulatory Authority, the American Stock Exchange, the National Futures Association, the Chicago Board of Trade, the New York Stock Exchange, any national securities exchange (as defined in the Exchange Act), any other securities exchange, futures exchange, contract market, any other exchange or corporation or similar self-regulatory body or organization.

"Seller" has the meaning set forth in the Preamble.

"Seller 401(k) Plan" has the meaning set forth in Section 5.5(e).

"Seller Indemnified Parties" has the meaning set forth in Section 7.3(a).

"Seller Leased Property" means those assets or rights not included in the Transferred Assets that are to be leased, licensed or otherwise provided by Seller and/or any of its Affiliates to Opco pursuant to this Agreement or any Ancillary Agreement.

"Seller Licensed Intellectual Property" means the Intellectual Property and Technology to be licensed to Opco by Seller or any of its Affiliates pursuant to the IP/Software License Agreement.

"Seller Required Approvals" means all consents, approvals, waivers, authorizations, notices and filings that are required to be and are listed on Schedule 3.3(a).

"Seller Services" means those rights, assets and services to be provided by Seller or its Affiliates to the Companies from and after the Closing pursuant to this Agreement or any Ancillary Agreement.

"Seller's Knowledge" or any similar phrase means the actual knowledge of any of persons set forth on Schedule 1.1(e), after due inquiry of the employees primarily responsible for the subject matter in question.

"Seller's Objection" has the meaning set forth in Section 2.5(b).

"Skipjack Business" means that portion of the Business related to electronic credit card authorization, electronic settlement, reporting and support services to merchant customers and originally purchased as part of an asset acquisition from Skipjack Financial Services, Inc. consummated as of April 1, 2009.

"Steering Committee" has the meaning set forth on Schedule 5.3(b)(ii).

"Software" means any and all (i) computer programs, including any and all software implementations of algorithms, models and methodologies, whether in source code or object code; (ii) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise; (iii) descriptions, flow-charts and other work product used to design, plan, organize and develop any of the foregoing, screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons and icons; and (iv) all documentation, including user manuals and other training documentation related to any of the foregoing.

"Sub Contribution" has the meaning set forth in Section 2.1(a)(E).

"Sub-Basket" means an aggregate amount equal to the sum of (i) 2.5% of the Purchase Consideration and (ii) 2.5% of the Notes Amount.

"Tax Returns" means any report, return, declaration, estimate, claim for refund or information return or statement relating to, or required to be filed with respect to Taxes, including any schedule, form, attachment or amendment.

"Taxes" means any federal, state, local, territorial, provincial or foreign taxes of any kind whatsoever, including income, net income, gross receipts, windfall profits, value added, severance, real property, personal property, production, single business, unincorporated business, sales, use, stamp, duty, license, excise, franchise, payroll, employment, unemployment, occupation, premium, environmental (including taxes under Section 59A of the Code), customs duties, capital stock, franchise, profits, gains, withholding, social security (or similar), disability, workers compensation, ad valorem, replacement, transfer, registration, alternative or add-on minimum, estimated taxes, fees and charges together with any interest, additions, fines or penalties with respect thereto and any interest in respect of such additions or penalties, whether or not disputed and whether imposed by Law, contract or otherwise.

"Technology" means, collectively, all Software, formulae, algorithms, work product of research and development, technical data, technical or business specifications,



business processes, inventions (whether patentable or unpatentable and whether or not reduced to practice), works of authorship and other similar materials, and all tangible embodiments of the foregoing, in any form whether or not specifically listed herein.

"Termination Date" has the meaning set forth in Section 8.1(b).

"Third-Party Claim" has the meaning set forth in Section 7.5(a).

"Trade Secrets" has the meaning set forth in the "Intellectual Property" definition.

"Trademark License Agreement" means that certain trademark license agreement, executed by Seller in favor of Opco as of the Closing Date, substantially in the form attached hereto as Exhibit 1.1(a)(J).

"Trademarks" has the meaning set forth in the "Intellectual Property" definition.

"Transaction Expense Contribution" has the meaning set forth in the Recitals.

"Transactions" means all of the transactions contemplated by this Agreement and any of the Closing documents to occur before, at or following the Closing.

"Transfer Date" has the meaning set forth in Section 5.5(a).

"Transfer Taxes" has the meaning set forth in Section 5.4(d).

"Transferred Assets" has the meaning set forth in Section 2.1(a)(E).

"Transferred Books and Records" means copies of all books, ledgers, files, reports, plans, records, manuals and other materials (in any form or medium) primarily related to, or maintained primarily in connection with, the Transferred Assets and/or the operation of the Business, including those relating to products, services, marketing, advertising, promotional materials, Transferred Intellectual Property, personnel files for Transferred Employees and all files, customer files and documents (including credit information), supplier lists, records, literature and correspondence, but excluding any such items to the extent (i) they are included in or primarily related to any Excluded Assets or Excluded Liabilities or (ii) any Law prohibits their transfer.

"Transferred Canadian Sub Stock" has the meaning set forth in Section 2.3(c).

"Transferred Contracts" means all agreements, contracts, leases and subleases, purchase orders, arrangements, commitments and licenses (other than this Agreement, the Ancillary Agreements, and those governing Seller Leased Property) that are (i) primarily related to the Business as of the Closing, or to which any of the Transferred Assets are subject or (ii) related to any Intellectual Property or Technology primarily used, held for use or acquired or developed for use in the Business as currently conducted and proposed to be conducted by Seller and its Affiliates, in each case, whether written or oral, except to the extent specifically included in Schedule 1.1(c) as Excluded Assets. For the sake of clarity, other than for purposes of Article



II hereof and unless otherwise indicated, "Transferred Contracts" shall include all such equivalent agreements or contracts of the Canadian Sub.

"Transferred Copyrights" means all Copyrights primarily related to or primarily used, held for use or acquired or developed for use in connection with the Business as currently conducted and proposed to be conducted by Seller and its Affiliates, including the Copyrights listed on Schedule 1.1(f), except to the extent specifically included in Schedule 1.1(c) as Excluded Assets. For the sake of clarity, other than for purposes of Article II hereof and unless otherwise indicated, "Transferred Copyrights" shall include all such equivalent Copyrights of the Canadian Sub.

"Transferred Employee" has the meaning set forth in Section 5.5(a).

"Transferred Equipment" means all equipment, including Equipment Assets, and other tangible personal property primarily related to, or primarily used, held for use or acquired or developed for use in connection with, the Business.

"Transferred Intellectual Property" means all Intellectual Property owned by Seller or its Affiliates that is primarily related to or primarily used, held for use or acquired or developed for use in connection with the Business as currently conducted and proposed to be conducted by Seller and its Affiliates, including the Transferred Copyrights, Transferred Patents, Transferred Trade Secrets and Transferred Trademarks, except to the extent specifically included in Schedule 1.1(c) as Excluded Assets. For the sake of clarity, other than for purposes of Article II hereof and unless otherwise indicated, "Transferred Intellectual Property" shall include all such equivalent Intellectual Property of the Canadian Sub.

"Transferred Interests" has the meaning set forth in Section 2.3(c).

"Transferred Inventory" means all inventory and other tangible personal property primarily related to, or primarily used, held for use or acquired or developed for use in connection with, the Business.

"Transferred Patents" means all Patents primarily related to or primarily used, held for use or acquired or developed for use in connection with the Business as currently conducted and proposed to be conducted by Seller and its Affiliates, including the Patents set forth on Schedule 1.1(g), except to the extent specifically included in Schedule 1.1(c) as Excluded Assets. For the sake of clarity, other than for purposes of Article II hereof and unless otherwise indicated, "Transferred Patents" shall include all such equivalent Patents of the Canadian Sub.

"Transferred Receivables" means all accounts and notes receivable and other miscellaneous receivables of the Business as of the Closing arising out of the sale or other disposition of goods or services of the Business, except to the extent specifically included in Schedule 1.1(c) as Excluded Assets.

"Transferred Software" means all Software primarily related to or primarily used, held for use or acquired or developed for use in connection with the Business as currently conducted and proposed to be conducted by Seller and its Affiliates, including the Software



listed on Schedule 1.1(h), except to the extent specifically included in Schedule 1.1(c) as Excluded Assets. For the sake of clarity, other than for purposes of Article II hereof and unless otherwise indicated, "Transferred Software" shall include all such equivalent Software of the Canadian Sub.

"Transferred Technology" means all Technology primarily related to or primarily used, held for use or acquired or developed for use in connection with the Business as currently conducted and proposed to be conducted by Seller and its Affiliates, except to the extent specifically included in Schedule 1.1(c) as Excluded Assets. For the sake of clarity, other than for purposes of Article II hereof and unless otherwise indicated, "Transferred Technology" shall include all such equivalent Technology of the Canadian Sub.

"Transferred Trade Secrets" means all Trade Secrets primarily related to or primarily used, held for use or acquired or developed for use in connection with the Business as currently conducted and proposed to be conducted by Seller and its Affiliates, except to the extent specifically included in Schedule 1.1(c) as Excluded Assets. For the sake of clarity, other than for purposes of Article II hereof and unless otherwise indicated, "Transferred Trade Secrets" shall include all such equivalent Trade Secrets of the Canadian Sub.

"Transferred Trademarks" means all Trademarks primarily related to or primarily used, held for use or acquired or developed for use in connection with the Business as currently conducted and proposed to be conducted by Seller and its Affiliates, including the Trademarks set forth on Schedule 1.1(i), together with the goodwill of the Business appurtenant thereto and/or symbolized thereby, except to the extent specifically included in Schedule 1.1(c) as Excluded Assets. For the sake of clarity, other than for purposes of Article II hereof and unless otherwise indicated, "Transferred Trademarks" shall include all such equivalent Trademarks of the Canadian Sub.

"Transition Infrastructure Contribution" has the meaning set forth in the Recitals.

"Transition Plan" has the meaning set forth in Section 5.3(b).

"Transition Plan Term Sheet" has the meaning set forth in Section 5.3(b).

"Transition Plan Start Date" means the first business day following the date on which the Transition Plan is completed.

"Transition Service Agreement" means the Transition Service Agreement substantially in the form attached hereto as Exhibit 1.1(a)(K), provided that the cumulative changes, if any, to the Transition Service Agreement (including each of the exhibits and schedules, including Exhibit A, thereto) in the form attached to this Agreement as of the date hereof shall not result in an increase in payments to be made by Opco under the execution version of the Transition Service Agreement exceeding $1,000,000 in the aggregate, excluding all pass-through costs.

"Unaudited Canadian Financial Statements" has the meaning set forth in Section 3.6.



"Unaudited Financial Statements" has the meaning set forth in Section 3.6.

"Unaudited US Financial Statements" has the meaning set forth in Section 3.6.

"U.S. Antitrust Laws" means the Sherman Act, as amended, the Clayton Act, as amended, the HSR Act, the Federal Trade Commission Act, as amended, and all other federal and state statutes, rules, regulations, Orders, decrees, administrative and judicial doctrines and other Laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade.

"Warrant" means the warrant in a form consistent with the term sheet attached hereto as Exhibits 1.1(a)(L).

"Welfare Benefits" has the meaning set forth in Section 5.5(c).

"Working Capital True-Up Amount" has the meaning set forth in Section 2.5(e).

Section 1.2 Other Terms. Other terms may be defined elsewhere in the text of this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement.

Section 1.3 Other Definitional and Interpretational Provisions. Unless the express context otherwise requires (other than with respect to clause (g) below):

(a) the words "hereof", "herein" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(b) the terms defined in the singular have a comparable meaning when used in the plural, and vice versa;

(c) the terms "Dollars" and "$" mean United States Dollars;

(d) references herein to a specific Article, Section, Subsection or Schedule shall refer, respectively, to Articles, Sections, Subsections or Schedules of this Agreement;

(e) wherever the word "include", "includes" or "including" is used in this Agreement, it shall be deemed to be followed by the words "without limitation";

(f) references herein to any gender includes each other gender;

(g) it is the intention of the Parties that the Agreement not be construed more strictly with regard to one Party than with regard to any other Party; and

(h) references herein to "the date hereof" and "the date of this Agreement" shall be deemed to refer to March 27, 2009 with respect to the Business



other than the Canadian Sub and shall be deemed to refer to April 1, 2009 with respect to the Canadian Sub.

## ARTICLE II

## RECAPITALIZATION AND PURCHASE AND SALE OF LLC INTERESTS

Section 2.1 Amendment and Recapitalization. (a) On the terms and subject to the conditions set forth herein and in the Preclosing LLC Agreements and the Contribution Agreements, as applicable, at least one day prior to the Closing:

(A) Seller shall borrow $1.25 billion under the Notes;

(B) Seller shall contribute, transfer and convey to Opco all of Seller's right, title and interest, as of the time of such contribution, in and to the Transferred Assets free and clear of all Encumbrances, other than Permitted Encumbrances, and Opco shall assume Seller's obligations under the Notes (collectively, the "Opco Contribution");

(C) Seller shall contribute, transfer and convey 100% of the equity interest in CMC to FTPS Partners, and thereafter, CMC shall distribute its interest in Holdco to FTPS Partners and thereafter CMC shall be converted into CMC LLC;

(D)(i) Seller shall contribute, transfer and convey to Holdco all of Seller's right, title and interest, as of the time of such contribution, in and to the Opco LLC Interests and the Cash Contribution, in each case, free and clear of all Encumbrances (in the case of the Cash Contribution, other than Permitted Encumbrances), and (ii) FTPS Partners shall contribute, transfer and convey 100% of the equity interest in CMC LLC to Holdco free and clear of all Encumbrances, other than Permitted Encumbrances (clauses (i) and (ii) collectively, the "Holdco Contribution"); and

(E) Holdco shall contribute, transfer and convey to Opco the equity interests in CMC LLC it received from FTPS Partners and the cash it received from Seller and CMC (other than the Transaction Expenses Contribution), in each case, free and clear of all Encumbrances, other than Permitted Encumbrances (collectively, the "Sub Contribution," and together with the Opco Contribution and the Holdco Contribution, the "Contribution"). "Transferred Assets" shall mean all of the assets, rights, properties, claims, contracts, business and goodwill of Seller required for, primarily related to, or primarily used, held for use or acquired or developed for use in, the Business as currently conducted, wherever situated and of whatever kind and nature, real or personal, tangible or intangible, whether or not reflected on the books and records of Seller (other than the Excluded Assets), including each of the following assets (it being understood that Transferred Assets does not include any assets, rights, properties, claims, contracts, business or goodwill of the Canadian Sub):

(i) all Cash and Transferred Receivables;

(ii) Transferred Contracts;

(iii) Transferred Intellectual Property;



(iv) Transferred Technology;

(v) Transferred Equipment;

(vi) Transferred Inventory;

(vii) Transferred Books and Records;

(viii) with respect to the Holdco Contribution, 100% of Opco LLC Interests (for the sake of clarity, all of Opco's assets shall be deemed to be Transferred Assets under this Agreement);

(ix) all causes of action, lawsuits, judgments, claims and demands of any nature available to or being pursued by Seller or any of its Affiliates to the extent related to the Transferred Assets (unless such cause of action, lawsuit, judgment, claim or demand is a counterclaim with respect to an Excluded Liability), the Assumed Liabilities or the ownership, use, function or value of any Transferred Asset (unless such cause of action, lawsuit, judgment, claim or demand is a counterclaim with respect to an Excluded Liability), whether arising by way of counterclaim or otherwise;

(x) all credits, prepaid charges and expenses, deferred charges, advance payments, security and other deposits, prepaid items and duties to the extent related to a Transferred Asset;

(xi) all guaranties, warranties, indemnities and similar rights in favor of Seller or any of its Affiliates to the extent related to any Transferred Asset (unless the liability that is the subject of such guarantee, warranty, indemnity or similar right is an Excluded Liability) or Assumed Liability, including guarantees made by suppliers, manufacturers and contractors to the extent relating to products sold or services provided to Seller or any of its Affiliates;

(xii) to the extent assignable, all Governmental Authorizations, and all Non-Governmental Authorizations used by Seller in the Business and all rights, and incidents of interest therein;

(xiii) to the extent assignable, all rights of Seller under non-disclosure or confidentiality, non-compete or non-solicitation agreements with current and former employees, consultants and agents of Seller or with third parties, in each case, to the extent relating to the Business or the Transferred Assets (or any portion thereof) other than any such agreements relating to the sale of the Business;

(xiv) all third-party property and casualty insurance proceeds, and all rights to third-party property and casualty insurance proceeds, in each case to the extent received or receivable in respect of the Business (excluding the Canadian Sub) or the Transferred Assets and not related to an Excluded Liability; and

(xv) all goodwill and other intangible assets associated with the Business (excluding the Canadian Sub) or the Transferred Assets, including the goodwill



associated with the Transferred Intellectual Property (other than the Transferred Intellectual Property of the Canadian Sub).

(b) Nothing herein contained shall be deemed to sell, transfer, assign or convey the Excluded Assets to the Companies, and Seller and its Affiliates shall retain all right, title and interest to, in and under the Excluded Assets.

(c) Any assets of the Seller transferred subsequent to the Closing pursuant to the Asset Identification Process shall be considered Transferred Assets as of March 27, 2009 and the Closing Date for purposes of the representations and warranties of the Seller set forth herein.

Section 2.2 Assumption of Liabilities; Excluded Liabilities. (a) On the terms and subject to the conditions set forth herein, at the time of the Contribution, Opco shall assume, effective as of the Closing, the Assumed Liabilities. For the avoidance of doubt, Canadian Liabilities shall remain Liabilities of the Canadian Sub.

(b) Neither of the Companies will assume or be liable for any Liabilities of Seller or any of its Affiliates that are not Assumed Liabilities ("Excluded Liabilities"). For the avoidance of doubt, Excluded Liabilities shall include, except to the extent included in Assumed Liabilities or Canadian Liabilities, the following Liabilities:

(i) all Liabilities of Seller or its Affiliates arising out of, relating to or otherwise in respect of the Business on or before the Closing (whether or not discovered before, on or after the Closing);

(ii) all Liabilities of Seller in respect of any services performed by, or on behalf of, Seller on or before the Closing;

(iii) except to the extent specifically provided in Section 5.5, all Liabilities of Seller arising out of, relating to or with respect to the employment or performance of services, or termination of employment or services by Seller or any of its Affiliates of any individual (including any Applicable Employee) on or before the Closing Date (including relating to Transferred Employees on or before the Transfer Date, irrespective of whether such claims are made prior to or after the Closing Date), (B) workers' compensation claims against Seller or any of its Subsidiaries that relate to the period on or before the Closing Date, irrespective of whether such claims are made prior to or after the Closing, and (C) any Benefit Plan, (D) any bonuses or incentive compensation (payable in either in cash or equity) owed or owing to employees (including any Applicable Employees) by Seller or any of its Affiliates on or before the Closing Date; provided, however, it being understood by Buyer and Seller that any such liability incurred on or after the Closing Date but prior to the applicable Transfer Date, with respect to an Applicable Employee, shall be reimbursed by Opco to Seller to the extent provided in the Transition Service Agreement;

(iv) (A) all Liabilities of Seller arising out of, under or in connection with contracts of the Seller or its Affiliates that are not Transferred Contracts and, (B) with



respect to Transferred Contracts, all Liabilities in respect of (1) performance by, or on behalf of, Seller under such Transferred Contracts with respect to any period prior to the Closing or (2) a breach by, or default of, Seller accruing under such contracts with respect to any period prior to the Closing;

(v) all Liabilities of Seller arising out of, under, or in connection with, any indebtedness of Seller (other than capital leases primarily related to the Business);

(vi) all Liabilities of Seller for Taxes (except for Taxes for which the Companies are expressly responsible pursuant to Section 5.4);

(vii) all Liabilities of Seller in respect of any pending or threatened Legal Proceeding (including, for the sake of clarity, all Liabilities arising from the matters set forth on Schedule 3.7, including any indemnification, contribution or other Liabilities in respect of, arising from, or otherwise relating to, such Legal Proceedings or the facts and circumstances pursuant to which such Legal Proceedings relate), or any claim, in each case arising out of, relating to or otherwise in respect of (A) the operation of the Business to the extent such Legal Proceeding or claim relates to such operation on or prior to the Closing Date, or (B) any Excluded Assets;

(viii) all Liabilities arising out of, relating to, or otherwise in respect of, any actual breach of security of, or unauthorized access to or acquisition, use, loss, destruction, compromise or disclosure of any personal information, confidential or proprietary data or any other such information maintained or stored by, the Business (other than such breaches occurring in systems maintained by customers of the Business for which the Business is not at fault) involving data of customers, suppliers, consumers or other similarly situated individuals, in any case, occurring before the Closing; and

(ix) all Liabilities of Seller (whether under Network Rules or otherwise) arising out of, relating to, or otherwise in respect of, any customers of the Business that have commenced any bankruptcy, insolvency or receivership proceedings (whether voluntary or involuntary) before the Closing.

For the avoidance of doubt, any Liabilities of the Business to the extent attributable to the operation or the ownership of the Transferred Assets or the Business, including the business of the Canadian Sub, from and after the Closing or the employment of the Transferred Employees after their respective Transfer Dates shall not constitute Excluded Liabilities.

Section 2.3 Purchase and Sale of LLC Interests and the Canadian Sub. On the terms and subject to the conditions set forth herein, at the Closing:

(a) Seller and FTPS Partners shall cause the Preclosing Holdco LLC Agreement to be amended and restated in its entirety in the form of the Holdco LLC Agreement;

(b) Holdco shall cause the Preclosing Opco LLC Agreement to be amended and restated in its entirety in the form of the Opco LLC Agreement;



(c) (i) Seller shall sell, transfer and convey to Buyer, and Buyer shall purchase from Seller, 50,930,455 Class A Units (the "Transferred Interests"), free and clear of all Encumbrances, except as set forth in the Holdco LLC Agreement and (ii) FTFC shall sell, transfer

and convey to Buyer, and Buyer shall purchase from FTFC, 50,930,455 shares of common stock of the Canadian Sub (the "Transferred Canadian Sub Stock") (clauses (i) and (ii) collectively, the "Sale Transaction");

(d) In consideration of the sale of the Transferred Interests, at the Closing (by wire transfer of immediately available funds to an account or accounts which have been designated by Seller at least two Business Days prior to the Closing Date), Buyer shall pay to Seller an amount in cash equal to $559,318,251.81 (the "Holdco Cash Purchase Price"), and Holdco shall issue the Warrant to Seller;

(e) Upon the payment by Buyer to Seller of the Holdco Cash Purchase Price, Holdco shall duly reflect in its books and records the admittance of Buyer as a member of Holdco and the transfer of the Transferred Interests from Seller to Buyer; and

(f) In consideration of the sale of the Transferred Canadian Sub Stock, at the Closing (by wire transfer of immediately available funds to an account or accounts which have been designated by FTFC at least two Business Days prior to the Closing Date), Buyer shall pay to FTFC an amount in cash equal to $916,748.19 (the "Canadian Sub Cash Purchase Price," and together with the Holdco Cash Purchase Price, the "Cash Purchase Price").

Section 2.4 Pre-Closing Adjustments. (a) Seller shall prepare, or cause to be prepared, and deliver to Buyer on or before the date that is three days before the anticipated Closing Date a statement (the "Reference Statement") consisting of (A) an estimated consolidated balance sheet of the Business (other than the Canadian Sub) as of the close of business on the Closing Date, (B) a good faith estimation in reasonable detail of the Reference Working Capital (C) a good faith calculation of the amounts of any contribution or payments required under Section 2.4(b) and all other amounts specifically identified in this Agreement as being reflected on the face of the Reference Closing Statement. The Reference Statement shall be prepared in accordance with GAAP applied on a basis consistent with the accounting principles, methods, practices, policies and procedures (with consistent classifications, judgments and valuation and estimation methodologies) that were used to prepare the Historical Financial Statements, except as set forth in Exhibit 2.4(a) attached hereto and except for the exclusion of the Canadian Sub (with such exceptions, the "Applicable Accounting Principles"). For illustrative purposes, Exhibit 2.4(a) contains a *pro forma* calculation of the Reference Working Capital as of June 30, 2008 applying the Applicable Accounting Principles.

(b) The difference between (i) the Base Working Capital Value, *minus* (ii) the Reference Working Capital, expressed as a positive, if positive, or as a negative, if negative, is referred to in this Agreement as the "Reference Working Capital Adjustment Amount." In the event that the Reference Working Capital Adjustment Amount is a negative number, then Opco shall pay to the Seller Cash on



or before the Closing Date (by wire transfer of immediately available funds) an amount in cash equal to the absolute value of the Reference Working Capital Adjustment Amount. In the event that the Reference Working Capital Adjustment Amount is a positive number, then Seller shall pay to Opco Cash on or before the Closing Date (by wire transfer of immediately available funds) an amount in cash equal to the value of the Reference Working Capital Adjustment Amount.

Section 2.5 Post-Closing True-Up. (a) As soon as practicable, but in no event more than 60 days following the Closing Date, Buyer shall prepare, or cause to be prepared, and deliver to Seller a statement (the "Closing Statement") consisting of (i) an unaudited consolidated balance sheet of the Business (other than the Canadian Sub) as of the close of business on the Closing Date, (ii) a good faith calculation in reasonable detail of the Closing Working Capital derived from such balance sheet and (iii) a good faith calculation of the amount of any payment required under Section 2.5(e), 2.5(f) and all other amounts specifically identified in this Agreement as being reflected on the face of the Reference Closing Statement; provided that such Closing Statement shall not include any vacation accrual. The Closing Statement shall be prepared in accordance with the Applicable Accounting Principles, except that it shall not include any vacation accrual.

(b) Seller shall complete its review of the Closing Statement within 30 days after delivery thereof by Buyer. In the event that Seller determines that the Closing Statement has not been prepared on the basis set forth in Section 2.5(a), Seller shall, on or before the last day of such 30-day period, so inform Buyer in writing (the "Seller's Objection"), setting forth a specific description of the basis of Seller's determination and the adjustments to the Closing Statement and the corresponding adjustments to the Closing Working Capital that Seller believes should be made. If no Seller's Objection is received by Buyer on or before the last day of such 30-day period, then the Closing Working Capital set forth on the Closing Statement delivered by Seller shall be final. Buyer shall have 30 days from its receipt of Seller's Objection to review and respond to Seller's Objection.

(c) If Seller and Buyer are unable to resolve all of their disagreements with respect to the proposed adjustments set forth in Seller's Objection within 30 days following the completion of Buyer's review of Seller's Objection, they shall refer any remaining disagreements with respect to matters set forth in Seller's Objection to the CPA Firm which, acting as an expert and not as an arbitrator, shall determine, on the basis set forth in and in accordance with Section 2.5(a), and only with respect to the remaining differences so submitted, whether and to what extent, if any, the Closing Statement and the Closing Working Capital require adjustment. Buyer and Seller shall instruct the CPA Firm to deliver its written determination to Buyer and Seller no later than 30 days after the remaining differences underlying Seller's Objection are referred to the CPA Firm. In making such determination, the CPA Firm shall not assign a value to any item greater than the greatest value for such item claimed by Buyer or Seller, or less than the smallest value for such item claimed by Buyer or Seller. The CPA Firm's determination shall be conclusive and binding upon Buyer and Seller and their respective Affiliates. The fees and disbursements of the CPA Firm shall be borne



by Seller if the CPA Firm rules against a majority (by dollar value) of the items set forth in Seller's Objection that are submitted to the CPA Firm and by Buyer if the CPA Firm rules in favor of a majority (by dollar value) of the items set forth in Seller's Objection that are submitted to the CPA Firm. Buyer and Seller shall make readily available to the CPA Firm all relevant books and records and any work papers (including those of their respective accountants, to the extent permitted by such accountants) relating to the Closing Statement and Seller's Objection and all other items reasonably requested by the CPA Firm in connection therewith, and may submit such additional data and information to the CPA Firm as each deems appropriate.

(d) Buyer and the Companies shall provide to Seller and its accountants full access to the books and records of the Business and to any other information, including work papers of its accountants (to the extent permitted by such accountants), and to any employees during regular business hours and on reasonable advance notice, to the extent necessary for Seller to review the Closing Statement and prepare materials for the CPA Firm in connection with Section 2.5(c).

(e) An amount equal to (A) the Reference Closing Working Capital, minus (B) the Closing Working Capital (as adjusted pursuant to this Section 2.5, if applicable), expressed as a positive, if positive, or as a negative, if negative, is referred to in this Agreement as the "Working Capital True-Up Amount." Subject to Section 2.5(f), if the Working Capital True-Up Amount is a negative number, then Opco shall pay to Seller (by wire transfer of immediately available funds) an amount in cash equal to the absolute value of the Working Capital True-Up Amount, and if the Working Capital True-Up Amount is a positive number, then Seller shall pay to Opco (by wire transfer of immediately available funds) an amount in cash equal to the value of the Working Capital True-Up Amount.

(f) If the amount that would otherwise constitute a Reference Working Capital Adjustment Amount or a Working Capital True-Up Amount is equal to or less than $250,000, no payment shall be made, except that any such amounts in respect of any accrued interest under the Notes as of the Closing shall be payable regardless of the limitation set forth in this Section 2.5(f).

(g) Within a reasonable time following each Transfer Date, Seller shall provide Opco with a cash payment equal to the aggregate vacation accrual of the Transferred Employees who become employees of Opco as of such Transfer Date; it being understood that if as of the last to occur of such Transfer Dates, the aggregate cash payment in respect of such vacation accruals would not have been payable as a result of Section 2.5(f) if it had been included in the Working Capital True-Up Amount, such payment shall not be made.

Section 2.6 Closing. Subject to the terms and conditions of this Agreement, the Closing shall take place at the offices of Seller on June 30, 2009 immediately following the execution hereof but subject to the fulfillment or waiver of the conditions set forth in Section 6.1,



Section 6.2 and Section 6.3 and shall be deemed effective as of the close of business (Eastern time) on June 30, 2009.

Section 2.7 Deliveries by Buyer. (a) At the Closing, Buyer shall deliver to Seller the following:

(i) the Holdco Cash Purchase Price in immediately available funds by wire transfer to an account or accounts which have been designated by Seller at least two Business Days prior to the Closing Date;

(ii) a duly executed counterpart of each of the Ancillary Agreements to which Buyer is a party and a duly executed counterpart to the Holdco LLC Agreement;

(iii) evidence of the obtaining of, or the filing with respect to, the Buyer Required Approvals;

(iv) the certificate to be delivered pursuant to Section 6.3(d);

(v) secretary's certificates, evidence of corporate existence and good standing, evidence of corporate approvals and other similar documents, and such other customary instruments of transfer, assumptions, filings or documents, in form and substance reasonably satisfactory to Seller, as may be required to give effect to this Agreement.

(b) At the Closing, Buyer shall deliver to FTFC the following:

(i) the Canadian Sub Cash Purchase Price in immediately available funds by wire transfer to an account or accounts which have been designated by FTFC at least two Business Days prior to the Closing Date; and

(ii) secretary's certificates, evidence of corporate existence and good standing, evidence of corporate approvals and other similar documents, and such other customary instruments of transfer, assumptions, filings or documents, in form and substance reasonably satisfactory to FTFC, as may be required to give effect to this Agreement.

Section 2.8 Deliveries by Seller and FTFC. (a) At the Closing, Seller shall deliver, or cause to be delivered, to Buyer the following:

(i) a duly executed counterpart of each of the Ancillary Agreements to which any of the Seller and Buyer are parties;

(ii) evidence of the obtaining of, or the filing with respect to, the Seller Required Approvals and the Company Required Approvals;

(iii) the certificate to be delivered pursuant to Section 6.2(d);



(iv) delivery of the Reference Statement, as required pursuant to Section 2.4(a);

(v) a certificate of non-foreign status from Seller that complies with Section 1445 of the Code; and

(vi) secretary's certificates, evidence of legal existence and good standing, evidence of corporate approvals and other similar documents, and such other customary instruments of transfer, assumptions, filings or documents, in form and substance reasonably satisfactory to Buyer, as may be required to give effect to this Agreement.

(b) At the time of the Opco Contribution, Seller shall deliver, or cause to be delivered, to Opco the following:

(i) bills of sale or other appropriate documents of transfer, in form and substance reasonably acceptable to Buyer, transferring the tangible personal property included in the Transferred Assets to Opco;

(ii) assignments, in form and substance reasonably acceptable to Buyer and, if applicable, as required by any Government Entity with which any of Seller's or any of its Affiliates' rights to any Transferred Intellectual Property (other than the Transferred Intellectual Property of the Canadian Sub) have been filed, assigning to Opco such Transferred Intellectual Property;

(iii) assignment and assumption agreements, in form and substance reasonably acceptable to Seller and Buyer, as may be necessary to effect the assignment to Opco of the Transferred Contracts (other than the Transferred Intellectual Property) or other Transferred Assets, other than tangible personal property included therein;

(iv) the Transferred Books and Records;

(v) a duly executed counterpart of each of the Ancillary Agreements to which Seller and Opco are parties; and

(vi) such other customary instruments of transfer, assumptions, filings or documents, in form and substance reasonably satisfactory to Seller and Buyer, as may be required to give effect to the Opco Contribution.

For the avoidance of doubt, the Transferred Intellectual Property, Transferred Contracts and Transferred Books and Records of the Canadian Sub will not be delivered, assigned or transferred to Opco.

(c) At the time of the Holdco Contribution, Seller shall deliver, or cause to be delivered, to Holdco the following:

(i) an assignment, in form and substance reasonably acceptable to Buyer, of all of FTPS Partners' interests in CMC LLC; and



(ii) an assignment, in form and substance reasonably acceptable to Buyer, of all of Seller's interests in Opco.

(d) At the Closing, FTFC shall deliver, or cause to be delivered, to Buyer the following:

(i) a certificate or certificates issued in Buyer's name, representing the Transferred Canadian Sub Stock, endorsed for transfer to, or accompanied by a duly executed stock power in favor of, Buyer, in a form reasonably acceptable to Buyer; and

(ii) secretary's certificates, evidence of legal existence and good standing, evidence of corporate approvals and other similar documents, and such other customary instruments of transfer, assumptions, filings or documents, in form and substance reasonably satisfactory to Buyer, as may be required to give effect to this Agreement.

Section 2.9 Deliveries by Opco and Holdco. (a) At the Opco Contribution, Opco shall deliver to Seller the following:

(i) such instruments of assumption and other instruments or documents, in form and substance reasonably acceptable to Seller and Buyer, as may be necessary to effect Opco's receipt and assumption of the Transferred Assets and Assumed Liabilities and the indebtedness under the Notes;

(ii) a duly executed counterpart of each of the Ancillary Agreements to which any of Opco and any of Seller is a party; and

(iii) such other customary instruments of transfer, assumptions, filings or documents, in form and substance reasonably satisfactory to Seller and Buyer, as may be required to give effect to the Opco Contribution.

(b) At the Closing, Holdco shall deliver to Seller the Warrant.

Section 2.10 Nonassignability of Assets. Notwithstanding anything to the contrary contained in this Agreement, to the extent that the sale, assignment, sublease, transfer, conveyance or delivery or attempted sale, sublease, assignment, transfer, conveyance or delivery to the Companies of any asset (other than an Applicable Contract) that would be a Transferred Asset or any claim or right or any benefit arising thereunder or resulting therefrom is prohibited by any applicable Law or would require any governmental or third-party authorizations, approvals, consents or waivers, and such authorizations, approvals, consents or waivers shall not have been obtained prior to the Closing, the Closing shall proceed without the sale, assignment, sublease, transfer, conveyance or delivery of such asset unless such failure causes a failure of any of the conditions to Closing set forth in Article VI, in which event the Closing shall proceed only if the failed condition is waived by the Party (or Parties, as applicable) entitled to the benefit thereof. In the event that the Closing proceeds without the transfer, sublease or assignment of any such asset (other than an Applicable Contract) that would be a Transferred Asset or any claim or right or any benefit arising thereunder or resulting therefrom, then following the Closing, the parties hereto shall use their commercially reasonable efforts, and cooperate with



each other, to obtain promptly such authorizations, approvals, consents or waivers; provided, however, that none of the parties hereto or any of their Affiliates shall be required to pay any consideration therefor other than filing, recordation or similar fees, which shall be shared equally by Seller and Buyer. Pending such authorization, approval, consent or waiver, the parties hereto shall cooperate with each other in any mutually agreeable, reasonable and lawful arrangements designed to provide to the Companies the benefits of use of such asset and to Seller or its Affiliates the benefits, including any indemnities, that they would have obtained had the asset been conveyed to the Companies at the Closing. Once authorization, approval, consent or waiver for the sale, assignment, sublease, transfer, conveyance or delivery of any such asset not sold, assigned, subleased, transferred, conveyed or delivered at the Closing is obtained, Seller shall or shall cause its relevant Affiliates to, assign, transfer, convey and deliver such asset to the Companies at no additional cost. Subject to

the Transition Plan and the Transition Service Agreement, to the extent that, within 90 days of the Closing Date, it is determined by Seller, with the consent of Buyer, such consent not to be unreasonably withheld or delayed, that any such asset cannot be transferred or the full benefits of use of any such asset cannot be provided to the Companies following the Closing pursuant to this Section 2.10, then Seller and the Companies shall enter into such arrangements (including subleasing, sublicensing or subcontracting) to provide to the parties hereto the economic (taking into account Tax costs and benefits) and operational equivalent, to the extent permitted, of obtaining such authorization, approval, consent or waiver and the performance by the Companies of the obligations thereunder, and upon the entering into of such arrangement by Seller and the Companies, such asset shall no longer be determined to be a Transferred Asset. Seller shall hold in trust for and pay to the Companies promptly upon receipt thereof, all income, proceeds and other monies received by Seller or any of its Affiliates in connection with its use of any asset (net of any Taxes and any other costs imposed upon Seller or any of its Affiliates) in connection with the arrangements under this Section 2.10.

Section 2.11 Transferred Contracts Adjustment.

(a) Subject to the Sub-Basket and the Cap, as applicable, if, prior to obtaining the consent of the applicable counterparty to a Merchant Contract or Financial/EFT Contract included in the Transferred Contracts (each, an "Applicable Contract") to the transfer of such Applicable Contract to the Companies in connection with the Transactions, at any time between the date hereof through the first anniversary of the Closing Date (the "Adjustment Date") (i) such Applicable Contract is terminated by the counterparty thereto for any reason, (ii) such counterparty thereto notifies Seller or the Companies that it will terminate such Applicable Contract for any reason or (iii) such counterparty thereto initiates a proposed renegotiation of such Applicable Contract prior to the expiration of its existing term and the counterparty to such Applicable Contract subsequently agrees no later than 18 months after the Closing Date upon an amendment or modification to such Applicable Contract that reduces its existing term, in the case of each of clauses (i) through (iii), where the effective date of such termination or expiration or proposed termination or expiration is prior to the original termination or expiration date of such Applicable Contract, then the Purchase Consideration shall be adjusted and the Notes shall be repaid in the proportion set forth in Section 2.11(c) for each such Applicable Contract by an aggregate amount equal to:



(i) (1) 8.2, *times* (2) 2008 Net Revenues, *times* (3) (x) the Merchant Percentage (if such Applicable Contract is a Merchant Contract) or (y) the Financial/EFT Percentage (if such Applicable Contract is a Financial/EFT Contract), *minus*

(ii) Any liquidated damages or similar payments received by the Companies with respect to such termination or proposed termination of such Applicable Contract (such calculated amount, the "Applicable Termination Price Adjustment").

(b) Subject to the Sub-Basket and the Cap, as applicable, if, prior to obtaining the consent of the applicable counterparty to an Applicable Contract to the transfer of such Applicable Contract to the Companies in connection with the Transactions, at any time between the date hereof through the Adjustment Date such counterparty initiates a proposed renegotiation of such Applicable Contract prior to the expiration of its existing term and the counterparty to such Applicable Contract subsequently agrees upon an amendment or modification to such Applicable Contract (other than an amendment or modification that reduces its term, in which case, Section 2.11(a) applies and this Section 2.11(b) does not apply) prior to the expiration of its term and no later than 18 months after the Closing Date (the "Reference Date"), then the Purchase Consideration shall be adjusted and the Notes shall be repaid in the proportion set forth in Section 2.11(c) for each such Applicable Contract by an aggregate amount equal to:

(i) 8.2, *times*

(ii) an amount equal to (1) the 2008 Net Revenues, *minus* (2) the product of (A) the 2008 Net Revenues, times a fraction of which the numerator shall be the per unit pricing as a result of such modification or amendment and the denominator shall be the average per unit price pursuant to such Applicable Contract for the calendar year 2008 (it being understood that the Applicable Renegotiation Price Adjustment shall be zero if such fraction is one or greater), *times*

(iii) a fraction of which the numerator shall be the remaining term of such Applicable Contract prior to such modification or amendment and the denominator shall be the term of such contract as a result of such modification or amendment (such calculated amount, the "Applicable Renegotiation Price Adjustment").

(c) The aggregate Applicable Termination Price Adjustments and Applicable Renegotiation Adjustments (the "Aggregate Price Adjustment") shall be effected (i) at the Closing with respect to any Aggregate Price Adjustments that, to the Seller's Knowledge, can be determined at such time, (ii) on the Adjustment Date with respect to any additional Aggregate Price Adjustments that, to the Seller's Knowledge, can be determined at such time and (iii) no later than 30 days after the Reference Date with respect to any remaining Aggregate Price Adjustments, in any such case, through (x) a payment from Seller to Opco of an amount in cash (by wire transfer of immediately available funds) equal to 45% of the Aggregate Price Adjustment and (y) a repayment by Seller on behalf of Opco of the B Note by an



amount equal to 55% of the Aggregate Price Adjustment. Notwithstanding the foregoing, to the extent that the repayment to be made pursuant to clause (y) of the immediately preceding sentence exceeds the then-outstanding principal of the B Note (such excess, the "Adjustment Shortfall"), then Seller shall make a repayment on behalf of Opco of the A Note by an amount equal to the Adjustment Shortfall.

(d) Notwithstanding anything to the contrary set forth herein, there shall be no payment to Buyer or reduction in the principal of the A Note or the B Note, as applicable, with respect to the Aggregate Price Adjustment pursuant to Section 2.11(c) to the extent that the Aggregate Price Adjustment is less than $10 million.

(e) Subject to the Sub-Basket and the Cap, as applicable, if, prior to obtaining the consent of the applicable counterparty to an Applicable Contract to the Transaction, at any time between the date hereof through the Adjustment Date such counterparty requires as a condition to its consent the payment of a fee, then Seller shall pay such fee to such counterparty (any such payments, the "Consent

Payments”); provided, however, that Seller shall not make, or agree to make, any Consent Payments to any third party in excess of the total amount reimbursable to Opco hereunder, unless such excess amount does not count against the Sub-Basket and/or decrease the Cap, as applicable.

(f) The aggregate amount of any Applicable Termination Price Adjustment, any Applicable Renegotiation Price Adjustment and any Consent Payments shall decrease the Sub-Basket on a dollar-for-dollar basis, and any such amounts in excess of the Sub-Basket shall reduce the Cap on a dollar-for-dollar basis. No Applicable Termination Price Adjustment or Applicable Renegotiation Price Adjustment shall be made in excess of the then-applicable Cap.

Section 2.12 Asset Identification Process. During the period between the date hereof and the Transition Plan Start Date, Seller and Buyer shall cooperate with each other in good faith and use reasonable best efforts to more specifically identify with respect to all of the assets other than the assets set forth on Schedule 2.12 (which reflects assets that definitively will be Transferred Assets) (i) those assets that are required for, primarily related to, or primarily used, held for use, or were acquired or developed for use, in the Business, as currently conducted and proposed to be conducted by Seller and its Affiliates and the manner in which such assets will be transferred to, or rights to use such assets will be obtained for, Opco, (ii) those assets (other than those that are the subject of clause (i) of this Section 2.12) that are related to, or used, held for use, or were acquired or developed for use, in the Business as currently conducted and proposed to be conducted by Seller and its Affiliates , which shall be obtained by Opco with the use of the Transition Infrastructure Contribution, (iii) those assets that should be included in clause (i) of this Section 2.12 but are to be temporarily retained by Seller to enable Seller to provide the services under the Transition Service Agreement and subsequently transferred to Opco at the conclusion of such services, and (iv) those assets that should be included in clause (i) of this Section 2.12 but will remain Excluded Assets, but as to which Seller, at its sole expense, will procure an asset comparable in all respects for Opco in accordance with the Transition Plan (the “Asset Identification Process”). Each Party shall, and shall cause its Affiliates to, promptly



execute, acknowledge and deliver any assurances or documents or instruments of transfer reasonably requested by another Party in accordance with Asset Identification Process. The Parties agree that, in the event any dispute arises in connection with the Asset Identification Process, such dispute shall be resolved in accordance with the dispute resolution process described under the heading “Dispute Resolution” in Schedule 5.3(b), and such resolution shall be final and binding on the Parties.

## ARTICLE III

## REPRESENTATIONS AND WARRANTIES OF SELLER

Seller (and FTFC where indicated) represents and warrants to Buyer as follows:

Section 3.1 Organization and Qualification; Capitalization. (a) Seller is a bank duly organized, validly existing and in good standing under the laws of the State of Ohio and has all requisite corporate power and authority to own, lease and operate its assets, and, together with FTFC, to carry on the Business as currently conducted. FTFC is a corporation duly organized, validly existing and in good standing under the laws of the State of Ohio and has all requisite corporate power and authority to own, lease and operate its assets, and to carry on its business as currently conducted. Each of the Companies and FTPS Partners is, and upon its formation, CMC LLC will be, a limited liability company duly formed, validly existing and in good standing under the laws of its jurisdiction and has all requisite limited liability company power and authority to own, lease and operate its assets, and to carry on its business as currently conducted. As of the Closing, each of the Companies, FTPS Partners and CMC LLC will have all requisite limited liability company power and authority to own, lease and operate its assets, and, together with the Canadian Sub, to carry on the Business as currently conducted. Seller is duly qualified to do business and is in good standing as a foreign corporation in each jurisdiction where the ownership or operation of the Transferred Assets or the conduct of the Business (other than the Canadian Sub) requires such qualification, except for failures to be so qualified or in good standing, as the case may be, that would not, individually or in the aggregate, impair or delay Seller’s or the Companies’ ability to perform their respective obligations hereunder.

(b) Upon the consummation of the Closing, the capital structure of Holdco will be as set forth in the Holdco LLC Agreement. As of the Closing, (i) all of the Holdco LLC Interests and CMC LLC Interests will have been duly authorized and validly issued and will be fully paid and nonassessable, (ii) 100% of the Holdco LLC Interests will be owned beneficially and of record by Seller and FTPS Partners (at least 1% of which Holdco LLC Interests will be owned by FTPS Partners), free and clear of all Encumbrances, and 100% of the CMC LLC Interests will be owned beneficially and of record by Opco, free and clear of all Encumbrances, (iii) there will be no preemptive or other outstanding rights, options, warrants, conversion rights, redemption rights, repurchase rights, agreements, arrangements or commitments of any character under which Seller, FTPS Partners, CMC LLC or Holdco is or may become obligated to issue or sell, or giving any Person a right to subscribe for or acquire, or in any way dispose of, any membership interests or other equity interests, or any securities or obligations exercisable or exchangeable for or convertible into any membership interests or other equity



interests of Holdco, and no securities or obligations evidencing such rights will be authorized, issued or outstanding, other than the Warrant and as set forth in the Holdco LLC Agreement, (iv) the Holdco LLC Interests will not be subject to any voting trust agreement or other contract, agreement or arrangement restricting or otherwise relating to the voting, dividend or similar rights or disposition of the Holdco LLC Interests other than as set forth in the Holdco LLC Agreement or as created by Buyer or its Affiliates and (v) there will be no phantom stock or similar rights providing economic benefits based, directly or indirectly, on the value or price of the Holdco LLC Interests or other equity interests of Holdco, except as created by Buyer or its Affiliates, other than as set forth in the Holdco LLC Agreement.

(c) Upon the consummation of the Closing, the capital structure of Opco will be as set forth in the Opco LLC Agreement. As of the Closing, (i) all of the Opco LLC Interests will have been duly authorized and validly issued and will be fully paid and nonassessable, (ii) 100% of the Opco LLC Interests will be owned beneficially and of record by Holdco, free and clear of all Encumbrances, (iii) there will be no preemptive or other outstanding rights, options, warrants, conversion rights, redemption rights, repurchase rights, agreements, arrangements or commitments of any character under which Holdco or Opco is or may become obligated to issue or sell, or giving any Person a right to subscribe for or acquire, or in any way dispose of, any membership interests or other equity interests, or any securities or obligations exercisable or exchangeable for or convertible into any membership interests or other equity interests of Opco, and no securities or obligations

evidencing such rights will be authorized, issued or outstanding, (iv) the Opco LLC Interests will not be subject to any voting trust agreement or other contract, agreement or arrangement restricting or otherwise relating to the voting, dividend or similar rights or disposition of the Opco LLC Interests other than as set forth in the Opco LLC Agreement and (v) there will be no phantom stock or similar rights providing economic benefits based, directly or indirectly, on the value or price of the Opco LLC Interests or other equity interests of Opco.

(d) Upon the consummation of the Closing, the capital structure of CMC LLC will be as set forth in the CMC LLC Agreement. As of the Closing, (i) all of the CMC LLC Interests will have been duly authorized and validly issued and will be fully paid and nonassessable, (ii) 100% of the CMC LLC Interests will be owned beneficially and of record by Opco, free and clear of all Encumbrances, (iii) there will be no preemptive or other outstanding rights, options, warrants, conversion rights, redemption rights, repurchase rights, agreements, arrangements or commitments of any character under which Holdco or Opco is or may become obligated to issue or sell, or giving any Person a right to subscribe for or acquire, or in any way dispose of, any membership interests or other equity interests, or any securities or obligations exercisable or exchangeable for or convertible into any membership interests or other equity interests of Opco, and no securities or obligations evidencing such rights will be authorized, issued or outstanding, (iv) the CMC LLC Interests will not be subject to any voting trust agreement or other contract, agreement or arrangement restricting or otherwise relating to the voting, dividend or similar rights or disposition of the CMC LLC Interests other than as set



forth in the CMC LLC Agreement and (v) there will be no phantom stock or similar rights providing economic benefits based, directly or indirectly, on the value or price of the CMC LLC Interests or other equity interests of CMC LLC.

(e) As of the date hereof, CMC is a corporation duly organized, validly existing and in good standing under the laws of the State of Indiana and has all requisite corporate power and authority to own, lease and operate its assets and to carry on its business as currently conducted, and is not subject to any insolvency, liquidation, receivership, conservatorship or other similar proceeding. As of the date hereof, CMC is duly qualified to do business and is in good standing as a foreign corporation in each jurisdiction where the ownership or operation of its assets or the conduct of its business requires such qualification, except for failures to be so qualified or in good standing, as the case may be, that would not, individually or in the aggregate, be material to the Business or the consummation of the Transactions.

(f) As of the Closing, (i) all of issued and outstanding stock of the Canadian Sub will have been duly authorized and validly issued and will be fully paid and nonassessable, (ii) 100% of the issued and outstanding stock of the Canadian Sub will be owned beneficially and of record by FTFC, free and clear of all Encumbrances, (iii) there will be no preemptive or other outstanding rights, options, warrants, conversion rights, redemption rights, repurchase rights, agreements, arrangements or commitments of any character under which the Canadian Sub may become obligated to issue or sell, or giving any Person a right to subscribe for or acquire, or in any way dispose of, any stock, or any securities or obligations exercisable or exchangeable for or convertible into stock of the Canadian Sub, and no securities or obligations evidencing such rights will be authorized, issued or outstanding, other than as provided in this Agreement, (iv) the Transferred Canadian Sub Stock will not be subject to any voting trust agreement or other contract, agreement or arrangement restricting or otherwise relating to the voting, dividend or similar rights or disposition of the Transferred Canadian Sub Stock, other than as provided in this Agreement and (v) there will be no phantom stock or similar rights providing economic benefits based, directly or indirectly, on the value or price of the stock of the Canadian Sub.

(g) The Canadian Sub is a corporation duly organized, validly existing and in good standing under the federal laws of Canada and has all requisite corporate power and authority to own, lease and operate its assets and to carry on its business as currently conducted, and is not subject to any insolvency, liquidation, receivership, conservatorship or other similar proceeding. The Canadian Sub is duly qualified to do business and is in good standing as a foreign corporation in each jurisdiction where the ownership or operation of its assets or the conduct of its business requires such qualification, except for failures to be so qualified or in good standing, as the case may be, that would not, individually or in the aggregate, be material to the Business or the consummation of the Transactions.



Section 3.2 Authorization. Each of Seller and FTFC has full corporate power and authority and each of the Companies has full limited liability company power and authority to execute and deliver this Agreement, and Seller, FTFC and each of the Companies will have such power and authority at Closing to execute and deliver each of the Ancillary Agreements and other Closing documents referenced herein to which it is a party and to perform its obligations hereunder and thereunder. The execution, delivery and performance by Seller, FTFC and each of the Companies of this Agreement has been duly and validly authorized and of each of the Ancillary Agreements and other Closing documents referenced herein to which Seller, FTFC and the Companies is a party will be duly and validly authorized at Closing, and no additional corporate, shareholder or limited liability company authorization or consent is required in connection with the execution, delivery and performance by Seller, FTFC and the Companies of this Agreement or will be required in connection with the execution, delivery and performance by Seller, FTFC and the Companies at Closing of any of the Ancillary Agreements and other Closing documents referenced herein to which they are a party. Each Affiliate of Seller has or prior to the Closing will have full corporate power and authority to execute and deliver each Ancillary Agreement or other Closing document referenced herein to which it is a party and to perform its obligations thereunder. The execution, delivery and performance by each Affiliate of Seller of each Ancillary Agreement or other Closing document referenced herein to which it is a party has been or prior to the Closing will have been duly and validly authorized, and no additional corporate or shareholder authorization or consent is or will be required in connection with the execution, delivery and performance by any Affiliate of Seller of the Ancillary Agreements or other Closing documents referenced herein to which such Affiliate is a party or signatory.

Section 3.3 Consents and Approvals. Except as set forth on Schedule 3.3(a) or Schedule 3.3(b), no consent, approval, waiver, authorization, notice or filing in relation to the Transferred Assets, or the transfer of the Transferred Canadian Sub Stock to Buyer by FTFC, is required to be obtained by any of Seller, FTFC or the Companies from, or to be given by any of Seller, FTFC or the Companies to, or made by any of Seller, FTFC or the Companies with, any Government Entity or Self-Regulatory Organization, in connection with the execution, delivery and performance by any of Seller, FTFC or the Companies of this Agreement and the Ancillary Agreements or the other Closing documents referenced herein to which it is a party, other than those the failure of which to obtain, give or make would not, individually or in the aggregate, materially impact the value of the Transferred Assets and the assets of the Canadian Sub, taken as a whole, or materially impair or delay the ability of any of Seller, FTFC or the Companies to effect the Closing or to perform their respective obligations under this Agreement and the Ancillary Agreements and the other Closing documents referenced herein to which any of them is a

party. Schedule 3.3(c) sets forth all consents, approvals, waivers, authorizations, notices or filings that are required to be obtained by any of Seller, FTFC or the Companies from, or to be given by any of Seller, FTFC or the Companies to, or made by any of Seller, FTFC or the Companies with, any Person which is not a Government Entity or Self-Regulatory Organization in connection with the sale or assignment of any Transferred Contracts, except that in the case of a Transferred Contract with a customer of the Business, Schedule 3.3(c) shall only be required to list Transferred Contracts pursuant to which the Business was entitled to receive $1,000,000 or more of 2008 Net Revenues.



Section 3.4 Non-Contravention. The execution, delivery and performance by Seller, FTFC and each of the Companies of this Agreement and the Ancillary Agreements and other Closing documents referenced herein to which it is a party, and the consummation of the Transactions, do not, in the case of this Agreement, and will not as of the Closing, in the case of this Agreement, the Ancillary Agreements and other Closing documents referenced herein, (i) violate any provision of the Articles of Incorporation, Bylaws or other organizational documents of Seller, FTFC, the Canadian Sub or the Preclosing LLC Agreements, (ii) assuming the receipt of all consents, approvals, waivers and authorizations and the making of the notices and filings set forth on Schedule 3.3(c), conflict with, or result in the breach of, or constitute a default under, or result in the termination, cancellation, modification or acceleration (whether after the filing of notice or the lapse of time or both) of any right or obligation of Seller, any of its Affiliates or the Companies or the Canadian Sub, as the case may be, under, or result in a loss of any benefit to which Seller, any of its Affiliates, the Companies or the Canadian Sub, as the case may be, is entitled under, any Transferred Contract, or result in the creation of any Encumbrance upon any of the Transferred Assets or material assets of the Canadian Sub, or (iii) assuming the receipt of all consents, approvals, waivers and authorizations and the making of notices and filings set forth on Schedules 3.3(a) and 3.3(b), respectively, or required to be made or obtained by Buyer, to the Seller's Knowledge and FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub), violate or result in a breach of or constitute a default under any Law to which any of Seller, any of its Affiliates or the Companies is subject, or under any Governmental Authorization, other than, in the cases of clauses (ii) and (iii), conflicts, breaches, terminations, defaults, cancellations, accelerations, losses, violations or Encumbrances that would not, individually or in the aggregate, have a Material Adverse Effect or materially impair or delay the ability of any of Seller, FTFC or the Companies to perform its respective obligations hereunder.

Section 3.5 Binding Effect. This Agreement, when executed and delivered by Buyer, constitutes, and each of the Ancillary Agreements and other Closing documents referenced herein to which any of Seller, FTFC or the Companies is a party, when executed and delivered by Seller and the Companies, Buyer and the other parties thereto, as applicable, will constitute, a valid and legally binding obligation of Seller, FTFC and such Companies, as applicable, enforceable against Seller, FTFC and such Companies, as applicable, in accordance with its respective terms.

Section 3.6 Financial Statements. Set forth on Schedule 3.6(a) is (i) a copy of the audited balance sheets as of December 31, 2006 and 2007 and audited statements of income and cash flows for the years ended December 31, 2006 and 2007, of each of the Electronic Funds Transfer Business of Fifth Third Bancorp (the "EFT Business") and the Merchant Transaction Processing Business of Fifth Third Bancorp, which for the sake of clarity includes the business of CMC (the "Merchant Processing Business") (collectively, with the audited balance sheet as of December 31, 2007 and 2008 and audited statements of income and cash flows for the years ended December 31, 2006, 2007 and 2008 of the consolidated Business (excluding the Canadian Sub) to be delivered by Seller no later than March 31, 2009, the "Audited Financial Statements"), (ii) a copy of the unaudited balance sheet and statement of income and cash flows of each of the EFT Business and the Merchant Processing Business as of and for the six months ended June 30, 2007 and 2008, excluding the Canadian Sub (the "Unaudited US Financial Statements"), and (iii) a copy of the unaudited balance sheet as of May 31, 2009 and the



unaudited income statement of the Canadian Sub for the two months ended May 31, 2009 (the "Unaudited Canadian Financial Statements"; and together with the Unaudited US Financial Statements, the "Unaudited Financial Statements" and, together with the Audited Financial Statements, the "Historical Financial Statements"). Except as described in the notes thereto and for the absence of statements of stockholders' equity, the Historical Financial Statements have been (or, in the case of the 2008 Audited Financial Statements and the consolidated 2006 and 2007 Audited Financial Statements, when delivered will be) specially prepared for purposes of this Agreement in accordance with GAAP consistently applied consistent with Seller's past practices, and fairly present, in all material respects, the financial condition and results of operations and cash flows of the Business (other than the Canadian Sub) as of the dates thereof or the periods then ended, subject in the case of the Unaudited Financial Statements to normal year-end adjustments that will not, individually or in the aggregate, be material in amount or effect and the absence of footnotes and similar presentation items therein. Except as described in the notes thereto and for the absence of statements of stockholders' equity, the Unaudited Canadian Financial Statement have been prepared by Seller in good faith from the books and records of the Canadian Sub consistent with Seller's past practices for internal reporting of the financial condition and results of operation of the Business and fairly present, in all material respects, the financial condition and results of operations of the Canadian Sub as of the date thereof or the period then ended, subject to normal year-end adjustments that will not, individually or in the aggregate, be material in amount or effect and the absence of footnotes and similar presentation items therein. Set forth on Schedule 3.6(b) is a copy of the unaudited statement of earnings before interest and taxes for the electronic payment processing business and the unaudited consolidated statement of current assets and current liabilities as of and for the two months ended February 28, 2009 (the "Two Month Financials"). The Two Month Financials have been prepared by Seller in good faith from the books and records of the Business consistent with Seller's past practices for internal reporting of the financial condition and results of operation of the businesses. Schedule 3.6(c) represents Seller's reasonable, good faith estimate, after due inquiry, of the Opco's costs for Allocated Services and Assets during the transition period under the Transition Service Agreement, assuming Opco uses systems, benefits and incentive plans similar to those currently deployed by Seller. There are no off balance sheet transactions, arrangements, obligations or relationships attributable to the Business that may have a Material Adverse Effect, other than those summarized on Schedule 3.6(d). Seller and its Affiliates maintain adequate internal controls for the Business, except as would not have a Material Adverse Effect.

Section 3.7 Litigation and Claims. Except as set forth on Schedule 3.7:

(a) There is no Legal Proceeding pending, or to the Seller's Knowledge or FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub), threatened, against any of Seller or any of its Affiliates in connection with the Transferred Assets, the Business or the Transactions, other than those that, if adversely determined, do not and would not reasonably be expected to (i) involve a claim for damages to the Business in excess of $1,000,000, (ii) lead to the seeking of injunctive relief, or (iii) materially impair or delay the ability of any of Seller. FTFC or the Companies to effect the Closing.

(b) None of Seller, its Affiliates, the Business or the Transferred Assets is subject to any Order affecting the Business, the Transferred Assets or the Transaction, other than those that, if adversely determined, do not and would not reasonably be expected to (i) involve a claim for damages to the Business in excess of $1,000,000, (ii) seek injunctive relief, or (iii) materially impair or delay the ability of any of Seller, the Companies or FTFC (with respect to the Canadian Sub only) to effect the Closing.

Section 3.8 Employees and Employee Benefits. (a) Schedule 3.8(a) set forth a correct and complete list of all Benefit Plans for Applicable Employees. Seller has made available to Buyer true and complete copies of the most recent plan document (including all amendments thereto) and the most recent summary plan description (or a written description of all non-written Benefit Plans) of Seller's and its Affiliates' Benefit Plans applicable to Applicable Employees.

(b) None of Seller, its Subsidiaries or any ERISA Affiliate has any liability under Title IV of ERISA that would reasonably be expected to become a Liability of the Companies. An ERISA Affiliate for purposes of this Section 3.8(b) shall mean any person or entity that would be considered, when combined with Seller or any of its Subsidiaries, a simple employer pursuant to Section 414(b), (c) and (m) of the Code.

(c) The Benefit Plans have been maintained in all material respects in accordance with their terms and with the Laws (including, as applicable, ERISA and the Code). There are no pending actions, claims or lawsuits (other than routine claims for benefits (or as disclosed in Schedule 3.7)) arising from or relating to the Benefit Plans. To the Seller's Knowledge, neither the Companies nor any of their respective Subsidiaries have any direct or indirect liability with respect to any misclassification of any person as an independent contractor rather than as an employee or with respect to any employee leased from another employer.

(d) Except as provided in Schedule 3.8(d), none of the Benefit Plans provides for post-employment health or welfare benefit for any person beyond his or her retirement or other termination of service, except (i) as may be required under COBRA Coverage or similar state law, or (ii) disability benefits under a welfare plan that is fully provided for by insurance.

(e) Except as provided in Schedule 3.8(e), neither the execution and delivery of this Agreement nor the consummation of the Transactions will (i) result in any payment becoming due to any Applicable Employee under a Benefit Plan or other compensatory arrangement, (ii) increase any benefits otherwise payable under any Benefit Plan to any Applicable Employee, or (iii) result in the acceleration of the time of payment or vesting of any such benefits under any Benefit Plan to any Applicable Employee. The consummation of the Transactions contemplated by this Agreement will not cause any payments to be made by the Companies, Seller or any of their respective Affiliates that would be non-deductible (in whole or in part) under Section 280G of the Code.



---

(f) Each Benefit Plan intended to be qualified under Section 401 of the Code has received a favorable determination letter from the Internal Revenue Service and Seller is not aware of any circumstances that have occurred with respect to the operation of such Benefit Plan that could reasonably be expected to cause the loss of such qualification or exemption or the imposition of any material liability, penalty or tax under ERISA or the Code.

Section 3.9 Compliance with Laws. Except as disclosed on Schedule 3.9, (i) the Business has been (exclusive of the Canadian Sub) for the period beginning January 1, 2006 and currently is being (inclusive of the Canadian Sub) conducted in compliance in all material respects with all applicable Laws, (ii) neither Seller nor any of its Affiliates has (A) received any notice alleging any violation under any applicable Law or (B) received or entered into any Order, and (iii) the Business has in full force and effect all Governmental Authorizations and Non-Governmental Authorizations necessary for the conduct of the Business as currently conducted other than those the absence of which is immaterial; it being understood that nothing in this representation is intended to address any compliance issue that is specifically addressed by any other representation or warranty set forth herein. Neither Seller nor the Canadian Sub maintains or conducts with respect to the Business, and since January 1, 2007 Seller has not maintained or conducted with respect to the Business, any business, investment, operation or other activity in or with: (a) any country or person targeted by any of the economic sanctions of the United States of America administered by the United States Treasury Department's Office of Foreign Assets Control; (b) any person appearing on the list of Specially Designated Nationals and Blocked Persons issued by the United States Treasury Department's Office of Foreign Assets Control; or (c) any country or person designated by the United States Secretary of the Treasury pursuant to the USA PATRIOT Act as being of "primary money laundering concern."

Section 3.10 Intellectual Property. (a) Schedule 3.10(a) sets forth a complete and accurate list of all (i) material registrations and applications for registration of Intellectual Property owned by Seller or any of its Affiliates and (ii) material unregistered Trademarks owned by Seller or any of its Affiliates, in each of clauses (i) and (ii), that are used, held for use or acquired or developed for use in the Business as currently conducted and proposed to be conducted by Seller and its Affiliates. Schedule 3.10(a) lists (i) the jurisdictions in which each such item of Intellectual Property has been issued or registered, or in which any such application for such issuance and registration has been filed, (ii) the record owner or applicant and (iii) the registration or application date and number, as applicable. All of Seller's or its Affiliates' rights to the Intellectual Property set forth on Schedule 3.10(a) that is primarily used, held for use or acquired or developed for use in the Business is included in the Transferred Intellectual Property, except to the extent specifically included in Schedule 1.1(c) as Excluded Assets, and will be exclusively owned by Opco or, in the case of the Transferred Intellectual Property of the Canadian Sub, by the Canadian Sub, at the Closing.

(b) Except as set forth in Schedule 3.10(b), all of the Intellectual Property set forth in Schedule 3.10(a) owned by Seller or any of its Affiliates is subsisting, and all necessary registration, maintenance, renewal, and other relevant filing fees due through the date hereof in connection therewith have been timely paid and all necessary documents and certificates in connection therewith have been timely filed with the relevant patent, copyright, trademark, or other authorities in the



---

United States or foreign jurisdictions, as the case may be, for the purposes of maintaining such registered Intellectual Property in full force and effect. Except as set forth in Schedule 3.10(b), there are no filings, payments or similar actions that must be taken by Opco or the Canadian

Sub within 30 days following the Closing Date for the purposes of obtaining, maintaining, perfecting or renewing any such registrations and applications.

(c) Seller and its Affiliates exclusively own or have the right to use (pursuant to valid and enforceable agreements) all Intellectual Property currently used or proposed to be used in the Business by Seller and its Affiliates, except where the lack of such right would not, individually or in the aggregate, have a material adverse effect on the operation of the Business. The Transferred Intellectual Property, together with the Seller Licensed Intellectual Property, the Intellectual Property to be obtained from third parties pursuant to the Asset Identification Process and the Transition Plan, includes all of the Intellectual Property necessary and sufficient for the conduct of the Business in all material respects as currently conducted and proposed to be conducted by Seller and its Affiliates and, immediately after the Closing, necessary for Opco, together with the Canadian Sub, to continue to operate and conduct the Business in all material respects as currently conducted and proposed to be conducted by Seller and its Affiliates. No employee, former employee, consultant or independent contractor of Seller or any of its Affiliates has any right, title or interest, directly or indirectly, in whole or in part, in any material Transferred Intellectual Property or Transferred Technology owned by Seller or any of its Affiliates. To the Seller's Knowledge and FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub), no employee, former employee, consultant or independent contractor of Seller or any of its Affiliates engaged in the Business is, as a result of or in the course of such employee's, former employee's, consultant's or independent contractor's engagement, in default or breach of any material term of any employment agreement, non-disclosure agreement, assignment of invention agreement or similar agreement with a third party.

(d) All of the Transferred Intellectual Property and Seller Licensed Intellectual Property owned by Seller or any of its Affiliates is valid and enforceable. To the Seller's Knowledge and FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub), except as set forth in Schedule 3.7, neither the conduct of the Business nor any of the Transferred Intellectual Property, Transferred Technology or Seller Licensed Intellectual Property owned by Seller or any of its Affiliates or the products sold or services provided by Seller or any of its Affiliates in connection with the Business infringes upon, constitutes or results from a misappropriation of, or otherwise violates the Intellectual Property rights of any other Person. To the Seller's Knowledge and FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub), none of the Transferred Intellectual Property or Seller Licensed Intellectual Property owned by Seller or any of its Affiliates is being infringed upon, misappropriated or violated by any other Person.



(e) Schedule 3.10(e) sets forth a complete and accurate list of all agreements, contracts or commitments to which Seller or any of its Affiliates is a party limiting or that would limit its ability to exploit fully any of the Transferred Intellectual Property in any manner that would be material to the Business as of the date hereof or upon Closing. Seller has made available to Buyer true, correct and complete copies of each agreement set forth in Schedule 3.10(e) together with all amendments, modifications or supplements thereto. The Seller and its Affiliates have all rights necessary to grant the licenses and other rights granted under the IP/Software License Agreement.

(f) Except as set forth in Schedule 3.10(f), neither the execution of this Agreement, the consummation of the transactions contemplated by this Agreement, nor the conduct of the business and operations of Seller or any of its Affiliates as currently conducted and proposed to be conducted will result in Opco, the Canadian Sub, Seller or any of its Affiliates granting to any third party any right to any Technology or Intellectual Property owned by, or licensed to, Seller and its Affiliates.

(g) Except as set forth in Schedule 3.7, there is no litigation, opposition, cancellation, Legal Proceeding, objection or claim pending, asserted in writing or, to the Seller's Knowledge or FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub), threatened by any third party against Seller or any of its Affiliates, before any court or tribunal (including the United States Patent and Trademark Office or equivalent authority anywhere in the world) concerning the exclusive ownership, validity, registerability, enforceability, infringement or use of any Transferred Intellectual Property, Transferred Technology or Seller Licensed Intellectual Property owned by Seller or any of its Affiliates, nor has any claim or demand been made in writing against Seller or any of its Affiliates by any third party that (i) challenges the validity, enforceability, use or exclusive ownership of any Transferred Intellectual Property, Transferred Technology or Seller Licensed Intellectual Property or (ii) alleges any infringement, misappropriation or violation of any Intellectual Property of any third party, or unfair competition or trade practices, by Seller or any of its Affiliates, nor is Seller or FTFC (in the case of FTFC, only with respect to the Canadian Sub) aware of any basis for any such claim or demand.

(h) Seller and its Affiliates (i) have taken reasonable measures, in their business judgment, to protect, maintain and preserve the (A) operation and security of their Software, firmware, middleware, servers, systems, networks, workstations, data communication lines and all other information technology equipment used, held for use or acquired or developed for use in the Business as currently conducted and proposed to be conducted by Seller and its Affiliates, (B) the secrecy and confidentiality of all Trade Secrets and confidential and proprietary information used, held for use or acquired or developed for use in the Business as currently conducted and proposed to be conducted by Seller and its Affiliates and (C) Intellectual Property material to the Business (including by having and enforcing a policy (including the Code of Business Conduct and Ethics policy, which has been



in effect for at least five years and a true and correct copy of which has provided to Buyer) that employees and appropriate consultants and agents maintain the confidentiality of their confidential information and to the extent they contributed to the development of any material Intellectual Property for Seller, assign to Seller all of their rights in any such material Intellectual Property that do not vest initially in Seller by operation of Law), (ii) abide by all internal policies and applicable Laws regarding the collection, use and disclosure of personally identifiable and other confidential information, including customer and client information and (iii) are not subject to any pending or, to the Seller's Knowledge and FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub), threatened claim that alleges a breach of any of the foregoing with respect to the Business.

(i) The Transferred Software and the Software that is included in the Seller Licensed Intellectual Property, unless modified other than by or for Seller or any of its Affiliates, conform in all material respects to all written specifications for their use in the conduct of the Business as currently conducted and are free in all material respects of bugs, errors, viruses and other contaminants.

(j) Schedule 3.10(j) sets forth a complete and accurate list of (i) all Transferred Software owned exclusively by Seller and its Affiliates and that is material to the Business, (ii) all other material Software primarily used, held for use or acquired or developed for use in the Business as currently conducted and proposed to be conducted in the Business that is not exclusively owned by Seller and its Affiliates and (iii) all other material Software used, held for use or acquired or developed for use in the Business as currently conducted and proposed to be conducted in the Business that is not subject to the foregoing (i) or (ii), but in each case excluding "shrink wrap," "click through," "browse wrap," commercial-off-the-shelf or other similar software available on reasonable terms for a license fee of no more than $500,000.

(k) No open source Software, freeware or other Software distributed under similar licensing or distribution models (including Software licensed or distributed under GNU's General Public License (GPL) or Lesser/Library GPL (LGPL), the Artistic License (e.g., PERL), the Mozilla Public License, the Netscape Public License, the Sun Community Source License (SCSL), the Sun Industry Standards License (SISL), the BSD License or the Apache License) has been incorporated into any Transferred Software owned by Seller or any of its Affiliates that would in any way obligate Seller or any of its Affiliates to disclose to any third party the source code for any such Transferred Software. None of the Sellers or any of their respective Affiliates has provided, or is obligated to provide, to any third party, the source code for any Software owned by any of the Sellers or their respective Affiliates that is included in Transferred Software.

(l) The information technology systems of Seller and its Affiliates are reasonably secure against intrusion. Except as set forth in Schedule 3.10(l), Seller and its Affiliates have not suffered any security breaches or any similar failures (other than with respect to any such breaches or failures occurring in



systems maintained by customers of the Business for which the Business is not at fault) in the past five years, including any such breaches or failures that have resulted in a third party obtaining access to any confidential information of Seller, its Affiliates or any of their customers or suppliers, to the extent such breaches or failures have affected the Business in any material respect.

(m) Schedule 3.10(m) contains a copy of all privacy policies that have been used by or on behalf of Seller or any of its Affiliates in the Business with regard to the collection and use of information and the dates that each such policy was in place. Seller and its Affiliates are in compliance with all such privacy policies and all laws and regulations relating to data, the collection and use of data, personally identifiable information, and bulk commercial faxes and email (e.g., spam).

Section 3.11 Labor. (a) Neither Seller nor its Affiliates is or has ever been a party to or bound by any labor agreement, union contract or collective bargaining agreement with respect to the Business or any Applicable Employee.

(b) For the past three years there have been no and there are no pending, or to the Seller's Knowledge or FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub) threatened, strike, walkout or other work stoppage or any union organizing effort by or on behalf of any of the Applicable Employees.

(c) For the past three years there have been no and there are no unfair labor practice charges or complaints against any of Seller or any of its Affiliates in connection with the Business or any Applicable Employee pending, or to Seller's Knowledge or FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub) threatened, before the National Labor Relations Board or other Government Entity, nor, to Seller's Knowledge or FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub), is there any legal basis for such charge or complaint.

(d) Seller and its Affiliates operate, and for the past three years have operated, the Business in compliance in all material respects with all Laws relating to the employment of labor, including all such laws, regulations and orders relating to wages, hours, the Fair Labor Standards Act, the Worker Adjustment and Retraining Notification Act and any similar state or local "mass layoff" or "plant closing" Law ("WARN"), collective bargaining, discrimination, civil rights, safety and health, workers' compensation and the collection and payment of withholding and/or social security Taxes and any similar Tax, and there has been no "mass layoff" or "plant closing" as defined by WARN with respect to Seller or any of its Affiliates within the six (6) months prior to Closing.

Section 3.12 Transferred Contracts. All Transferred Contracts are in full force and effect and to Seller's Knowledge and FTFC's Knowledge (in the case of FTFC, only with respect to the Transferred Contracts of the Canadian Sub) are enforceable against each party



thereto in accordance with the express terms thereof, except as set forth in Schedule 3.12. There does not exist under any Transferred Contract any violation, breach or event of default, or alleged violation, breach or event of default, or event or condition that, after notice or lapse of time or both, would constitute a violation, breach or event of default thereunder on the part of any of Seller or its Affiliates or, to the Seller's Knowledge or FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub), any other party thereto, except as set forth in Schedule 3.12 and except for violations, breaches, events or conditions that, individually or in the aggregate, (i) would not have a Material Adverse Effect or (ii) have not and will not materially impair the ability of any of Seller or its Affiliates or Buyer to perform their respective obligations under this Agreement or any Ancillary Agreement or other Closing document referenced herein to which it is a party. There are no material disputes pending or threatened under any Transferred Contract that would have a Material Adverse Effect. Except as set forth in Schedule 3.12, the contracts included in the Transferred Assets and the Transferred Contracts of the Canadian Sub do not include any of the following: (a) leases of real or personal property, except leases of personal property that require payment during their remaining term of less than $1,000,000; (b) loan or credit agreements, indentures, mortgages, security agreements or other agreements or instruments relating to the borrowing of money or extension of credit, including guarantees; (c) fidelity or surety bonds or completion bonds; (d) agreements of indemnification or guaranty of another Person (other than customary indemnification provisions contained in Transferred Contracts with customers); (e) agreements, contracts or commitments containing any covenant limiting the freedom of Seller or the Canadian Sub in any material respect to engage in the Business; (f) any agreements, contracts or commitments relating to capital expenditures involving future payments of $1,000,000 or more (it being understood that such expenditures shall not be deemed to include any potential penalties regarding a violation of a term related to the level of service under such agreement, contract or commitment); (g) agreements, contracts or commitments relating to the disposition of assets outside the Ordinary Course; (h) agreements,

contracts or commitments with Affiliates of Seller; (i) contracts with any Government Entity; or (j) contracts (other than Transferred Contracts) primarily relating to the Business or the Transferred Assets to which any of Seller or its Affiliates is a party or by which any of the Transferred Assets are bound. True, correct and complete copies of the Transferred Contracts (or true, correct and complete summaries of any Transferred Contracts that are not in writing) have been made available to Buyer.

Section 3.13 Absence of Changes. Except as set forth in Schedule 3.13, since December 31, 2007 (other than respect to the Canadian Sub), and since May 31, 2009 with respect to the Canadian Sub, to FTFC's Knowledge, (i) Seller and each its Affiliates (x) have conducted the Business only in the Ordinary Course, and (y) the Business has not experienced any event or condition, and to Seller's Knowledge or FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub), no event or condition is threatened, that would, individually or in the aggregate, have a Material Adverse Effect, (ii) none of the actions or events prohibited or circumscribed by Section 5.2 has been taken or has occurred, except as permitted by this Agreement, (iii) neither FTFC nor the Seller has transferred, leased or otherwise disposed of any of the assets or properties of the Business or acquired any assets or properties for the Business, other than in each case in the Ordinary Course or as permitted by this Agreement, (iv) there has not been any change by any of Seller or its Affiliates or FTFC in accounting or Tax reporting principles, methods or policies that would have the effect of increasing the Tax liability for the Companies, the Canadian Sub or CMC LLC for any period ending after the Closing Date



or decreasing any Tax attribute existing on the Closing Date, and (v) neither Seller nor FTFC has made or rescinded any election relating to Taxes or settled or to Seller's Knowledge or FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub) compromised any claim, action, suit, litigation, Legal Proceeding, arbitration, investigation, audit or controversy relating to Taxes that would have the effect of increasing the Tax liability for the Companies, the Canadian Sub or CMC LLC for any period ending after the Closing Date or decreasing any Tax attribute existing on the Closing Date.

Section 3.14 Sufficiency of Assets. Except for the Excluded Assets, the Excluded Services and other items set forth on Schedule 3.14(a), the Transferred Assets and the assets of CMC and the Canadian Sub, when taken together with the Seller Services and the Seller Leased Property, constitute all the assets, properties, contracts, Governmental Authorizations, Non-Governmental Authorizations and rights, tangible and intangible (including Intellectual Property and Software), of Seller and its Affiliates necessary to conduct the Business in all material respects as currently conducted and, immediately after the Closing, necessary for Opco, together with the Canadian Sub, to continue to operate and conduct the Business in all material respects as currently conducted. The Transferred Assets transferred at the Closing will include the assets set forth on Schedule 3.14(b) on the basis set forth therein.

Section 3.15 Title to Property. Seller has, and at the Closing Seller will transfer to the Companies, good and valid title to the personal tangible property it owns or leases that is included in the Transferred Assets, in each case free and clear of all Encumbrances, except Permitted Encumbrances.

Section 3.16 Absence of Liabilities. Except as specifically reflected, reserved against or otherwise disclosed in the Historical Financial Statements or Canadian Financial Statements or reflected in Reference Working Capital or as set forth on Schedule 3.16, there are no Liabilities of the Business or related to the Transferred Assets, other than the Notes and Liabilities that were incurred in the Ordinary Course since the date of the Historical Financial Statements and are not, individually or in the aggregate, material to the Business or are Excluded Liabilities.

Section 3.17 Finders' Fees. Except for Credit Suisse Securities (USA) LLC, whose fees will be paid by Seller, there is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of any of Seller or its Affiliates who might be entitled to any fee or commission from any of Seller or its Affiliates in connection with the Transactions.

Section 3.18 Taxes. (a) There is no lien for Taxes upon any of the Transferred Assets or assets of CMC or the Canadian Sub or upon any of the equity interests in the Companies, CMC or the Transferred Canadian Sub Stock nor, to the Seller's or FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub), is any taxing authority in the process of imposing any lien for Taxes on any of the Transferred Assets or of the assets of the Canadian Sub or upon any of the equity interests in the Companies, CMC or the Transferred Canadian Sub Stock, other than liens for Taxes that (i) are not yet due and payable or for Taxes the validity or amount of which is being contested by any of Seller or its Affiliates or FTFC in



good faith by appropriate action and (ii) have been sufficiently reflected or reserved against on the face of the balance sheets contained in the Historical Financial Statements.

(b) Since the date of the most recent balance sheet contained in the Historical Financial Statements, Seller, the Companies and FTFC have not incurred any material Taxes with respect to the Business, other than Taxes incurred in the Ordinary Course consistent in type and amount with the past practices of Seller or FTFC.

(c) All material Tax Returns with respect to, in connection with, associated with, or related to, the Business required to be filed by or on behalf of Seller, the Companies or FTFC, and all material Tax Returns of the Canadian Sub, have been timely filed and, when filed, were true, correct and complete. All material Taxes owed and/or due and payable by Seller, the Companies or FTFC (whether or not shown on any Tax Return) with respect to the Business, and all material Taxes owed and/or due and payable by the Canadian Sub (whether or not shown on any Tax Return) have been or will be timely paid by Seller, the Companies, FTFC, or the Canadian Sub, as the case may be, other than Taxes that (i) the validity or amount of which is being contested by the Seller or one of its Affiliates in good faith by appropriate action and (ii) have been sufficiently reflected or reserved against on the face of the balance sheets contained in the Historical Financial Statements. Seller, the Companies, and the Canadian Sub have withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder or other third party, and all information returns related to such amounts have been properly completed and timely filed.

(d) Opco is and since its inception has been properly classified as a disregarded entity for U.S. federal income tax purposes separate from Seller. From its inception until February 24, 2009, Holdco was properly disregarded as an entity separate from Seller for U.S. federal income tax purposes. Since February 24, 2009, Holdco has been classified as a partnership for U.S. federal income tax purposes. Neither Holdco nor Opco has ever been classified as a "publicly traded partnership" within the meaning of Section 7704(b) of the Code, or as

an association taxable as a corporation for U.S. federal income tax purposes. FTPS Partners is an association taxable as a corporation for U.S. federal income tax purposes, and FTPS Partners has no plan or intention to, and Seller has no plan or intention to cause FTPS Partners to, liquidate, dissolve, merge with or into Seller, or elect to be treated as a disregarded entity for U.S. federal income tax purposes.

(e) All deficiencies asserted or assessments made as a result of any examinations by any Government Entity of the Tax Returns relating to the Transferred Assets, the Business, the Companies or the Canadian Sub have been fully paid, and there are no other audits or investigations by any Government Entity in progress, nor has any of Seller or its Affiliates or the Canadian Sub received any notice from any Government Entity that it intends to conduct such an audit or investigation relating to the Transferred Assets, the Business or the Canadian Sub.



(f) No claim has been made by a Government Entity in a jurisdiction in which any of Seller or its Affiliates or the Canadian Sub does not currently file a Tax Return such that any of Seller or its Affiliates or the Canadian Sub is or may be subject to taxation by that jurisdiction in respect of the Transferred Assets, the Business or the Canadian Sub.

(g) No agreement, waiver or other document or arrangement extending or having the effect of extending the period for assessment or collection of Taxes (including, but not limited to, any applicable statute of limitation) or the period for filing any Tax Return, in each case with respect to the Companies or the Canadian Sub has been executed or filed with any Government Entity by or on behalf of Seller, the Companies, FTFC, or the Canadian Sub. Neither Seller nor the Companies, nor FTFC, nor the Canadian Sub have requested any extension of time within which to file any Tax Return with respect to the Companies, the Business, the Canadian Sub or the Transferred Assets, which Tax Return has since not been filed.

(h) Seller is not a “foreign person” within the meaning of section 1445 of the Code.

(i) None of the Transferred Assets is an interest (other than indebtedness within the meaning of section 163 of the Code) in an entity taxable as a corporation, partnership, trust or real estate mortgage investment conduit for federal income tax purposes.

(j) No power of attorney with respect to any Tax matter is currently in force with respect to the Transferred Assets, the Business, the Companies or the Canadian Sub that would, in any manner, bind, obligate or restrict the Companies or the Canadian Sub.

(k) Neither Seller nor any of its Affiliates nor the Canadian Sub has executed or entered into any agreement with, or obtained any consents or clearances from, any Government Entity, or has been subject to any ruling guidance specific to any Seller or its Affiliates or the Canadian Sub, that would be binding on the Companies or the Canadian Sub for any taxable period (or portion thereof) ending after the Closing Date.

(l) The Companies and the Canadian Sub (i) are not a party to and are not bound by any Tax sharing, indemnification or allocation agreement or arrangement, (ii) have not been a member of an affiliated group filing a consolidated, combined or unitary Tax Return and (iii) have no liability for the Taxes of any other person under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law).

Section 3.19 Environmental Matters. (a) With respect to the Business, to the Seller’s Knowledge and FTFC’s Knowledge (in the case of FTFC, only with respect to the Canadian Sub), Seller and the Canadian Sub are in material compliance with all Laws relating to



environmental contamination, pollution or the protection of the environment, natural resources or human health and safety as it relates to exposure to any harmful substance (“Environmental Laws”).

(b) With respect to the Business, to the Seller’s Knowledge and FTFC’s Knowledge (in the case of FTFC, only with respect to the Canadian Sub), none of Seller, FTFC or the Canadian Sub has received any notice of any claim, demand, action, suit, Legal Proceeding, or other communication by any person alleging any violation of, or any actual or potential Liability under any Environmental Law (“Environmental Claim”), and, to the Seller’s Knowledge and FTFC’s Knowledge (in the case of FTFC, only with respect to the Canadian Sub), there is no Environmental Claim currently threatened with respect to the Business or the Transferred Assets.

(c) Notwithstanding any other representation or warranty in Article III, the representations and warranties in this Section 3.19 constitute the sole representations and warranties of Seller with respect to any Environmental Law or Environmental Claim.

Section 3.20 Customers.

(a) Schedule 3.20(a) contains (i) a list of the Customers of the Business that are parties to a Transferred Contract pursuant to which the Business received or was entitled to receive $750,000 or more in gross revenue (net of interchange) as such amount is included in the Historical Financial Statements during 2008, in each case, reflecting (1) the total dollar amount of gross revenue (net of interchange) to each such Customer for calendar years 2006, 2007 and 2008 and (2) whether the Transferred Contract to which each such Customer is a party requires a consent to any of the Transactions, and (ii) (A) a list of the top twenty five (25) customers (by 2008 gross revenue (net of interchange)) of the Merchant Processing Business, specifying for each such Customer the applicable volume (credit dollar volume and debit transactions) and an indication whether such customer will require a consent pursuant to Section 3.3 hereof, and (B) the aggregate volume (credit dollar volume and debit transactions), for the remaining customers of the Merchant Processing Business. The pricing and/or other material terms and conditions offered by the Business to the Customers described in Section 3.20(a)(i) are independent of any such customer relationship(s) with Seller and its Affiliates outside of the Business and, to the extent any such Customers have customer relationship(s) with Seller and its Affiliates outside of the Business, the pricing and/or other material terms and conditions offered by the Business to such Customers do not differ materially from the pricing and/or terms and conditions offered by the Business to Customers of similar size (by

annual gross revenue (net of interchange)) that receive similar services but that do not have similar customer relationship(s) with Seller and its Affiliates outside of the Business.

(b) Except as set forth on Schedule 3.20(b), as of the date hereof, neither Seller nor FTFC has received any oral or written notice from any Customer



listed on Schedule 3.20(a) that such Customer intends to terminate, cancel, not to renew, or to otherwise modify or amend, or to request a modification or amendment of, in any material respect (including any material reduction or change to pricing terms), any such Transferred Contract to which it is a party.

(c) Schedule 3.20(c) contains a list of the customer acquisition and/or renewal costs (including, but not limited to, signing bonuses and similar amounts paid to customers and, for customers of the merchant acquirer division of the Business, the cash equivalent of services rendered for such purposes) for each of the last three years for (i) each of the top twenty five (25) customers of the Merchant Processing Business (by 2008 Net Revenues), (ii) each of the top twenty five (25) customers of the EFT Business (by 2008 Net Revenues) and (iii) the remaining Customers of the Merchant Processing Business and the EFT Business combined, in each case, as reported in the Historical Financial Statements (other than the Unaudited Canadian Financial Statements).

Section 3.21 Suppliers. Schedule 3.21(a) contains a list of the suppliers to the Business that are parties to a Transferred Contract pursuant to which the Business paid or was obligated to pay $750,000 or more for goods and services during the 2008 calendar year, and showing the total dollar amount paid for such goods and services received for the most recent fiscal year, in each case, as reported in the Historical Financial Statements. Except as set forth on Schedule 3.21(b), as of the date hereof, Seller has not received any oral or written notice from any such supplier that such supplier intends to terminate, cancel, not to renew, or to otherwise modify or amend, or to request an amendment or modification of, in any material respect (including any material increase or change to the pricing terms), such Transferred Contract to which it is a party.

Section 3.22 Ownership and Operations of the Companies. As of the date of this Agreement, Seller owns, and at all times prior to the Closing will own, directly or indirectly, in the aggregate, 100% of the issued and outstanding membership interests of Holdco, free and clear of all Encumbrances. As of the date of this Agreement, Seller owns, and at all times prior to the Contribution will own, and following the Contribution Holdco will at all times prior to the Closing own, 100% of the issued and outstanding membership interests of Opco, free and clear of all Encumbrances. Prior to the Contribution, none of the Companies shall have any material assets or material Liabilities (other than assets of the Business or cash or otherwise as agreed herein) and will engage in no material operations or activities, other than as contemplated herein, in any Ancillary Agreement or in any other document, agreement or instrument contemplated thereby or as may be reasonably necessary in connection with its formation or any of the foregoing. Except for Opco, in which Holdco will hold 100% of the equity interest as, Holdco has no subsidiaries (other than CMC LLC), does not own, directly or indirectly, any capital stock, membership interest or other equity interests of any Person or have any direct or indirect equity or ownership interest in any business and is not a member of or participant in any partnership, joint venture or similar Person. Opco has no subsidiaries (other than the CMC Business), does not own, directly or indirectly, any capital stock, membership interest or other equity interests of any Person or have any direct or indirect equity or ownership interest in any business and is not a member of or participant in any partnership, joint venture or similar Person. As of the Closing, FTFC owns 100% of the issued and outstanding membership interests of



Canadian Sub, free and clear of all Encumbrances. The Canadian Sub has no subsidiaries, does not own, directly or indirectly, any capital stock, membership interest or other equity interests of any Person or have any direct or indirect equity or ownership interest in any business and is not a member of or participant in any partnership, joint venture or similar Person.

Section 3.23 Related Party Transactions. Except as set forth on Schedule 3.23, there are no Transferred Contracts or other arrangements related to the Business to which any of Sellers or its Affiliates or any of their respective directors or officers ("Related Persons") is a counterparty.

Section 3.24 Regulatory Matters; Security Breaches; Outages.

(a) There has been no failure by the Business to comply with the applicable by-laws, operating rules and identification standards manual of, and any other rules, regulations, manuals, policies and procedures promulgated by, Visa U.S.A., Inc. and its subsidiaries and Affiliates, MasterCard Incorporated and its subsidiaries and Affiliates or any other applicable bankcard associations or networks, gateway services or other networks or the payment card industry (including Payment Card Industry Data Security Standards, Visa's Cardholder Information Security program, MasterCard's Site Data Protection program and Discover Network's Debit and Prepaid Operating Regulations), in each case, as may be in effect from time to time (collectively, "Network Rules") that would adversely affect Opco's membership or participation in the applicable network. Except as set forth on Schedule 3.24(a), the Business is not subject to any Liabilities arising out of any actual or alleged violation of Network Rules.

(b) The Business has implemented, and is in material compliance with, commercially reasonable technical measures to assure the integrity and security of transactions executed through its computer systems and of all confidential or proprietary data. Except as set forth in Schedule 3.24(b), since January 1, 2006, to Seller's Knowledge and FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub), there has been no actual or perceived breach of security, or unauthorized access to or acquisition, use, loss, destruction, compromise or disclosure of any personal information, confidential or proprietary data or any other such information maintained or stored by the Business involving data of customers, suppliers, consumers or other similarly situated individuals impacting more than 50 individuals in connection with any such particular breach.

(c) Except as set forth in Schedule 3.24(c), since January 1, 2006, to Seller's Knowledge and FTFC's Knowledge (in the case of FTFC, only with respect to the Canadian Sub), there have been no facts or circumstances that would require the Business to give notice

to any customers, suppliers, consumers or other similarly situated individuals of any actual or perceived data security breaches pursuant to a Law requiring notice of such a breach (e.g., California Civil Code Section 1798.82 or any similar laws of any other jurisdiction).



---

Section 3.25 Master Lease Agreement. The pricing, pass-through costs, other out-of-pocket costs and other material terms and conditions under the Master Lease Agreement in the aggregate are no less favorable to Opco than the transfer pricing, pass-through costs and other material terms and conditions applicable to the Business and its operation in the same properties during the year prior to the date hereof, subject to reasonable and customary price adjustments ("Acceptable Adjustments") and pass-through increases imposed by third parties ("Acceptable Increases").

Section 3.26 Transition Service Agreement. The pricing, pass-through costs, other out-of-pocket costs and other material terms and conditions under the Transition Service Agreement in the aggregate are no less favorable to Opco than the transfer pricing, pass-through costs, other out-of-pocket expenses and other material terms and conditions applicable to the Business and its receipt of similar services from Seller and its Affiliates during the year prior to the date hereof, subject to Acceptable Adjustments and Acceptable Increases.

Section 3.27 Master Services Agreement. The pricing, pass-through costs, other out-of-pocket costs, service-level requirements and other material terms and conditions under the Master Services Agreement in the aggregate are no less favorable to the Companies than the transfer pricing, pass-through costs, other out-of-pocket costs, service-level requirements and other material terms and conditions applicable to the Business and its provision of the same services to Seller and its Affiliates during the year prior to the date hereof, subject to Acceptable Adjustments and Acceptable Increases.

Section 3.28 Reserved.

Section 3.29 Referral Agreement. The pricing, pass-through costs, other out-of-pocket costs and other material terms and conditions under the Referral Agreement in the aggregate are no less favorable to the Companies than the transfer pricing, pass-through costs, other out-of-pocket costs and other material terms and conditions applicable to the Business and its provision of the same services to Seller and its Affiliates during the year prior to the date hereof.

Section 3.30 Sponsorship Agreement. The terms and conditions of the Sponsorship Agreement, the arrangement between Opco and Seller contemplated thereby, Opco's membership, sponsorship into, or participation in, the Card Associations (as defined in the Sponsorship Agreement) contemplated thereby and the Clearing, Settlement and Sponsorship Services (as defined in the Sponsorship Agreement) to be performed by Seller and its Affiliates to Opco as contemplated thereby are permitted under all Network Rules of the Card Associations, and, to Seller's Knowledge, none of the Card Associations has disclosed any intent to, or has prohibited or otherwise limited or imposed additional restrictions applicable to such arrangement. The Card Associations of which Opco will become a member, into which Opco will be sponsored, or in which Opco will participate pursuant to the Sponsorship Agreement represent all of the payment card networks of which the Business is a member, into which the Business is sponsored, or in which the Business participates, as of the date hereof and as of immediately before the Closing.



---

Section 3.31 Representations under the Ancillary Agreements. At the Closing each of the representations and warranties made by the Companies under any of the Ancillary Agreements shall be true and correct in all respects, and immediately following the Closing the Companies will not be in breach of any of their covenants or obligations under any of the Ancillary Agreements.

Section 3.32 Insurance. Each of Seller and Canadian Sub, as applicable, has insurance policies in full force and effect (a) for such amounts as are sufficient for all requirements of Law and all Transferred Contracts, and (b) which are in such amounts, with such deductibles and against such risks and losses, as are reasonable for the Business and the Transferred Assets, and Schedule 3.32 sets forth with respect to the Business other than the Canadian Sub a loss run for claims in excess of $50,000 made with respect to the Business and/or the Transferred Assets under such policies within the last three years. Excluding insurance policies that have expired and been replaced in the Ordinary Course, no insurance policy with respect to the Business other than Canadian Sub has been cancelled within the last two years and, to the Seller's Knowledge, no threat has been made to cancel any insurance policy of Seller during such period, and to FTFC's Knowledge, no insurance policy with respect to Canadian Sub has been cancelled within the last two years. No event has occurred, including the failure by Seller or, to FTFC's Knowledge, Canadian Sub to give any notice or information, or Seller or, to FTFC's Knowledge, Canadian Sub giving any inaccurate or erroneous notice or information, which limits or impairs the rights of Seller or, to FTFC's Knowledge, Canadian Sub under any such insurance policies.

Section 3.33 Solvency. Immediately after giving effect to the Closing and the Transactions, Seller and its Subsidiaries and FTFC (a) will be able to pay their respective debts as they become due and shall own property that has a fair saleable value greater than the amounts required to pay their respective debts (including a reasonable estimate of the amount of all contingent Liabilities) and (b) shall have adequate capital to carry on their respective businesses. No transfer of property is being made, and no obligation is being incurred, in connection with the Transactions with the intent to hinder, delay or defraud either present or future creditors of Seller or any of its Subsidiaries. Seller acknowledges that it is selling the Transferred Assets to the Companies in exchange for reasonably "equivalent value," as such term or similar terms are used in any potentially applicable fraudulent conveyance Laws.

Section 3.34 No Other Representations or Warranties. Except for the representations and warranties contained in this Agreement, the Ancillary Agreements and the certificate delivered pursuant to Section 6.2(d), neither Seller nor any other Person makes any other express or implied representation or warranty on behalf of Seller.

## ARTICLE IV

## REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as follows:

Section 4.1 Organization and Qualification. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Buyer

has all requisite power and authority to own and operate its respective properties and assets and to carry on its respective business as currently conducted. Buyer is duly qualified to do business and is in good standing in each jurisdiction where the ownership or operation of its respective properties and assets or the conduct of its respective business requires such qualification, except for failures to be so qualified or in good standing that would not, individually or in the aggregate, impair or delay Buyer's ability to perform its obligations hereunder.

Section 4.2 Authorization. Buyer has full power and authority to execute and deliver this Agreement and will have full power and authority at Closing to execute and deliver each of the Ancillary Agreements and other Closing documents referenced herein to which it is a party and to perform its obligations hereunder and thereunder. The execution, delivery and performance by Buyer of this Agreement has been duly and validly authorized and of each of the Ancillary Agreements and other Closing documents referenced herein to which it is a party will have been duly and validly authorized at Closing, and no additional corporate or shareholder authorization or consent is required in connection with the execution, delivery and performance by Buyer of this Agreement or will be required in connection with the execution, delivery and performance by Buyer of any of the Ancillary Agreements and other Closing documents referenced herein to which it is a party.

Section 4.3 Consents and Approvals. Except as set forth on Schedule 4.3, no consent, approval, waiver, authorization, notice or filing is required to be obtained by Buyer from, or to be given by Buyer to, or made by Buyer with, any Government Entity or Self-Regulatory Organization or other Person in connection with the execution, delivery and performance by Buyer of this Agreement and the Ancillary Agreements or the other Closing documents referenced herein to which it is a party, other than those the failure of which to obtain, give or make would not, individually or in the aggregate, materially impair or delay the ability of Buyer to effect the Closing or to perform its obligations under this Agreement and the Ancillary Agreements and the other Closing documents referenced herein to which it is a party.

Section 4.4 Non-Contravention. The execution, delivery and performance by Buyer of this Agreement and each of the Ancillary Agreements and the other Closing documents referenced herein to which it is a party, and the consummation of the Transactions, do not, in the case of this Agreement, and will not as of the Closing, in the case of this Agreement, the Ancillary Agreements and other Closing documents referenced herein, (i) violate any provision of the Articles of Incorporation, Bylaws or other organizational documents of Buyer and (ii) assuming the receipt of all consents, approvals, waivers and authorizations and the making of notices and filings set forth on Schedule 4.3 or required to be made or obtained by Seller, to the actual knowledge of Buyer, violate or result in a breach of or constitute a default under any Law to which Buyer is subject, other than, in the case of clause (ii), breaches, defaults or violations that would not, individually or in the aggregate, materially impair or delay Buyer's ability to perform its obligations hereunder.

Section 4.5 Binding Effect. This Agreement, when executed and delivered by Seller, constitutes, and each of the Ancillary Agreements and other Closing documents referenced herein to which Buyer is a party, when executed and delivered by Buyer, Seller and



the other parties thereto, will constitute, a valid and legally binding obligation of Buyer, enforceable against it in accordance with its terms.

Section 4.6 Finders' Fees. Except for fees payable to Morgan Stanley, which will be paid by Buyer, there is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of Buyer or any Affiliate of Buyer who might be entitled to any fee or commission from Buyer in connection with the Transactions.

Section 4.7 Litigation and Claims. Except as set forth on Schedule 4.7, there is no Legal Proceeding pending or, to the actual knowledge of Buyer (after due inquiry of the employees primarily responsible for the subject matter in question), threatened against Buyer or any of its Affiliates that, individually or in the aggregate, would materially impair or delay the ability of Buyer to effect the Closing or affect the Business. Buyer is not subject to any Order that, individually or in the aggregate, would materially impair or delay the ability of Buyer to effect the Closing or materially affect the Business.

Section 4.8 Equity Commitments. Buyer has delivered to Seller true and complete copies of the equity commitment letters, dated as of the date hereof, between Buyer and each of the funds managed by Advent International Corporation named therein (collectively, the "Equity Commitments"), pursuant to which the equity investor parties thereto have committed, subject to the terms and conditions set forth therein, to invest the respective amounts set forth therein, and of which Seller is a third party beneficiary and entitled to specific performance of the terms thereof (collectively, the "Commitment"). None of the Equity Commitments has been amended or modified, no such amendment or modification is contemplated, and the respective commitments contained in the Equity Commitments have not been withdrawn or rescinded in any respect. The Equity Commitments are in full force and effect and are the valid, binding and enforceable obligations of Buyer and the other parties thereto. There are no conditions precedent or other contingencies relating to the funding of the full amount of the Commitment, other than as set forth in or contemplated by the Equity Commitments. Subject to the terms and conditions of the Equity Commitments, and subject to the terms and conditions of this Agreement, the aggregate proceeds contemplated by the Equity Commitments will be sufficient to pay the amounts payable by Buyer pursuant to this Agreement.

Section 4.9 No Other Representations or Warranties. Except for the representations and warranties contained in this Agreement, the Ancillary Agreements and the certificate delivered pursuant to Section 6.3(d), neither Buyer nor any other Person makes any other express or implied representation or warranty on behalf of Buyer.

## ARTICLE V

## COVENANTS

Section 5.1 Access and Information. (a) From the date hereof until the Closing, subject to any applicable Laws, Seller and FTFC shall (i) afford Buyer and its representatives access, during regular business hours and upon reasonable advance notice, to the Applicable Employees and the assets, books and records of the Business (including payroll

information and employee data), (ii) furnish, or cause to be furnished, to Buyer any financial and operating data and other information that is available with respect to the Business as Buyer from time to time reasonably requests in writing and (iii) instruct the Applicable Employees, and its counsel and financial advisors to cooperate with Buyer in its investigation of the Business, including instructing its accountants to give Buyer access to their work papers; provided, however, that in no event shall Buyer have access to any information that (x) based on advice of Seller's counsel, could create any potential Liability under applicable Laws, including U.S. Antitrust Laws, or could destroy any legal privilege or (y) in the reasonable judgment of Seller, could (A) result in the disclosure of any trade secrets of third parties or (B) violate any obligation of Seller with respect to confidentiality so long as, with respect to confidentiality, Seller has made reasonable efforts to obtain a waiver regarding the possible disclosure from the third party to whom it owes an obligation of confidentiality. All requests for information made pursuant to this Section 5.1(a) shall be directed to an executive officer of Seller or such Person or Persons as may be designated by Seller. All information received pursuant to this Section 5.1(a) shall be governed by the terms of Section 5.10.

(b) Following the Closing, upon the request of another Party, each of Seller, FTFC, Buyer, the Companies and the Canadian Sub shall, to the extent permitted by Law and confidentiality obligations existing as of the Closing, grant to a requesting Party and its representatives during regular business hours, the right, at the expense of such requesting Party, to inspect and copy the books, records and other documents in the granting Party's possession pertaining to the operation of the Business prior to the Closing (including books of account, records, files, invoices, correspondence and memoranda, customer and supplier lists, data, specifications, insurance policies, operating history information and inventory records) with respect to Seller and FTFC, for purposes of preparing the requesting Party's Tax Returns and with respect to the Companies, for any purpose reasonably related to the Transaction; provided, however, that the requesting Party agrees such access will give due regard to minimizing interference with the operations, activities and Employees of the granting Party. In no event shall Seller, FTFC or Buyer have access to the consolidated federal, state or local Tax Returns of the other Parties.

Section 5.2 Conduct of Business.

(a) During the period from the date hereof to the Closing, except as otherwise contemplated by this Agreement or the Ancillary Agreements or as Buyer otherwise agrees in advance, Seller and FTFC shall conduct, and shall cause their respective Affiliates to conduct, the Business in the Ordinary Course and use their commercially reasonable efforts, as applicable, to preserve intact the Business, the Transferred Assets and their relationships with the counterparties to the Transferred Contracts and the Applicable Employees. Without limiting the foregoing, during the period from the date hereof to the Closing, except as otherwise contemplated by this Agreement or the Ancillary Agreements or as required by Law or as Buyer otherwise agrees in advance, Seller and FTFC, as applicable, shall:



(i) maintain insurance upon the Transferred Assets and the material assets of the Canadian Sub in such amounts and of such kinds comparable to that in effect on the date hereof;

(ii) continue to collect accounts receivable and pay accounts payable utilizing normal procedures and without discounting or accelerating payment of such accounts;

(iii) comply with the IT capital expenditure plan of Seller and its Affiliates for fiscal year 2009 (including making such capital expenditures in the amounts set forth in such plan), which plan is set forth as Exhibit 5.2(a) attached hereto; and

(iv) pay all maintenance and similar fees and take all other appropriate actions as necessary to prevent the abandonment, loss or impairment of any Transferred Intellectual Property owned by Seller or its Affiliates and subject to a pending application or registration.

(b) Without limiting the generality of the foregoing, during the period from the date hereof to the Closing and except as otherwise expressly provided by this Agreement or as required by Law or with the prior written consent of Buyer (such consent not to be unreasonably withheld), Seller and FTFC shall not, and shall not permit their respective Affiliates to, with respect to the Companies, the Business, the Transferred Assets or the Assumed Liabilities:

(i) incur, create or assume any Encumbrance on any Transferred Asset or material asset of the Canadian Sub other than a Permitted Encumbrance;

(ii) except in relation to the transactions set forth in Schedule 5.2(b)(ii) or as expressly provided for in this Agreement or the Ancillary Agreements, acquire any material properties or assets that would be Transferred Assets or sell, assign, license, transfer, convey, lease or otherwise dispose of any assets that would be Transferred Assets or material assets of the Canadian Sub, other than in the Ordinary Course;

(iii) except in connection with the Contribution, transfer, issue, sell, pledge, encumber or dispose of any shares of capital stock or other securities of, or other ownership interests in, the Companies or the Canadian Sub;

(iv) terminate or materially extend or materially modify any Transferred Contract, except in the Ordinary Course and except for such amendments as may be reasonably necessary or advisable in order to obtain any required consent to assignment;

(v) settle any claims, actions, arbitrations, disputes or other Legal Proceedings (i) that would result in Seller or any of its Affiliates being enjoined in any respect material to the Transactions, or the Business or (ii) for an amount, in the aggregate, exceeding $5,000,000;

(vi) change any accounting method or practice of Seller that has a material impact on the Business, except in the Ordinary Course or except as required by Law or any Government Entity or Self-Regulatory Organization;

(vii) amend the organizational documents of any of the Companies or the Canadian Sub, except as provided in this Agreement and except with respect to the Canadian Sub as necessary to make them consistent with this Agreement, the Holdco LLC Agreement and the related applicable agreements, or cause any of the Companies or the Canadian Sub to enter into or agree to enter into any merger or consolidation with any corporation or other entity;

(viii) except for transfers of cash pursuant to normal cash management practices and advances for business expenses in the Ordinary Course, make any investments in or loans to, or pay any fees or expenses to, or enter into or modify any agreement with any Related Persons;

(ix) enter into any contract, understanding or commitment that restrains, restricts, limits or impedes the ability of any of the Companies or the Business to compete with or conduct any business or line of business in any material way in any geographic area or solicit the employment of any persons;

(x) other than as required by Law (A) hire any executive officers of the Business, (B) increase the salary or other compensation of any director or employee of the Business except for normal increases in the Ordinary Course, (C) grant any unusual or extraordinary bonus, benefit or other direct or indirect compensation to any employee or director of the Business, (D) increase the coverage or benefits available under any (or create any new) severance pay, termination pay, vacation pay, company awards, salary continuation for disability, sick leave, deferred compensation, bonus or other incentive compensation, insurance, pension or other employee benefit plan or arrangement made to, for, or with any of the directors, officers, employees, agents or representatives of the Business or otherwise modify or amend or terminate any such plan or arrangement or (E) enter into any employment, deferred compensation, severance, special pay, consulting, non-competition or similar agreement or arrangement with any directors or officers of the Business (or amend any such agreement) to which any of Seller or its Subsidiaries is a party;

(xi) except in the Ordinary Course (i) issue, create, incur, assume, guarantee, endorse or otherwise become liable or responsible with respect to (whether directly, contingently or otherwise) any indebtedness other than the Notes; (ii) pay, repay, discharge, purchase, repurchase or satisfy any indebtedness; or (iii) modify the terms of any indebtedness;

(xii) make, change or revoke any material Tax election, settle or compromise any material Tax claim or liability, change (or make a request to any Government Entity to change) any method of accounting or accounting period for Tax purposes, surrender any material claim for a refund of Taxes, enter into any closing agreement relating to any Tax, consent to any waiver or extension of any period for the assessment or collection of any Tax, file any material amended Tax Return or take any similar action relating to the filing of any Tax Return or the payment of any Tax if such other action would have the effect of increasing the Tax liability for the Companies or CMC LLC for



any period ending after the Closing Date or decreasing any Tax attribute existing on the Closing Date;

(xiii) terminate, amend or waive any material rights under any Transferred Intellectual Property or Seller Licensed Intellectual Property, other than in the Ordinary Course;

(xiv) intentionally do any other act which would cause any representation or warranty of Seller in this Agreement to be or become untrue or intentionally omit to take any action necessary to prevent any such representation or warranty from being untrue at such time; or

(xv) authorize or enter into any agreement or commitment prohibited by this Section 5.2 or that would be reasonably expected to have a Material Adverse Effect.

Section 5.3 Reasonable Best Efforts; Transition Plan; HSR. (a) Each of Seller, FTFC and Buyer shall cooperate and use their respective reasonable best efforts to fulfill or cause to be fulfilled as promptly as practicable the conditions precedent to the other's obligations hereunder, including securing all consents, approvals, waivers and authorizations required in connection with the Transactions. Without limiting the generality of the foregoing, Buyer, FTFC and Seller shall make all appropriate filings and submissions required by the U.S. Antitrust Laws and any other Laws and promptly file any additional information requested as soon as practicable after receipt of such request therefor. As promptly as reasonably practicable after the date of this Agreement, Seller shall contact the counterparties to each of the Merchant Contracts and Financial/EFT Contracts in order to secure consents required to transfer such contract to the Companies.

(b) Seller, the Companies and Buyer shall use their reasonable best efforts, as soon as reasonably practicable after the date hereof but in no event later than 6 months after the date hereof, to develop a transition plan for the Business (the "Transition Plan") that is consistent with the terms and conditions set forth in Schedule 5.3(b)(i) (the "Transition Plan Term Sheet"), including with respect to targeting a transition from the services specified in the Transition Plan as soon as practicable after Closing and within 24 months of the date on which the Transition Plan is completed. Prior to the Closing, the parties shall jointly develop a preliminary transition plan that is not inconsistent with the description thereof in the Transition Plan Term Sheet. Following completion of the Transition Plan, Seller, the Companies and Buyer shall implement the Transition Plan on the terms and conditions set forth therein. In addition, Seller, the Companies and Buyer hereby agree that they shall cooperate with each other in good faith in developing, negotiating, finalizing and implementing the Transition Plan, including the various elements and phases thereof, and shall develop, negotiate, finalize and implement the Transition Plan in a timely manner in accordance with the terms of this Section 5.3(b), the Transition Plan Term Sheet and the Transition Plan. Seller's and Buyer's initial designees to the Steering Committee are set forth on Schedule 5.3(b)(ii), Seller's and Buyer's initial designees to Holdco's Board of Directors are set forth on Schedule 5.3(b)(iii) and Seller's two designated



replacement members for each of the Board and the Steering Committee are set forth on Schedule 5.3(b)(iv) (each person identified on Schedule 5.3(b)(iv) is referred to herein as an "Approved Replacement").

(c) Seller and the Companies, on the one hand, and Buyer, on the other hand, shall cooperate with each of the other parties hereto and shall furnish to the other parties hereto all information necessary or desirable in connection with making any filing under the HSR Act and for any application or other filing to be made pursuant to any Antitrust Law, and in connection with resolving any investigation or other inquiry by any Government Entity under any U.S. Antitrust Laws with respect to the Transactions. Seller and each of the Companies, on the one hand, and Buyer, on the other hand, shall promptly inform the other parties hereto of any communication with, and any proposed understanding, undertaking or agreement with, any Government Entity regarding any such filings or any such Transactions. None of the parties hereto shall participate in any meeting with any Government Entity in respect of any such filings, investigation or other inquiry without giving the other parties hereto prior notice of the meeting. The Parties shall consult and cooperate with one another in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of any party in connection with all meetings, actions and Legal Proceedings under or relating to the HSR Act or other U.S. Antitrust Laws. The cooperation among the Parties shall include, with respect to making a particular filing, providing copies of all such documents to the non-filing Parties and their advisors prior to filing (subject to applicable Law and provided, that the Parties hereto shall not be required to provide to each other any documents or other materials related to a Party's valuation of the Transactions) and, if requested, giving due consideration to all reasonable additions, deletions or changes suggested in connection therewith.

Section 5.4 Tax Matters. (a) Seller's Liability for Taxes. Seller shall be liable for (i) any Taxes, including any Transfer Taxes, imposed with respect to the Transferred Assets, the Opco Interests, the CMC Business, the CMC LLC Interests, the Transferred Canadian Sub Stock or any income or gain attributable to or derived with respect thereto for the taxable periods, or portions thereof, ended on or before the Closing Date, (ii) Losses directly or indirectly relating to or arising out of any liability for Taxes, including Transfer Taxes, imposed with respect to the Transferred Assets, the Opco Interests, the CMC Business, the CMC LLC Interests, the Transferred Canadian Sub Stock or any income or gain attributable to or derived with respect thereto for the taxable periods, or portions thereof, ended on or before the Closing Date, and (iii) any Liability of the Business, the Companies or CMC LLC for unpaid Taxes of any person under Treas. Reg. 1.1502-6 (or similar provision of state, local or foreign law), as a transferee or successor, by contract or otherwise, which Liability relates to membership in a consolidated, combined or unitary Tax group prior to the Closing or to an event or transaction occurring or contract entered into before the Closing.

(b) Holdco Liability for Taxes. Holdco shall be liable for (i) any Taxes imposed with respect to the Transferred Assets, the Opco Interests, the CMC Business, the CMC LLC Interests, or any income or gains attributable to or derived



with respect thereto for any taxable period, or portion thereof, beginning after the Closing Date (but excluding any income Taxes imposed on any member of Holdco with respect to its distributive share of the income of Holdco and any Section 704(c) gains attributable to the built-in gains in the Transferred Assets as of the Closing), and (ii) Losses directly or indirectly relating to or arising out of any liability for Taxes imposed with respect to the Transferred Assets, the Opco Interests, the CMC Business, the CMC LLC Interests, or any income or gains attributable to or derived with respect thereto for any taxable period, or portion thereof, beginning after the Closing Date (but excluding any income Taxes imposed on any member of Holdco with respect to its distributive share of the income of Holdco and any Section 704(c) gains attributable to the built-in gains in the Transferred Assets as of the Closing Date).

(c) The Canadian Sub Liability for Taxes. The Canadian Sub shall be liable for (i) any Taxes imposed with respect to the Canadian Sub, or any income or gains attributable to or derived with respect thereto for any taxable period, or portion thereof, and (ii) Losses directly or indirectly relating to or arising out of any liability for Taxes imposed with respect to the Canadian Sub, or any income or gains attributable to or derived with respect thereto for any taxable period, or portion thereof.

(d) Proration of Property Taxes. Those annual property taxes and exemptions, allowances or deductions that are calculated on an annual basis shall be prorated on a time basis.

(e) Transfer Taxes. All federal, state, local or foreign or other excise, sales, use, value added, transfer (including real property transfer or gains), stamp, documentary, filing, recordation and other similar taxes and fees that may be imposed or assessed as a result of transfers of Transferred Assets, Opco Interests, the Transferred Canadian Sub Stock, CMC LLC Interests, and the membership interests of CMC LLC to Holdco or Opco, as the case may be, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties ("Transfer Taxes"), shall be borne by Seller. Buyer, the Companies and the Canadian Sub shall cooperate to qualify for each occasional sale exemption that is available under the Laws of each applicable jurisdiction. Any similar taxes imposed on the sale of the Class A Units to the Buyer shall be borne by the Company. Any similar taxes imposed on the sale of the Transferred Canadian Sub Stock to the Buyer shall be borne 51% by the Buyer and 49% by the Seller.

(f) The Companies Claiming, Receiving or Using of Refunds and Overpayments. If, after the Closing, any of the Companies or their respective Affiliates or the Canadian Sub (i) receive any refund or (ii) utilize the benefit of any overpayment or prepayment of Taxes which, in either case, (x) relates to a Tax paid by Seller or any of its Affiliates that is not the subject of indemnification by the Companies hereunder, or (y) relates to a Tax that is the subject of indemnification by Seller hereunder, but in each case other than a refund (or other benefits of any overpayment) that (i) is reflected as a current asset on the Closing Statement or (ii)



attributable to a carryback of losses or other Tax attributes from any taxable period, or portion thereof, beginning after the Closing Date, the Companies or the Canadian Sub shall, as promptly as reasonably practicable, transfer, or cause to be transferred, to Seller the entire amount of the refund or overpayment received or utilized by the Companies or their Affiliates or the Canadian Sub. The Companies and the Canadian Sub agree to notify Seller, as promptly as reasonably practicable, of both the discovery of a right to claim any such refund or overpayment and the receipt of any such refund or utilization of any such overpayment. The Companies and the Canadian Sub agree to furnish, as promptly as reasonably practicable, to Seller all information, records and assistance reasonably necessary to verify the amount of the refund or overpayment in a commercially reasonable manner.

(g) Determination and Allocation of Consideration. The parties hereto agree to determine the amount of and allocate the total consideration transferred to Seller pursuant to this Agreement (the "Consideration") in accordance with the fair market value of the assets and liabilities of Holdco and shall prepare a schedule of Buyer's adjustments under Section 743 of the Code. Seller shall provide Buyer and Holdco with one or more schedules allocating the Consideration and setting forth the Section 743 basis adjustment within 90 days after the Closing Date. If Buyer disagrees with any items reflected on the schedules so provided, Buyer shall notify Seller of such disagreement and its reasons for so disagreeing, in which case Seller and Buyer shall attempt to resolve the disagreement. To the extent Seller and Buyer cannot agree on a mutually acceptable determination and/or allocation of the Consideration and Section 743 adjustment, such determination and/or allocation shall be made by the CPA Firm, whose decision shall be final and binding and whose expenses shall be shared equally by Seller, on the one hand, and Buyer on the other hand. The determination and allocation of the Consideration and Section 743 adjustment derived pursuant to this Section 5.4(f) shall be binding on the parties hereto for all Tax reporting purposes.

(h) Maintenance of Opco's Transferred Books and Records. Until the applicable statute of limitations (including periods of waiver) has run for any Tax Returns filed or required to be filed covering the periods up to and including the Closing Date, Opco shall retain all Transferred Books and Records with respect to the Business in existence on the Closing Date and after the Closing Date will provide Seller access to such Transferred Books and Records for inspection and copying by Seller, or its agents upon reasonable request and upon reasonable notice.

(i) Holdco 754 Election. Holdco shall make a timely and effective election under Section 754 of the Code (and any equivalent election for applicable state and local income Tax purposes), which Section 754 election (and equivalent election) shall be filed by Holdco with its U.S. federal income Tax Return (and applicable state and local income Tax Returns) for the taxable year of Holdco that includes the Closing Date and shall be effective for such year, together with any other forms necessary for the completion of a valid Section 754 election (and equivalent election) effective as of such taxable year, and Seller shall take any action necessary to give effect to such election, including without limitation providing any



information and signing any document that may reasonably be requested by Buyer in connection therewith. Holdco shall provide to Buyer a copy of the draft entity Tax Returns proposed to be filed by Holdco for the taxable year of Holdco that includes the Closing Date at least 45 days prior to the applicable due date for each such filing, with opportunity for Buyer to comment thereon, and Holdco shall file such returns with the applicable Tax authorities only with the consent of Buyer, which shall not be unreasonably delayed or withheld.

Section 5.5 Employee and Benefits Matters. (a) Offers of Employment. Prior to the End Date (as defined in Exhibit A to the Transition Service Agreement), Opco shall make a written offer of employment to each Applicable Employee, effective upon the Transfer Date, (as defined below), which offer shall (i) be at salary or hourly wage rates (as the case may be) not less than the salary or wage rates received by the Applicable Employees immediately prior to the Transfer Date, (ii) provide an annual incentive compensation opportunity that is comparable to the Applicable Employee's annual incentive compensation opportunity immediately prior to the Closing Date; provided that the performance metrics applicable to any such annual incentive compensation opportunity provided after the Closing Date may be adjusted by Opco in its sole discretion, and (iii) be for employment at the same work location (or within 30 miles of such location) and in the same or substantially similar positions and with similar duties to the positions held by, and the duties performed by, the Applicable Employees immediately prior to the Transfer Date. For purposes of this Agreement, each of the Applicable Employees who affirmatively accepts Opco's offer of employment and commences working for Opco on or after the Closing Date shall become a "Transferred Employee" on the latest of (i) the Closing Date, (ii) the first Business Day following the End Date (subject to continued employment), or (iii) if such Applicable Employee is identified on Schedule 5.5(a)(ii) as on disability (long term or short term) or on leave of absence (each such Applicable Employee, an "Absent Employee") and, as applicable, has not returned to active employment prior to the End Date, the date on which such individual returns to active employment (provided such individual must return to active employment within six months of the Closing Date, otherwise such individual's offer of employment will automatically expire). Without limiting the foregoing, for purposes of this Agreement, the "Transfer Date" shall mean the date on which an Applicable Employee becomes a Transferred Employee in accordance with the immediately preceding sentence. Effective as of the first Business Day following the End Date, Opco agrees that the Applicable Employees identified on Schedule 5.5(a)(iii) as being necessary for Seller's performance of their respective obligations under this Agreement or the Transition Service Agreement (each such Applicable Employee, a "Necessary Employee"), shall be made available to Seller at the sole expense of Opco until such time as such Necessary Employee is no longer necessary for Seller to satisfy such obligations under the Transition Service Agreement. All such offers of employment pursuant to this Section 5.5(a) will be for employment-at-will, and Opco may terminate any Transferred Employee at any time and for any reason following the applicable Transfer Date.

(b) Employee Benefits; Crediting of Service. On and after their applicable Transfer Dates and until the first anniversary of the Closing, Opco shall make available to Transferred Employees (and their eligible spouses, dependents and beneficiaries) defined contribution pension and welfare benefits that are substantially comparable, in the aggregate, to the defined contribution pension and



welfare benefits provided to Transferred Employees (and, as applicable, their eligible spouses, dependents and beneficiaries) under Seller's or its Affiliates' Benefit Plans immediately prior to the Closing Date without limitations based upon pre-existing conditions (and the amount of year-to-date deductibles incurred by Transferred Employees prior to their applicable Transfer Dates under Seller's or its Affiliates' Benefit Plans shall be credited toward satisfaction of deductibles under the employee benefits and compensation plans, programs and arrangements sponsored or maintained by Opco (the "Company Plans") for the year in which the Transfer Date occurs); provided, however, any Benefit Plan which is an equity-based plan, stock purchase plan, defined benefit pension plan, or retiree health and welfare plan shall be excluded for purposes of comparability. Opco shall ensure that the Company Plans grant full credit for all service or employment with, or recognized by, Seller and its Affiliates for purposes of eligibility, participation and vesting with respect to any Company Plan (but not benefit accrual) that is an "employee pension benefit plan," as defined in Section 3(2) of ERISA, and, for purposes of eligibility, participation and determining the amount of any benefit with respect to any Company Plan that is a vacation or other program that is affected by seniority and any Company Plan that is an "employee welfare benefit plan," as defined in Section 3(1) of ERISA, including any severance plan or sick plan; provided, that Opco's vacation plan shall be able to offset, for the year in which the Transfer Date occurs, the vacation credited to the Transferred Employees pursuant to Section 5.5(d).

(c) Welfare Benefits Generally. (i) Seller shall be solely responsible for: (A) claims for the type of benefits described in Section 3(1) of ERISA (whether or not covered by ERISA) ("Welfare Benefits") and for workers' compensation, in each case that are incurred by or with respect to any Transferred Employee or his or her spouse, dependent or beneficiary before the applicable Transfer Date, regardless of whether such claims are made and/or identified prior to or after the Transfer Date; (B) claims for Welfare Benefits and for workers' compensation, in each case that are incurred by or with respect to any Applicable Employee (or his or her spouse, dependent or beneficiary) who does not become a Transferred Employee, whether incurred before, on or after the Closing Date and (C) claims relating to COBRA Coverage attributable to "qualifying events" occurring before or on the Transfer Date, and all claims relating to COBRA Coverage attributable to "qualifying events" with respect to any Applicable Employee who does not become a Transferred Employee and his or her eligible beneficiaries and dependents occurring before, on, or after the Transfer Date; and (ii) the Companies shall be solely responsible for: (A) claims for Welfare Benefits and for workers compensation, in each case that are incurred by or with respect to any Transferred Employee on or after the applicable Transfer Date (except to the extent the Transferred Employee or any beneficiary or dependent thereof has elected COBRA Coverage under Seller's Welfare Benefits plans) and (B) claims relating to COBRA Coverage attributable to "qualifying events" with respect to any Transferred Employee and his or her eligible beneficiaries and dependents that occur after the applicable Transfer Date; it being understood by both parties that any such liability incurred by Seller after the Closing Date with respect to an Applicable Employee



shall be reimbursed by Opco to Seller to the extent provided in the Transition Service Agreement. For purposes of the foregoing, a medical/dental claim shall be considered incurred when the services are rendered, the supplies are provided or medication is prescribed, and not when the condition arose. A disability or workers' compensation claim shall be considered incurred on or before the applicable Transfer Date if the injury or condition giving rise to the claim occurs on or before such date.

(d) Vacation. Opco shall ensure that its vacation policy grants full credit for purposes of eligibility, participation and determining the amount of any accrued vacation benefits to which any Transferred Employee is entitled pursuant to the vacation policy applicable to such Transferred Employee immediately prior to the Closing Date. Opco shall assume the liability for accrued vacation with respect to any Transferred Employee as of the Transfer Date of such Transferred Employee and allow such Transferred Employee to use such accrued vacation following the Transfer Date. Seller shall retain all liability with respect to any accrued vacation time to which any Applicable Employee who does not become a Transferred Employee is entitled pursuant to the applicable vacation policy applicable to such Applicable Employee.

(e) 401(k) Plan. Seller shall effectuate a trust-to-trust transfer of the account balances of Transferred Employees (whether vested or unvested) under any plan that is intended to be a tax-qualified defined contribution retirement plan (collectively, the "Seller 401(k) Plan") to a plan established by Opco for the benefit of the Transferred Employees that is intended to be a tax-qualified defined contribution retirement plan (the "Opco 401(k) Plan"). As soon as practicable after the Closing Date (but no later than thirty (30) days after the End Date) Seller shall cause the trustee of the Seller 401(k) Plan to value the account of each Transferred Employee who participates in the Seller 401(k) Plan pursuant to the terms of such plan. As of such valuation date, Seller shall cause the trustee of the Seller 401(k) Plan to transfer assets equal in value to the amount credited to each such Transferred Employee's account under the Seller 401(k) Plan to the trust maintained under the Opco 401(k) Plan. Such transferred assets shall be in cash or other property as determined by Seller with the consent of Opco (except the transferred assets shall also include any promissory notes evidencing outstanding loan balances of Transferred Employees and shall be subject to any qualified domestic relations order pursuant to Section 414(p) of the Code) and shall be transferred in accordance with Section 414(l) of the Code. Prior to, and as a condition of, any transfer of assets, Seller and Opco shall provide the other with satisfactory evidence that its plan is tax-qualified within the meaning of Section 401(a) of the Code. As of the transfer date, the Opco 401(k) Plan shall have sole liability for the payment of benefits accrued by Transferred Employees under the Seller 401(k) Plan and transferred in respect of such Transferred Employees and neither the Seller 401(k) Plan nor the Seller or its Affiliates shall have any obligation to Opco or with respect to employees of Opco with respect thereto (except to the extent Seller has made a mistake in the calculation and transfer of assets). If Seller determines in its sole discretion to make a profit sharing contribution to the Seller 401(k) Plan for the



2009 plan year on behalf of employees of Seller, Seller will make a profit sharing contribution to the Seller 401(k) Plan for each Transferred Employee who (i) is employed by Seller as of the applicable Transfer Date, (ii) is eligible according to the terms of Seller 401(k) Plan, and (iii) remains continuously employed by Seller and Opco (and their respective Affiliates) through December 31, 2009, based on his or her eligible compensation earned from Seller for the period from January 1, 2009 through the applicable Transfer Date. As soon as practicable following the date of such contribution, Seller shall effectuate a trust-to-trust transfer of the account balances of Transferred Employees resulting from such profit sharing contribution from the Seller 401(k) Plan to the Opco 401(k) Plan. Seller and Opco shall cooperate with each other (and cause the trustees of the Seller 401(k) Plan and the Opco 401(k) Plan to cooperate with each other) to effectuate the transfers of assets to the Opco 401(k) Plan.

(f) Employee Withholding and Reporting Matters. With respect to Transferred Employees, from the time such transfer occurs, Opco shall, in accordance with and to the extent permitted pursuant to the "standard procedure" set forth in Revenue Procedure 2004-53, unless otherwise provided in the Ancillary Agreements, be responsible for preparing and filing Form W-2, Wage and Tax Statement, Form W- 3, Transmittal of Income and Tax Statements, Form 941, Employer's Quarterly Federal Tax Return, Form W-4, Employee's Withholding Allowance Certificate and Form W-5, Earned Income Credit Advance Payment Certificate for the portion of the calendar year beginning on the day after the applicable Transfer Date. Seller shall be responsible for such filings with respect to wages paid and taxes withheld by Seller for the portion of the calendar year beginning in January of the year in which the Closing occurs and ending on the applicable Transfer Date. The parties hereto agree to comply with the procedures described in Section 4 of the Revenue Procedure 2004-53.

(g) No Third Party Beneficiaries; Information. Nothing in this Section 5.5, express or implied, (i) is intended to confer on any person other than the parties hereto or their respective successors and assigns any rights, remedies, obligations or Liabilities under or by reason of this Agreement, (ii) shall limit the right of Opco to terminate any Transferred Employee after the applicable Transfer Date or to modify the terms or conditions of any Transferred Employee's employment or (iii) shall limit the right of the Canadian Sub to terminate any Canadian Employee after the Closing Date or to modify the terms or conditions of any Canadian Employee's employment. Seller shall provide

Opco with such information and records ordinarily maintained by Seller that are necessary for Opco to comply with its obligations under this Section 5.5.

(h) Employee Transition. The parties hereto shall use their commercially reasonable efforts to (i) establish and have Opco adopt the Company Plans, and (ii) establish all human resource functions necessary to support the day-to-day operations of Opco and its employees no later than December 31, 2009.



(i) Retiree Medical Benefits. Seller agrees to make available retiree medical coverage for the benefit of each Transferred Employee who (i) has satisfied the age and service eligibility requirements for such coverage under Seller's medical plan as of the Transfer Date and (ii) is continuously covered by the Company's group medical plan from the Transfer Date until retirement. Such retiree medical coverage shall be on the same terms and conditions as the coverage provided to eligible retirees of Seller from time to time and shall be at the sole expense of such Transferred Employee. This Agreement does not limit Seller's ability to terminate or otherwise amend Seller's retiree medical coverage following the Closing.

(j) Canadian Sub Employees. The provisions of this Section 5.5 (other than Section 5.5(g) and this Section 5.5(j)) shall not be applicable to employees of the Canadian Sub. The Canadian Sub shall (i) continue to employ each employee of the Canadian Sub on the Closing Date (the "Canadian Employees") at the same work location and in the same positions and with the same duties as the positions held by, and the duties performed by, the Canadian Employees immediately prior to the Closing Date and (ii) pay or provide (x) salary or hourly wage rates (as the case may be) not less than the salary or wage rates received by the Canadian Employees immediately prior to the Closing Date, and (y) an annual incentive compensation opportunity that is comparable to the Canadian Employee's annual incentive compensation opportunity immediately prior to the Closing Date; provided that the performance metrics applicable to any such annual incentive compensation opportunity provided after the Closing Date may be adjusted by the Canadian Sub in its sole discretion. For at least one year following the Closing Date, the Canadian Sub shall make available to the Canadian Employees (and their eligible spouses, dependents and beneficiaries) defined contribution pension and welfare benefits that are substantially comparable, in the aggregate, to the defined contribution pension and welfare benefits provided to the Canadian Employees (and, as applicable, their eligible spouses, dependents and beneficiaries) immediately prior to the Closing Date.

Section 5.6 Ancillary Agreements. At the Closing, Seller shall execute and deliver each Ancillary Agreement to which it is a party, each of the Companies shall execute and deliver each Ancillary Agreement to which it is a party and Buyer shall execute and deliver each of the Ancillary Agreements to which it is a party.

Section 5.7 Non-Solicitation; Non-Compete. (a) Seller agrees that, during the period commencing on the date hereof and ending on the earlier of the third anniversary of the Closing Date and the first date on which Seller (together with its Affiliates) hold Holdco LLC Interests representing less than 10% of the outstanding Holdco LLC Interests or common stock or other equity securities into which the Holdco LLC Interests may be converted in anticipation of an initial public offering of Holdco or otherwise, neither it nor any of its Affiliates will directly or indirectly, without obtaining the prior written permission of Buyer, except for purposes of implementing the Transition Plan (i) induce or encourage any Applicable Employee to reject Opco's offer of employment or to accept any other position or employment, (ii) induce or encourage any employee of Opco to terminate his or her employment with Opco, (iii) solicit for employment or any similar arrangement any employee of Opco or (iv) hire or assist any other Person in hiring any employee of Opco; provided, however, that for purposes of this Section 5.7(a) "solicit for employment" and hiring shall not include (i) referrals for employment made by a placement agency or employment service so long as such placement agency or employment



service has not targeted employees of Opco, and any hiring resulting therefrom, (ii) responses to any general advertisement not targeted at employees of Opco appearing in a newspaper, magazine, Internet sites or trade publication, and any hiring resulting therefrom, or (iii) solicitation or hiring of an employee of Opco who first contacts Seller on an unsolicited basis.

(b) Buyer and each of the Companies agree that for the period commencing on the Closing and ending on the second anniversary of the Closing Date, neither Buyer (including any of its Affiliates acting at the direction of Buyer or to whom information concerning the Companies or an Applicable Employee has been provided) nor any of the Companies (including any of their respective controlled Affiliates or any of their other respective Affiliates acting at the direction of the Companies or to whom information concerning the Companies or an Applicable Employee has been provided) will directly or indirectly, without obtaining the prior written permission of Seller, (i) solicit for employment or any similar arrangement any employee (other than, in the case of Opco, an Applicable Employee in a manner consistent with Section 5.5) of Seller or any of its Affiliates with whom Buyer or any of its Affiliates came into contact during the discussions relating to, negotiation of and execution of this Agreement or any Ancillary Agreement or who is then currently involved in providing services to Opco under any Ancillary Agreement, or (ii) hire or assist any other Person in hiring any employee of Sellers or any of its Affiliates with whom Buyer or any of its Affiliates came into contact during the discussions relating to, negotiation of and execution of this Agreement or any Ancillary Agreement or who is then currently involved in providing services to Opco under any Ancillary Agreement; provided, however, that for purposes of this Section 5.7(b) "solicit for employment" and hiring shall not include (i) referrals for employment made by a placement agency or employment service so long as such placement agency or employment service has not targeted employees of Seller or any of its Affiliates, and any hiring resulting therefrom, (ii) responses to any general advertisement not targeted at employees of Seller or any of its Affiliates appearing in a newspaper, magazine, Internet sites or trade publication, and any hiring resulting therefrom, or (iii) solicitation or hiring of an employee of Seller or any of its Affiliates who first contacts Buyer or any of its Affiliates on an unsolicited basis.

(c) (i) Seller and its Affiliates shall not until the last day of the 54th month following the Closing Date, directly or indirectly, engage in or own or control a financial interest in a Person (other than Holdco or the Canadian Sub or their respective subsidiaries) that engages in the Business (other than as contemplated in Section 5.7(c)(ii) hereof); provided, however, that neither Seller nor any of its Affiliates shall be required to terminate Transferred Contracts that cannot be validly transferred to the Companies under their terms.

(ii) Notwithstanding Section 5.7(c)(i), neither Sellers nor any of its Affiliates shall be precluded from: (A) owning up to 10% of the voting equity of any publicly traded Person engaged in the Business; provided, that such investment is a non-controlling investment and for investment purposes; or (B) purchasing or acquiring (through merger, stock

purchase or purchase of all or substantially all of the assets or otherwise) any Person engaged in the Business and continuing to operate such existing Business; provided, that (x) such existing Business shall not represent more than 15% of the consolidated revenues of the business or entity acquired and (y) Seller or its Affiliates, as applicable, divest, sell, dispose of or otherwise transfer, within 12 months of the purchase or acquisition thereof, sufficient assets or businesses of the Business to reduce the consolidated revenues that the Business represents of the business or entity acquired to 15% or less.

Section 5.8 Further Assurances. From time to time after the Closing Date, each Party shall, and shall cause its respective Affiliates to, promptly execute, acknowledge and deliver any other assurances or documents or instruments of transfer reasonably requested by another Party and necessary for the requesting Party to satisfy its obligations hereunder or to obtain the benefits of the Transactions. Seller shall use commercially reasonable efforts to obtain third party releases for the benefit of the Companies and their controlled Affiliates with respect to any Excluded Liabilities described in Section 2.2(b)(vii) with respect to which Seller or its Affiliates themselves obtain, or seek to obtain, such releases.

Section 5.9 Licensed Intellectual Property. Notwithstanding anything to the contrary contained herein or in any Ancillary Agreement, Seller has the sole and exclusive right to prosecute, defend, settle or otherwise control any Legal Proceeding, claim or action relating to the Seller Licensed Intellectual Property, except to the extent such claim is exclusively one between the parties hereto and their Affiliates.

Section 5.10 Confidentiality. Each Party (the "Receiving Party") agrees that it will, and will cause its Affiliates and its and its Affiliates' officers, directors, employees, accountants, consultants, advisors and agents to, hold all information concerning another Party (the "Disclosing Party") or its Affiliates received by the Receiving Party from the Disclosing Party or its Affiliates (other than information which (i) becomes generally available to the public, (ii) was available to the Receiving Party on a non-confidential basis prior to its disclosure by the Disclosing Party or its Affiliates, as the case may be, (iii) becomes available to the Receiving Party or, prior to the Closing Date, the Business, on a non-confidential basis from a source other than the Disclosing Party or its Affiliates not reasonably known by the Receiving Party to be prohibited from disclosing such information to such persons by a contractual, legal or fiduciary obligation, (iv) is required or requested to be disclosed by Law or any Government Entity or Self-Regulatory Organization, (v) may be necessary or advisable to disclose in order to enforce any of the Receiving Party's rights pursuant to this Agreement or any Ancillary Agreement, (vi) may be necessary or advisable to disclose in connection with any litigation, arbitration, mediation or other similar Legal Proceeding involving the Receiving Party or any of its Affiliates or (vii) may be necessary or advisable to disclose in order for the Receiving Party or its Affiliates, as applicable, to perform their respective obligations pursuant to this Agreement or the Ancillary Agreements) on a confidential basis and not voluntarily disclose (other than pursuant to legal process after an opportunity to restrict or otherwise limit disclosure) to any other Person such information without the prior written consent of the Disclosing Party for a period of three years after the Receiving Party receives the information from the Disclosing Party.

Section 5.11 Notification. Prior to the Closing, Seller shall, as soon as reasonably practicable, notify Buyer (after Seller has notice thereof), and Buyer shall promptly



notify Seller (after Buyer has notice thereof), and keep such other Party advised, as to any litigation pending or, to Seller's Knowledge or the actual knowledge of Buyer, as applicable, threatened against such Party, FTFC, the Canadian Sub or Opco that challenges such Party's or FTFC's ability to effect the Transactions.

Section 5.12 Financial Statements.

(a) Before Closing, Seller shall provide Buyer with the written certification from a qualified senior executive of Seller to the effect that Seller has, in its possession or access to, all information and resources required to comply with Section 5.12(b).

(b) Seller shall use its reasonable best efforts to prepare and deliver to Buyer, and to cause its auditors to assist in the preparation of:

(i) within a reasonable period of time following the Closing, the audited balance sheet and audited statements of income and cash flows of the Business (other than the Canadian Sub), together with the notes thereto, as of and for the years ended December 31, 2006, 2007 and 2008 prepared in accordance with GAAP consistently applied during the periods and at the dates involved and which comply in all material respects with all applicable accounting requirements and with the published rules and regulations of the SEC including Regulation S-X, in order to serve as "predecessor entity" financial statements in a registered public offering under the Securities Act;

(ii) within a reasonable period of time following the Closing, an audited combined balance sheet and audited statements of income and cash flows of the Business (other than the Canadian Sub) as of, and for the "stub period" running from January 1, 2009 through, the Closing Date to be prepared in accordance with GAAP consistently applied during the periods and at the dates involved and which will comply in all material respects with all applicable accounting requirements and with the published rules and regulations of the SEC including Regulation S-X in order to serve as "predecessor entity" financial statements in a registered public offering under the Securities Act; and

(iii) from time to time as requested by Buyer or the Companies, such other financial statements and financial data of the Business (other than the Canadian Sub) (as of any of the dates and for any of the periods referred to in this Section 5.12), as well as selected financial data for the Business (other than the Canadian Sub) as of and for the years ended December 31, 2004 and 2005 that is of the type required by Regulation S-X and Regulation S-K under the Securities Act and of the type and form customarily included in registered public offerings under the Securities Act.

(c) The Companies shall pay all reasonable expenses of Seller's auditors for such auditors' assistance to the Companies in the preparation and delivery of the financial statements described in this Section 5.12.

(d) Seller shall provide to Buyer on or prior to July 15, 2009, an unaudited balance sheet of the Canadian Sub as of the Closing Date and an

unaudited income statement of the Canadian Sub for the three months ended June 30, 2009 (collectively, the "Canadian Financial Statements").

Section 5.13 Applicable Contracts. Buyer shall cause Opco to use its commercially reasonable efforts to, (a) on and after the Closing Date and to the Reference Date, renegotiate any Applicable Contract for which Seller would otherwise be responsible to make an Applicable Termination Price Adjustment or Applicable Renegotiation Price Adjustment with the applicable counterparty thereto in order to minimize or eliminate such adjustment, (b) on and after the Closing Date, collect any liquidated damages or similar payments with respect to any Applicable Contracts terminated or proposed to be terminated on or prior to the Adjustment Date and (c) on or after the Closing Date, seek the consent of the counterparties to the Applicable Contracts to transfer such Applicable Contracts to Opco in connection with the Transactions. On the first Business Day following the Reference Date, Buyer shall cause the Company to assign to Seller all outstanding claims for liquidated damages or similar payment with respect to an Applicable Contract regarding which Applicable Termination Price Adjustment or Applicable Renegotiation Price Adjustment was or would be made. If, after the Reference Date, any of the Companies receives any liquidated damages or similar payment with respect to an Applicable Contract regarding which Applicable Termination Price Adjustment or Applicable Renegotiation Price Adjustment was is made, the Companies shall immediately forward such amount in full to Seller.

Section 5.14 Transition Service. Seller shall, or shall cause each of its Affiliates that provide an element of the transition service to Opco pursuant to the Transition Service Agreement to, use its reasonable commercial efforts to cooperate with Opco to facilitate the transfer of responsibility for such element to Opco (or its designees) and in all other matters relating to the provision of such transition service.

Section 5.15 Equity Commitments. Buyer shall not amend or modify the Equity Commitments in any way without the prior written approval of Seller.

Section 5.16 Capital Leases. Upon the transfer to Opco of an asset that is subject to a capital lease set forth on Schedule 5.16 (a "Capital Lease"), Seller, Buyer, Holdco and Opco shall use their commercially reasonable efforts to cause Seller to assign and Opco to assume the Capital Lease (or portion of such Capital Lease) that relates to such asset; provided that if Seller does not assign or Opco does not assume such Capital Lease (or portion of such Capital Lease), Seller and Opco shall cooperate with each other in any mutually agreeable, reasonable and lawful arrangements designed to transfer from Seller to Opco the Liabilities that Opco would have assumed had Opco assumed such Capital Lease (or portion of such Capital Lease). Any Capital Lease (or portion of such Capital Lease) that Opco assumes pursuant to this Section 5.16 shall be deemed to be a Transferred Contract upon such assumption and Schedule 3.12 shall be deemed to have been amended to include such Capital Lease (or portion of such Capital Lease).

Section 5.17 Canadian Sub. Subject to applicable Law, prior to the consummation of an IPO (as defined in the Holdco LLC Agreement), the Parties shall take such steps as necessary to cause the capitalization and ownership of the Canadian Sub to be identical to the capitalization and ownership of Holdco, including by transferring shares of common stock



of the Canadian Sub concurrently with, and in like percentage as, a transfer of Units (as defined in the Holdco LLC Agreement) of Holdco; provided that the difference between common stock of the Canadian Sub and Units (as defined in the Holdco LLC Agreement) and the difference between FTFC and FTB and its Affiliates shall not be deemed to be a difference in capitalization or ownership for purposes of this Section 5.17. Subject to applicable Law, the Parties shall take such steps as necessary to cause the Canadian Sub to transfer all or substantially all of its assets concurrently with, and in like percentage as, a transfer of all or substantially all of the assets of the Companies and/or the Companies' subsidiaries. Subject to applicable Law, beginning following the Closing but in any event prior to the consummation of an IPO (as defined in the Holdco LLC Agreement), Buyer, Seller and FTFC shall cooperate with each other to devise an alternative arrangement with respect to the inclusion of the Canadian Sub in the Business that is mutually agreeable, reasonable and lawful.

Section 5.18 Certain Actions. For so long as Seller or any of its Affiliates is a Member (as defined in the Holdco LLC Agreement) of Holdco, prior to moving employees of Holdco and/or its subsidiaries that are employed in Cincinnati, Ohio out of Cincinnati, Ohio, Buyer and Seller shall take into consideration the potential harm to Seller of such action as if such harm were to be suffered by Holdco, including the magnitude of such harm to Seller as compared to the magnitude of the benefits to be achieved by Holdco as a result of such move; it being understood that this Section 5.18 shall not create any liability on the part of Buyer, Seller or Holdco in the event such move is effected, unless the covenant in this Section 5.18 is breached; it being further understood that neither Buyer nor Seller and their respective directors shall have any fiduciary obligation to Holdco or to any other Member as a result of this Section 5.18.

## ARTICLE VI

## CONDITIONS TO CLOSING

Section 6.1 Conditions to the Obligations of the Parties. The obligations of Seller, FTFC, and the Companies, on the one hand, and Buyer, on the other hand, to effect the Closing are subject to the satisfaction (or waiver) prior to the Closing of the following conditions:

(a) U.S. Antitrust Laws. The waiting periods applicable to the consummation of the Transactions under any U.S. Antitrust Laws, including the HSR Act, shall have expired or been terminated.

(b) No Prohibition; Other Matters. No Government Entity shall have commenced any legal action or proceeding against Seller or Buyer or their respective Affiliates to enjoin or otherwise prohibit the consummation of the Transactions, which legal action or proceeding has a reasonable probability of succeeding on the merits. No Law shall be in effect enjoining or otherwise prohibiting the consummation of the Transactions.

(c) Consents and Approvals. All Seller Required Approvals, all Company Required Approvals and all Buyer Required Approvals shall have been obtained.

Section 6.2 Conditions to the Obligations of Buyer. The obligation of Buyer to effect the Closing is subject to the satisfaction (or waiver) prior to the Closing of the following conditions:

(a) Representations and Warranties. Each of the representations and warranties of Seller (i) set forth in this Agreement (other than those in Sections 3.1, 3.2, 3.5, 3.13(i) and the last sentence of 3.14) shall be true and correct, without giving effect to any limitation as to materiality or Material Adverse Effect qualifiers set forth therein, as of the date hereof and as of the Closing Date as if made on and as of the Closing Date (except for such representations and warranties that are made as of a specific date which shall speak only as of such date); it being understood that any materiality limitations that describe the contents of a Schedule shall not be disregarded; provided, however, that notwithstanding anything herein to the contrary, the condition set forth in this Section 6.2(a)(i) shall be deemed to have been satisfied even if such representations and warranties of Seller are not so true and correct, unless the failure of such representations and warranties of Seller to be so true and correct, would not, individually or in the aggregate, have a Material Adverse Effect and (ii) set forth in Sections 3.1, 3.2, 3.5, 3.13(i) and the last sentence of 3.14 shall be true and correct in all respects as of the date hereof and as of the Closing Date as if made on and as of the Closing Date (except for such representations and warranties that are made as of a specific date which shall speak only as of such date).

(b) Covenants. Each of the covenants and agreements of Seller, FTFC or the Companies to be performed on or prior to the Closing shall have been duly performed in all material respects.

(c) Ancillary Agreements. Seller, FTFC and each of the Companies shall have executed and delivered the Ancillary Agreements and the other documents required by Section 2.7 or 2.8 to which it is a party or signatory.

(d) Certificate. Buyer shall have received a certificate, signed by a duly authorized officer of Seller and dated the Closing Date, to the effect that the conditions set forth in Sections 6.2(a) and 6.2(b) have been satisfied.

(e) Credit Facility. Opco shall have entered into a $125 million revolving credit facility on terms and conditions that are reasonably satisfactory to Buyer and Seller.

Section 6.3 Conditions to the Obligations of Seller, FTFC and the Companies. The obligation of Seller, FTFC and the Companies to effect the Closing is subject to the satisfaction (or waiver) prior to the Closing of the following conditions:



(a) Representations and Warranties. Each of the representations and warranties of Buyer (i) contained in this Agreement that is qualified by a materiality qualifier shall be true and correct as of the date hereof and as of the Closing as if made on and as of the Closing, (ii) contained in this Agreement that is not qualified by a materiality or knowledge qualifier (other than those in Section 4.8) shall be true and correct in all material respects as of the date hereof and as of the Closing as if made on and as of the Closing and (iii) contained in Section 4.8 shall be true and correct in all respects as of the date hereof and as of the Closing as if made on and as of the Closing.

(b) Covenants. Each of the covenants and agreements of Buyer to be performed on or prior to the Closing shall have been duly performed in all material respects.

(c) Ancillary Agreements. Buyer shall have executed and delivered the Ancillary Agreements and the other documents required by Section 2.7 to which it is a party or signatory.

(d) Certificate. Seller and FTFC shall have each received a certificate, signed by a duly authorized officer of Buyer and dated the Closing Date, to the effect that the conditions set forth in Sections 6.3(a) and 6.3(b) have been satisfied.

## ARTICLE VII

## SURVIVAL; INDEMNIFICATION; CERTAIN REMEDIES

Section 7.1 Survival. The representations and warranties of Seller and Buyer contained in this Agreement shall survive the Closing for the period set forth in this Section 7.1. All representations and warranties set forth in this Agreement and all claims with respect thereto shall terminate upon the expiration of 12 months after the Closing Date, except that (i) the representations and warranties contained in Sections 3.1, 3.2, 3.4(i), 3.5, 4.1, 4.2, 4.4(i) and 4.5 (the "Fundamental Representations") shall survive forever, (ii) the representations and warranties contained in Section 3.18 (other than in Section 3.18(d)) shall expire upon the Closing, (iii) the representations and warranties contained in Section 3.18(d) shall survive the Closing until 90 days following the expiration of the applicable statute of limitations (after giving effect to any extensions or waivers), and (iv) any representation or warranty, and any Liability with respect thereto, that would otherwise terminate in accordance with this Section 7.1 shall continue to survive if a notice of a claim for a breach or inaccuracy of such representation or warranty shall have been timely given under this Article VII on or prior to such termination until such claim has been satisfied or otherwise resolved as provided in this Article VII, but only with respect to such claim.

Section 7.2 Indemnification by Seller. (a) Seller hereby agrees that from and after the Closing it shall indemnify, defend and hold harmless Buyer and its Affiliates and their respective directors, officers, shareholders, partners, members (other than Seller or any of its Affiliates in the case of the Companies on and after the Closing) and employees (other than



the Transferred Employees) and their heirs, successors and permitted assigns, each in their capacity as such (the "Buyer Indemnified Parties" and collectively with the Seller Indemnified Parties, the "Indemnified Parties") from, against and in respect of any damages, losses, charges, Liabilities, claims, demands,

actions, suits, proceedings, payments, judgments, settlements, assessments, deficiencies, Taxes, interest, penalties, and costs and expenses, including fines and penalties (including expenses of investigation and reasonable attorney's fees and expenses) (collectively, "Losses") imposed on, sustained, incurred or suffered by, or asserted against, any of the Buyer Indemnified Parties, whether in respect of third-party claims, claims between the parties hereto, or otherwise, directly or indirectly relating to or arising out of (i) subject to Section 7.2(b), any breach or inaccuracy of any representation or warranty made by Seller contained in this Agreement for the period such representation or warranty survives, (ii) any breach of any material covenant or agreement of Seller or FTFC contained in this Agreement, (iii) any breach of any material covenant of any of the Companies occurring on or prior to the Closing, (iv) solely with respect to the Companies and their respective directors and officers, any of the Excluded Liabilities, including (A) any and all Liabilities relating to the Applicable Employees to the extent not expressly assumed by the Companies in this Agreement or not an obligation of the Companies pursuant to any Ancillary Agreement, (B) any Taxes for which Seller is responsible in accordance with Section 5.4, (C) any and all Liabilities arising out of the matters set forth on Schedule 3.7 (including, for the sake of clarity, all indemnification, contribution or other Liabilities in respect of, arising from, or otherwise relating to, such matters or the facts and circumstances pursuant to which such matters relate), and (D) any and all Liabilities set forth on Schedule 7.2, except, in the case of this clauses (A) or (C), to the extent any such Liability is expressly set forth on Schedule 1.1(a) as an Assumed Liability or is reflected in the calculation of Closing Working Capital and (v) the Canadian Liabilities other than the Canadian Non-Indemnifiable Liabilities. Notwithstanding anything else to the contrary in this Article VII, any indemnification by Seller of the Buyer Indemnified Parties shall be without duplication as between Buyer and the Companies (and their respective directors, shareholders, partners, members (other than Seller or any of its Affiliates in the case of any of the Companies on and after the Closing) and employees), including, for illustrative purposes, that Seller shall not be required to also indemnify Buyer with respect to Losses incurred with respect to a diminution in value of its Holdco LLC Interests on or after the Closing in the event that the Companies have been indemnified by Seller with respect to the facts giving rise to a claim of indemnification hereunder and *vice versa*.

(b) Except with respect to good faith claims for fraud, Seller shall not be liable to the Buyer Indemnified Parties for any Losses with respect to the matters contained in Section 7.2(a)(i) with respect to any individual claim or related claims unless such claim or claims, as applicable, involve Losses in excess of $250,000 nor shall such item or related items involving Losses equal to or less than $250,000 be applied or consolidated for calculating the Deductible or the Cap), and unless the Losses therefrom exceed an aggregate amount equal to the sum of (i) 1% of the Purchase Consideration and (ii) 1% of the Note Amount (collectively, the "Deductible") and then only for Losses in excess of that amount and up to an aggregate amount equal to the sum of (x) 10% of the Purchase Consideration and (y) 10% of the Notes Amount (collectively, the "Cap"). Notwithstanding the foregoing, this Section 7.2(b) does not apply to indemnification obligations directly or indirectly relating to or arising out of any breach of inaccuracy of any



representation and warranty under Section 3.18(d), Section 3.31 and any of the Fundamental Representations.

(c) The aggregate amount of any Applicable Termination Price Adjustment, any Applicable Renegotiation Price Adjustment and any Consent Payments in excess of the Sub-Basket shall decrease the Cap on a dollar-for-dollar basis.

Section 7.3 Indemnification by Buyer. (a) Buyer and each of the Companies hereby agrees that from and after the Closing they shall, jointly and severally, indemnify, defend and hold harmless Seller, its Affiliates and their respective directors, officers, shareholders, partners, members and employees and their heirs, successors and permitted assigns, each in their capacity as such (the "Seller Indemnified Parties") from, against and in respect of any Losses imposed on, sustained, incurred or suffered by, or asserted against, any of the Seller Indemnified Parties, whether in respect of third-party claims, claims between the parties hereto, or otherwise, directly or indirectly relating to, arising out of or resulting from, (i) subject to Section 7.3(b), any breach or inaccuracy of any representation or warranty made by Buyer contained in this Agreement for the period such representation or warranty survives, (ii) any breach of a material covenant or agreement of Buyer contained in this Agreement, (iii) any breach of any material covenant of the Companies occurring after the Closing, (iv) the Assumed Liabilities, including any and all Taxes for which Buyer is responsible in accordance with Section 5.4 and (v) the Transferred Assets, the Business or the Transferred Employees to the extent attributable to the operation or ownership of the Transferred Assets or the Business or the employment of the Transferred Employees following the Closing and not otherwise (x) specifically included within any exclusion in the definition of Assumed Liabilities or (y) an Excluded Liability.

(b) Except with respect to good faith claims for fraud, Buyer and the Companies shall not be liable to the Seller Indemnified Parties for any Losses with respect to the matters contained in Section 7.3(a)(i), with respect to any individual claim or related claims unless such claim or claims, as applicable, involve Losses in excess of $250,000 nor shall such item or related items involving Losses equal to or less than $250,000 be applied or consolidated for calculating the Deductible or the Cap), and unless the Losses therefrom exceed the Deductible and then only for Losses in excess of that amount and up to the Cap. Notwithstanding the foregoing, this Section 7.3(b) does not apply to indemnification obligations directly or indirectly relating to arising out of any breach of inaccuracy of any of the Fundamental Representations.

Section 7.4 Indemnification by the Companies. The Companies hereby agree that from and after the Closing they shall, jointly and severally, indemnify, defend and hold harmless the Seller Indemnified Parties from, against and in respect of any Losses imposed on, sustained, incurred or suffered by, or asserted against, any of the Seller Indemnified Parties, whether in respect of Third-Party Claims, claims between the parties hereto, or otherwise, directly or indirectly relating to, arising out of or resulting from (i) any breach of any covenant of the Companies set forth in Sections 5.1, 5.4, 5.5, 5.6, 5.7 and 5.10 occurring after the Closing, (ii) the Assumed Liabilities and (iii) the Transferred Assets, the Business or the Transferred



Employees to the extent attributable to the operation or ownership of the Transferred Assets or the Business or the employment of the Transferred Employees, in each case, following the Closing.

Section 7.5 Third-Party Claim Indemnification Procedures. (a) In the event that any written claim or demand for which an indemnifying party (an "Indemnifying Party") may have liability to any Indemnified Party hereunder is asserted against or sought to be collected from any Indemnified Party by a third party (a "Third-Party Claim"), such Indemnified Party shall promptly, but in no event more than thirty days following such Indemnified Party's receipt of a Third-Party Claim, notify the Indemnifying Party in writing of such Third-Party Claim, the amount or the estimated amount of damages sought thereunder to the extent then ascertainable (which estimate shall not be conclusive of the final amount of such Third-Party Claim), any other remedy sought thereunder, any relevant time constraints relating thereto and, to the extent practicable, any other material details pertaining thereto (a "Claim Notice"); provided, however, that the failure to give a timely Claim Notice shall affect the rights of an Indemnified Party hereunder only to the extent

that such failure has a prejudicial effect on the defenses or other rights available to the Indemnifying Party with respect to such Third-Party Claim. The Indemnifying Party shall have 30 days (or such less number of days set forth in the Claim Notice as may be required by Legal Proceeding in the event of a litigated matter) after receipt of the Claim Notice (the "Notice Period") to notify the Indemnified Party that it desires to defend the Indemnified Party against such Third-Party Claim.

(b) In the event that the Indemnifying Party notifies the Indemnified Party within the Notice Period that it desires to defend the Indemnified Party against a Third-Party Claim, the Indemnifying Party shall have the right to defend the Indemnified Party by appropriate Legal Proceedings and shall have the sole power to direct and control such defense at its expense. Once the Indemnifying Party has duly assumed the defense of a Third-Party Claim, the Indemnifying Party shall defend such Third-Party Claim and the Indemnified Party shall have the right, but not the obligation, to participate in any such defense and to employ separate counsel of its choosing. The Indemnified Party may participate in any such defense at its expense; provided, however, that such Indemnified Party shall be entitled to participate in any such defense with separate counsel at the reasonable expense of the Indemnifying Party if (i) the Indemnified Party shall have reasonably concluded that representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them, or (ii) the Indemnified Party assumes the defense of a Third-Party Claim after the Indemnifying Party has failed to diligently pursue a Third-Party Claim it has assumed, as provided in the first sentence of Section 7.5(c). The Indemnifying Party shall not, without the prior written consent of the Indemnified Party (such consent not to be unreasonably withheld or delayed), settle, compromise or offer to settle or compromise any Third-Party Claim on a basis that would result in (i) the imposition of a consent Order, injunction or decree that would materially restrict the future activity or conduct of the Indemnified Party or any of its Affiliates, (ii) a finding or admission of a violation of Law or violation of the rights of any Person by the Indemnified Party or any of its Affiliates, (iii) a finding or admission that would have a Material Adverse Effect on other claims made or threatened against the Indemnified Party or any of its



Affiliates or (iv) any monetary liability of the Indemnified Party that will not be promptly paid or reimbursed by the Indemnifying Party, and, in connection with any of the foregoing, the Indemnified Party alone shall be entitled to contest, defend, compromise and settle such Third-Party Claim in the first instance.

(c) If the Indemnifying Party (i) elects not to defend the Indemnified Party against a Third-Party Claim, whether by not giving the Indemnified Party timely notice of its desire to so defend or otherwise, (ii) is not entitled to defend the Third-Party Claim as a result of the Indemnified Party's election to defend the Third-Party Claim as provided in Section 7.5(b) or (iii) after assuming the defense of a Third-Party Claim, fails to take reasonable steps necessary to defend diligently such Third-Party Claim within ten days after receiving written notice from the Indemnified Party to the effect that the Indemnifying Party has so failed, the Indemnified Party shall have the right but not the obligation to assume its own defense; it being understood that the Indemnified Party's right to indemnification for a Third-Party Claim shall not be adversely affected by assuming the defense of such Third-Party Claim. The Indemnified Party shall not settle a Third-Party Claim without the consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed.

(d) The Indemnified Party and the Indemnifying Party shall cooperate in order to ensure the proper and adequate defense of a Third-Party Claim, including by providing access to each other's relevant business records and other documents, and employees; it being understood that the costs and expenses of the Indemnified Party relating thereto shall be Losses.

(e) The Indemnified Party and the Indemnifying Party shall use reasonable best efforts to avoid production of confidential information (consistent with applicable Law), and to cause all communications among employees, counsel and others representing any party to a Third-Party Claim to be made so as to preserve any applicable attorney-client or work-product privileges.

Section 7.6 Direct Claims. If an Indemnified Party wishes to make a claim for indemnification hereunder for a Loss that does not result from a Third-Party Claim (a "Direct Claim"), the Indemnified Party shall notify the Indemnifying Party in writing of such Direct Claim, the amount or the estimated amount of damages sought thereunder to the extent then ascertainable (which estimate shall not be conclusive of the final amount of such Direct Claim), any other remedy sought thereunder, any relevant time constraints relating thereto and, to the extent practicable, any other material details pertaining thereto. The Indemnifying Party shall have a period of 30 days within which to respond to such Direct Claim. If the Indemnifying Party rejects all or any part of the Direct Claim, the Indemnified Person shall be free to seek enforcement of its rights to indemnification under this Agreement with respect to such Direct Claim.

Section 7.7 Consequential Damages. Notwithstanding anything to the contrary contained in this Agreement, no Person shall be liable under this Article VII for (i) any



Losses that are not direct, actual damages or (ii) any punitive, special or speculative damages, in each case, unless such Losses are paid pursuant to a third party claim.

Section 7.8 Adjustments to Losses. (a) Insurance. In calculating the amount of any Loss, the proceeds actually received by the Indemnified Party or any of its Affiliates under any insurance policy or pursuant to any claim, recovery, settlement or payment by or against any other Person in each case relating to the Third-Party Claim or the Direct Claim, net of any actual costs, expenses or premiums (including any increase in premiums exclusively and demonstrably attributable to insurance claims relating to such Loss) incurred in connection with securing or obtaining such proceeds, shall be deducted, except to the extent that the adjustment itself would excuse, exclude or limit the coverage of all or part of such Loss. Each Indemnified Party shall use commercially reasonable efforts to collect any amounts available under insurance coverage, or from any other Person alleged to be responsible, for any Losses to the same extent that such Indemnified Party would if such Loss were not subject to indemnification hereunder.

(b) Taxes. In calculating the amount of any Loss, there shall be deducted an amount equal to any net Tax benefit actually realized through a reduction in cash Taxes otherwise due (including the utilization of a Tax loss or Tax credit carried forward) as a result of such Loss by the party claiming such Loss, and there shall be added an amount equal to any Tax imposed on the receipt of any indemnity payment with respect thereto.

(c) Reimbursement. If an Indemnified Party recovers an amount from a third party in respect of a Loss that is the subject of indemnification hereunder after all or a portion of such Loss has been paid by an Indemnifying Party pursuant to this Article VII, the Indemnified Party shall promptly remit to the Indemnifying Party the excess (if any) of (i) the amount paid by the Indemnifying Party in respect of such Loss, plus the amount received from the third party in respect thereof, less (ii) the full amount of Loss.

(d) Qualifiers. For purposes of determining the failure of any representations and warranties (other than representations and warranties in Sections 3.12 and 3.14) to be true and correct, the breach of any covenants or agreements and calculating Losses hereunder, any materiality or Material Adverse Effect qualifications in the representations, warranties, covenants and agreements shall be disregarded.

Section 7.9 Payments. The Indemnifying Party shall pay all amounts payable pursuant to this Article VII (the "Indemnity Amount"), by wire transfer of immediately available funds, within a reasonable period of time following receipt from an Indemnified Party of a bill, together with reasonably detailed back-up documentation, for a Loss that is the subject of indemnification hereunder, unless the Indemnifying Party in good faith disputes the Loss, in which event it shall so notify the Indemnified Party. In any event, the Indemnifying Party shall pay to the Indemnified Party an amount in cash equal to the Indemnity Amount by wire transfer of immediately available funds no later than five Business Days following any final determination of the Indemnity Amount and the Indemnifying Party's liability therefor. A



"final determination" shall exist when (i) the parties to the dispute have reached an agreement in writing, (ii) a court of competent jurisdiction shall have entered a final and non-appealable Order or judgment or (iii) an arbitration or like panel shall have rendered a final non-appealable determination with respect to disputes the parties have agreed to submit thereto. Notwithstanding anything to the contrary contained herein, if an indemnity payment is to be made to Buyer hereunder for a Loss incurred by the Companies, then the amount to be paid to Buyer for such Loss will be reduced to take into account Seller's ownership of Holdco.

Section 7.10 Characterization of Indemnification Payments. All payments made by an Indemnifying Party to an Indemnified Party in respect of any claim pursuant to Section 7.2 or 7.3 shall be treated as adjustments to the Purchase Consideration, or, if applicable, as a member contribution of such amount by Seller to the Companies, for Tax purposes.

Section 7.11 Mitigation. Each Indemnified Party shall use its commercially reasonable efforts to mitigate any indemnifiable Loss. In the event an Indemnified Party fails to so mitigate an indemnifiable Loss, the Indemnifying Party shall have no liability for any portion of such Loss that reasonably could have been avoided had the Indemnified Person made such efforts.

Section 7.12 Remedies. Following the Closing, except (a) with respect to a claim to enforce this Article VII, (b) with respect to a good faith claim for fraud or (c) as may be otherwise contemplated by Sections 2.4, 2.5, 2.11, 5.4(f) or 9.1 or by the Confidentiality Agreement, the rights and remedies of Seller, the Companies and Buyer under this Article VII are exclusive and in lieu of any and all other rights and remedies which Seller, the Companies and Buyer may have under this Agreement or otherwise against each other with respect to the Transactions; provided, however, that for the avoidance of doubt, nothing in this Section 7.12 is intended to limit any rights the parties have under the Ancillary Agreements. The waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any covenant or agreement, shall foreclose the right to indemnification or other remedy based on such representations, warranties, covenants or agreements.

## ARTICLE VIII

## TERMINATION

Section 8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by written agreement of Buyer and Seller;

(b) by either Buyer or Seller, by giving written notice of such termination to the other parties hereto, if the Closing shall not have occurred on or before August 31, 2009 (the "Termination Date") so long as the terminating party is not in material breach of its obligations under this Agreement;

(c) by Buyer or Seller if any state or federal court of competent jurisdiction or other state or federal Government Entity of competent jurisdiction shall have issued an Order or taken any other action permanently enjoining or



otherwise prohibiting the consummation of the Transactions and such Order or other action shall have become final and non-appealable;

(d) by Seller, by giving written notice of such termination to Buyer, if there has been a breach of the representations, warranties, covenants or agreements of Buyer contained in this Agreement which (i) would result in the failure of the condition set forth in Section 6.3(a) or Section 6.3(b) and (ii) cannot be cured prior to the Termination Date; or

(e) by Buyer, by giving written notice of such termination to Seller, if there has been a breach of the representations, warranties, covenants or agreements of Seller contained in this Agreement which (i) would result in the failure of the condition set forth in Section 6.2(a) or Section 6.2(b) and (ii) cannot be cured prior to the Termination Date.

Section 8.2 Effect of Termination. In the event of the termination of this Agreement in accordance with Section 8.1, this Agreement shall thereafter become void and have no effect, and no Party shall have any liability to any other Party or their respective Affiliates, or their respective directors, officers or employees, except for the obligations of the parties hereto contained in this Section 8.2 and in Sections 9.2, 9.5, 9.7, 9.8, 9.9, 9.10, 9.11 and 9.13 (and any related definitional provisions set forth in Article I), as applicable, and except that nothing in this Section 8.2 shall relieve any Party from

liability for any breach of this Agreement that arose prior to such termination, for which liability the provisions of Article VII shall remain in effect in accordance with the provisions and limitations of such Article.

## ARTICLE IX

## MISCELLANEOUS

Section 9.1 Specific Performance. The Parties agree that irreparable damage would occur in the event that any of the covenants or agreements (including Buyer's obligation to effect the Closing) contained in this Agreement are not performed in accordance with their specific terms or are otherwise breached. It is accordingly agreed that the Parties shall be entitled to an injunction or injunctions to prevent breaches of any covenants or agreements contained in this Agreement and to enforce specifically any terms and provisions of this Agreement in the Chosen Courts, this being in addition to any other remedy to which such Party is entitled at law or in equity.

Section 9.2 Notices. All notices and communications hereunder shall be deemed to have been duly given and made if in writing and if served by personal delivery upon the Party for whom it is intended or delivered by registered or certified mail, return receipt requested, or if sent by telecopier or email; provided, that the telecopy or email is promptly confirmed by telephone confirmation thereof, to the Person at the address set forth below, or such other address as may be designated in writing hereafter, in the same manner, by such Person:



---

To Buyer:

c/o Advent International Corp.
75 State Street
Boston, Massachusetts 02109
Telephone: (617) 951-9400
Email: cpike@adventinternational.com
Attention: Chris Pike

with copies to:

Weil, Gotshal and Manges, LLP
100 Federal Street, 34th Floor
Boston, Massachusetts 02110
Telephone: (617) 772-8300
Telecopy: (617) 772-8333
Email: james.westra@weil.com
marilyn.french@weil.com
Attention: James R. Westra
Marilyn French

To Seller:

Fifth Third Bank
38 Fountain Square Plaza
Cincinnati, OH 45263
Telephone: (513) 579-4300
Telecopy: (513) 534-6757
Email: paul.reynolds@53.com
Attention: Paul Reynolds

with copies to:

Sullivan & Cromwell LLP
125 Broad Street
New York, New York 10004
Telephone: (212) 558-4000
Telecopy: (212) 291-9085
(212) 291-9065
Email: korrya@sullcrom.com
gladina@sullcrom.com
Attention: Alexandra D. Korry
Andrew R. Gladin



---

To any of the Companies:

c/o Fifth Third Bank
38 Fountain Square Plaza
Cincinnati, OH 45263
Telephone: (513) 579-4300
Telecopy: (513) 534-6757

Email: paul.reynolds@53.com
Attention: Paul Reynolds

with copies to:

Advent International Corp.
75 State Street
Boston, Massachusetts 02109
Telephone: (617) 951-9400
Email: cpike@adventinternational.com
Attention: Chris Pike

Weil, Gotshal and Manges, LLP
100 Federal Street, 34th Floor
Boston, Massachusetts 02110
Telephone: (617) 772-8300
Telecopy: (617) 772-8333
Email: james.westra@weil.com
marilyn.french@weil.com
Attention: James R. Westra
Marilyn French

and:

Fifth Third Bank
38 Fountain Square Plaza
Cincinnati, OH 45263
Telephone: (513) 579-4300
Telecopy: (513) 534-6757
Email: paul.reynolds@53.com
Attention: Paul Reynolds



Sullivan & Cromwell LLP
125 Broad Street
New York, New York 10004
Telephone: (212) 558-4000
Telecopy: (212) 291-9085
(212) 291-9065
Email: korrya@sullcrom.com
gladina@sullcrom.com
Attention: Alexandra D. Korry
Andrew R. Gladin

To FTFC:

Fifth Third Financial Corporation
38 Fountain Square Plaza
Cincinnati, OH 45263
Telephone: (513) 579-4300
Telecopy: (513) 534-6757
Email: paul.reynolds@53.com
Attention: Paul Reynolds

with copies to:

Sullivan & Cromwell LLP
125 Broad Street
New York, New York 10004
Telephone: (212) 558-4000
Telecopy: (212) 291-9085
(212) 291-9065
Email: korrya@sullcrom.com
gladina@sullcrom.com
Attention: Alexandra D. Korry
Andrew R. Gladin

Section 9.3 Amendment; Waiver. Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by Buyer and Seller, or in the case of a waiver, by the Party against whom the waiver is to be effective. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law except as otherwise specifically provided in Article VII.

Section 9.4 No Assignment or Benefit to Third Parties. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, legal representatives and permitted assigns. Subject to the provisions of Section 2.10, no Party



may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of each other Party, except as provided in Section 9.6 and except that Buyer may assign any and all of its rights and delegate any of its obligations under this Agreement or any Ancillary Agreement to any Person that acquires Units from the Buyer in accordance with the terms and conditions of the LLC Agreement (but no such assignment or delegation shall relieve Buyer of any of its obligations hereunder). Nothing in this Agreement, express or implied, is intended to confer upon any Person other than Buyer, Seller, FTFC, the Companies, the Indemnified Parties and their respective successors, legal representatives and permitted assigns, any rights or remedies under or by reason of this Agreement.

Section 9.5 Entire Agreement. This Agreement (including all Schedules and Exhibits hereto) and the Ancillary Agreements contain the entire understanding between the parties hereto with respect to the subject matter hereof and thereof and supersedes all prior agreements and understandings, oral or written, with respect to such matters, except for the Confidentiality Agreement.

Section 9.6 Fulfillment of Obligations. Any obligation of any Party to any other Party under this Agreement, or any of the Ancillary Agreements, which obligation is performed, satisfied or fulfilled completely by an Affiliate of such Party, shall be deemed to have been performed, satisfied or fulfilled by such Party.

Section 9.7 Public Disclosure. Notwithstanding anything to the contrary contained herein, from and after the date hereof, no press release or similar public announcement or communication shall be made or caused to be made relating to this Agreement or the Transactions unless specifically approved in advance by Seller and Buyer, except as may be required to comply with the requirements of any applicable Law and the rules and regulations of any stock exchange upon which the securities of one of the parties is listed (in which case a copy of such press release, announcement or communication shall be provided to the other parties hereto in advance, to the extent reasonably practicable).

Section 9.8 Expenses. Except as otherwise expressly provided in this Agreement or any Ancillary Agreement, whether or not the Transactions are consummated, all costs and expenses incurred in connection with this Agreement and the Transactions shall be borne by the Party incurring such costs and expenses; provided, however, that Buyer, on the one hand, and Seller, on the other hand, shall each be responsible for 50% of the filing fees payable in connection with any filings required by any Party under the HSR Act or other U.S. Antitrust Laws; provided further, that Seller shall be responsible for all such costs and expenses incurred by the Companies on or prior to the Closing Date. In connection with the Transactions, at the Closing, Seller shall contribute $5 million in cash to Holdco by wire transfer of immediately available funds. In connection with the reimbursement of Buyer of any expenses in connection with the Transactions, at the Closing, Holdco shall reimburse Buyer for all such expenses up to $5 million by wire transfer of immediately available funds.

Section 9.9 Personal Liability. This Agreement shall not create or be deemed to create or permit any personal liability or obligation on the part of any stockholder, director, officer, employee, authorized representative or agent of the Buyer.



Section 9.10 Schedules. The disclosure of any matter in any Schedule to ARTICLE III or ARTICLE IV, as applicable, shall be deemed to be a disclosure on all other Schedules to ARTICLE III or ARTICLE IV, respectively, to which such matter may reasonably apply so long as such disclosure is in sufficient detail to enable a reasonable person to identify the other Sections thereof to which such information is responsive.

Section 9.11 Governing Law; Submission to Jurisdiction; Selection of Forum; Waiver of Trial by Jury. This Agreement shall be governed and construed in accordance with the laws of the State of Ohio without regard to principles of conflicts of law thereof. Each Party agrees that it shall bring any action or Legal Proceeding in respect of any claim arising out of or related to this Agreement or the Transactions, exclusively in the United States District Court for the Southern District of Ohio or any Ohio State court, in each case, sitting in Cincinnati, Ohio (the "Chosen Courts"), and solely in connection with claims arising under this Agreement or the Transactions (i) irrevocably submits to the exclusive jurisdiction of the Chosen Courts, (ii) waives any objection to laying venue in any such action or Legal Proceeding in the Chosen Courts, (iii) waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any Party and (iv) agrees that service of process upon such Party in any such action or Legal Proceeding shall be effective if notice is given in accordance with Section 9.2. Each Party irrevocably waives any and all right to trial by jury in any Legal Proceeding arising out of or relating to this Agreement or the Transactions.

Section 9.12 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same Agreement.

Section 9.13 Headings. The heading references herein and the table of contents hereof are for convenience purposes only, and shall not be deemed to limit or affect any of the provisions hereof.

Section 9.14 Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable, (i) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (ii) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

*[remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the parties have executed or caused this Agreement to be executed as of the second date written above.

FIFTH THIRD BANK

By: /s/ Paul L. Reynolds
Name: Paul L. Reynolds
Title: Executive Vice President,
Secretary and Chief Legal Officer

By: /s/ Ross Kari
Name: Ross Kari
Title: Executive Vice President and
Chief Financial Officer

FIFTH THIRD FINANCIAL
CORPORATION

By: /s/ Paul L. Reynolds
Name:
Title:

FIFTH THIRD PROCESSING
SOLUTIONS, LLC

By: /s/ Charles D. Drucker
Name: Charles D. Drucker
Title: Chief Executive Officer

FTPS HOLDING, LLC

By: /s/ Charles D. Drucker
Name: Charles D. Drucker
Title: Chief Executive Officer

[*Signatures continue on the following page.*]



---

ADVENT-KONG BLOCKER CORP.

By: /s/ Christopher Pike
Name: Christopher Pike
Title: President

**Exhibit 2.2**

**EXECUTION VERSION**

---

**AGREEMENT AND PLAN OF MERGER**

**by and among**

**NPC GROUP, INC.,**

**FTPS-BG ACQUISITION CORP.,**

**FIFTH THIRD PROCESSING SOLUTIONS, LLC**

**and**

**NATIONAL PROCESSING HOLDINGS, LLC, solely in its capacity as the Representative**

**September 15, 2010**

---

Table of Contents


| | | Page |
|---|---|---|
| **ARTICLE I THE MERGER** | | **1** |
| 1.01 | The Merger | 1 |
| 1.02 | Conversion of Capital Stock | 2 |
| 1.03 | Exchange of Certificates; Lost Certificates | 3 |
| 1.04 | Options | 4 |
| 1.05 | Certificate of Incorporation | 4 |
| 1.06 | Bylaws | 5 |
| 1.07 | Directors and Officers | 5 |
| 1.08 | Closing Calculations | 5 |
| 1.09 | Final Closing Balance Sheet Calculation | 5 |
| 1.10 | Post-Closing Adjustment Payment | 6 |
| **ARTICLE II THE CLOSING** | | **7** |
| 2.01 | The Closing | 7 |
| 2.02 | The Closing Transactions | 8 |
| 2.03 | Satisfaction of Payment Obligations | 9 |
| **ARTICLE III CONDITIONS TO CLOSING** | | **9** |
| 3.01 | Conditions to the Purchaser’s and the Merger Sub’s Obligations | 9 |
| 3.02 | Conditions to the Company’s Obligations | 11 |
| **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE COMPANY** | | **12** |
| 4.01 | Organization and Corporate Power | 12 |
| 4.02 | Subsidiaries | 12 |
| 4.03 | Authorization; No Breach; Valid and Binding Agreement | 13 |
| 4.04 | Capital Stock | 14 |
| 4.05 | Financial Statements | 14 |
| 4.06 | Absence of Certain Developments | 14 |
| 4.07 | Title to Properties | 16 |
| 4.08 | Tax Matters | 16 |
| 4.09 | Contracts and Commitments | 19 |
| 4.10 | Intellectual Property | 20 |
| 4.11 | Litigation | 21 |
| 4.12 | Governmental Consents, etc. | 22 |
| 4.13 | Employee Benefit Plans | 22 |
| 4.14 | Insurance | 23 |
| 4.15 | Compliance with Laws; Credit Card Associations | 23 |
| 4.16 | Environmental Compliance and Conditions | 24 |
| 4.17 | Affiliated Transactions | 24 |
| 4.18 | Employees | 25 |
| 4.19 | Brokerage | 25 |

4.20 Merchants, Merchant Originators and Vendors 25



Table of Contents
*(Continued)*

| | | Page |
|---|---|---|
| **ARTICLE V REPRESENTATIONS AND WARRANTIES OF THE PURCHASER** | | **26** |
| 5.01 | Organization and Power | 26 |
| 5.02 | Authorization | 26 |
| 5.03 | No Violation | 26 |
| 5.04 | Governmental Authorities; Consents | 26 |
| 5.05 | Litigation | 27 |
| 5.06 | Brokerage | 27 |
| 5.07 | Investment Representation | 27 |
| 5.08 | Financing | 27 |
| 5.09 | Purpose | 29 |
| 5.10 | Solvency | 29 |
| 5.11 | Balance Sheet | 29 |
| **ARTICLE VI COVENANTS OF THE COMPANY** | | **30** |
| 6.01 | Conduct of the Business | 30 |
| 6.02 | Access to Books and Records | 32 |
| 6.03 | Regulatory Filings | 32 |
| 6.04 | Conditions | 32 |
| 6.05 | Exclusive Dealing | 33 |
| 6.06 | Disclosure Updates | 33 |
| 6.07 | Affiliated Transactions | 34 |
| 6.08 | Financing Assistance | 34 |
| 6.09 | Section 280G Covenant | 36 |
| **ARTICLE VII COVENANTS OF THE PURCHASER** | | **36** |
| 7.01 | Access to Books and Records | 36 |
| 7.02 | Notification | 36 |
| 7.03 | Director and Officer Liability and Indemnification | 37 |
| 7.04 | Employment and Benefit Arrangements | 37 |
| 7.05 | Regulatory Filings | 38 |
| 7.06 | Conditions | 39 |
| 7.07 | Contact with Customers and Suppliers | 39 |
| 7.08 | Financing | 39 |
| 7.09 | No Intermediary Transaction Tax Shelter | 41 |
| **ARTICLE VIII INDEMNIFICATION** | | **41** |
| 8.01 | Survival of Representations, Warranties, Covenants, Agreements and Other Provisions | 41 |
| 8.02 | Indemnification for the Benefit of the Purchaser | 41 |
| 8.03 | Indemnification by the Purchaser for the Benefit of the Stockholders | 43 |
| 8.04 | Mitigation | 43 |
| 8.05 | Defense of Third Party Claims | 44 |



Table of Contents
*(Continued)*

| | | Page |
|---|---|---|
| 8.06 | Determination of Loss Amount | 44 |
| 8.07 | Acknowledgment of the Purchaser and the Merger Sub | 45 |
| 8.08 | Tax Treatment of Indemnity Payments | 46 |
| **ARTICLE IX TERMINATION** | | **46** |
| 9.01 | Termination | 46 |
| 9.02 | Effect of Termination | 47 |
| 9.03 | Reverse Termination Fee | 47 |
| **ARTICLE X ADDITIONAL COVENANTS** | | **48** |
| 10.01 | Representative | 48 |
| 10.02 | Disclosure Generally | 50 |
| 10.03 | Provision Respecting Legal Representation | 50 |
| 10.04 | Tax Matters | 51 |

| | | |
|---|---|---|
| 10.05 | Transfer Taxes | 51 |
| **ARTICLE XI DEFINITIONS** | | **52** |
| 11.01 | Definitions | 52 |
| 11.02 | Other Definitional Provisions | 59 |
| 11.03 | Cross-Reference of Other Definitions | 60 |
| **ARTICLE XII MISCELLANEOUS** | | **62** |
| 12.01 | Press Releases and Communications | 62 |
| 12.02 | Expenses | 62 |
| 12.03 | Knowledge Defined | 62 |
| 12.04 | Notices | 62 |
| 12.05 | Assignment | 64 |
| 12.06 | Severability | 64 |
| 12.07 | References | 64 |
| 12.08 | Construction | 65 |
| 12.09 | Amendment and Waiver | 65 |
| 12.10 | Complete Agreement | 65 |
| 12.11 | Third-Party Beneficiaries | 65 |
| 12.12 | Waiver of Trial by Jury | 66 |
| 12.13 | Prevailing Party | 66 |
| 12.14 | Purchaser Deliveries | 66 |
| 12.15 | Delivery by Facsimile | 66 |
| 12.16 | Counterparts | 67 |
| 12.17 | Governing Law | 67 |
| 12.18 | Jurisdiction | 67 |
| 12.19 | No Recourse | 67 |
| 12.20 | Specific Performance | 67 |







| | | **Page** |
|---|---|---|
| 12.21 | Lender Party Arrangements | 69 |




[Exhibits and Schedules have been omitted pursuant to Item 601(b)(2) of Regulation S-K. The exhibits and schedules will be provided to the SEC upon request.]

**INDEX OF EXHIBITS**


| | |
|---|---|
| Exhibit A | Form of Certificate of Merger |
| Exhibit B | Form of Letter of Transmittal |
| Exhibit C | Form of Escrow Agreement |
| Exhibit D | Example Calculation of Net Working Capital |
| Exhibit E | Form of Non-Compete Agreement |




**AGREEMENT AND PLAN OF MERGER**

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement"), dated as of September 15, 2010, is made by and among NPC Group, Inc., a Delaware corporation (the "Company"), Fifth Third Processing Solutions, LLC, a Delaware limited liability company (the "Purchaser"), FTPS-BG Acquisition Corp., a Delaware corporation and wholly owned subsidiary of the Purchaser (the "Merger Sub"), and National Processing Holdings, LLC ("NPC LLC"), a Delaware limited liability company solely in its capacity as the representative for the Company's stockholders (the "Representative"). Capitalized terms used and not otherwise defined herein have the meanings set forth in Article XI below.

WHEREAS, prior to the Closing, NPC LLC will contribute all of the issued and outstanding capital stock of National Processing Management Company ("NPC MC"), a Delaware corporation, to the Company in exchange for the Company Note (the "Contribution");

WHEREAS, the Purchaser desires to acquire 100% of the issued and outstanding capital stock of the Company in a reverse subsidiary merger transaction on the terms and subject to the conditions set forth herein;

WHEREAS, the respective boards of directors of the Purchaser, the Merger Sub and the Company have approved this Agreement, the Merger (as defined below) and the related transactions contemplated hereby, upon the terms and subject to the conditions set forth herein;

WHEREAS, the parties anticipate that an approval authorizing and adopting this Agreement and the Merger pursuant to, and in accordance with, (a) the applicable provisions of Delaware General Corporation Law (the "Delaware Law"), (b) the Company's certificate of incorporation and bylaws and (c) the Amended and Restated Stockholders Agreement by and among the Company, NPC LLC, and the executive employees and securityholders party thereto, dated as of January 1, 2005, as amended (collectively, the "Stockholder Approval") will be delivered promptly following the execution of this Agreement; and

WHEREAS, the Company has concurrently herewith entered into non-competition agreements with each of Tom Wimsett, Joseph Natoli and James Oberman in the form attached hereto as Exhibit E (the "Non-Compete Agreements"), which such Non-Compete Agreements are dated the date hereof but shall be effective as of the Closing Date.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

**THE MERGER**

1.01 The Merger.

(a) Subject to the terms and conditions hereof, at the Effective Time, the Merger Sub shall merge (the "Merger") with and into the Company in accordance with the

---

Delaware Law, whereupon the separate existence of the Merger Sub shall cease, and the Company shall be the surviving corporation (the "Surviving Corporation").

(b) At the Closing, the Company and the Merger Sub shall cause a certificate of merger substantially in the form of Exhibit A hereto (the "Certificate of Merger") to be executed, acknowledged and filed with the Secretary of State of the State of Delaware and make all other filings or recordings required by the Delaware Law in connection with the Merger. The Merger shall become effective at such time as the Certificate of Merger is duly filed with the Secretary of State of the State of Delaware or at such other time as the Purchaser and the Company shall agree and specify in the Certificate of Merger (the "Effective Time").

(c) The Merger shall have the effects set forth in Section 259 of the Delaware Law. Without limiting the foregoing, from and after the Effective Time, the Surviving Corporation shall succeed to all the assets, rights, privileges, powers and franchises and be subject to all of the liabilities, restrictions, disabilities and duties of the Company and the Merger Sub, all as provided under the Delaware Law.

1.02 Conversion of Capital Stock. At the Effective Time, by virtue of the Merger and without any action on the part of the holders thereof:

(a) Except as otherwise provided in Section 1.02(c), each share of Company Common Stock issued and outstanding immediately prior to the Effective Time shall be converted into a right to receive in cash $0.00001, payable to the holder thereof in accordance with Section 1.03. The aggregate consideration to which holders of Company Common Stock become entitled pursuant to this Section 1.02(a) is referred to herein as the "Common Stock Merger Consideration."

(b) Except as otherwise provided in Section 1.02(c), the shares of Preferred Stock held by each Preferred Stockholder immediately prior to the Effective Time shall be converted into the right to receive in cash such Preferred Stockholder's Preferred Percentage of the Closing Residual Cash Consideration and such Preferred Stockholder's Preferred Percentage of any Additional Merger Consideration. The aggregate consideration to which holders of Preferred Stock become entitled pursuant to this Section 1.02(b) is referred to herein as the "Preferred Stock Merger Consideration."

(c) Each share of Company Common Stock and each share of Preferred Stock held immediately prior to the Effective Time by the Company as treasury stock or by the Merger Sub or Purchaser shall be canceled and no payment shall be made with respect thereto. Notwithstanding anything in this Agreement to the contrary, each share of Company Common Stock issued and outstanding immediately prior to the Effective Time that is a Dissenting Share shall not be converted into the right to receive the applicable portion of the Merger Consideration, but instead shall be entitled to payment of the fair value of such share in accordance with the Delaware Law (and at the Effective Time, such Dissenting Share shall no longer be outstanding and shall automatically be canceled and shall cease to exist, and such holder shall cease to have any rights with respect thereto, except the right to receive the fair value of such Dissenting Shares in accordance with the provisions of the Delaware Law), unless and until such holder shall have failed to perfect or shall have effectively withdrawn or lost rights



---

to appraisal under the Delaware Law. If any holder of Dissenting Shares shall have failed to perfect or shall have effectively withdrawn or lost such right, such holder's shares of Company Common Stock shall thereupon be treated as if they had been converted into and become exchangeable for the right to receive, as of the Effective Time, the applicable portion of the Merger Consideration for each such share of Company Common Stock, in accordance with Section 1.02(b), without any interest thereon. The Company shall give the Purchaser (i) prompt notice of any written demands for appraisal of any shares of Company Common Stock, attempted withdrawals of such demands and any other instruments received by the Company relating to stockholders' rights of appraisal, and (ii) the opportunity to participate in and direct all negotiations and proceedings with respect to demands for appraisal under the Delaware Law; provided that the Company shall not be required to settle or offer to settle any such proceedings prior to the Closing Date. The Company shall not, except with the prior written consent of the Purchaser (such consent not to be unreasonably withheld or delayed), voluntarily make any payment with respect to, or settle, or offer or agree to settle, any such demand for payment. Any portion of the Merger Consideration delivered to the Representative pursuant to Section 2.02 to pay for shares of Company Common Stock for which appraisal rights have been perfected shall be returned to the Purchaser upon demand.

(d) Each share of the Merger Sub's common stock, par value $.01 per share, issued and outstanding immediately prior to the Effective Time shall be converted into and become one validly issued, fully paid and non-assessable share of common stock, par value $.01 per share, of the Surviving Corporation.

(e) Holders of certificates representing the shares of Company Stock that were outstanding immediately prior to the Effective Time shall cease to have any rights as stockholders of the Company but shall continue to have the other rights specified herein, and the stock transfer books of the Company shall be closed with respect to all shares of Company Stock outstanding immediately prior to the Effective Time. No further transfer of any such shares of Company Stock shall be made on such stock transfer books after the Effective Time. If, after the Effective Time, a valid certificate previously representing any of such shares of Company Stock is presented to the Surviving Corporation or Purchaser, such certificate shall be canceled and, if applicable, shall be exchanged as provided in Section 1.03.

1.03 Exchange of Certificates; Lost Certificates.

(a) The Representative shall act as paying agent in effecting the exchange of cash for certificates which, immediately prior to the Effective Time, represented shares of Company Stock (other than any Dissenting Shares) entitled to payment pursuant to Section 1.02. On the Closing Date, the Representative shall pay each holder of certificates representing Company Stock (other than with respect to Dissenting Shares) who has surrendered his or its certificates representing the number of shares of each class of Company Stock held by such holder, together with a duly executed and completed Letter of Transmittal, substantially in the form of Exhibit B attached hereto (a "Letter of Transmittal"), the aggregate amount of cash to which he or it is entitled under Section 1.02, rounded up to the nearest $0.01. Surrendered certificates shall forthwith be canceled. Until so surrendered and exchanged, each such certificate shall represent solely the right to receive the Merger Consideration into which the shares it theretofore represented shall have been converted pursuant to Section 1.02.



Notwithstanding the foregoing, if any such certificate shall have been lost, stolen or destroyed, then, upon the making of an affidavit of, and agreeing to indemnify the Company with respect to, that fact by the Person claiming such certificate to be lost, stolen or destroyed, the Representative (or if more than twelve (12) months after the Effective Time, the Purchaser) shall issue, in exchange for such lost, stolen or destroyed certificate, the applicable portion of the Merger Consideration to be paid in respect of the shares of Company Stock represented by such certificate as contemplated by this Section 1.03, without any interest thereon. All cash paid at the Closing in respect of the surrender for exchange of shares of Company Stock in accordance with the terms hereof shall be deemed to be in full satisfaction of all rights to receive cash consideration at the Closing pertaining to such shares.

(b) Within 14 days after the date of this Agreement, the Company shall mail to each holder of record of shares of Company Stock: (i) the Letter of Transmittal, and (ii) instructions for use in effecting the surrender of the certificates representing shares of Company Stock in exchange for the payment of the applicable portion of the Merger Consideration for each share of Company Stock represented thereby.

(c) Promptly following the date that is twelve (12) months after the Effective Time, (i) the Representative shall deliver to the Purchaser any documents specified in Section 1.03 remaining in its possession, and, except as otherwise set forth in this Agreement, the Representative's duties under this Section 1.03 shall terminate and (ii) any portion of the Merger Consideration specified in Section 1.02 that remains undistributed by the Representative (in its capacity as such) to the Stockholders shall be delivered to the Purchaser. Thereafter, each holder of a certificate representing shares of Company Stock shall look only to the Purchaser for payment of the applicable portion of the Merger Consideration, and may surrender such certificate, if applicable, to the Surviving Corporation or the Purchaser and (subject to applicable abandoned property, escheat and similar Laws) receive in exchange therefor the applicable portion of the Merger Consideration to be paid in respect thereof as contemplated by this Section 1.03, without any interest thereon. If, after the Effective Time, certificates representing shares of Company Stock are presented to the Purchaser for any reason, they shall be canceled and exchanged as provided in this Section 1.03(c). Except as required by Law, no dividends or other distributions with respect to capital stock of the Surviving Corporation with a record date after the Effective Time shall be paid to the holder of any unsurrendered certificate.

1.04 Options. All Options shall be terminated as of the Effective Time for no consideration.

1.05 Certificate of Incorporation. The certificate of incorporation of the Company, as in effect immediately prior to the Effective Time, shall be amended and restated in it entirety to be Exhibit A to the Certificate of Merger attached hereto as Exhibit A, and as so amended and restated shall be the certificate of incorporation of the Surviving Corporation until amended in accordance with applicable law.



1.06 Bylaws. The Bylaws of the Merger Sub in effect at the Effective Time shall be the Bylaws of the Surviving Corporation until amended in accordance with the provisions thereof and the provisions of the certificate of incorporation of the Surviving Corporation and in accordance with applicable law.

1.07 Directors and Officers. From and after the Effective Time, until successors are duly elected or appointed in accordance with applicable law, the directors of the Merger Sub at the Effective Time shall be the directors of the Surviving Corporation and the officers of the Company at the Effective Time shall be the officers of the Surviving Corporation.

1.08 Closing Calculations. Not less than two (2) Business Days prior to the anticipated Closing Date, the Company shall deliver to the Purchaser a good faith calculation of its estimate of (i) Cash (the "Estimated Cash"), (ii) Indebtedness (the "Estimated Indebtedness"), (iii) Net Working Capital (the "Estimated Net Working Capital") and (iv) Transaction Expenses (the "Estimated Transaction Expenses").

1.09 Final Closing Balance Sheet Calculation. As promptly as possible, but in any event within ninety (90) days after the Closing Date, the Purchaser will deliver to the Representative consolidated balance sheets of the Company and its Subsidiaries as of the Closing and the NWC Reference Time (collectively, the "Closing Balance Sheet") and a statement showing (i) a detailed listing of all Transaction Expenses, and (ii) the calculation of Cash, Indebtedness, and Net Working Capital derived from the Closing Balance Sheet (together with the Closing Balance Sheet, the "Preliminary Statement"). The Closing Balance Sheet shall be prepared and Cash, Indebtedness and Net Working Capital shall be determined (including for purposes of Section 1.08) on a consolidated basis in accordance with GAAP using the same accounting methods, policies, principles, practices and procedures, with

consistent classifications, judgments and estimation methodology, as were used in preparation of the Latest Balance Sheet and shall not include any changes in assets or liabilities as a result of purchase accounting adjustments or other changes arising from or resulting as a consequence of the transactions contemplated hereby (other than Transaction Expenses). The parties agree that the purpose of preparing the Closing Balance Sheet and determining Cash, Indebtedness, Net Working Capital and Transaction Expenses and the related purchase price adjustment contemplated by this Section 1.09 is to measure the amount of Cash, Indebtedness and Transaction Expenses and changes in Net Working Capital, and such processes are not intended to permit the introduction of different judgments, accounting methods, policies, principles, practices, procedures, classifications or estimation methodologies for the purpose of preparing the Closing Balance Sheet or determining Cash, Indebtedness, Net Working Capital or Transaction Expenses. After delivery of the Preliminary Statement, the Representative and its accountants and other representatives shall be permitted full access to review the Company's and its Subsidiaries' books and records and any work papers related to the preparation of the Preliminary Statement. The Representative and its accountants and other representatives may make inquires of the Purchaser, the Company, its Subsidiaries and their respective accountants regarding questions concerning or disagreements with the Preliminary Statement arising in the course of their review thereof, and the Purchaser shall use its, and shall cause the Company and its Subsidiaries to use their, commercially reasonable efforts to cause any such accountants to cooperate with and respond to such inquiries. If the Representative has any objections to the Preliminary Statement, the Representative shall deliver to the Purchaser a statement setting forth



its objections thereto (an "Objections Statement"). If an Objections Statement is not delivered to the Purchaser within thirty (30) days after delivery of the Preliminary Statement, the Preliminary Statement shall be final, binding and non-appealable by the parties hereto. The Representative and the Purchaser shall negotiate in good faith to resolve any such objections, but if they do not reach a final resolution within fifteen (15) days after the delivery of the Objections Statement, the Representative and the Purchaser shall submit such dispute to Duff & Phelps or another independent valuation firm mutually agreed upon by the Purchaser and the Representative (the "Dispute Resolution Arbiter"). Any further submissions to the Dispute Resolution Arbiter must be written and delivered to each party to the dispute. The Dispute Resolution Arbiter shall consider only those items and amounts which are identified in the Objections Statement as being items which the Representative and the Purchaser are unable to resolve. The Dispute Resolution Arbiter's determination will be based solely on the definitions of Cash, Indebtedness, Net Working Capital and Transaction Expenses contained herein and the provisions of this Section 1.09, and the Dispute Resolution Arbiter may not assign a value to any item greater than the greatest value for such item claimed by either party or less than the smallest value for such item claimed by either party. The Representative and the Purchaser shall use their commercially reasonable efforts to cause the Dispute Resolution Arbiter to resolve all disagreements as soon as practicable. Further, the Dispute Resolution Arbiter's determination shall be based solely on the presentations by the Purchaser and the Representative which are in accordance with the terms and procedures set forth in this Agreement (*i.e.*, not on the basis of an independent review). The resolution of the dispute by the Dispute Resolution Arbiter shall be final and binding on and non-appealable by the parties hereto. The costs and expenses of the Dispute Resolution Arbiter shall be allocated between the Purchaser, on the one hand, and the Representative (on behalf of the Preferred Stockholders), on the other hand, based upon the percentage which the portion of the contested amount not awarded to each party bears to the amount actually contested by such party (with each Preferred Stockholder responsible for its portion of such costs and expenses (determined on a pro rata basis according to each Person's Preferred Percentage)). For example, if the Representative claims Net Working Capital is $1,000 greater than the amount determined by the Purchaser, and the Purchaser contests only $500 of the amount claimed by the Representative, and if the Dispute Resolution Arbiter ultimately resolves the dispute by awarding the Representative (for the benefit of the Preferred Stockholders) $300 of the $500 contested, then the costs and expenses of arbitration will be allocated 60% (i.e., 300 ÷ 500) to the Purchaser and 40% (i.e., 200 ÷ 500) to the Representative (for the benefit of the Preferred Stockholders).

1.10 Post-Closing Adjustment Payment. If the Final Residual Cash Consideration is greater than the Closing Residual Cash Consideration, (a) the Purchaser shall promptly (but in any event within five (5) Business Days) pay to the Representative (for the benefit of the Preferred Stockholders) the amount of such difference by wire transfer of immediately available funds to an account or accounts designated in writing by the Representative to the Purchaser and (b) the Purchaser and the Representative shall promptly (but in any event within two (2) Business Days) send a joint written instruction to the Escrow Agent instructing the Escrow Agent to deliver to the Representative (for the benefit of the Preferred Stockholders), by wire transfer of immediately available funds to an account or accounts designated in writing by the Representative all funds in the Purchase Price Adjustment Escrow Account. If the Final Residual Cash Consideration is less than the Closing Residual Cash Consideration, the Representative (on behalf of the Preferred Stockholders) and the Purchaser shall promptly (but in any event within two (2) Business Days) send a joint written



instruction to the Escrow Agent instructing the Escrow Agent to (i) pay to the Purchaser solely from and only to the extent of the Purchase Price Adjustment Escrow Amount each Preferred Stockholder's portion of the absolute value of such difference by wire transfer of immediately available funds to one or more accounts designated by the Purchaser to the Representative; provided that if the Purchase Price Adjustment Escrow Amount is insufficient to pay such difference in full, the shortfall shall be paid from the Indemnity Escrow Account, to the extent funds are available therein, and (ii) to deliver to the Representative (for the benefit of the Preferred Stockholders), by wire transfer of immediately available funds to an account or accounts designated in writing by the Representative all funds, if any, remaining in the Purchase Price Adjustment Escrow Account following the payment set forth in the immediately preceding clause (i). The Common Stockholders, the Preferred Stockholders and the Representative shall not have any liability for any amounts due to the Purchaser pursuant to Section 1.09 or this Section 1.10 except to the extent of the funds available in the Purchase Price Adjustment Escrow Account and the Indemnity Escrow Account. Notwithstanding anything to the contrary herein, holders of Dissenting Shares shall not participate in the provisions of Section 1.09 or this Section 1.10.

ARTICLE II

**THE CLOSING**

2.01 The Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Kirkland & Ellis LLP located at 300 North LaSalle Street, Chicago, Illinois at 10:00 a.m. on the first Business Day following full satisfaction or due waiver of all of the closing conditions set forth in Article III hereof (other than those to be satisfied at the Closing itself) or on such other date as is mutually agreeable to the Purchaser and the Representative; provided, however, that notwithstanding the satisfaction or waiver of the conditions set forth in Article III hereof, the Purchaser shall not be required to effect the Closing until the earlier of (x) a date during the Marketing Period specified by the Purchaser on no less than three Business Days' notice to the Company and (y) the third Business Day after the Marketing Period. For purposes of this Agreement, the "Marketing Period" shall mean the first period of twenty-five (25) consecutive Business Days (it being understood that weekends and any holiday (including the Wednesday immediately before and the Friday immediately following Thanksgiving) that occur after the commencement of the Marketing Period shall be disregarded for

purposes of calculating such consecutive Business Days constituting the Marketing Period) commencing immediately following the Purchaser's receipt of the Required Information that the Company is required to provide to the Purchaser pursuant to Section 6.08; provided that if the Closing Date has not occurred by November 15, 2010, then the Marketing Period will not restart or pause as a result of any requirement to deliver unaudited financial statements for the Company for the fiscal quarter ended September 30, 2010 pursuant to clause (b) in the definition of Required Information. If the Company shall in good faith reasonably believe that it has delivered the Required Information, it may deliver to the Purchaser written notice to that effect (stating when it believes it completed the applicable delivery), in which case the Required Information shall be deemed to have been delivered on the date of the applicable notice, in each case unless the Purchaser in good faith reasonably believes that the Company has not completed delivery of the Required Information and, within five (5) Business Days after its receipt of such notice from the Company, the Purchaser delivers a written notice to



the Company to that effect (stating with specificity the Required Information that has not been delivered). The date and time of the Closing are referred to herein as the "Closing Date."

2.02 The Closing Transactions. Subject to the terms and conditions set forth in this Agreement, the parties hereto shall consummate the following transactions (the "Closing Transactions") on the Closing Date:

(a) the Company shall cause the Contribution to occur prior to the Closing (if it has not occurred prior to the Closing Date);

(b) the Company and the Merger Sub shall cause the Certificate of Merger to be executed, acknowledged and filed with the Secretary of State of the State of Delaware;

(c) the Purchaser shall deposit an amount equal to (i) the Common Stock Merger Consideration plus (ii) the Closing Residual Cash Consideration, by wire transfer of immediately available funds into the account established by the Representative for purposes of the Representative paying the Stockholders in accordance with Section 1.03;

(d) in accordance with Section 1.03, the Representative shall deliver to each holder of Company Common Stock such holder's portion of the Common Stock Merger Consideration (as determined in accordance with Section 1.02), by check, cash or wire transfer of immediately available funds to the account(s) designated by such holder in such holder's Transmittal Letter;

(e) in accordance with Section 1.03, the Representative shall deliver to each holder of Preferred Stock such holder's portion of the Closing Residual Cash Consideration (as determined in accordance with Section 1.02), by check, cash or wire transfer of immediately available funds to the account(s) designated by such holder in such holder's Transmittal Letter;

(f) the Purchaser shall deposit $5,000,000 (the "Purchase Price Adjustment Escrow Amount") into an escrow account (the "Purchase Price Adjustment Escrow Account") established pursuant to the terms and conditions of an escrow agreement by and among the Purchaser, the Representative and Wells Fargo, N.A., as escrow agent (the "Escrow Agent"), substantially in the form of Exhibit C attached hereto (the "Escrow Agreement");

(g) the Purchaser shall deposit $30,000,000 (the "Indemnity Escrow Amount" and together with the Purchase Price Adjustment Escrow Amount, the "Escrow Amount") into an escrow account (the "Indemnity Escrow Account") established pursuant to the terms and conditions of the Escrow Agreement;

(h) the Purchaser shall repay, or cause to be repaid, on behalf of the Company, all amounts necessary to discharge fully the then outstanding balance of all Indebtedness in respect of the Company Note, by wire transfer of immediately available funds to the account(s) designated by NPC LLC and, upon receipt of such repayment, NPC LLC shall deliver to the Company the Company Note marked "paid in full";

(i) the Purchaser shall repay, or cause to be repaid, on behalf of the Company and its Subsidiaries, all amounts necessary to discharge fully the then outstanding balance of all



Indebtedness set forth on Schedule 2.02(i), by wire transfer of immediately available funds to the account(s) designated by the holders of such Indebtedness;

(j) the Purchaser, the Company and the Representative (on behalf of the Stockholders) shall make such other deliveries as are required by Article III hereof;

(k) simultaneously with the Closing, the Purchaser shall pay, or cause to be paid, on behalf of the Stockholders and the Company (as applicable), the Transaction Expenses by wire transfer of immediately available funds as directed by the Representative; and

(l) the Purchaser shall fund an amount equal to the OLTL Reserve Amount to the Company.

2.03 Satisfaction of Payment Obligations. Upon Purchaser's payment (or causing payment to be made) of (i) the Common Stock Merger Consideration and the Closing Residual Cash Consideration to the Representative, (ii) the Purchase Price Adjustment Escrow Amount to the Escrow Agent pursuant to Section 2.02(f), (iii) the Indemnity Escrow Amount to the Escrow Agent pursuant to Section 2.02(g), (iv) the outstanding balance of all Indebtedness in respect of the Company Note to NPC LLC pursuant to Section 2.02(h), (v) all amounts necessary to discharge fully the outstanding balance of all Indebtedness set forth on Schedule 2.02(i) to the holders of such Indebtedness pursuant to Section 2.02(i) in accordance with the payoff letters, and (vi) the Transaction Expenses as directed by the Representative pursuant to Section 2.02(k), all of Purchaser's payment obligations at the Closing pursuant to this Article II shall be deemed to be satisfied in full, notwithstanding any failure on the part of the Representative or any Person to pay any corresponding portion of such amounts to any former holder of Company Stock or Options.

ARTICLE III

## CONDITIONS TO CLOSING

3.01 Conditions to the Purchaser's and the Merger Sub's Obligations. The obligations of the Purchaser and the Merger Sub to consummate the transactions contemplated by this Agreement are subject to the satisfaction (or waiver by the Purchaser and Merger Sub in writing) of the following conditions as of the Closing Date:

(a) (i) The representations and warranties set forth in Article IV (other than those representations and warranties that address matters as of particular dates and in Sections 4.01, 4.02(a), 4.03(a) and 4.04) shall be true and correct on the date hereof and as of the Closing Date as though then made and as though the Closing Date was substituted for the date of this Agreement throughout such representations and warranties (without giving effect to materiality, Material Adverse Effect, or similar phrases in the representations and warranties except in the last sentence of Section 4.05 and the first sentence of Section 4.06) and (ii) the representations and warranties set forth in Article IV that address matters as of particular dates (other than those in Sections 4.01, 4.02(a), 4.03(a) and 4.04) shall be true and correct as of such dates (without regard to materiality, Material Adverse Effect, or similar phrases in the representation and warranties except in the last sentence of Section 4.05 and the first sentence of Section 4.06),



except where the failure of such representations and warranties referenced in the immediately preceding clauses (i) and (ii) to be so true and correct would not, in the aggregate, have a Material Adverse Effect. The representations and warranties set forth in Sections 4.01, 4.02(a), 4.03(a) and 4.04 (other than those that address matters as of particular dates) shall be true and correct in all material respects on the date hereof and as of the Closing Date as though then made and as though the Closing Date was substituted for the date of this Agreement throughout such representations and warranties, and the representations and warranties set forth in Sections 4.01, 4.02(a), 4.03(a) and 4.04 that address matters as of particular dates shall be true and correct in all material respects as of such dates;

(b) The Company shall have performed in all material respects all of the covenants and agreements required to be performed by it under this Agreement at or prior to the Closing, and since the date of this Agreement, a Material Adverse Effect shall not have occurred;

(c) The Stockholder Approval shall have been obtained;

(d) No judgment, decree or order shall have been entered which would prevent the performance of this Agreement or the consummation of any of the transactions contemplated hereby, declare unlawful the transactions contemplated by this Agreement or cause such transactions to be rescinded, nor shall the Company's participation in any of the Card Association networks be prohibited or materially and adversely restricted;

(e) The Purchaser shall have received written resignation letters from each of the members of the respective board of directors of the Company and its Subsidiaries (solely with respect to their directorships), effective as of the Effective Time; and

(f) The Company shall have delivered to the Purchaser each of the following:

(i) a certificate of the Company, dated as of the Closing Date, stating that the preconditions specified in Sections 3.01(a) and 3.01(b), as they relate to the Company, have been satisfied;

(ii) certified copies of resolutions of the requisite Common Stockholders of the Company for the Stockholder Approval approving the consummation of the transactions contemplated by this Agreement;

(iii) certified copies of resolutions duly adopted by the Company's board of directors authorizing the execution, delivery and performance of this Agreement and the other agreements contemplated hereby, and the consummation of all transactions contemplated hereby and thereby; and

(iv) a certificate of non-U.S. real property holding company status that satisfies the requirement of Treasury Regulation Sections 1.897-2(h)(2) and 1.1445-2, in a form acceptable to Purchaser, dated as of the Closing Date and executed by the Company, together with a notice to the Internal Revenue Service, executed by the Company, as required by Treasury Regulation Section 1.897-2(h).



If the Closing occurs, all Closing conditions set forth in this Section 3.01 which have not been fully satisfied as of the Closing shall be deemed to have been waived by the Purchaser and Merger Sub; provided that such waiver shall have no effect on the Purchaser's and Merger Sub's rights to indemnification under Article VIII.

3.02 Conditions to the Company's Obligations. The obligation of the Company to consummate the transactions contemplated by this Agreement is subject to the satisfaction of the following conditions as of the Closing Date:

(a) The representations and warranties set forth in Article V of this Agreement shall be true and correct in all material respects on the date hereof and as of the Closing Date as though then made and as though the Closing Date was substituted for the date of this Agreement throughout such representations and warranties (without giving effect to materiality or similar phrases in the representations and warranties);

(b) The Purchaser and the Merger Sub shall have performed in all material respects all the covenants and agreements required to be performed by them under this Agreement at or prior to the Closing;

(c) No judgment, decree or order shall have been entered which would prevent the performance of this Agreement or the consummation of any of the transactions contemplated hereby, declare unlawful the transactions contemplated by this Agreement or cause such transactions to be rescinded, nor shall the Company's participation in any of the Card Association networks be prohibited or materially and adversely restricted;

(d) The Purchaser shall have delivered to the Representative (on behalf of the Stockholders and the Company, as applicable) each of the following:

(i) a certificate of the Purchaser, dated as of the Closing Date, stating that the preconditions specified in Sections 3.02(a) and 3.02(b) have been satisfied;

(ii) certified copies of resolutions of the requisite holders of the voting stock of the Merger Sub approving the consummation of the transactions contemplated by this Agreement; and

(iii) certified copies of the resolutions duly adopted by the Purchaser's board of directors (or its equivalent governing body) and the Merger Sub's board of directors authorizing the execution, delivery and performance of this Agreement.

If the Closing occurs, all Closing conditions set forth in this Section 3.02 which have not been fully satisfied as of the Closing shall be deemed to have been waived by the Company; provided that such waiver shall have no effect on the Stockholders' rights to indemnification under Article VIII.



ARTICLE IV

## REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to the Purchaser that the statements in this Article IV are correct and complete, except as set forth in the schedules accompanying this Agreement (each, a "Schedule" and, collectively, the "Disclosure Schedules"). The Disclosure Schedules have been arranged for purposes of convenience in separately titled sections corresponding to the sections of this Article IV, and the disclosure in any section or subsection of the Disclosure Schedules shall be deemed to qualify other sections and subsections of this Article IV and any other section or subsection of the Disclosure Schedules to the extent that it is reasonably apparent from the face of such disclosure that such disclosure also qualifies or applies to such other sections or subsections. Capitalized terms used in the Disclosure Schedules and not otherwise defined therein have the meanings given to them in this Agreement.

4.01 Organization and Corporate Power.

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and the Company has all requisite corporate power and authority and all authorizations, licenses and permits necessary to own and operate its properties and to carry on its businesses as now conducted, except where the failure to hold such authorizations, licenses and permits, individually or in the aggregate, does not have a Material Adverse Effect. The Company is qualified to do business in every jurisdiction in which its ownership of property or the conduct of business as now conducted requires it to qualify, except where the failure to be so qualified, individually or in the aggregate, does not have a Material Adverse Effect.

(b) The Company has made available to Purchaser true and complete copies of the certificate of incorporation of the Company, as amended to the date of this Agreement, and the bylaws of the Company, as amended to the date of this Agreement, and the comparable charter and organizational documents of each of the Company's Subsidiaries, in each case as amended through the date of this Agreement. The Company's charter and bylaws, and each of its Subsidiaries' organizational documents, are in full force and effect and neither the Company nor any of its Subsidiaries is in violation of any of their respective provisions.

4.02 Subsidiaries.

(a) The attached Subsidiary Schedule lists each Subsidiary of the Company and its jurisdiction of organization. All the outstanding shares of capital stock of, or other equity interests of, each such Subsidiary have been duly authorized and validly issued and are fully paid and nonassessable and owned by the Company or by another Subsidiary of the Company, free and clear of all Liens, other than Permitted Liens; except that, with respect to NPC MC, (i) as of the date of this Agreement, all the outstanding shares of capital stock of, or other equity interests of, NPC MC are owned by NPC LLC, free and clear of all Liens, and (ii) as of the Closing Date, all the outstanding shares of capital stock of, or other equity interests of, NPC MC will be owned by the Company, free and clear of all Liens. Except as set forth on the attached Subsidiary Schedule, neither the Company nor any of its Subsidiaries owns or holds, directly or indirectly,



the right to acquire any stock, partnership interest or joint venture interest or other equity ownership interest in any other corporation, organization or entity.

(b) Each of the Subsidiaries of the Company identified on the Subsidiary Schedule is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, has all requisite corporate, or other legal entity, as the case may be, power and authority and all authorizations, licenses and permits necessary to own its properties and to carry on its businesses as now conducted and is qualified to do business in every jurisdiction in which its ownership of property or the conduct of its businesses as now conducted requires it to qualify, except in each such case where the failure to hold such authorizations, licenses and permits or to be so qualified, individually or in the aggregate, does not have a Material Adverse Effect.

4.03 Authorization; No Breach; Valid and Binding Agreement.

(a) The Company and each of its Subsidiaries has all requisite power, authority and legal capacity to execute and deliver this Agreement and each of the applicable Company Documents), to perform their respective obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement and each of the Company Documents by the Company and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all requisite corporate or limited liability company action, and no other proceedings on its or their part are necessary to authorize the execution, delivery or performance of this Agreement or the other Company Documents. This Agreement has been, and each of the Company Documents will be at or prior to the Closing, duly and validly executed and delivered by Company and each of its Subsidiaries which is a party thereto and (assuming that the Stockholder Approval is obtained and the due authorization, execution and delivery of the other parties hereto and thereto), this Agreement constitutes, and each of the Company Documents when

so executed and delivered will constitute, a valid and binding obligation of the Company or the applicable Subsidiary of the Company, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy laws, other similar laws affecting creditors' rights and general principles of equity affecting the availability of specific performance and other equitable remedies.

(b) Except as set forth on the attached Authorization Schedule, the execution, delivery and performance of this Agreement by the Company and the consummation of the transactions contemplated hereby do not conflict with or result in any breach of, constitute a default under, result in a violation of, result in the creation of any Lien upon any material assets of the Company or any of its Subsidiaries under, or require any authorization, consent, approval, exemption or other action by or notice to any court or other Governmental Entity under, the provisions of the Company's or any of its Subsidiaries' certificates or articles of incorporation or bylaws (or equivalent organizational documents) or any material indenture, mortgage, lease, loan agreement or other agreement or instrument to which the Company or any of its Subsidiaries is bound, or any law, statute, rule or regulation or order, judgment or decree to which the Company or any of its Subsidiaries is subject.



4.04 Capital Stock. The authorized number of shares of capital stock of the Company is 95,200,000, consisting of 95,000,000 shares of Company Common Stock and 200,000 shares of Preferred Stock. As of the date hereof, (i) 89,618,181.724 shares of Company Common Stock are issued and outstanding and are owned of record by the holders and in the amounts set forth on the attached Stockholders Schedule, (ii) 131,598.645 shares of Preferred Stock are issued and outstanding and are owned of record by the holders and in the amounts set forth on the attached Stockholders Schedule, and (iii) 272,728 shares of Company Common Stock are reserved for issuance upon exercise of outstanding options to acquire shares of Company Common Stock. All of the outstanding shares of capital stock of the Company have been duly authorized and are validly issued, fully paid, nonassessable and free of preemptive rights. Except as set forth on the attached Capital Stock Schedule and other than outstanding options to acquire shares of Company Common Stock, the Company does not have any other capital stock, equity securities or securities containing any equity features authorized, issued or outstanding, and there are no agreements, options, warrants, subscriptions, convertible or exchangeable securities, or other rights or arrangements existing or outstanding which provide for the sale or issuance of (or the right to purchase or otherwise receive) any of the foregoing by the Company. Except as set forth on the Capital Stock Schedule, there are no agreements or other obligations (contingent or otherwise) which require the Company or any of its Subsidiaries to repurchase or otherwise acquire any shares of capital stock or other equity securities that would survive the Closing.

4.05 Financial Statements. The Financial Statements Schedule attached hereto consists of: (a) the Company's unaudited consolidated balance sheet as of June 30, 2010 (the "Latest Balance Sheet") and the related statements of income and cash flows for the six-month period then ended and (b) the Company's audited consolidated balance sheet and statements of income and cash flows for the fiscal year ended as of December 31, 2008 and December 31, 2009 (collectively, the "Financial Statements"). Except as set forth on the attached Financial Statements Schedule, the Financial Statements have been prepared in accordance with GAAP, consistently applied, and present fairly in all material respects the financial condition and results of operations of the Company and its Subsidiaries (taken as a whole) as of the times and for the periods referred to therein, subject in the case of the unaudited financial statements to (i) the absence of footnote disclosures and other presentation items and (ii) changes resulting from normal and recurring year-end adjustments that are immaterial. Neither the Company nor any of its Subsidiaries has any liabilities or obligations of any nature (whether accrued, absolute, contingent or otherwise) that would be required by GAAP to be reflected or reserved against in a consolidated balance sheet, other than liabilities and obligations (x) included or disclosed on the Latest Balance Sheet or the Financial Statements, (y) incurred in the ordinary course of business since the date of the Latest Balance Sheet and, which individually or in the aggregate, are not material or (z) incurred directly in connection with this Agreement and the transactions contemplated hereby.

4.06 Absence of Certain Developments. From the date of the Latest Balance Sheet, there has not been any Material Adverse Effect. Except as set forth on the Developments Schedule or except as expressly contemplated by this Agreement, from the date of the Latest Balance Sheet, neither the Company nor any of its Subsidiaries has:



(a) issued, assumed or guaranteed any Indebtedness or incurred or become subject to any material liabilities (other than liabilities incurred in the ordinary course of business, liabilities under contracts entered into in the ordinary course of business and borrowings from banks (or similar financial institutions) incurred to meet ordinary course working capital requirements and liabilities under this Agreement and the Company Note);

(b) mortgaged, pledged or subjected to any material Lien, charge or other encumbrance, any material portion of its assets, except Permitted Liens;

(c) sold, assigned or transferred any material portion of its tangible assets, except in the ordinary course of business;

(d) sold, assigned or transferred any Company Intellectual Property, or granted any license of any rights with respect to any Company Intellectual Property, in each case except in the ordinary course of business;

(e) except for issuances of Company Stock upon exercise of outstanding options to acquire shares of Company Common Stock or as otherwise contemplated hereby, issued, sold or transferred any of its capital stock or other equity securities, securities convertible into its capital stock or other equity securities or warrants, options or other rights to acquire its capital stock or other equity securities, or any bonds or debt securities;

(f) made any material capital investment in, or any material loan to, any other Person (other than a Subsidiary of the Company), except in the ordinary course of business;

(g) declared, set aside, or paid any dividend or made any distribution with respect to its capital stock (other than dividends in cash) or except for repurchases of Company Stock from former employees pursuant to agreements in effect on the date hereof, redeemed, purchased, or otherwise acquired any of its capital stock, except for dividends or distributions made by the Subsidiaries of the Company to their respective parents in the ordinary course of business;

(h) made any material capital expenditures or commitments therefor, except (i) in the ordinary course of business and (ii) for such capital expenditures or commitments therefor that are reflected in the Company's current budget;

(i) made any loan to, or entered into any other transaction with, any of its directors or officers, other than advances of expenses in the ordinary course of business;

(j) entered into any employment contract with payments exceeding $250,000 per year or any collective bargaining agreement, or modified the terms of any such existing contract or agreement;

(k) except to the extent accrued on the Latest Balance Sheet, awarded or paid any bonuses to any current or former employee or entered into any employment, deferred compensation, severance or similar agreement (nor materially and adversely (from the Company's perspective) amended any such agreement) or agreed to increase the compensation payable or to become payable by it to any director, officer, senior executive, agent or



representative or agreed to increase the coverage or benefits available under any severance pay, termination pay, vacation pay, company awards, salary continuation for disability, sick leave, deferred compensation, bonus or other incentive compensation, insurance, pension or other employee benefit plan, payment or arrangement made to, for or with such directors, officers, senior executives, agents or representatives;

(l) made any change in accounting principles, methods or policies;

(m) (1) made, changed or revoked any Tax election, settled or compromised any Tax claim or liability or entered into a settlement or compromise, or changed (or made a request to any taxing authority to change) any material aspect of its methods of accounting for Tax purposes or (2) prepared or filed any income or other material Tax Return (or any amendment thereof) unless such Tax Return shall have been prepared in a manner consistent with past practice;

(n) canceled or compromised any debt or claim or materially and adversely (from the Company's perspective) amended, modified, canceled, terminated, relinquished, waived or released any contract or right, in an aggregate amount greater than $100,000 and outside of the ordinary course of business;

(o) instituted or settled any material Legal Proceeding; or

(p) agreed, committed, arranged or entered into any understanding to do anything set forth in this <u>Section 4.06</u>.

4.07 <u>Title to Properties</u>. Except as set forth on the <u>Liens Schedule</u>, the Company or one of its Subsidiaries owns good title to, or holds pursuant to valid and enforceable leases, all of the personal property shown to be owned or leased by it on the Latest Balance Sheet, free and clear of all Liens, except for Permitted Liens.

(b) The real property demised by the leases described on the attached <u>Leased Real Property Schedule</u> (the "<u>Leased Real Property</u>") constitutes all of the real property leased by the Company and its Subsidiaries. Except as set forth on the <u>Leased Real Property Schedule</u>, to the Company's knowledge, the Leased Real Property leases are in full force and effect, and the Company or a Subsidiary of the Company holds a valid and existing leasehold interest under each such lease, subject to proper authorization and execution of such lease by the other party and the application of any bankruptcy or creditor's rights laws. The Company has delivered or made available to the Purchaser complete and accurate copies of each of the leases described on the <u>Leased Real Property Schedule</u>, and none of such leases have been modified in any material respect, except to the extent that such modifications are disclosed by the copies delivered or made available to the Purchaser. To the Company's knowledge, neither the Company nor any of its Subsidiaries is in default in any material respect under any of such leases.

(c) Neither the Company nor any of its Subsidiaries owns a freehold estate in any real property.

4.08 <u>Tax Matters</u>. Except as set forth on the attached <u>Taxes Schedule</u>:



(a) The Company and its Subsidiaries have filed all U.S. federal income Tax Returns and all other material foreign, federal, state and local income, excise, property and other Tax Returns which are required to be filed by them (taking into account any extensions of time to file). Except as set forth on the <u>Taxes Schedule</u>, all Taxes payable by or owing on behalf of the Company or any of its Subsidiaries on all such Tax Returns have been fully and timely paid. To the Company's knowledge, all such Tax Returns are true and correct in all material respects. The provision for Taxes on the Latest Balance Sheet is sufficient for all accrued and unpaid Taxes as of the date thereof, and all material Taxes which the Company or any of its Subsidiaries is obligated to withhold from amounts owing to any employee, creditor or third party have been fully paid or properly accrued.

(b) Purchaser has received complete copies of (i) all federal, state, local and foreign income or franchise Tax Returns of the Company and its Subsidiaries relating to the taxable periods since 2004 and (ii) any audit report issued within the last three years relating to any Taxes due from or with respect to the Company or any Subsidiary of the Company.

(c) No claim has been made in writing by a Governmental Entity in a jurisdiction where the Company or any Subsidiary of the Company does not file Tax Returns such that it is or may be subject to taxation by that jurisdiction.

(d) There are no Tax audits or investigations by any Governmental Entity in progress, nor has the Representative, the Company or any of its Subsidiaries received any written notice from any Governmental Entity that it intends to conduct such an audit or investigation. To the Company's knowledge, no issue has been raised by a Governmental Entity in any prior examination of the Company or any Subsidiary which, by application of the same or similar principles, could reasonably be expected to result in a proposed deficiency for any subsequent taxable period.

(e) Neither the Company nor any Subsidiary of the Company is a party to any tax sharing, allocation, indemnity or similar agreement or arrangement (whether or not written) pursuant to which it will have any obligation to make any payments after Closing.

(f) There is no contract, agreement, plan or arrangement covering any Person that, individually or collectively, could give rise to the payment of any amount that would not be deductible by Merger Sub, the Company, the Surviving Corporation or any of their respective Affiliates by reason of Section 280G of the Internal Revenue Code of 1986, as amended (the "Code").

(g) There is no taxable income of the Company or any of the Company Subsidiaries that will be required under applicable Tax Law to be reported by the Purchaser or any of its Affiliates, including the Company or any of the Subsidiaries, for a taxable period beginning after the Closing due to any cancellation of indebtedness income (except to the extent not in excess of original issue discount deductions arising in the transaction that caused such cancellation of indebtedness income), prepaid income, installment sale or similar transaction entered into prior to the Closing Date.



(h) Neither the Company nor any Subsidiary of the Company nor any other Person on their behalf has (i) agreed to or is required to make any adjustments pursuant to Section 481(a) of the Code or any similar provision of Law or has any knowledge that any Governmental Entity has proposed any such adjustment, or has any application pending with any Governmental Entity requesting permission for any changes in accounting methods that relate to the Company or any Subsidiary of the Company, (ii) requested any extension of time within which to file any Tax Return, which Tax Return has since not been filed, (iii) granted any extension for the assessment or collection of Taxes, which Taxes have not since been paid, or (iv) granted to any Person any power of attorney that is currently in force with respect to any Tax matter.

(i) Neither the Company nor any Subsidiary of the Company has constituted either a "distributing corporation" or a "controlled corporation" (within the meaning of Section 355(a)(1)(A) of the Code) in a distribution of stock qualifying for tax-free treatment under Section 355 of the Code (A) in the two years prior to the date of this Agreement or (B) in a distribution which could otherwise constitute part of a "plan" or "series of related transactions" (within the meaning of Section 355(e) of the Code) in conjunction with the transactions contemplated by this Agreement.

(j) Neither the Company nor any Subsidiary of the Company has participated in any "listed transaction" as defined in Treasury Regulation Section 1.6011-4(b).

(k) Neither the Company nor any Subsidiary of the Company has, or has ever had, a permanent establishment in any country other than the United States, or has engaged in a trade or business in any country other than the United States that subjected it to tax in such country.

(l) All interest rate swaps entered into by the Company or any of its Subsidiaries qualify as hedging transactions under §1.1221-2(b) of the Treasury Regulations. The Company has properly and timely identified all hedging transactions (including any interest rate swaps) and followed all identification and recordkeeping requirements for any hedging transactions pursuant to the rules under §1.1221-2(f) of the Treasury Regulations. The Company meets the requirements for treating any gain or loss recognized from the interest rate swap disclosed on the Tax Schedule as ordinary income or loss under Sections 1.1221-2(g)(2)(ii) and 1.1221-2(g)(2)(iii) of the Treasury Regulations.

(m) The Company has a valid and duly executed election in place under §338(h)(10) of the Code with regard to its acquisition of Best Payments Solutions, Inc.

(n) The Company's and its Subsidiaries' net operating losses for federal income tax purposes as of December 31, 2009, in total are not materially less than $78.3 million; provided that (i) this representation shall not be considered breached with respect to any shortfall in federal net operating losses as of December 31, 2009 (a "shortfall") prior to the date that the Company and its Subsidiaries would have been entitled to use such shortfall to offset their federal taxable income in a taxable period ending after the Closing Date (taking into account the Company's and its Subsidiaries' actual taxable income or loss, and taking into account any limitations on the use of the Company's and its Subsidiaries' net operating losses arising (A) as a



result of the transactions contemplated herein or (B) as a result of any change in control transactions involving the Company and its Subsidiaries or any other actions of the Company and its Subsidiaries occurring after the Closing) and (ii) the amount of any Loss for purposes of Section 8.02 attributable to any breach of this representation with respect to a tax period described in the foregoing clause (i) shall be based on the federal income tax benefit the Company and its Subsidiaries would have been eligible to receive from using such shortfall in the five year period following Closing (taking into account the limits on net operating loss usage set forth in clause (i) and provided that there shall be no double counting of federal income tax benefits so that any federal income tax benefit taken into account under this clause (ii) in connection with a breach with respect to a tax period shall not be taken into account in connection with a breach for another tax period).

(o) Neither the Company nor any of its Subsidiaries owe any material penalties under Section 6662 of the Code or any comparable or similar provision of state, local or foreign Tax Law with respect to any Tax Return filed on or before Closing.

4.09 Contracts and Commitments.

(a) Except as set forth on the attached Contracts Schedule and except for agreements entered into by the Company or any of its Subsidiaries after the date hereof in accordance with Section 6.01, neither the Company nor any Subsidiary of the Company is party to any: (i) collective bargaining agreement or contract with any labor union; (ii) written bonus, pension, employee profit sharing, retirement or other form of deferred compensation plan, other than as described in Section 4.13 or the Disclosure Schedules relating thereto; (iii) stock purchase, stock option or similar plan; (iv) contract for the employment of any officer, individual employee or other Person on a full-time or consulting basis providing for base salary compensation in excess of $250,000 per annum; (v) agreement or indenture relating to the borrowing of money or to mortgaging, pledging or otherwise placing a Lien on any material portion of the assets of the Company and its Subsidiaries; (vi) outstanding guaranty by the Company or any Subsidiary of the Company for any obligation for borrowed money or other material guaranty, surety or indemnification (other than indemnification pursuant to contracts entered into in the ordinary course of business), whether direct or indirect; (vii) lease or agreement under which it is lessee of, or holds or operates any personal property owned by any other party, for which the annual rental exceeds $500,000; (viii) lease or agreement under which it is lessor of or permits any third party to hold or operate any property, real or personal, for which the annual rental exceeds $500,000; (ix) contract or group of related contracts with the same party for the purchase of products or services which provided for annual payments (based on the trailing twelve month period ended July 31, 2010) by the Company or its

Subsidiaries in excess of $500,000; (x) agreements relating to any completed material business acquisition by the Company or any Subsidiary of the Company within the last two (2) years; (xi) contract or group of related contracts with a client or customer that provided annual net revenues (based on the trailing twelve month period ended July 31, 2010) to the Company and its Subsidiaries in excess of $1,000,000; (xii) material license or royalty agreement relating to the use of any third party Intellectual Property (excluding all licenses for commercial off-the-shelf software); (xiii) contract which materially prohibits the Company or any of its Subsidiaries from freely engaging in business anywhere in the world (including contracts containing covenants not to compete in any line of business or with any Person in any geographical area); (xiv) any agreement relating to



the provision of merchant processing or settlement services that involved consideration (based on the trailing twelve month period ended July 31, 2010) to or from the Company and its Subsidiaries in excess of $1,000,000; (xv) any agreement with any Card Association; (xvi) any voting or registration rights agreements with respect to the capital stock of the Company and/or its Subsidiaries; (xvii) contract for the sale of any assets in excess of $100,000; (xviii) contracts to make advances or loans to any other Person (other than advances of expenses in the ordinary course of business); (xix) contracts providing for employee severance, retention, change in control or other similar payments in excess of $10,000; or (xx) material contracts with independent contractors or consultants (or similar arrangements) involving annual payments in excess of $50,000 that are not cancelable without penalty or further payment and without more than thirty (30) days' notice.

(b) Except as set forth on the Contracts Schedule, the Purchaser either has been supplied with, or has been given access to, a true and correct copy of all written contracts which are referred to on the Contracts Schedule.

(c) Each contract listed on the Contracts Schedule (i) is in full force and effect, and (ii) is a legal, valid and binding agreement of the Company or its Subsidiaries, as applicable, enforceable against the Company or such Subsidiary, as applicable, and, to the Company's knowledge, enforceable against the other parties thereto, in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application affecting enforcement of creditors' rights or by principles of equity. Neither the Company nor any Subsidiary of the Company is in default in any material respect under (and no event has occurred that with notice or the lapse of time, or both, would constitute a breach or default in any material respect by the Company or any Subsidiary of the Company) any contract listed on the Contracts Schedule.

4.10 Intellectual Property.

(a) An accurate and complete list of all patents, registered trademarks, registered service marks, registered copyrights, applications for any of the foregoing, Internet domain names and material unregistered trademarks, service marks, copyrights, trade names and corporate names owned by the Company or any of its Subsidiaries and listing the record owner, jurisdictions and application or registration numbers, as and if applicable (collectively, "Company Intellectual Property") is set forth on the attached Intellectual Property Schedule. Except as set forth on the Intellectual Property Schedule or the Litigation Schedule (i) the Company and/or its Subsidiaries, as the case may be, exclusively own and possess all right, title and interest in and to the Company Intellectual Property free and clear of all Liens (other than Permitted Liens) and, to the knowledge of the Company, own or have a right to use all other Intellectual Property necessary for the conduct of the business of the Company and its Subsidiaries as currently conducted; (ii) during the two (2) year period prior to the date of this Agreement, neither the Company nor any of its Subsidiaries has received any written notices of material infringement, violation or misappropriation from any third Person with respect to any third Person Intellectual Property; (iii) to the knowledge of the Company, neither the Company nor any of its Subsidiaries, nor the conduct of the business of the Company and its Subsidiaries, nor any Company Intellectual Property and Technology owned by the Company is infringing, misappropriating or violating the Intellectual Property of any other Person, except for such



infringements, violations and misappropriations that would not have a Material Adverse Effect; and (iv) to the knowledge of the Company, no third Person is infringing, violating, or misappropriating any Intellectual Property or Technology owned by the Company or its Subsidiaries.

(b) All material trade secrets, confidential information and other Technology, in each case owned by or licensed to the Company or one of the Company's Subsidiaries, have been protected and maintained in confidence by the Company or its Subsidiaries in accordance with reasonable protection procedures customarily used in the Industry or as required by the agreement pursuant to which they are licensed to the Company or one of its Subsidiaries. The Company and the Company's Subsidiaries have privacy compliance and data security policies and are in compliance with such policies and any applicable Laws regarding the collection, use and disclosure of personally identifiable and other confidential information, except where the failure to have such policies or to be in compliance with such policies or applicable Law would not have a Material Adverse Effect. The information technology systems of the Company and its Subsidiaries, including the relevant Software and hardware, are reasonably adequate for the business as presently conducted, and to the Company's knowledge there have been no security breaches or material failures of such systems and the Company and the Company's Subsidiaries have implemented technology and polices designed to make the information technology systems of the Company and the Company's Subsidiaries reasonably secure against intrusion. Neither the Company nor any of its Subsidiaries has incorporated or expressly authorized any other Person to incorporate any open source Software, freeware or shareware into any Software or product developed and distributed by the Company or any of its Subsidiaries that would in any way limit the ability to make, use or sell such developed Software or product or that would diminish or transfer to a third party the Company's ownership rights in any Intellectual Property or Technology.

(c) The Company's Information Technology Department has implemented, during the two (2) year period prior to the date of this Agreement, the practice of requiring consultants and contractors engaged to create or develop material Intellectual Property or Technology for the Company or any Company Subsidiary to enter into a written agreement with the Company or applicable Company Subsidiary pursuant to which such consultant or contractor assigns to the Company or applicable Company Subsidiary such consultant's or contractor's rights in and to such Intellectual Property and Technology.

4.11 Litigation. Except as set forth on the attached Litigation Schedule, there are no suits or proceedings pending or, to the Company's knowledge, threatened against the Company or any of its Subsidiaries (or to the Company's knowledge, pending or threatened, against any of the officers, directors or key employees of the Company or any of its Subsidiaries with respect to their business activities on behalf of the Company and its Subsidiaries), or to which Company or any of its Subsidiaries is otherwise a party, at law or in equity, or before or by any court or other Governmental Entity, which (i) if determined adversely to the Company or any of its Subsidiaries is or would be material or (ii) seeks material equitable or injunctive relief, and neither the Company nor any of its Subsidiaries is subject to any outstanding judgment, order or decree of any court or other Governmental Entity (x) the violation of

which is or would be material or (y) which adversely affects or would adversely affect the Company's performance under this Agreement or the consummation of the transactions contemplated hereby.



4.12 Governmental Consents, etc. Except as set forth on the attached Governmental Consents Schedule, no material permit, consent, approval or authorization of, or declaration to or filing with, any Governmental Entity is required in connection with any of the execution, delivery or performance of this Agreement by the Company or the consummation by the Company of any transaction contemplated hereby.

4.13 Employee Benefit Plans.

(a) The attached Employee Benefits Schedule sets forth a true, correct and complete list of all written and unwritten "employee benefit plans," as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), all employment, individual consulting, termination, severance, retention, change of control, individual compensation agreements, and all bonus or other incentive compensation, deferred compensation salary continuation, disability, equity (or equity-based), pension, benefit, retirement benefit, health or welfare benefit, educational assistance, legal assistance, employee discount, employee loan, or vacation agreements, and all other employee benefit plans, fringe benefit programs, contracts, programs, funds or arrangements (i) in respect of any current or former officer, director, employee, consultant or independent contractor of the Company or any Subsidiary of the Company that are maintained, sponsored or contributed to by the Company or any of its Subsidiaries or (ii) with respect to which the Company or any of its Subsidiaries has or would reasonably be expected to have any material obligation or liability (all of the above being hereinafter referred to as the "Company Employee Plans"). Neither the Company nor any of its Subsidiaries maintains, sponsors, contributes to or is obligated to contribute to, or has any liability (contingent or otherwise) with respect to any Company Employee Plan subject to Title IV of ERISA or Section 412 of the Code, including a "multiemployer plan" as defined in Section 3(37) of ERISA, or a "multiple employer plan" subject to Sections 4063 or 4064 of ERISA.

(b) In respect of each Company Employee Plan, a complete and correct copy of each of the following documents (if applicable) has been provided or made available to Purchaser: (i) the most recent plan and related trust documents and/or insurance contracts, and all amendments thereto; (ii) the most recent summary plan description (including the employee handbook), and all related summaries of material modifications thereto; (iii) the most recent Forms 5500 (including, schedules and attachments); and (iv) the most recent IRS determination, opinion or notification letter.

(c) Each of the Company Employee Plans and their related trusts that are intended to be qualified under Sections 401 and 501(a) of the Code, respectively, has received a favorable determination letter from the Internal Revenue Service or is a prototype plan that is entitled to rely on an opinion letter issued by the Internal Revenue Service to the prototype plan sponsor regarding qualification of the form of the prototype plan. The Company Employee Plans comply in form and in operation in all material respects with the requirements of the Code and ERISA, and nothing has occurred with respect to the operation of the Company Employee Plans which would reasonably be expected to cause the loss of such qualification or exemption or the imposition of any material liability, penalty or tax under ERISA or the Code.

(d) With respect to the Company Employee Plans, all required contributions have in all material respects been made or properly accrued.



(e) Except as set forth on Schedule 4.13(e), neither the Company nor any of its Subsidiaries has any obligation to provide post-employment life insurance or health benefits coverage for current or former officers, directors, employees, consultants or independent contractors of the Company or any of its Subsidiaries except as may be required by applicable Law.

(f) Except as set forth on Schedule 4.13(f) or as disclosed by the Company to the Purchaser prior to the Closing (so long as the cost of such disclosed item is treated as a Transaction Expense), neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (i) result in any material payment becoming due to any employee (current, former, or retired), consultant or independent contractor of the Company or any of its Subsidiaries under any Company Employee Plan, (ii) materially increase any benefits under any Company Employee Plan, or (iii) result in the acceleration of the time of payment, vesting or funding of any benefits under any Company Employee Plan.

4.14 Insurance. The attached Insurance Schedule lists each material insurance policy maintained by the Company and its Subsidiaries. Neither the Company nor any of its Subsidiaries is in material breach or default, and neither the Company nor any of the Company's Subsidiaries have taken any action or failed to take any action which, with notice or the lapse of time, would constitute such a breach or default, with respect to its obligations under any such insurance policy and, to the Company's knowledge, each such insurance policy is in full force and effect. The consummation of the transactions contemplated hereby will not, in and of itself, cause the revocation, cancellation or termination of any such insurance policy.

4.15 Compliance with Laws; Credit Card Associations. The Company and each of its Subsidiaries is, and for the last three years has been, in compliance with all applicable laws and regulations of applicable Governmental Entities, except where the failure to comply is not and would not be material. The Company and each of its Subsidiaries is registered by a member of and is in good standing with the Card Associations, and is in compliance in all material respects with the rules of, the Card Associations, except to the extent (and only to the extent) such Person's business does not require such registration or where the failure to be so registered or in good standing would not be material. All material approvals, filings, permits and licenses of Governmental Entities and Card Associations (collectively, "Permits") required to conduct the business of the Company are in the possession of the Company, are in full force and effect and are being complied with, except for such Permits the failure of which to possess or be in compliance with would not be material. Except as otherwise set forth on Compliance with Laws Schedule, to the Company's knowledge, there is no investigation, proceeding or disciplinary action, including fines (other than any investigation, proceeding or disciplinary action involving a maximum potential fine of less than $5,000, excluding any late fees or other penalties if such fine is not timely paid), currently pending, or to the knowledge of the Company, threatened in writing against the Company or any of its Subsidiaries by a Card Association or its applicable agent. The representations and warranties set forth in this Section 4.15 do not apply to (i) compliance with Laws regarding the collection, use and disclosure of personally identifiable and other confidential information to the extent such matters are covered under Section 4.10(b), (ii) environmental, health or safety matters to the extent such matters are covered under Section 4.16 or (iii) compliance with ERISA or other Laws related to employment or labor matters to the extent such matters are covered by Sections 4.13 and 4.18.

4.16 Environmental Compliance and Conditions. Except as set forth on the attached Environmental Schedule:

(a) The Company and its Subsidiaries have obtained and possess all material permits, licenses and other authorizations required under federal, state and local laws and regulations concerning occupational health and safety, pollution or protection of the environment that were enacted and in effect on or prior to the Closing Date, including all such laws and regulations relating to the emission, discharge, release or threatened release of any chemicals, petroleum, pollutants, contaminants or hazardous or toxic materials, substances or wastes into ambient air, surface water, groundwater or lands or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of any chemicals, petroleum, pollutants, contaminants or hazardous or toxic materials, substances or waste ("Environmental and Safety Requirements"), except where the failure to possess such licenses, permits and authorizations does not have a Material Adverse Effect.

(b) The Company and its Subsidiaries are in compliance with all terms and conditions of such permits, licenses and authorizations and are also in compliance with all other Environmental and Safety Requirements or any written notice or demand letter issued, entered, promulgated or approved thereunder, except where the failure to comply does not have a Material Adverse Effect.

(c) Neither the Company nor any Subsidiary of the Company has received, within the two (2) year period prior to the date hereof, any written notice of violations or liabilities arising under Environmental and Safety Requirements, including any investigatory, remedial or corrective obligation, relating to the Company, its Subsidiaries or their facilities and arising under Environmental and Safety Requirements, the subject of which is unresolved and which does not have a Material Adverse Effect.

(d) This Section 4.16 constitutes the sole and exclusive representations and warranties of the Company with respect to any environmental, health or safety matters, including any arising under Environmental and Safety Requirements.

4.17 Affiliated Transactions. Except as set forth on the attached Affiliated Transactions Schedule and except for employment and benefit contracts, plans and arrangements with or for the benefit of officers and directors set forth on the Disclosure Schedules and advances of expenses in the ordinary course of business, no officer, director or Affiliate (including NPC LLC and GTCR Golder Rauner, L.L.C.) of the Company or any of its Subsidiaries, or any individual in such officer's, director's or Affiliate's immediate family ("Affiliated Persons") (i) is a party to any agreement, contract, commitment or transaction with the Company or any of its Subsidiaries or has any material interest in any property (with a value in excess of $5,000) used by the Company or any of its Subsidiaries and (ii) owes any amount to the Company or any of its Subsidiaries, nor does the Company or any of its Subsidiaries owe any amount to, or has the Company or any of its Subsidiaries committed to make any loan or extend or guarantee credit to or for the benefit of, any Affiliated Person. For purposes of this Section 4.17, "Affiliate" shall not include any portfolio companies of GTCR Golder Rauner, L.L.C. or its Affiliates.



---

4.18 Employees. Except as set forth on the attached Employee Schedule, (a) neither the Company nor any of its Subsidiaries has experienced any pending or, to the knowledge of the Company, threatened picketing, and there are no collective strikes, slowdowns, work stoppages, other job actions, lockouts, arbitrations, grievances or other collective labor disputes of the Company's employees, pending or, to the knowledge of the Company, threatened, (b) to the Company's knowledge, no organizational effort is presently being made or threatened by or on behalf of any labor union with respect to employees of either the Company or its Subsidiaries, (c) no labor union or other collective bargaining unit represents or claims to represent any of the Company's or its Subsidiaries' employees and no collective bargaining agreements are in effect or are currently being negotiated by the Company or any of its Subsidiaries, and (d) the Company is in compliance in all material respects with all laws, regulations and orders relating to the employment of labor. There has been no "mass layoff" or "plant closing" as defined by the Workers Adjustment and Retraining Notification Act and any similar state or local "mass layoff" or "plant closing" law with respect to the Company within the six (6) months prior to Closing.

4.19 Brokerage. Except for fees and expenses of the Persons listed on the attached Brokerage Schedule, there are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement made by or on behalf of any Stockholder or the Company for which the Purchaser or the Company would be liable following the Closing.

4.20 Merchants, Merchant Originators and Vendors.

(a) The attached Merchants, Merchant Originators and Vendors Schedule sets forth (i) the top ten (10) Merchants in electronic card processing volume for fiscal year 2009 (the "Top Merchants"), and the card processing volume for each such Top Merchant during such period, (ii) the top twenty (20) Merchant Originators in total new merchant applications submitted to the Company and its Subsidiaries for fiscal year 2009 (the "Top Merchant Originators"), and the number of such new merchant applications provided to the Company for each such Top Merchant Originator during such period, and (iii) the top ten (10) vendors in of the Company and its Subsidiaries as measured by the dollar amount of purchases therefrom on an annual basis for fiscal year 2009 (the "Top Vendors"), and the total purchases by the Company and its Subsidiaries from each such Top Vendor during such period.

(b) Since December 31, 2009 until the date of this Agreement, no Top Merchant, Top Merchant Originator or Top Vendor has terminated its relationship with the Company or any of its Subsidiaries or materially and adversely (from the Company's perspective) changed the pricing or other terms of its business relationship with the Company or any of its Subsidiaries and, to the knowledge of the Company, no Top Merchant, Top Merchant Originator or Top Vendor has notified the Company or any of its Subsidiaries in writing that it intends to terminate or materially reduce or change the pricing or other terms of its business relationship with the Company or any of its Subsidiaries.



---

ARTICLE V

**REPRESENTATIONS AND WARRANTIES OF THE PURCHASER**

The Purchaser represents and warrants to the Stockholders and the Company that:

5.01 Organization and Power. The Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, with full power and authority to enter into this Agreement and perform its obligations hereunder. The Merger Sub is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, with full corporate power and authority to enter into this Agreement and perform its obligations hereunder.

5.02 Authorization. The Purchaser and Merger Sub have all requisite power, authority and legal capacity to execute and deliver this Agreement and to execute and deliver each applicable Purchaser Document, to perform their respective obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement and each of the Purchaser Documents by the Purchaser and the Merger Sub and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all requisite action, and no other proceedings on their part are necessary to authorize the execution, delivery or performance of this Agreement or the other Purchaser Documents. This Agreement has been, and each of the Purchaser Documents will be at or prior to the Closing, duly and validly executed and delivered by the Purchaser and Merger Sub which is a party thereto and (assuming the due authorization, execution and delivery of the other parties hereto and thereto), this Agreement constitutes, and each of the Purchaser Documents when so executed and delivered will constitute, a valid and binding obligation of the Purchaser and Merger Sub, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy laws, other similar laws affecting creditors' rights and general principles of equity affecting the availability of specific performance and other equitable remedies.

5.03 No Violation. Neither the Purchaser nor the Merger Sub is subject to or obligated under its certificate or articles of incorporation, its bylaws (or similar organizational documents), any applicable law, or rule or regulation of any Governmental Entity, or any material agreement or instrument, or any license, franchise or permit, or subject to any order, writ, injunction or decree, which would be breached or violated in any material respect by the Purchaser's or the Merger Sub's execution, delivery or performance of this Agreement or the consummation of the transactions contemplated hereby.

5.04 Governmental Authorities; Consents. Neither the Purchaser nor the Merger Sub is required to submit any notice, report or other filing with any Governmental Entity in connection with the execution, delivery or performance by it of this Agreement or the consummation of the transactions contemplated hereby. No consent, approval or authorization of any Governmental Entity or any other party or Person is required to be obtained by the Purchaser or the Merger Sub in connection with its execution, delivery and performance of this Agreement or the consummation of the transactions contemplated hereby.



---

5.05 Litigation. There are no suits or proceedings pending or, to the Purchaser's knowledge, threatened against the Purchaser or the Merger Sub (or to the Purchaser's knowledge, pending or threatened, against any of the officers, directors or key employees of the Purchaser or the Merger Sub with respect to their business activities on behalf of the Purchaser and Merger Sub) or to which the Purchaser or Merger Sub is otherwise a party, at law or in equity, or before or by any Governmental Entity, which would adversely affect the Purchaser's or the Merger Sub's performance under this Agreement or the consummation of the transactions contemplated hereby. The Purchaser is not subject to any outstanding judgment, order or decree of any court or other Governmental Entity which would adversely affect the Purchaser's performance under this Agreement or the consummation of the transactions contemplated hereby.

5.06 Brokerage. There are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement made by or on behalf of the Purchaser or the Merger Sub for which the Company or any Stockholder would be liable following the Closing.

5.07 Investment Representation. The Purchaser is acquiring the Company Stock for its own account with the present intention of holding such securities for investment purposes and not with a view to, or for sale in connection with, any distribution of such securities in violation of any federal or state securities laws. The Purchaser is an "accredited investor" as defined in Regulation D promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended. The Purchaser acknowledges that it is informed as to the risks of the transactions contemplated hereby and of ownership of the Company Stock. The Purchaser acknowledges that the Company Stock has not been registered under the Securities Act of 1933, as amended, or any state or foreign securities laws and that the Company Stock may not be sold, transferred, offered for sale, pledged, hypothecated or otherwise disposed of unless such transfer, sale, assignment, pledge, hypothecation or other disposition is pursuant to the terms of an effective registration statement under the Securities Act of 1933, as amended, and the Company Stock is registered under any applicable state or foreign securities laws or sold pursuant to an exemption from registration under the Securities Act of 1933, as amended, and any applicable state or foreign securities laws. No information provided to or obtained by Purchaser pursuant to Section 6.02 shall limit or otherwise affect the remedies available hereunder to Purchaser (including, but not limited to, Purchaser's right to seek indemnification pursuant to Article VIII), or the representations or warranties of, or the conditions to the obligations of, the parties hereto.

5.08 Financing.

(a) The Purchaser has delivered to the Company true, complete and correct copies (except to the extent any fee letters may have been redacted in accordance with the confidentiality provisions contained in the commitment letter) of the executed commitment letter, all related term sheets, fee letters and other side letters, in each case dated as of the date hereof, between the Purchaser and (i) Goldman Sachs Lending Partners LLC, GSLP I Offshore Holdings Fund A, L.P., GSLP I Offshore Holdings Fund B, L.P., GSLP I Offshore Holdings Fund C, L.P. and GSLP I Onshore Holdings Fund, L.L.C., (ii) Morgan Stanley Senior Funding, Inc., (iii) JPMorgan Chase Bank, N.A. and J.P. Morgan Securities LLC, (iv) Credit Suisse



---

Securities (USA) LLC and Credit Suisse AG and (v) Bank of America, N.A. and Banc of America Securities LLC (collectively, the "Debt Financing Commitments"), pursuant to which the lenders party thereto have committed, subject to the terms thereof, to lend the amounts set forth therein (the "Debt Financing") for, among other things, the purpose of funding the transactions contemplated by this Agreement, which Debt Financing Commitments constitute all of the executed commitment letters, term sheets, fee letters and side letters relating to the Debt Financing existing as of the date hereof. The term (x) "Debt Financing Commitments" as used herein shall mean the Debt Financing Commitments to the extent not superseded by any New Debt Financing Commitments (as defined in Section 7.08) and (y) "Debt Financing" as used herein shall mean the Debt Financing to the extent not superseded by the New Debt Financing (as defined in Section 7.08), in each case, at the time in question and the New Debt Financing to the extent then in effect. As of the date

hereof, (i) none of the terms and conditions of the Debt Financing Commitments have been supplemented, amended or modified prior to the date of this Agreement, and (ii) the respective commitments contained in the Debt Financing Commitments have not been withdrawn, terminated or rescinded or qualified in any respect and, to the knowledge of the Purchaser, no withdrawal, termination, qualification, rescission, supplement, amendment or modification is contemplated. Other than as permitted under Section 7.08, there are no other agreements, side letters or arrangements relating to any of the Debt Financing Commitments. As of the date hereof, the Debt Financing Commitments are in full force and effect and constitute the legal, valid and binding obligations of each of the Purchaser and, to the knowledge of the Purchaser, the other parties thereto, except that such enforceability (i) may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting or relating to the enforcement of creditors' rights generally and (ii) is subject to general principles of equity. There are no conditions precedent or other contingencies related to the funding of the full amount of the Debt Financing permitted to be borrowed on the Closing Date (including any "flex" provisions), other than as expressly set forth in the Debt Financing Commitments. Assuming the accuracy of the representations and warranties set forth in Article IV and the performance by the Company of its obligations under this Agreement, the aggregate proceeds to be disbursed pursuant to the agreements contemplated by the Debt Financing Commitments, together with the Purchaser's available cash (which, together with proceeds from the Debt Financing Commitments, shall be sufficient to cover any "flex", original issue discounts or other fees, expenses, adjustments or costs in connection with the Debt Financing and the consummation of the transactions contemplated hereby), will be sufficient if funded, for the Purchaser to make payment of all amounts, costs, expenses and fees to be paid by it hereunder and under the Debt Financing and all transactions related thereto or hereto on the Closing Date and to repay in full the other Indebtedness of the Purchaser contemplated to be refinanced thereby. Assuming the accuracy of the representations and warranties set forth in Article IV and the performance by the Company of its obligations under this Agreement, as of the date hereof, no event has occurred which would reasonably be expected to result in any breach or violation of or constitute a default (or an event which with notice or lapse of time or both would become a default) under the Debt Financing Commitments, with respect to the Purchaser or to the knowledge of the Purchaser, any other parties thereto and assuming the accuracy of the representations and warranties set forth in Article IV and the performance by the Company of its obligations under this Agreement, as of the date hereof, the Purchaser does not have any reason to believe that any of the conditions to the Debt Financing will not be satisfied or that the Debt Financing will not be available to the



Purchaser on the Closing Date. The Purchaser has fully paid all commitment fees or other fees required to be paid prior to the date hereof pursuant to the Debt Financing Commitments.

(b) Notwithstanding anything contained in this Agreement to the contrary, the obligations of the Purchaser and the Merger Sub under this Agreement are not subject to any conditions regarding the Purchaser's, the Merger Sub's, their respective Affiliates', or any other Person's ability to obtain financing for the consummation of the transactions contemplated hereby.

5.09 Purpose. The Merger Sub is a newly organized corporation, formed solely for the purpose of engaging in the transactions contemplated by this Agreement. The Merger Sub has not engaged in any business activities or conducted any operations other than in connection with the transactions contemplated by this Agreement. The Merger Sub is a wholly owned Subsidiary of the Purchaser.

5.10 Solvency. Immediately after giving effect to the transactions contemplated by this Agreement and the Debt Financing Commitments, including the Debt Financing and the payment of the Merger Consideration, assuming (i) satisfaction of the conditions to the Purchaser's obligations to consummate the Merger, (ii) immediately prior to the Closing, and without giving effect to the Debt Financing, the Company and its Subsidiaries as a whole meet the solvency tests set forth in paragraphs (a) and (b) below, (iii) all representations and warranties of the Company made in Article VI are true and correct in all respects (without giving effect to any material, materiality or Material Adverse Effect qualifiers), and (iv) the Financial Statements and the Closing Statement were prepared in good faith an on assumptions reasonable at the time they were prepared, immediately after the Effective Time, the Surviving Corporation will (a) be able to pay its debts as they become due and mature and shall own property which has a fair saleable value (based on an arms' length transaction) greater than the amounts required to pay its debts as they become absolute and mature, and (b) have adequate capital to carry on its business. The Purchaser is not making any transfer of property or incurring any obligation in connection with the transactions contemplated by this Agreement with the intent to hinder, delay or defraud either present or future creditors of the Company or its Subsidiaries.

5.11 Balance Sheet. The Purchaser Balance Sheet Schedule attached hereto consists of the Purchaser's unaudited consolidated balance sheet as of June 30, 2010 (the "Purchaser Balance Sheet"). The Purchaser Balance Sheet has been prepared in accordance with GAAP, consistently applied, and presents fairly in all material respects the assets and liabilities of the Purchaser and its Subsidiaries (taken as a whole) as of the times and for the periods referred to therein, subject to (i) the absence of footnote disclosures and other presentation items and (ii) changes resulting from normal and recurring year-end adjustments that are immaterial.



ARTICLE VI

**COVENANTS OF THE COMPANY**

6.01 Conduct of the Business.

(a) From the date hereof until the Closing Date, the Company shall (1) conduct its business and the businesses of its Subsidiaries in the ordinary course of business and in substantially the same manner previously conducted, (2) use commercially reasonable efforts to maintain and preserve intact its business organization and the goodwill of those having business relationships with it and retain the services of its present officers and key employees, in each case, and (3) continue to collect accounts receivable and pay accounts payable utilizing normal procedures and without discounting or accelerating payment of such accounts, except (i) where the Purchaser shall have consented in writing (which consent will not be unreasonably withheld or delayed), or (ii) as otherwise contemplated hereby; provided that (x) no action by the Company or its Subsidiaries with respect to matters specifically addressed by any other provision of this Section 6.01 shall be deemed a breach of this Section 6.01(a), unless such action would constitute a breach of one or more of such other provisions, (y) the Company and its Subsidiaries' failure to take any action prohibited by Section 6.01(b) shall not be a breach of this Section 6.01(a) and (z) the Company may use all available cash to repay any Indebtedness or make cash dividends on or prior to the Closing.

(b) From the date hereof until the Closing Date, except (i) as set forth on the Conduct of Business Schedule attached hereto, (ii) as specifically and affirmatively permitted or required by this Agreement, (iii) as disclosed by the Company to the Purchaser prior to the Closing (so long as the cost of such disclosed item is treated as a Transaction Expense) or (iv) as consented to in writing by the Purchaser (which consent will not be unreasonably

withheld or delayed), the Company shall not, and shall not permit any Subsidiary of the Company to: (A) (1) issue, sell, grant, pledge or otherwise encumber any shares of its or any of its Subsidiaries' capital stock (other than in connection with the exercise of options or warrants outstanding as of the date hereof or obligations to issue Company Stock as set forth on the Capital Stock Schedule) or issue or sell any securities convertible into, or options with respect to, or warrants to purchase or rights to subscribe for, any shares of its or any of its Subsidiaries' capital stock, or (2) adversely (from the Company's perspective) amend (including by reducing an exercise price or extending a term) or waive any of its rights under, or accelerate the vesting under, any provision of any stock plan or any agreement evidencing any outstanding stock option or other right to acquire capital stock of the Company or any restricted stock purchase agreement or any similar or related contract; (B) effect any recapitalization, reclassification, stock dividend, stock split or like change in its capitalization or declare, set aside or pay any non-cash dividends on, or make any other non-cash distributions in respect of, any of its capital stock; (C) amend its or any of its Subsidiaries' certificate or articles of incorporation or bylaws (or equivalent organizational documents); (D) make any redemption or purchase of any shares of its or any of its Subsidiaries' capital stock (other than with respect to the repurchase of shares of Company Stock from former employees of the Company or its Subsidiaries pursuant to existing agreements or pursuant to any agreement set forth on the Capital Stock Schedule); (E) acquire or sell, assign, transfer, license, convey, lease or otherwise dispose of, any properties or assets (whether by merger, consolidation, equity sale or otherwise) that are material, individually or in the aggregate, to the



Company and its Subsidiaries, except pursuant to any agreement set forth on the Contracts Schedule or nonexclusive licenses of Intellectual Property granted by the Company or any of its Subsidiaries in the ordinary course of business; (F) make any material capital investment in, or any loan to, any other Person (other than those Persons specified in subsection (H) below), except in the ordinary course of business or pursuant to any agreement set forth on the Contracts Schedule; (G) make any material capital expenditures or commitments therefor, except (x) in the ordinary course of business and (y) for such capital expenditures or commitments therefor that are reflected in the Company's current budget; (H) make any loan to, or enter into any other material transaction with, any of its directors or officers except pursuant to any agreement set forth on the Contracts Schedule or the Affiliated Transaction Schedule or advances of expenses in the ordinary course of business; (I) (1) incur, assume, guarantee or endorse any Indebtedness (other than short term borrowings incurred in the ordinary course of business under existing credit facilities); or (2) modify the terms of any material Indebtedness; (J) make any change in accounting methods, principles or practices, or Tax reporting of the Company or any of its Subsidiaries, except insofar as may have been required by a change in Law or GAAP; (K) grant any Lien except for Permitted Liens on any of the material properties or assets (whether tangible or intangible) of the Company or any of its Subsidiaries; (L) cancel or compromise any debt or claim or waive or release any material right of the Company or any of its Subsidiaries in an aggregate amount greater than $100,000 and outside the ordinary course of business; (M) adopt a plan or agreement of complete or partial liquidation, dissolution, restructuring, recapitalization, merger, consolidation or other reorganization (other than transactions exclusively between wholly owned Subsidiaries of the Company); (N) (1) enter into any agreement or arrangement that, limits the rights of the Company, its Subsidiaries or any of their respective Affiliates in any material respect to engage in any line of business, to develop, market or distribute products or services or to compete with any Person, conduct any business or line of business in any geographic area, or (2) other than in the ordinary course of business, terminate or materially and adversely (from the Company's perspective) amend any contract listed on the Contracts Schedule; (O) (1) hire any employee or consultant that is entitled to severance and will receive annual compensation in excess of $150,000, (2) take any action to increase or accelerate the vesting or payment (or fund or in any other way secure the payment) of compensation or benefits of any of its current or former directors, officers, employees, consultants or independent contractors except (x) as required by an existing Company Employee Plan or existing agreement set forth on the Contracts Schedule as of the date of this Agreement, or (y) increases in salaries, wages and benefits of employees made in the ordinary course of business and in amounts and in a manner consistent with past practice; (3) enter into, establish, amend, terminate, or create any new collective bargaining agreement or Company Employee Plan with, for or in respect of, any stockholder, director, officer, other employee, consultant or Affiliate, other than as required pursuant to applicable Law; or (4) grant any severance, termination or change in control bonus pay to any current or former director, officer, employee, consultant or independent contractor, except as required by an existing Company Employee Plan or existing agreement set forth on the Contracts Schedule; (P) enter into any new line of business or change in any material respect its risk management or similar policies; (Q) terminate, materially and adversely (from the Company's perspective) amend, restate, supplement or waive any rights under any inbound license for Intellectual Property, other than in the ordinary course of business consistent with past practice, or fail to pay all maintenance and similar fees or to take all other appropriate actions as necessary to prevent the abandonment, loss or impairment of all owned Company



Intellectual Property that is material to the business; (R) settle or compromise any pending or threatened Legal Proceedings other than settlements and compromises that are less than $100,000 or that do not create binding precedent for other pending or potential third party claims or Legal Proceedings; or (S) authorize any of, or commit or agree to take any of, the foregoing actions.

6.02 Access to Books and Records. Subject to Section 7.07, from the date hereof until the Closing Date, the Company shall provide the Purchaser and its authorized representatives (the "Purchaser's Representatives") with reasonable access during normal business hours and upon reasonable notice to the Company's and its Subsidiaries' officers, management, senior personnel, accountants, counsel, financial advisors and other advisors and reasonable access during normal business hours and upon reasonable notice to the offices, properties, books and records of the Company and its Subsidiaries in order for the Purchaser to have the opportunity to make such investigation as it shall reasonably desire to make of the affairs of the Company and its Subsidiaries. The Purchaser acknowledges that Purchaser is and remains bound by the Confidentiality Agreement, between the Purchaser and the Company dated June 18, 2010 (the "Confidentiality Agreement"), which Confidentiality Agreement shall terminate at the Closing; provided that the Purchaser and the Company may disclose such information as may be necessary in connection with seeking necessary consents and approvals of Governmental Entities as contemplated hereby and the Debt Financing or any alternative financing in connection with the transactions contemplated hereby in accordance with Section 6.08(c).

6.03 Regulatory Filings. The Company shall, within five (5) Business Days after the date hereof, make or cause to be made all filings and submissions under any material laws or regulations applicable to the Company and its Subsidiaries for the consummation of the transactions contemplated herein. The Company shall coordinate and cooperate with the Purchaser in exchanging such information and providing such assistance as the Purchaser may reasonably request in connection with all of the foregoing (including with respect to any additional requests for information from any Governmental Entity). The Company shall reasonably assist and cooperate with the Purchaser in preparing and filing all documents required to be submitted by the Purchaser or its Affiliates to any Governmental Entities in connection with the transactions contemplated hereby and in obtaining any Governmental Entity or third party consents, waivers, authorizations or approvals which may be required to be obtained by the Purchaser in connection with the transactions contemplated hereby.

6.04 Conditions. The Company shall use commercially reasonable efforts to cause the conditions set forth in Section 3.01 to be satisfied and to consummate the transactions contemplated herein as soon as reasonably possible after the satisfaction of the conditions set forth in Article III (other than those to be satisfied at the Closing itself); provided that the Company shall not be required to expend any funds to obtain any Governmental Entity consents required under Section 3.01. The Company shall use commercially reasonable efforts to deliver to the Purchaser payoff letters, in form and substance reasonably satisfactory to the Purchaser, from the holders of Indebtedness set forth on Schedule 2.02(i) on or prior to the Closing and to make arrangements for such holders of Indebtedness to deliver or allow the Purchaser to file, subject to the receipt of the applicable payoff amounts, all related Lien releases, in form and



substance reasonably satisfactory to the Purchaser, to the Purchaser as soon as practicable after the Closing.

6.05 Exclusive Dealing. Except in connection with any exercise of options to acquire Company Common Stock or any issuance of Company Stock pursuant to an agreement set forth on the Capital Stock Schedule, during the period from the date of this Agreement through the Closing or the earlier termination of this Agreement pursuant to Section 9.01, neither the Company nor any Representative shall take any action to encourage, initiate or engage in discussions or negotiations with, or provide any information to, and will terminate any existing discussions with, any Person (other than the Purchaser and the Purchaser's Representatives) concerning any purchase of the shares of Company Stock or any merger, sale of substantially all of the assets of the Company and its Subsidiaries or similar transactions involving the Company (other than assets sold in the ordinary course of business).

6.06 Disclosure Updates. From the date hereof until the Closing Date, if the Company becomes aware of any matter, fact or circumstance arising after the date hereof that would cause any of the representations and warranties contained in Article IV to be untrue or incorrect as of the Closing Date ("New Facts"), then the Company shall disclose to the Purchaser in writing such matter, fact or circumstance in the form of updated Disclosure Schedules ("Updated Disclosure Schedules"); provided that the failure to disclose any such matter, fact or circumstance in Updated Disclosure Schedules shall not be a breach of this Section 6.06 (it being understood that the Company is still obligated to deliver the certificate set forth in Section 3.01(f)(i) hereof at Closing). Notwithstanding any provision in this Agreement to the contrary, unless the Purchaser provides the Company with a termination notice pursuant to this Section 6.06 within twenty days after delivery by the Company of Updated Disclosure Schedules (which notice may only be delivered if the Purchaser would be entitled to terminate this Agreement pursuant to Section 9.01(c) if such representations and warranties were remade at Closing without giving effect to any Updated Disclosure Schedules), the Purchaser shall be deemed to have accepted the Updated Disclosure Schedules for purposes of satisfying the conditions set forth in Section 3.01(a) and determining its termination rights under Section 9.01(c), unless additional New Facts are subsequently disclosed (pursuant to subsequent Updated Disclosure Schedules or otherwise) to or discovered by the Purchaser. If any additional New Facts are subsequently disclosed or discovered, then (x) the previous Updated Disclosure Schedules shall not be given effect and (y) the Company may deliver another Updated Disclosure Schedule incorporating both the previously disclosed and additional New Facts, in which event the provisions of this Section 6.06 (including Purchaser's rights to provide a termination notice as a result thereof) shall apply again to such Updated Disclosure Schedules. The delivery of Updated Disclosure Schedules will be deemed to have cured any misrepresentation or breach of warranty made at Closing or pursuant to any certificate delivered at the Closing that otherwise might have existed hereunder by reason of any matter, fact or circumstance arising after the date hereof that is disclosed on such Updated Disclosure Schedules, and the Purchaser shall not have any claim (whether for indemnification (including under Article VIII) or otherwise) against the Company, the Representative or any of the Stockholders for any such misrepresentation or breach of warranty unless, and only to the extent that, the aggregate Losses from all misrepresentations and breaches of warranties that otherwise might have existed hereunder by reason of any matter, fact or circumstance arising after the date hereof exceed $5,000,000 in the aggregate (the "Pre-Closing Deductible"). For the avoidance of doubt, and notwithstanding anything herein to the



contrary, the Company's disclosure of any matter, fact or circumstance on the Updated Disclosure Schedules pursuant to this Section 6.06 shall (i) not be deemed to cure any misrepresentations or breaches of warranties made as of the date hereof or any specified date preceding the date hereof, as applicable, (ii) not be deemed to cure any misrepresentations or breaches of warranties that result from any breaches of the Company's covenants or agreements hereunder and (iii) not affect the Purchaser's rights to recover for Losses under Article VIII to the extent that the aggregate Losses from all misrepresentations and breaches of warranties that otherwise might have existed hereunder by reason of any matter, fact or circumstance arising after the date hereof that are disclosed on any Updated Disclosure Schedules exceed the Pre-Closing Deductible.

6.07 Affiliated Transactions. On or before the Closing Date, the Company and its Subsidiaries, as applicable, shall terminate all agreements set forth on the Affiliated Transactions Schedule, other than those set forth on the Permitted Affiliated Transactions Schedule.

6.08 Financing Assistance.

(a) Prior to the Closing, the Company shall, and shall cause its Subsidiaries, and use its commercially reasonable efforts to cause their respective directors, officers, employees, counsel, accountants, agents, advisors and other representatives, to provide to the Purchaser and the Merger Sub such cooperation that is reasonably requested by the Purchaser and required by the Initial Lenders (as defined in the Debt Financing Commitments) in connection with (x) the Debt Financing or (y) any New Debt Financing; provided that any request in connection with any New Debt Financing shall be generally customary for debt financings of the type contemplated by the New Debt Financing Commitments, in the case of each of clauses (x) and (y), including (i) assisting in the preparation for and participating in meetings, presentations, road shows, due diligence sessions and sessions with rating agencies and assisting the Purchaser in obtaining ratings, each as contemplated by the Debt Financing Commitments and within the time periods required by the Purchaser's Debt Financing sources; (ii) assisting with the preparation of materials for rating agency presentations, bank books, confidential information memoranda and similar documents, each as required in connection with the Debt Financing, including representation and authorization letters, and within the time periods required by the Purchaser's Debt Financing sources; (iii) as promptly as reasonably practical, furnishing the Purchaser and its Debt Financing sources with the Required Information; (iv) using commercially reasonable efforts to obtain customary appraisals, surveys, engineering reports, environmental and other inspections, title insurance and other documentation and items relating to the Debt Financing as reasonably requested by the Purchaser and required by the Initial Lenders, and, if requested by the Purchaser or Merger Sub, to cooperate with and assist the Purchaser or Merger Sub in obtaining such documentation and items; (v) reasonably facilitating, subject to the Effective Time, pledging of collateral, perfection of Liens (including cooperation in connection with the payoff of existing indebtedness and the release of related Liens) and providing of guarantees supporting the Debt Financing; (vi) taking commercially reasonable actions necessary to (A) permit the prospective lenders involved in the Debt Financing to evaluate the

Company's current assets, cash management and accounting systems, policies and procedures relating thereto for the purposes of establishing collateral arrangements as of the Effective Time, and (B) assist the Purchaser to establish or maintain,



effective as of the Effective Time, account control and/or blocked account agreements and lock box arrangements in connection with the Debt Financing; (vii) using commercially reasonable efforts to assist the Purchaser to obtain waivers, consents, estoppels and approvals from other parties to material leases, encumbrances and contracts to which any Subsidiary of the Company is a party and to arrange discussions among the Purchaser, Merger Sub and their financing sources with other parties to material leases, encumbrances and contracts as of the Effective Time and (viii) taking all corporate actions, subject to the occurrence of the Effective Time, reasonably requested by the Purchaser that are necessary or customary to permit the consummation of the Debt Financing; provided that no board of directors or similar governing body of the Company or any of its Subsidiaries shall be required to take any action in connection with the foregoing; and provided further that in all cases none of the Company or any of its Subsidiaries, or any of their respective directors, officers, advisors, or representatives shall incur any liability in connection with the financing prior to the Effective Time and none of the Affiliates (excluding the Purchaser and its Affiliates), directors, officers, advisors, or representatives of the Company or its Subsidiaries shall incur any liability in connection with the financing at any time. The Company will use commercially reasonable efforts to periodically update the Required Information provided to the Purchaser pursuant to clause (iii) of the foregoing sentence as may be necessary such that the Required Information does not contain any untrue statement of material fact or omit to state any material fact necessary in order to make the statements contained therein not misleading. For the avoidance of doubt, the Purchaser may, to most effectively access the financing markets, require the cooperation of the Company under this Section 6.08 on multiple occasions, between the date hereof and the Effective Time. The Company hereby consents to the use of its and its Subsidiaries' logos in connection with the Debt Financing; provided that such logos are used solely in a manner that is not intended to nor reasonably likely to harm or disparage the Company or any of its Subsidiaries. Nothing herein shall require such cooperation, assistance or other efforts to the extent it would interfere unreasonably with the business or operations of the Company or its Subsidiaries.

(b) The Company, its Subsidiaries and their respective directors, officers, Affiliates, advisors and representatives shall be indemnified and held harmless by the Purchaser for and against any and all liabilities, losses, damages, claims, costs, expenses, interest, awards, judgments and penalties suffered or incurred by them in connection with the arrangement of the Debt Financing and the covenants set forth in this Section 6.08 (other than to the extent such losses arise from the gross negligence or willful misconduct of the Company, any of its Subsidiaries or their respective officers, advisors and representatives) and any information utilized in connection therewith (other than information provided by or on behalf of the Company or any of its Subsidiaries). The Company shall not be required to pay any commitment or other similar fee or make any other payment (other than reasonable out-of-pocket costs) or incur any other liability or provide or agree to provide any indemnity in connection with the Debt Financing or any of the foregoing prior to the Effective Time. The Purchaser shall promptly upon request by the Company, reimburse the Company for all documented and reasonable out-of-pocket costs incurred by the Company and its Subsidiaries (including reasonable attorneys' fees) in connection with such cooperation, assistance or other efforts. The obligations under this Section 6.08(b) shall survive the termination of this Agreement.

(c) All material non-public information provided by the Company or any of its Subsidiaries or any of their respective Representatives pursuant to this Section 6.08 shall be



kept confidential in accordance with the Confidentiality Agreement, except that the Purchaser, Merger Sub and their respective Representatives shall be permitted to disclose such information as set forth in the Debt Financing Commitments subject to the confidentiality terms therein, and the providers of the Debt Financing Commitments are permitted to further disclose such information as set forth in the Debt Financing Commitments subject to the confidentiality terms therein.

6.09 Section 280G Covenant. Prior to the Closing Date, the Company will submit to a stockholder vote (in compliance with Section 280G(b)(5)(B) of the Code and the regulations thereunder), to the extent and in the manner required under Sections 280G(b)(5)(A)(ii) and 280G(b)(5)(B) of the Code and the Treasury Regulations promulgated thereunder and in a form reasonably acceptable to Purchaser, the right of any individual who is or could reasonably be expected to be, as of the Closing Date, a "disqualified individual" (as defined in Section 280G(c) of the Code) to receive payments and benefits that could be deemed a "parachute payment" (as defined in Section 280G(b)(2) of the Code). Prior to soliciting such approval, the Company shall use commercially reasonable efforts to obtain waivers from the intended recipients of such payments, in a form reasonably acceptable to Purchaser, such that unless such payments are approved by the stockholders to the extent and in the manner required under Sections 280G(b)(5)(A)(ii) and 280G(b)(5)(B) of the Code, the Company shall not be required to make such payments to the extent such payments would constitute "parachute payments." The Company shall not amend, modify or waive (x) any obligation under the Transaction Bonus Agreements (as defined in the Disclosure Schedules) of any intended recipient to provide, or (y) any condition under the Transaction Bonus Agreements to the right of any intended recipient to receive payments requiring the provision of, the waiver described in this Section 6.09.

## ARTICLE VII

## COVENANTS OF THE PURCHASER

7.01 Access to Books and Records. From and after the Closing, for a period of one (1) year following the Closing Date (except with respect to books and records relating to Taxes or any indemnification claim then pending pursuant to Article VIII), the Purchaser shall, and shall cause the Company to, provide the Representative and its authorized representatives with reasonable access (for the purpose of examining and copying), during normal business hours and upon reasonable notice, to the books and records of the Company and its Subsidiaries with respect to periods or occurrences prior to or on the Closing Date in connection with any matter relating to or arising out of this Agreement or the transactions contemplated hereby. Unless otherwise consented to in writing by the Representative, the Purchaser shall not, and shall not permit the Company or its Subsidiaries to, for a period of one (1) year following the Closing Date (except with respect to books and records relating to Taxes or any indemnification claim then pending pursuant to Article VIII), destroy, alter or otherwise dispose of any of the books and records of the Company or its Subsidiaries for any period prior to the Closing Date without first giving reasonable prior notice to the Representative.

7.02 Notification. From the date hereof until the Closing Date, if the Purchaser becomes aware of any variances from the representations and warranties contained in Article V

that would cause the condition set forth in Section 3.02(a) not to be satisfied, the Purchaser shall disclose to the Company in writing such material variances in the form of updated Disclosure Schedules.

7.03 Director and Officer Liability and Indemnification.

(a) For a period of six (6) years after the Closing, the Purchaser shall, to the fullest extent permitted by law, cause the Surviving Corporation to honor all of the Company's and any of its Subsidiaries' obligations to exculpate or indemnify any current or former officers and/or directors (as of immediately prior to the Effective Time) pursuant to the Company's or any of its Subsidiaries' certificate of incorporation or bylaws (or equivalent governing document) as in effect on the date hereof, it being the intent of the parties that the officers and directors of the Company and its Subsidiaries shall continue to be entitled to such exculpation and indemnification to the full extent that is in effect as of the date hereof.

(b) For a period of six (6) years after the Closing, the Purchaser shall, or shall cause the Company and its Subsidiaries to, maintain director and officer liability insurance which insurance shall provide coverage for the individuals who were officers and directors of the Company and its Subsidiaries prior to Closing comparable to the policy or policies maintained by the Company or its Subsidiaries immediately prior to the Closing for the benefit of such individuals; provided that in no event shall the Purchaser or the Company and its Subsidiaries be required to expend an aggregate amount more than 250% of the amount currently expended by the Company per year of coverage as of the date of this Agreement. The Purchaser shall be deemed to have been satisfied this Section 7.03(b) if a prepaid insurance policy or policies (i.e., "tail coverage") have been obtained by the Company (at the Purchaser's expense) which policy or policies provide directors and officers with the coverage described in Section 7.03(b) above for an aggregate period of not less than six (6) years with respect to claims arising from acts, events or omissions that occurred at or prior to the Closing, including with respect to the transactions contemplated by this Agreement.

(c) If the Company, its Subsidiaries or any of their respective successors or assigns (a) shall consolidate with or merge into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (b) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of the Company and its Subsidiaries shall assume all of the obligations set forth in this Section 7.03. The provisions of this Section 7.03 are intended for the benefit of, and will be enforceable by, each current and former officer, director or similar functionary of the Company or its Subsidiaries and his or her heirs and representatives, and are in addition to, and not in substitution for, any other rights to indemnification or contribution that any such Person may have had by contract or otherwise.

7.04 Employment and Benefit Arrangements. For at least twelve (12) months following the Closing, the Purchaser shall cause the Surviving Corporation to either (i) provide compensation to employees of the Company and its Subsidiaries that is substantially comparable to the compensation provided prior to the Closing Date and maintain in effect on behalf of employees of the Company and its Subsidiaries the Company Employee Plans or (ii) provide all employees of the Company and its Subsidiaries with compensation (other than equity incentives)



and benefit plans, programs, arrangements, agreements and policies as are in the aggregate not substantially less favorable than the compensation and aggregate level of benefits provided under the Company Employee Plans provided to such employees as of the Closing; provided, however, that nothing in this Section 7.04 shall prevent the Surviving Corporation from terminating any employee or, subject to compliance with this Section 7.04, from amending, suspending or terminating any Company Employee Plans or agreement to the extent permitted by their respective terms of any such Company Employee Plan or agreement. The Purchaser shall take all actions required so that eligible employees of the Company and its Subsidiaries shall receive service credit for all purposes (other than for purposes of accruals under any "defined benefit plan," or accruals that would result in a duplication of any benefits) under any successor employee benefit plans and arrangements sponsored by the Purchaser. To the extent that the Purchaser modifies any coverage or benefit plans under which the employees of the Surviving Corporation and its Subsidiaries participate, the Purchaser shall waive any applicable waiting periods, pre-existing conditions or actively-at-work requirements and shall give such employees credit under the new coverages or benefit plans for deductibles, co-payments and out-of-pocket payments that have been paid during the year in which such coverage or plan modification occurs. If the employment of any employee of the Company or any of its Subsidiaries is terminated within twelve (12) months following the Closing, the Purchaser shall pay (or cause the Surviving Corporation to pay) such employee a severance benefit that shall in no event be less than, or paid later than, the severance benefit, if any, to which such employee would have been entitled pursuant to the severance practice set forth on the attached Severance Schedule. The Purchaser shall be solely responsible for any obligations arising under Section 4980B of the Code with respect to all "M&A qualified beneficiaries" as defined in Treasury Regulation §54.4980B-9. This Section 7.04 shall survive the consummation of the Merger at the Effective Time, is intended to benefit the Company, the Surviving Corporation, and the employees of the Company, its Subsidiaries and the Surviving Corporation, and shall be binding on all successors and assigns of the Purchaser and the Surviving Corporation. Effective as of the day immediately preceding the Closing Date, the Company shall adopt a board resolution stating that any and all Company Employee Plans intended to include a Code Section 401(k) arrangement (each, a "Company 401(k) Plan") are terminated effective as of the day immediately preceding the Closing Date (but contingent on the occurrence of the Closing), unless the Purchaser provides written notice to the Company at least three (3) Business Days prior to the Closing Date that such 401(k) plan(s) need not be terminated. Unless the Purchaser provides such written notice to the Company, the Company shall provide the Purchaser with copies of such board resolutions. As of the Effective Time, all employees of the Company eligible to participate in any such Company 401(k) Plan(s) shall be eligible to participate in a Code Section 401(k) arrangement maintained by the Purchaser (the "Purchaser 401(k) Plan"). The Purchaser shall cause such Purchaser 401(k) Plan to accept direct rollover contributions (within the meaning of Section 401(a)(31) of the Code), including promissory notes for participant loans so that such loans do not default as a consequence of the termination of the Company 401(k) Plan(s), from the Company 401(k) Plan(s) in respect of employees of the Company or any of its Subsidiaries.

7.05 Regulatory Filings. The Purchaser shall, within five (5) Business Days after the date hereof, make or cause to be made all filings and submissions required of the Purchaser under any laws or regulations applicable to the Purchaser for the consummation of the transactions contemplated herein. The Purchaser shall promptly comply with any additional requests for information, including requests for production of documents and production of

witnesses for interviews or depositions by any Governmental Entities. In addition, the Purchaser shall cooperate in good faith with the Governmental Entities and undertake promptly any and all action required (including divestitures of its assets) to complete the transactions contemplated by this Agreement expeditiously and lawfully. Without limiting the generality of the foregoing, if a suit or other action is threatened or instituted by any Governmental Entity or any other entity challenging the validity or legality or seeking to restrain the consummation of the transactions contemplated by this Agreement, the Purchaser and Merger Sub shall use their commercially reasonable efforts to avoid, resist, resolve or, if necessary, defend such suit or action (but in no event shall any divestitures be required). The Purchaser shall diligently assist and cooperate with the Company in preparing and filing all documents required to be submitted by the Company or its Affiliates to any Governmental Entities in connection with the transactions contemplated hereby and in obtaining any Governmental Entity or third party consents, waivers, authorizations or approvals which may be required to be obtained by the Company or any of its Subsidiaries in connection with the transactions contemplated hereby (which assistance and cooperation shall include timely furnishing to the Company all information concerning the Purchaser and/or its Affiliates that counsel to the Company reasonably determines is required to be included in such documents or would be helpful in obtaining such required consent, waiver, authorization or approval). The Purchaser shall be responsible for all filing fees under any laws or regulations applicable to the Purchaser.

7.06 Conditions. The Purchaser shall use all commercially reasonable efforts to cause the conditions set forth in Section 3.02 to be satisfied and to consummate the transactions contemplated herein as soon as reasonably possible after the satisfaction of the conditions set forth in Article III (other than those to be satisfied at the Closing itself).

7.07 Contact with Customers and Suppliers. Prior to the Closing, the Purchaser and the Purchaser's Representatives may only contact and communicate with the employees, sponsor banks, customers, service providers and suppliers of the Company and its Subsidiaries in connection with the transactions contemplated hereby after prior consultation with and written approval of the Company's Chief Executive Officer or the Representative.

7.08 Financing. Each of the Purchaser and Merger Sub shall not permit any amendment or modification to be made to, or any waiver of any provision or remedy under, or the replacement of the Debt Financing Commitments between the date of this Agreement and the Effective Time, and shall use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary to arrange the Debt Financing on the terms and conditions described in the Debt Financing Commitments including, without limitation, preparing materials for and participating in meetings, presentations, road shows, due diligence sessions and sessions with rating agencies, preparing and delivering financial statements, projections, pro formas, confidential information memorandum and other materials required by the Debt Financing Commitments in order to commence the Marketing Period, all with the assistance of the Company as set forth in Section 6.08 (unless any amendment, modification, waiver or replacement (w) does not adversely (from the Company's perspective) amend or expand upon the conditions precedent to the Debt Financing as set forth in the Debt Financing Commitments, (x) is not reasonably expected to delay or hinder the Closing or the availability of the Debt Financing, (y) does not reduce the aggregate amount of available Debt Financing unless such amounts are available to the Purchaser with cash on hand and/or (z) adds



lenders, lead arrangers, bookrunners, syndication agents or similar entities who had not executed the Debt Financing Commitments as of the date hereof (it being understood that no Initial Lender under such Debt Financing Commitments shall be relieved or novated from its obligations under the Debt Financing Commitments until the initial funding of the Debt Financing has occurred) (the Debt Financing Commitment as so replaced, including as a result of an alternative financing as described below, the "New Debt Financing Commitment" and the financing to be provided thereunder, the "New Debt Financing")), including using its commercially reasonable efforts to (i) maintain in effect the Debt Financing Commitments, (ii) satisfy on a timely basis all conditions applicable to the Purchaser to obtaining the Debt Financing set forth therein that are within their reasonable control (taking into account the expected timing of the Marketing Period), (iii) enter into definitive agreements with respect thereto on the terms and conditions contemplated by the Debt Financing Commitments or on terms no less favorable to the Purchaser, (iv) subject to the last sentence of this Section 7.08, cause the lenders to fund the financing under the Debt Financing Commitments on the Closing Date and (v) subject to completion of the Marketing Period, consummate the Debt Financing at or prior to the Closing (the provisions of this sentence, the "Specified Purchaser Financing Covenants"). The Purchaser shall give the Company prompt notice of any breach or breach threatened in writing by any party to the Debt Financing Commitment and, if applicable, the New Debt Financing Commitment, and the Purchaser shall give the Company prompt notice of any termination or termination threatened in writing of the Debt Financing Commitment and, if applicable, the New Debt Financing Commitment. The Purchaser shall keep the Company informed on a reasonably current basis in reasonable detail of the status of its efforts to arrange the Debt Financing or any alternative financing. In the event any portion of the Debt Financing becomes unavailable on the terms and conditions contemplated in the Debt Financing Commitments (other than due to the failure of a condition to the consummation of the Debt Financing resulting from a material breach of the representations, warranties, covenants or agreements of the Company set forth in this Agreement, in each case, after providing ten days' written notice to the Company and a reasonable opportunity to cure), the Purchaser shall promptly notify the Company and shall use its commercially reasonable efforts to arrange to promptly obtain alternative financing from alternative sources on terms no less favorable to the Purchaser as those contained in the Debt Financing Commitments and in an amount sufficient to consummate the transactions contemplated hereby. In the event the New Debt Financing Commitment and/or New Debt Financing replace in any manner the Debt Financing Commitments and Debt Financing, the obligations of Purchaser under this Agreement with respect to the Debt Financing Commitments and Debt Financing shall also apply to the New Debt Financing Commitment and New Debt Financing. The Purchaser shall promptly deliver to the Company true and complete copies of all executed agreements pursuant to which any such alternative source shall have committed to provide the Purchaser with any portion of the Debt Financing. Notwithstanding anything contained in this Section 7.08 or in any other provision of this Agreement, in no event shall Purchaser be required (a) to amend or waive any of the terms or conditions hereof or (b) to consummate the Closing any earlier than the final day of the Marketing Period. The Purchaser shall have and maintain available cash in an amount sufficient (assuming the aggregate proceeds to be disbursed pursuant to the agreements contemplated by the Debt Financing Commitments are funded) to make payment of all amounts, costs, expenses and fees to be paid by it hereunder and under the Debt Financing (including to cover any "flex", original issue discounts or other fees, expenses, adjustments or costs in connection with the Debt Financing and the



consummation of the transactions contemplated hereby) and all transactions related thereto or hereto on the Closing Date and to repay in full the other Indebtedness of the Purchaser contemplated to be refinanced thereby. In no event shall the use of commercially reasonable efforts by the Purchaser require instituting or pursuing a Legal Proceeding against any Lender Related Party.

7.09 No Intermediary Transaction Tax Shelter. The Purchaser's participation in the transactions contemplated by this Agreement are not part of an "intermediary transaction tax shelter" as described in IRS Notices 2001-16 and 2008-111.

ARTICLE VIII
**INDEMNIFICATION**

8.01 Survival of Representations, Warranties, Covenants, Agreements and Other Provisions. Except to the extent a different period is expressly set forth herein, the representations, warranties, covenants (other than post-Closing covenants and agreements), agreements and other provisions in this Agreement shall survive the Closing and shall terminate on the date which is twelve (12) months after the Closing Date (the "Survival Period Termination Date"); provided, however, that the representations and warranties (a) of the Company set forth in Section 4.01 (Organization and Corporate Power), Section 4.02(a) (Subsidiaries), Section 4.03(a) (Authorization; No Breach; Valid and Binding Agreement), and Section 4.04 (Capital Stock), (b) of the Purchaser set forth in Section 5.01 (Organization and Power) and Section 5.02 (Authorization) (collectively, the parties' "Fundamental Representations") and (c) of the Company set forth in Section 4.08 (Tax Matters), shall survive the Closing until the five (5) year anniversary of the Closing Date with respect to the particular matters that are the subject thereof. Except as provided in the preceding sentence, on the Survival Period Termination Date, the representations, warranties, covenants and agreements of the parties in this Agreement shall terminate and have no further force and effect; provided, however, that all post-Closing covenants and agreements contained herein shall survive in accordance with their respective terms. Any representation or warranty that is the subject of a claim for indemnification for which notice to the Representative or Purchaser, as applicable, is given in writing setting forth the specific claim and the basis therefor in reasonable detail prior to the Survival Period Termination Date shall survive with respect to such claim until the final resolution thereof.

8.02 Indemnification for the Benefit of the Purchaser.

(a) From and after the Closing (but subject to the provisions of this Article VIII and the Escrow Agreement), the Purchaser shall be entitled to assert, as its sole and exclusive remedy for any action relating (directly or indirectly) to this Agreement and the transactions contemplated hereby (other than fraud) and only in accordance with the terms of the Escrow Agreement (to the extent applicable), claims against (x) the Indemnity Escrow Account and/or, (y) to the extent (and only to the extent) that the funds in the Indemnity Escrow Account that are not subject to pending claims under this Agreement or the Escrow Agreement are insufficient to satisfy any claims for fraud and breaches of the Fundamental Representations or the representations and warranties set forth in Section 4.08, the Preferred Stockholders, in respect of any loss, liability, damage or expense ("Losses") suffered or incurred by the Purchaser or any of its Affiliates, officers, directors, employees or agents to the extent arising from any



nonfulfillment or breach of any representation, warranty, covenant, agreement or other provision set forth herein by the Company or in any exhibit, Schedule or certificate delivered hereunder, in each case taking into account any disclosure made in an Updated Disclosure Schedule delivered pursuant to, and in accordance with, Section 6.06 hereof (excluding in all cases any nonfulfillment or breach of the Company or any of its Subsidiaries that occurs after the Closing), subject to the limitations set forth in Section 6.06, including the Pre-Closing Deductible. All indemnification claims of the Purchaser pursuant to this Section 8.02 shall be satisfied (A) first, by the Purchaser proceeding against any remaining funds in the Indemnity Escrow Account and (B) second, only after the Indemnity Escrow Account has been exhausted, by the Purchaser proceeding against the Preferred Stockholders but subject to the limitations contained in this Section 8.02. Notwithstanding the foregoing, no claims by the Purchaser shall be so asserted unless and until the aggregate amount of Losses that would otherwise be payable hereunder from the Indemnity Escrow Account exceeds on a cumulative basis an amount equal to $5,000,000 (the "Deductible"), and then only to the extent such Losses exceed the Deductible. The Deductible shall not apply to Losses arising out of a breach of (1) the Fundamental Representations or (2) the representations and warranties set forth in Section 4.08. For the avoidance of doubt, the amounts of any Losses actually applied toward and up to the amount of the Pre-Closing Deductible pursuant to Section 6.06 shall not also be applied toward the Deductible. Notwithstanding anything to the contrary contained in this Agreement, (i) the Purchaser's right to seek indemnification pursuant to this Section 8.02 (other than for fraud and breaches of Fundamental Representations or the representations and warranties set forth in Section 4.08) shall be limited to an amount of Losses in the aggregate not to exceed the Indemnification Escrow Amount and (ii) in addition, the Purchaser's right to seek indemnification pursuant to this Section 8.02 (including for breaches of Fundamental Representations and/or the representations and warranties set forth in Section 4.08 and any other breaches, but excluding claims for fraud) shall be limited to an amount of Losses in the aggregate not to exceed the Preferred Stock Merger Consideration. For the avoidance of doubt, the sum of any amounts paid from the Indemnification Escrow Account to or for the benefit of the Purchaser in connection with any claim by the Purchaser for indemnification hereunder shall be counted toward satisfying the limitations in clauses (i) and (ii) of the foregoing sentence. The limitations on indemnification set forth in this Section 8.02(a) shall not apply to Losses arising from a claim for fraud.

(b) Recovery against (i) the Indemnity Escrow Account pursuant to this Section 8.02 and the Escrow Agreement, (ii) the Purchase Price Adjustment Escrow Account pursuant to Section 1.10 and the Escrow Agreement and (iii) the Preferred Stockholders to the extent permitted by Section 8.02(a), constitutes the Purchaser's sole and exclusive remedy for any and all Losses or other claims relating to or arising from this Agreement or in connection with the transactions contemplated hereby (except with respect to claims for fraud), including in any exhibit, Schedule or certificate delivered hereunder. Notwithstanding the foregoing, this Section 8.02(b) shall not prohibit the rights of the parties to seek equitable remedies (including specific performance or injunctive relief) to the extent permitted by Section 12.20.

(c) In connection with a claim for indemnity under Section 8.02(a), for purposes of determining (i) whether a representation or warranty has been breached and (ii) the amount of any Losses resulting from such breach, each such representation or warranty shall be considered without regard to any limitation or qualification as to materiality, Material Adverse



Effect or similar qualifier set forth in such representation or warranty (except for Fundamental Representations and the representations and warranties in the last sentence of Section 4.05, the first sentence of Section 4.06, Section 4.08, Section 4.09(a) and Section 4.20).

(d) Neither party may avoid the limitations on liability set forth in this Article VIII by seeking damages for breach of contract, tort or pursuant to any other theory of liability and each party hereby waives, from and after the Closing, to the fullest extent permitted under applicable Law, and agrees to indemnify Purchaser or each of the Representative or the Stockholders, as the case may be, from and against any and all rights, claims and causes of action it may have against Purchaser or any Representative or the Stockholders, as the case may be, relating (directly or indirectly) to the subject matter of this Agreement arising under or based upon any federal, state, local or foreign statute, law or ordinance or otherwise. Notwithstanding anything to the contrary contained in this Agreement, the Purchaser shall have no right to indemnification hereunder with respect to any Loss or alleged Loss to the extent (and only to the extent) such Loss or alleged Loss is included in the calculation of the Indebtedness, Net Working Capital or Transaction Expenses or if the

Purchaser shall have requested a reduction of the Net Working Capital or requested an increase of the Indebtedness or the Transaction Expenses in the Preliminary Statement on account of any matter forming the basis for such Loss or alleged Loss.

(e) All payments made from the Indemnity Escrow Account shall be treated by the parties as an adjustment to the proceeds received by the Preferred Stockholders pursuant to Article II hereof.

(f) (i) Except for the Purchaser pursuant to Sections 2.02(f) and 2.02(g), no Person (including the Representative, the Stockholders and their respective Affiliates) shall have any obligation to fund the Purchase Price Adjustment Escrow Account or the Indemnity Escrow Account, and (ii) title and all rights to all funds in the Indemnity Escrow Account shall automatically transfer to the Representative (on behalf of the Preferred Stockholders, to the extent of their respective Preferred Percentages) on the Survival Period Termination Date subject to the limitations in, and in accordance with the terms of, the Escrow Agreement.

8.03 Indemnification by the Purchaser for the Benefit of the Stockholders. The Purchaser shall indemnify the Representative and the Stockholders and their respective Affiliates, and their respective officers, directors, partners, members, employees, agents, representatives, successors and permitted assigns (collectively, the "Indemnified Parties") and hold them harmless against any Losses which the Indemnified Parties may suffer or sustain, as a result of: (a) any breach of any representation or warranty of the Purchaser or the Merger Sub under this Agreement and (b) any nonfulfillment or breach of any covenant, agreement or other provision by the Purchaser or the Merger Sub.

Any indemnification of the Stockholders pursuant to this Section 8.03 shall be delivered to the Representative (on behalf of the Preferred Stockholders, in accordance with their respective Preferred Percentages) by wire transfer of immediately available funds to the Representative's account within 15 days after the determination thereof.

8.04 Mitigation. Each Person entitled to indemnification hereunder shall take all reasonable steps to mitigate all Losses after becoming aware of any event which would



reasonably be expected to give rise to any Losses that are indemnifiable or recoverable hereunder or in connection herewith.

8.05 Defense of Third Party Claims. Any Person making a claim for indemnification under Section 8.02 or Section 8.03 (an "Indemnitee") shall notify the indemnifying party (an "Indemnitor") and the Representative (on behalf of the Preferred Stockholders), if applicable, of the claim in writing promptly after receiving written notice of any Legal Proceeding or other claim against it (if by a third party), describing the claim, the amount thereof (if known and quantifiable) and the basis thereof. Any Indemnitor shall be entitled to participate in the defense of such Legal Proceeding or other claim giving rise to an Indemnitee's claim for indemnification at such Indemnitor's expense, and at its option shall be entitled to assume the defense thereof by appointing a reputable counsel reasonably acceptable to the Indemnitee to be the lead counsel in connection with such defense; provided that (i) any Indemnitor shall continue to be entitled to assert any limitation on any claims contained herein, (ii) the Indemnitor actively and diligently conducts such defense or opposition and (iii) the Indemnitee shall be entitled to participate in the defense of such claim and to employ counsel of its choice for such purpose at the Indemnitee's expense (provided that such counsel shall be at Indemnitor's expense in the event that there would be a conflict of interest if Indemnitor's counsel represented both the Indemnitor and Indemnitee). If the Representative is defending a claim, the reasonable expenses of the Representative incurred in defending such claim (or any participation in a claim that could result in Losses to the Preferred Stockholders or their respective Affiliates) shall be reimbursed from the funds remaining in the Indemnity Escrow Account, but only on or after the Survival Period Termination Date and only to the extent that such funds are then not subject to pending claims under this Agreement or the Escrow Agreement. If the Indemnitor shall control the defense of any such claim then the Indemnitor shall be entitled to settle such claim; provided that the Indemnitor shall obtain the prior written consent of the Indemnitee (which consent shall not be unreasonably withheld or delayed if, with respect to such claim, Indemnitor's liability exceeds Indemnitee's liability) before entering into any settlement of a claim or ceasing to defend such claim if, pursuant to or as a result of such settlement or cessation, injunctive or other equitable relief will be imposed against the Indemnitee or if such settlement does not expressly and unconditionally release the Indemnitee from all liabilities and obligations with respect to such claim, without prejudice except for payments that would be required to be paid by the Purchaser or its Subsidiaries representing the Deductible. The Representative (on behalf of the Preferred Stockholders) shall act on behalf of all Indemnitors in the case of all third party claims with respect to which the Purchaser is seeking indemnification from the Preferred Stockholders under Section 8.02.

8.06 Determination of Loss Amount. The amount of any Loss subject to indemnification under Section 8.02 or Section 8.03 shall be calculated net of (i) any Tax Benefit actually realized by the Indemnitee or its Affiliates in the taxable year in which such Loss occurs on account of such Loss and (ii) any insurance proceeds or any indemnity, contribution or other similar payment recovered by the Indemnitee from any third party with respect thereto. If the Indemnitee receives a Tax Benefit after an indemnification payment is made to it, the Indemnitee shall promptly pay to the Representative, on behalf of the Preferred Stockholders, the amount of such Tax Benefit at such time or times as and to the extent that such Tax Benefit is realized by the Indemnitee. For purposes hereof, "Tax Benefit" shall mean any refund of Taxes paid or reduction in the amount of Taxes which otherwise would have been paid, in each case computed



at the effective tax rates applicable to the recipient of such benefit in the taxable year in which such Loss occurs. The Indemnitee shall seek full recovery under all insurance policies covering any Loss to the same extent as they would if such Loss were not subject to indemnification hereunder. In the event that an insurance or other recovery is made by any Indemnitee with respect to any Loss for which any such Person has been indemnified hereunder, then a refund equal to the aggregate amount of the recovery shall be made promptly to the Representative, on behalf of the Preferred Stockholders. In no event shall any party hereto be entitled to recover or make a claim for any amounts in respect of speculative, diminution in value, incidental or indirect damages or punitive damages; in each case, except to the extent any such damages are awarded to a third party as damages against the Person seeking indemnification hereunder.

8.07 Acknowledgment of the Purchaser and the Merger Sub. The Purchaser and the Merger Sub acknowledge that they have conducted to their satisfaction an independent investigation and verification of the financial condition, results of operations, assets, liabilities, properties and projected operations of the Company and its Subsidiaries and, in making its determination to proceed with the transactions contemplated by this Agreement, the Purchaser and the Merger Sub have relied on the results of their own independent investigation and verification and the representations and warranties of the Company expressly and specifically set forth in this Agreement, including the Disclosure Schedules attached hereto. Such representations and warranties by

the Company constitute the sole and exclusive representations and warranties of the Company and the Stockholders to the Purchaser and the Merger Sub in connection with the transactions contemplated hereby, and the Purchaser and the Merger Sub understand, acknowledge and agree that all other representations and warranties of any kind or nature expressed or implied (including any relating to the future or historical financial condition, results of operations, assets or liabilities of the Company, or the quality, quantity or condition of the Company's or its Subsidiaries' assets) are specifically disclaimed by the Company and the Stockholders. Except as expressly provided in this Agreement, the Company and its Subsidiaries, and the Stockholders do not make or provide, and the Purchaser and the Merger Sub hereby waive, any warranty or representation, express or implied, as to the quality, merchantability, as for a particular purpose, conformity to samples, or condition of the Company's and its Subsidiaries' assets or any part thereto. In connection with the Purchaser's and the Merger Sub's investigation of the Company and its Subsidiaries, the Purchaser and the Merger Sub have received certain projections, including projected statements of operating revenues and income from operations of the Company and its Subsidiaries and certain business plan information. The Purchaser and the Merger Sub acknowledge that there are uncertainties inherent in attempting to make such estimates, projections and other forecasts and plans, that the Purchaser and the Merger Sub are familiar with such uncertainties and that the Purchaser and the Merger Sub are taking full responsibility for making its own evaluation of the adequacy and accuracy of all estimates, projections and other forecasts and plans so furnished to it, including the reasonableness of the assumptions underlying such estimates, projections and forecasts. Accordingly, the Purchaser and the Merger Sub hereby acknowledge that none of the Company or its Subsidiaries or the Stockholders is making any representation or warranty with respect to such estimates, projections and other forecasts and plans, including the reasonableness of the assumptions underlying such estimates, projections and forecasts, and that the Purchaser and the Merger Sub have not relied on any such estimates, projections or other forecasts or plans. The Purchaser and the Merger Sub further agree that (i) none of the Company, its Subsidiaries, the Stockholders or any other Person will have or be subject to any liability to the Purchaser, the



Merger Sub or any other Person resulting from the distribution to the Purchaser and the Merger Sub, or the Purchaser's or the Merger Sub's use of, any such information, including any information, document or material made available to the Purchaser and the Merger Sub or their Affiliates in certain "data rooms," management presentations or any other form in expectation of the transactions contemplated by this Agreement, and (ii) the Purchaser and the Merger Sub have not relied on any such information; provided that the parties acknowledge that the Purchaser and the Merger Sub have relied on the representations and warranties of the Company set forth in this Agreement as modified by the Disclosure Schedules.

8.08 Tax Treatment of Indemnity Payments. The parties agree to treat any indemnity payment made pursuant to this Article VIII as an adjustment to the consideration paid under this Agreement for all income Tax purposes.

ARTICLE IX

**TERMINATION**

9.01 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by the mutual written consent of the Purchaser and the Company;

(b) within five (5) Business Days following the date hereof, by the Purchaser if the Stockholder Approval shall not have been obtained within two (2) Business Days following the date hereof;

(c) by the Purchaser, if there has been a material violation or breach by the Company of any covenant, representation or warranty contained in this Agreement that has prevented the satisfaction of any condition to the obligations of the Purchaser at the Closing and such violation or breach has not been waived by the Purchaser or cured by the Company within ten (10) Business Days after receipt by the Company of written notice thereof from the Purchaser;

(d) by the Company, if there has been a material violation or breach by the Purchaser or the Merger Sub of any covenant, representation or warranty contained in this Agreement that has prevented the satisfaction of any condition to the obligations of the Company at the Closing and such violation or breach has not been waived by the Company or cured by the Purchaser within ten (10) Business Days after receipt by the Purchaser of written notice thereof by the Company (provided that the failure to deliver the Merger Consideration or the payments contemplated by Section 2.02 at the Closing as required hereunder shall not be subject to cure hereunder unless otherwise agreed to in writing by the Company);

(e) by the Purchaser, if the transactions contemplated hereby have not been consummated on or before December 14, 2010 (such date, the "Outside Date"); provided that the Purchaser shall not be entitled to terminate this Agreement pursuant to this Section 9.01(e) if the Purchaser's willful breach of this Agreement has proximately caused or resulted in the failure of the Merger to occur on or before the Outside Date; or



(f) by the Company, if the transactions contemplated hereby have not been consummated on or before Outside Date; provided that the Company shall not be entitled to terminate this Agreement pursuant to this Section 9.01(f) if the Company's willful breach of this Agreement has proximately caused or resulted in the failure of the Merger to occur on or before the Outside Date;

(g) by the Company if all of the conditions to Closing in Section 3.01 have been satisfied (other than those conditions that by their nature are to satisfied at Closing, but subject to the satisfaction of such conditions) and nothing has occurred and no condition exists that would cause any of the conditions set forth in Section 3.01 to fail to be satisfied and Purchaser fails to complete the Closing within two Business Days following the date on which the Closing should have occurred pursuant to Section 2.01 and the Company stood ready, willing and able to complete the Closing during such period; or

(h) by the Purchaser pursuant to and in accordance with Section 6.06.

9.02 Effect of Termination. In the event this Agreement is terminated by either the Purchaser or the Company as provided above, the provisions of this Agreement shall immediately become void and of no further force and effect (other than Section 6.08(b), this Section 9.02, Section 9.03, Section 10.01, and Article XI and Article XII (other than Section 12.20) hereof which shall survive the termination of this Agreement), and there shall be no

liability on the part of either the Purchaser, the Merger Sub, the Company, the Representative or the Stockholders to one another, except for willful breaches of this Agreement prior to the time of such termination.

9.03 Reverse Termination Fee. In the event that this Agreement is terminated by the Company pursuant to Sections 9.01(d) or 9.01(g), or by the Purchaser pursuant to Section 9.01(e) in circumstances where the Company would be permitted to terminate this Agreement pursuant to Sections 9.01(d) or 9.01(g), the Purchaser shall pay the Company, within two (2) Business Days of the date of termination of this Agreement (if so terminated by the Company) or prior to or contemporaneously with such termination of this Agreement (if so terminated by the Purchaser), an aggregate fee equal to the Reverse Termination Fee by wire transfer of same day funds.

(b) Notwithstanding anything to the contrary set forth in this Agreement, each of the parties hereto expressly acknowledges and agrees that, with respect to any termination of this Agreement under circumstances in which the Reverse Termination Fee is payable pursuant to Section 9.03(a), payment of the Reverse Termination Fee shall constitute liquidated damages with respect to any claim for damages or any other claim which the Company would otherwise be entitled to assert against the Purchaser, any Specified Person (as defined below) or any of their respective assets, with respect to any such termination of this Agreement, and (other than the obligations under Section 6.08(b) and Section 12.13 (the "Specified Obligations")) shall constitute the sole and exclusive remedy of the Company and its Subsidiaries and any Stockholder or other Person with respect to any such termination of this Agreement and for any action relating (directly or indirectly) to this Agreement and the transactions contemplated hereby (other than fraud), against the Purchaser, Merger Sub, the financing sources under the Debt Financing or their respective Affiliates, successors and assigns (the "Lender Related



Parties") and the former, current and future equity holders, controlling persons, directors, officers, employees, agents, Affiliates, members, managers, general or limited partners or assignees of the Purchaser, Merger Sub or the Lender Related Parties or any current or future equity holder, controlling person, director, officer, employee, agent, Affiliate, member, manager, general or limited partner of any of the foregoing (collectively, the "Specified Persons") for any Loss suffered as a result of any breach of any covenant or agreement or the failure of the Merger to be consummated, and upon payment of such amount, none of the Specified Persons shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated by this Agreement (except that the Purchaser shall also be obligated with respect to the Specified Obligations and this Section 9.03(b)). The parties hereto expressly acknowledge and agree that, in light of the difficulty of accurately determining actual damages with respect to the foregoing upon any such termination of this Agreement under circumstances in which the Reverse Termination Fee is payable pursuant to Section 9.03(a), subject to Section 12.20 and the Specified Obligations, the right to such payment: (A) constitutes a reasonable estimate of the damages that will be suffered by reason of any such termination of this Agreement, and (B) shall be in full and complete satisfaction of any and all damages arising as a result of any such termination of this Agreement. For the avoidance of doubt, in the event the Closing does not occur, other than with respect to the Specified Obligations in no event shall the Specified Persons be subject to (nor shall the Company, any of its Subsidiaries, Stockholders or any other Person seek to recover) monetary damages in excess of the Reverse Termination Fee for all losses arising from or in connection with breaches by the Purchaser or Merger Sub of their respective representations, warranties, covenants and agreements contained in this Agreement or arising from any claim or cause of action in law or equity that the Company, any of its Subsidiaries, any Stockholder or any other Person may have for any loss suffered as a result of the failure of the Merger to be consummated. While the Company may pursue both a grant of specific performance under Section 12.20 and the payment of the Reverse Termination Fee under this Section 9.03, under no circumstances (except pursuant to the Specified Obligations) shall the Company be permitted or entitled to receive both a grant of specific performance and monetary damages in connection with this Agreement or any termination of this Agreement, including all or any portion of the Reverse Termination Fee.

ARTICLE X

**ADDITIONAL COVENANTS**

10.01 Representative

(a) Appointment. In addition to the other rights and authority granted to the Representative elsewhere in this Agreement, upon and by virtue of the approval of the requisite holders of Company Common Stock of this Agreement, all of the Stockholders and collectively irrevocably constitute and appoint the Representative, as their agent and representative to act from and after the date hereof and to do any and all things and execute any and all documents which may be necessary, convenient or appropriate to facilitate the consummation of the transactions contemplated by this Agreement, including: (i) execution of the documents and certificates pursuant to this Agreement; (ii) receipt of payments under or pursuant to this Agreement and disbursement thereof to the Stockholders and others, as contemplated by this Agreement, including receipt of payments made to the Representative under Sections 1.09, 1.10



or 8.02; (iv) receipt and forwarding of notices and communications pursuant to this Agreement; (v) administration of the provisions of this Agreement; (vi) giving or agreeing to, on behalf of all or any of the Stockholders, any and all consents, waivers, amendments or modifications deemed by the Representative, in its sole and absolute discretion, to be necessary or appropriate under this Agreement and the execution or delivery of any documents that may be necessary or appropriate in connection therewith; (vii) amending this Agreement or any of the instruments to be delivered to the Purchaser pursuant to this Agreement; (viii) (A) dispute or refrain from disputing, on behalf of each Stockholder relative to any amounts to be received by such Stockholder under this Agreement or any agreements contemplated hereby, any claim made by the Purchaser under this Agreement or other agreements contemplated hereby, (B) negotiate and compromise, on behalf of each such Stockholder, any dispute that may arise under, and exercise or refrain from exercising any remedies available under, this Agreement or any other agreement contemplated hereby, and (C) execute, on behalf of each such Stockholder, any settlement agreement, release or other document with respect to such dispute or remedy; and (ix) engaging attorneys, accountants, agents or consultants on behalf of the Stockholders in connection with this Agreement or any other agreement contemplated hereby and paying any fees related thereto.

(b) Authorization. Notwithstanding Section 10.01(a), in the event that the Representative is of the opinion that it requires further authorization or advice from the Stockholders on any matters concerning this Agreement, the Representative shall be entitled to seek such further authorization from the Stockholders prior to acting on their behalf. In such event, each Stockholder shall vote in accordance with the relative amounts to be received at the Closing by such Stockholder under this Agreement and the authorization of a majority of such Persons shall be binding on all of the Stockholders and shall constitute the authorization of the Stockholders. The appointment of the Representative is coupled with an interest and shall be

irrevocable by any Stockholder in any manner or for any reason. This authority granted to the Representative shall not be affected by the death, illness, dissolution, disability, incapacity or other inability to act of any principal pursuant to any applicable law.

(c) Actions by the Representative; Resignation; Vacancies. The Representative may resign from its position as Representative at any time by written notice delivered to the Purchaser and the Stockholders. If there is a vacancy at any time in the position of the Representative for any reason, such vacancy shall be filled by the majority vote in accordance with the method set forth in Section 10.01(b) above.

(d) No Liability. All acts of the Representative hereunder in its capacity as such shall be deemed to be acts on behalf of the Stockholders and not of the Representative individually. The Representative shall not have any liability for any amount owed to the Purchaser pursuant to Sections 1.09, 1.10 or 8.02. The Representative shall not be liable to the Company, the Purchaser or the Merger Sub, in his or its capacity as the Representative, for any liability of a Stockholder or otherwise or for anything which it may do or refrain from doing in connection with this Agreement. The Representative shall not be liable to the Stockholders, in his or its capacity as the Representative, for any liability of a Stockholder or otherwise or for any error of judgment, or any act done or step taken or omitted by it in good faith or for any mistake in fact or law, or for anything which it may do or refrain from doing in connection with this Agreement except in the case of the Representative's gross negligence or willful misconduct. The Representative may seek the advice of legal counsel in the event of any dispute or question



as to the construction of any of the provisions of this Agreement or its duties hereunder, and it shall incur no liability in its capacity as the Representative to the Purchaser, the Merger Sub, the Company or the Stockholders and shall be fully protected with respect to any action taken, omitted or suffered by it in good faith in accordance with the advice of such counsel. The Representative shall not by reason of this Agreement have a fiduciary relationship in respect of any Stockholder, except in respect of amounts received on behalf of the Stockholders.

(e) Expenses. Any expenses or taxable income incurred by the Representative in connection with the performance of its duties under this Agreement shall not be the personal obligation of the Representative but shall be payable by and attributable to the Preferred Stockholders based on each such Person's Preferred Percentage. Notwithstanding anything to the contrary in this Agreement, the Representative shall be entitled and is hereby granted the right against the Preferred Stockholders to set off and deduct any unpaid or non-reimbursed expenses and unsatisfied liabilities incurred by the Representative in connection with the performance of its duties hereunder from amounts delivered to the Representative pursuant to this Agreement. The Representative may from time to time submit invoices to Preferred Stockholders covering such expenses and liabilities and, upon the request of any Preferred Stockholder, shall provide such Preferred Stockholder with an accounting of all expenses and liabilities paid.

(f) Distributions. Any amounts distributed by the Representative pursuant to this Agreement to the Preferred Stockholders shall be distributed pro rata based upon their respective Preferred Percentages, net of (i) any obligations incurred by the Representative in connection with the performance of its duties under this Agreement, including obligations, if any, to the Purchaser pursuant to Sections 1.09, 1.10 or 8.02 and (ii) expenses of the Representative set off and deducted in accordance with Section 10.01(e).

10.02 Disclosure Generally. All Disclosure Schedules attached hereto are incorporated herein and expressly made a part of this Agreement. All references to this Agreement herein or in any of the Disclosure Schedules shall be deemed to refer to this entire Agreement, including the applicable Disclosure Schedules (but in all cases, subject to the introductory paragraph of Article IV).

10.03 Provision Respecting Legal Representation. It is acknowledged by each of the parties hereto that each of the Company, NPC LLC and the Representative have retained Kirkland & Ellis LLP ("K&E") to act as its counsel in connection with the transactions contemplated hereby and that K&E has not acted as counsel for any other party hereto in connection with the transactions contemplated hereby and that none of the other parties hereto has the status of a client of K&E for conflict of interest or any other purposes as a result thereof. The Purchaser, the Company and the Representative hereby agree that, in the event that a dispute arises after the Closing between the Purchaser and/or the Company, on the one hand, and the Representative, NPC LLC or their respective Affiliates, on the other hand, K&E may represent the Representative, NPC LLC and/or such Affiliates in such dispute even though the interests of the Representative, NPC LLC and/or such Affiliates may be directly adverse to the Purchaser, the Company or any of its Subsidiaries, and even though K&E may have represented the Company or any of its Subsidiaries in a matter substantially related to such dispute, or may be handling ongoing matters for the Purchaser, the Company or any of their Subsidiaries. The Purchaser further agrees that, as to all communications among K&E, the Company, any of its



Subsidiaries, the Representative, NPC LLC and/or any of their respective Affiliates that relate in any way to the transactions contemplated by this Agreement, the attorney-client privilege and the expectation of client confidence belongs to the Representative and may be controlled by the Representative and shall not pass to or be claimed by the Purchaser, the Company or any of their Subsidiaries. Notwithstanding the foregoing, in the event that a dispute arises between the Purchaser, the Company or any of their Subsidiaries and a third party (other than a party to this Agreement or any of their respective Affiliates) after the Closing, the Company and its Subsidiaries may assert the attorney-client privilege to prevent disclosure of confidential communications by K&E to such third party; provided, however, that neither the Company nor any of its Subsidiaries may waive such privilege without the prior written consent of the Representative.

10.04 Tax Matters.

(a) Responsibility for Filing Tax Returns. The Purchaser shall prepare or cause to be prepared and file or cause to be filed all Tax Returns for the Company and its Subsidiaries for all periods ending prior to or including the Closing Date the due date of which (including extensions) is after the Closing Date. Each such Tax Return shall be prepared and filed in a manner consistent with past practice, except as otherwise required by applicable Law. At least fifteen (15) days prior to the date on which each such Tax Return is filed, the Purchaser shall submit such Tax Return to the Representative for the Representative's review and approval, which approval may not be unreasonably withheld.

(b) Amendment of Tax Returns. Without the prior written consent of the Representative, or unless otherwise required to do so by applicable Law, the Purchaser will not (i) except for Tax Returns that are filed pursuant to Section 10.04(a), file or amend or permit any of the Company or any of its Subsidiaries to file or amend any Tax Return relating to a taxable period (or portion thereof) ending on or prior to the Closing Date (a "Pre-Closing Tax Period"), (ii) with respect to Tax Returns filed pursuant to Section 10.04(a), after the date such Tax Returns are filed pursuant to Section 10.04(a), amend

or permit any of the Company or any of its Subsidiaries to amend any such Tax Return or (iii) extend or waive, or cause to be extended or waived, or permit the Company or any of its Subsidiaries or extend or waive, any statute of limitations or other period for the assessment of any Tax or deficiency related to a Pre-Closing Tax Period.

10.05 Transfer Taxes(a) . All stock transfer, real estate transfer, documentary, stamp, recording and other similar taxes (including interest, penalties and additions to any such taxes) ("Transfer Taxes") incurred in connection with the transactions contemplated by this Agreement, shall be paid equally by Purchaser and the Company and, to the extent so paid by the Company, shall constitute a Transaction Expense; provided, however, that 100% of any Transfer Taxes incurred in connection with the Contribution shall be a Transaction Expense.



ARTICLE XI

**DEFINITIONS**

11.01 Definitions. For purposes hereof, the following terms when used herein shall have the respective meanings set forth below:

"Additional Merger Consideration" means, as of any date of determination, without duplication, the sum of: (i) the portion of the Escrow Amount paid or payable to the Preferred Stockholders pursuant to this Agreement and the Escrow Agreement, plus (ii) any Purchase Price Adjustments arising under Section 1.10 payable to the Preferred Stockholders, plus (iii) any other consideration paid or payable to the Preferred Stockholders pursuant to this Agreement (other than the Closing Residual Cash Consideration).

"Affiliate" of any particular Person means any other Person controlling, controlled by or under common control with such particular Person, where "control" means the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, contract or otherwise.

"Affiliated Group" means an affiliated group as defined in Section 1504 of the Code (or any analogous combined, consolidated or unitary group defined under state, local or foreign income Tax law) of which the Company is or has been a member.

"Base Consideration" means $623,000,000.

"Business Day" means any day that is not a Saturday, a Sunday or other day on which banks are not required or authorized by Law to be closed in Chicago, Illinois or New York, New York.

"Card Association" means MasterCard International, Inc., VISA U.S.A., Inc., VISA International, Inc., Discover, JCB, American Express, Diners Club, Voyager, Carte Blanche and any other material card association, debit card network or similar entity with whom the Company and/or any of its Subsidiaries may directly or indirectly have a sponsorship agreement.

"Cash" means, with respect to the Company and its Subsidiaries, as of the close of business on the day prior to the Closing Date:

(i) if the day prior to the Closing Date is a date during the period beginning on or after the FNBO Payment Date and prior to, but not on, the Residuals Payment Date (such period, the "FNBO Cash Period"), all cash and cash equivalents plus checks deposited but not yet cleared and net of issued but uncleared checks and drafts issued held by the Company or any of its Subsidiaries as of the close of business on the day prior to the Closing Date (other than fiduciary funds) minus $10,000,000; or

(ii) if the day prior to the Closing Date is a date outside of the FNBO Cash Period, all cash and cash equivalents plus checks deposited but not yet cleared and net of issued



but uncleared checks and drafts issued held by the Company or any of its Subsidiaries as of the close of business on the day prior to the Closing Date (other than fiduciary funds).

"Closing Residual Cash Consideration" means (i) the Base Consideration, minus (ii) the amount of Estimated Indebtedness, plus (iii) the amount, if any, by which the Estimated Net Working Capital is greater than the Target Net Working Capital Amount, minus (iv) the amount, if any, by which Estimated Net Working Capital is less than Target Net Working Capital Amount, minus (v) the Escrow Amount, plus (vi) the amount of Estimated Cash, minus (vii) the amount of the Common Stock Merger Consideration, minus (viii) the amount of the Estimated Transaction Expenses.

"Common Stockholder" means a holder of Company Common Stock.

"Company Common Stock" means the Company's common stock, par value $.01 per share.

"Company Documents" means each of this Agreement and the Escrow Agreement.

"Company Note" means a demand promissory note issued by the Company to NPC LLC prior to the Closing in exchange for all of the outstanding capital stock of NPC MC, which note shall automatically become due and payable in full in cash at the Effective Time.

"Company Stock" means the Company Common Stock and the Preferred Stock.

"Dissenting Share" means any share of Company Common Stock held of record by any stockholder who or that has the right to exercise and has properly exercised his, her, or its appraisal rights in accordance with Section 262 of the Delaware Law; provided that such shares shall remain

Dissenting Shares only for as long as such stockholder has not failed to perfect, or has not otherwise waived, withdrawn or lost, his, her or its appraisal rights under Section 262 of the Delaware Law.

"Final Residual Cash Consideration" means (i) the Base Consideration, minus (ii) the amount of Indebtedness as finally determined pursuant to Section 1.09, plus (iii) the amount, if any, by which the Net Working Capital as finally determined pursuant to Section 1.09 is greater than the Target Net Working Capital Amount, minus (iv) the amount, if any, by which the Net Working Capital as finally determined pursuant to Section 1.09 is less than the Target Net Working Capital Amount, minus (v) the Escrow Amount, plus (vi) the amount of Cash as finally determined pursuant to Section 1.09, minus (vii) the amount of Common Stock Merger Consideration, minus (viii) the amount of the Transaction Expenses as finally determined pursuant to Section 1.09.

"FNBO Payment Date" means, for any calendar month, the date during such calendar month on which First National Bank of Omaha deposits the revenue for the previous month's billed processing into a bank account of the Company or its one of its Subsidiaries.

"GAAP" means United States generally accepted accounting principles as of the date hereof.



"Governmental Entity" means any federal, national, state, foreign, provincial, local or other government or any governmental, regulatory, administrative or self-regulatory authority, agency, bureau, board, commission, court, judicial or arbitral body, department, political subdivision, tribunal or other instrumentality thereof.

"Indebtedness" means, as of any particular time with respect to the Company, without duplication, (i) the principal, accreted value, accrued and unpaid interest, prepayment and redemption premiums or penalties (if any), unpaid fees or expenses and other monetary obligations in respect of (A) indebtedness for money borrowed and (B) indebtedness evidenced by notes (including the Company Note), debentures, bonds or other similar instruments for the payment of which the Company or any of its Subsidiaries is responsible or liable; (ii) all obligations issued or assumed as the deferred purchase price of property, all conditional sale obligations and all obligations under any title retention agreement (but, in each case, excluding trade accounts payable and other accrued current liabilities arising in the ordinary course of business) (other than the current liability portion of any indebtedness for borrowed money); (iii) all obligations under leases required to be capitalized in accordance with GAAP; (iv) all obligations for the reimbursement of any obligor on any drawn letter of credit; (v) all obligations under interest rate or currency swap transactions (valued at the termination value thereof); (vi) all obligations of the type referred to in clauses (i) through (v) for the payment of which the Company or any of its Subsidiaries is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations; (vii) all obligations of the type referred to in clauses (i) through (vi) secured by any Lien (excluding Permitted Liens) on any property or asset of the Company or any of its Subsidiaries; and (viii) the amount of the "Other Long-Term Liabilities" line item on the Company's Latest Balance Sheet (as determined on a consolidated basis in accordance with GAAP using the same accounting methods, policies, principles, practices and procedures, with consistent classifications, judgments and estimation methodology, as were used in preparation of the Financial Statements) (the amount set forth in Uclause (viii)U is referred to as the "UOLTL Reserve AmountU"). For the avoidance of doubt, Indebtedness shall include the unpaid principal amount of, and accrued interest on, the Company Note. For purposes of Article I of this Agreement, Indebtedness shall mean Indebtedness, as defined above, outstanding as of the close of business on the day prior to the Closing Date.

"Industry" means the merchant acquirer and payment card processing industry in which the Company or any Subsidiary of the Company operates its business, including (i) electronic card and check processing and settlement, (ii) merchant underwriting, boarding, setup and training, (iii) bankcard association and industry data security standard validation and compliance, (iv) point-of-sale equipment sale, leasing, deployment, software and support, (v) risk management, chargeback and dispute resolution services, (vi) customer service and technical support and management; (vii) delivery of ancillary payment products and solutions, (viii) Independent Sales Organizations (ISOs), direct sale, alliance partners sales support and residual payment platforms; and (ix) related support and assistance (e.g. reporting, etc.).

"Intellectual Property" means all patents (including all reissues, divisions, continuations and extensions thereof), patent application, patent right, trademark, trademark registration, trademark application, service mark, trade name, business name, brand name, Internet domain names, copyright, copyright registration, design, design registration, trade



secrets, confidential information or other intellectual property rights or any right to any of the foregoing.

"Law" means any law, rule, regulations, judgment, injunction, order, decree or other restriction of any court or Governmental Entity.

"Legal Proceeding" means any judicial, administrative, investigative or arbitral actions, suits, claims, audits, inquiries or proceedings (public or private) by or before a Governmental Entity.

"Liens" means liens, security interests, charges, encumbrances, pledges, mortgages and security interests of any kind or nature whatsoever.

"Material Adverse Effect" means (a) any change, effect, event, occurrence, state of facts or development that, individually or in the aggregate, is, or would reasonably be expected to be, materially adverse to the business, properties, assets, financial condition or results of operations of the Company and its Subsidiaries taken as a whole, or (b) a material adverse effect on the ability of the Company to consummate the Merger; provided, however, that, for purposes of clause (a) above, none of the following shall be deemed in themselves, either alone or in combination, to constitute, and none of the following shall be taken into account in determining whether there has been or will be, a Material Adverse Effect: any adverse change, effect, event, occurrence, state of facts or development attributable to (i) the announcement or consummation of the transactions contemplated by this Agreement; (ii) conditions affecting the Industry, except to the extent that the Company or any of the Company's Subsidiaries is disproportionately affected relative to the other participants in the Industry; (iii) the taking of any action required by this Agreement; (iv) conditions affecting the U.S. economy as a whole or the capital markets in general or the markets in which the Company and its Subsidiaries operate; (v) any change in, or proposed or potential change in, applicable Laws or card association rules or regulations or the interpretation of any of the foregoing, except to the extent that the Company or any of the Company's Subsidiaries is disproportionately affected relative to the other participants in the Industry; (vi) any change in GAAP or other accounting requirements or principles or any change in applicable laws, rules or regulations or the interpretation thereof; (vii) the failure of the Company or any Subsidiary of the

Company to meet or achieve the results set forth in any projection or forecast (provided that clause (vii) shall not prevent a determination that any change or effect underlying such failure to meet projections or forecasts has resulted in a Material Adverse Effect (to the extent such change or effect is not otherwise excluded from this definition of Material Adverse Effect)); (viii) the commencement, continuation or escalation of a war, material armed hostilities or other material international or national calamity or act of terrorism or (ix) any of the matters disclosed on the Taxes Schedule, the Litigation Schedule, the Compliance with Laws Schedule, the Employee Schedule or the Merchants, Merchant Originators and Vendors Schedule except to the extent of adverse changes or developments occurring after the date hereof that are not reasonably foreseeable.

"Merchant" means any customer for whom the Company or any of its Subsidiaries, directly or indirectly, provides or arranges to provide payment processing services.



"Merchant Originator" means any Person other than the Company or a Subsidiary of the Company that is an independent sales organization, referral partner or other source of merchant processing contracts.

"Merger Consideration" means, collectively, the Common Stock Merger Consideration and the Preferred Stock Merger Consideration.

"Net Working Capital" means (i) all current assets (excluding Cash and income tax assets) of the Company and its Subsidiaries as of the NWC Reference Time, minus (ii) all current liabilities (excluding Indebtedness, income tax liabilities and Transaction Expenses) of the Company and its Subsidiaries as of the NWC Reference Time. Exhibit D attached hereto sets forth an example of the calculation of the Net Working Capital as of the date of the Latest Balance Sheet.

"Non-Recourse Party" means, with respect to a party to this Agreement, any of such party's former, current and future equity holders, controlling persons, directors, officers, employees, agents, representatives, lenders or other financing sources, Affiliates, members, managers, general or limited partners, or assignees (or any former, current or future equity holder, controlling person, director, officer, employee, agent, representative, Affiliate, member, manager, general or limited partner, or assignee of any of the foregoing).

"NWC Reference Time" means the close of business on the last day of the calendar month prior to the calendar month in which the Closing occurs.

"Options" means all options to acquire shares of Company Common Stock which are vested and exercisable (or will become vested and exercisable as a result of the transactions contemplated hereby (whether pursuant to the terms of such options or as a result of an action of the Company's board of directors)) and issued and outstanding as of immediately prior to the Effective Time (excluding any options to acquire Company Common Stock that terminate prior to the Effective Time (whether pursuant to the terms of such options, as a result of an action of the Company's board of directors or otherwise)).

"ordinary course" and "ordinary course of business" mean the ordinary and regular course of the business of the Company and its Subsidiaries, consistent with past practice.

"OLTL Reserve Amount" has the meaning set forth in the definition of Indebtedness.

"Permitted Liens" means (i) statutory liens for current Taxes or other Governmental Entity charges not yet due and payable or the amount or validity of which is being contested in good faith by appropriate proceedings by the Company and its Subsidiaries and for which appropriate reserves have been established in accordance with GAAP; (ii) mechanics', carriers', workers', repairers' and similar statutory liens arising or incurred in the ordinary course of business for amounts which are not delinquent and which are not, individually or in the aggregate, significant; (iii) zoning, entitlement, building and other land use regulations imposed by Governmental Entities having jurisdiction over the Leased Real Property which are not violated by the current use and operation of the Leased Real Property; (iv) covenants, conditions, restrictions, easements and other similar matters of record affecting title to the Leased Real



Property which do not materially impair the occupancy or use of the Leased Real Property for the purposes for which it is currently used or proposed to be used in connection with the Companies' and their Subsidiaries' businesses; (v) public roads and highways; (vi) liens arising under worker's compensation, unemployment insurance, social security, retirement and similar legislation; (vii) liens arising in connection with sales of foreign receivables; (vii) liens on goods in transit incurred pursuant to documentary letters of credit; (ix) purchase money liens and liens securing rental payments under capital lease arrangements; (x) nonexclusive licenses of Intellectual Property granted in the ordinary course of business and (xi) liens, the existence of which would not reasonably be expected to be material.

"Person" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or a Governmental Entity or any department, agency or political subdivision thereof.

"Preferred Percentage" means with respect to a Preferred Stockholder, the amount expressed as a percentage equal to (x) the aggregate Liquidation Value (as such term is defined in the Company's certificate of incorporation) of all shares of Preferred Stock held by such holder, together with the accrued and unpaid dividends thereon (determined in accordance with the Company's certificate of incorporation) through the Closing Date, divided by (y) the aggregate Liquidation Value (as such term is defined in the Company's certificate of incorporation) of all shares of Preferred Stock held by all Preferred Stockholders, together with the accrued and unpaid dividends thereon (determined in accordance with the Company's certificate of incorporation) through the Closing Date. As a group, the Preferred Percentages of all holders of Preferred Stock will be equal to 100%.

"Preferred Stock" means any share of the Company's Class A Preferred Stock, par value $0.01 per share.

"Preferred Stockholder" means a holder of Preferred Stock.

"Purchaser Documents" means each of this Agreement and the Escrow Agreement.

"Required Information" means (a) audited consolidated balance sheets and related statements of income, stockholders' equity and cash flows of the Company for the three (3) most recently completed fiscal years of the Company ended at least ninety (90) days before the Closing Date, (b) unaudited consolidated balance sheets and related statements of income and cash flows of the Company for the fiscal quarter ended June 30, 2010 and, only in the case of a Marketing Period that first commences on or after November 15, 2010, unaudited consolidated balance sheets and related statements of income and cash flows of the Company for the fiscal quarter ended September 30, 2010, and (c) either (i) completed confidential information memoranda relating to the Debt Financing (including authorization letters with respect thereto) suitable upon printing for use in a customary syndication of bank financing, with all the information required under subsections (a) and (b) above, for use in the syndication of the Debt Financing (whether prepared and delivered by the Company, the Purchaser or a third party) or (ii) such information required under subsections (a) and (b) above together with all other



information relating to the Company to the extent reasonably requested by the lead arrangers of the Debt Financing to assist in the preparation of confidential information memoranda in the form customary for syndicated credit facilities (including authorization letters with respect thereto).

"Residuals Payment Date" means, for any calendar month, the date during such calendar month on which the Company or its Subsidiaries pays the residuals for the previous month's activities to their Independent Sales Organizations (ISOs).

"Reverse Termination Fee" means $40,000,000.

"Software" means any and all (i) computer programs, including any and all software implementations of algorithms, models and methodologies, whether in source code or object code, (ii) databases and compilations, whether machine readable or otherwise, (iii) descriptions, flow-charts and other work product used to design, plan, organize and develop any of the foregoing, screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons and icons and (iv) all documentation, including user manuals and other training documentation, related to any of the foregoing.

"Stockholder" means a Common Stockholder or a Preferred Stockholder.

"Subsidiary" means, with respect to any Person, any corporation of which a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person or a combination thereof, or any partnership, association or other business entity of which a majority of the partnership or other similar ownership interest is at the time owned or controlled, directly or indirectly, by such Person or one or more Subsidiaries of such Person or a combination thereof. For purposes of this definition, a Person is deemed to have a majority ownership interest in a partnership, association or other business entity if such Person is allocated a majority of the gains or losses of such partnership, association or other business entity or is or controls the managing director or general partner of such partnership, association or other business entity.

"Target Net Working Capital Amount" means negative $4,000,000.

"Tax" or "Taxes" means any federal, state, local or foreign income, gross receipts, franchise, estimated, alternative minimum, add-on minimum, sales, use, transfer, gains, registration, value added, excise, natural resources, severance, stamp, occupation, premium, windfall profit, environmental, customs, duties, ad valorem, real property, special assessment, personal property, charges, fees, imports, levies or other assessments, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding, or other tax, of any kind whatsoever, including any interest, penalties or additions to tax or additional amounts in respect of the foregoing; the foregoing shall include any transferee or secondary liability for a Tax and any liability assumed by agreement, assumption, transferee or successor liability, or arising as a result of being (or ceasing to be) a member of any Affiliated Group (or by being included (or required to be included) in any Tax Return relating thereto).



"Tax Returns" means any return, report, information return or other document (including schedules or any related or supporting information or attachments thereto and any amendment thereto) filed or required to be filed with any Governmental Entity or other authority in connection with the determination, assessment or collection of any Tax or the administration of any laws, regulations or administrative requirements relating to any Tax.

"Technology" means, collectively, all designs, formulas, algorithms, techniques, ideas, know-how, processes, procedures, research records, records of inventions, test information, market surveys and marketing know-how, Software (whether in source code, object code or human readable form), databases and data collections, Internet websites and web content, tools, inventions (whether patentable or unpatentable and whether or not reduced to practice), invention disclosures, developments, creations, improvements, works of authorship, other similar materials and all recordings, graphs, drawings, reports, analyses, other writings and any other embodiment of the above, in any form or media, whether or not specifically listed herein, and all related technology, documentation and other materials used in, incorporated in, embodied in or displayed by any of the foregoing, or used or useful in the design, development, reproduction, maintenance or modification of any of the foregoing.

"Transaction Expenses" shall mean all fees and expenses payable in connection with the transactions contemplated by this Agreement by the Company or its Subsidiaries or the Stockholders that are incurred at or prior to the Closing and that remain unpaid as of the Closing, including (i) any transaction bonuses, severance payments or other employee related change of control payments owing by the Company or its Subsidiaries as a result of the transactions contemplated by this Agreement (other than those portions attributable to triggering events other than the Closing), in each case, that are incurred at or prior to the Closing and that remain unpaid as of the Closing, (ii) Transfer Taxes payable by the Company pursuant to Section 10.05, and (iii) those expenses set forth on the Transaction Expenses Schedule attached hereto (which Schedule may be revised and/or updated from time to time by the Representative prior to the Closing).

11.02 Other Definitional Provisions.

(a) NPC MC Deemed Subsidiary. For purposes of this Agreement, NPC MC shall be deemed to be a Subsidiary of the Company on the date hereof and on the Closing Date.

(b) Accounting Terms. Accounting terms which are not otherwise defined in this Agreement have the meanings given to them under GAAP. To the extent that the definition of an accounting term defined in this Agreement is inconsistent with the meaning of such term under GAAP, the definition set forth in this Agreement will control.

(c) Successor Laws. Any reference to any particular Code section or any other law or regulation will be interpreted to include any revision of or successor to that section regardless of how it is numbered or classified.



---

11.03 Cross-Reference of Other Definitions. Each capitalized term listed below is defined in the corresponding Section of this Agreement:

| **Term** | **Section No.** |
|---|---|
| Affiliated Persons | 4.17 |
| Agreement | Preface |
| Certificate of Merger | 1.01(b) |
| Claiming Party | 12.13 |
| Closing | 2.01 |
| Closing Balance Sheet | 1.09 |
| Closing Date | 2.01 |
| Closing Transactions | 2.02 |
| Code | 4.08(f) |
| Common Stock Merger Consideration | 1.02(a) |
| Company | Preface |
| Company 401(k) Plan | 7.04 |
| Company Employee Plans | 4.12(a) |
| Company Intellectual Property | 4.10(a) |
| Company’s knowledge | 12.03 |
| Confidentiality Agreement Contribution | 6.02 Preface |
| Debt Financing | 5.08(a) |
| Debt Financing Commitments | 5.08(a) |
| Deductible | 8.02(a) |
| Defending Party | 12.13 |
| Delaware Law | Preface |
| Dispute Resolution Arbiter | 1.09 |
| Disclosure Schedules | Article IV |
| Effective Time | 1.01(b) |
| Enforcement Costs | 12.13 |
| Environmental and Safety Requirements | 4.16(a) |
| ERISA | 4.12(a) |
| Escrow Agent | 2.02(f) |
| Escrow Agreement | 2.02(f) |
| Escrow Amount | 2.02(g) |
| Estimated Cash | 1.08 |
| Estimated Indebtedness | 1.08 |
| Estimated Net Working Capital | 1.08 |
| Estimated Transaction Expenses | 1.08 |
| Financial Statements | 4.05 |
| Fundamental Representations | 8.01 |
| Indemnified Parties | 8.03 |
| Indemnitee | 8.05 |
| Indemnitor | 8.05 |
| Indemnity Escrow Amount | 2.02(g) |
| Information Memorandum | 8.07 |



---

| **Term** | **Section No.** |
|---|---|
| K&E | 10.03 |
| knowledge of the Company | 12.03 |
| Latest Balance Sheet | 4.05 |
| Leased Real Property | 4.07(b) |
| Lender Related Parties | 9.03(b) |
| Losses | 8.02(a) |
| Letter of Transmittal | 1.03(a) |
| Marketing Period | 2.01 |
| Merger | 1.01(a) |
| Merger Sub | Preface |
| New Debt Financing | 7.08 |
| New Debt Financing Commitment New Facts | 7.08 6.06 |
| Non-Compete Agreement | Preface |
| NPC LLC | Preface |

| | |
|---|---|
| NPC MC | Preface |
| Objections Statement | 1.09 |
| Outside Date | 9.01(e) |
| Permits | 4.15 |
| Pre-Closing Deductible | 6.06 |
| Pre-Closing Tax Period | 10.04(b) |
| Preferred Stock Merger Consideration | 1.02(b) |
| Preliminary Statement | 1.09 |
| Proceeding | 12.13 |
| Purchase Price Adjustment Escrow Amount | 2.02(f) |
| Purchaser | Preface |
| Purchaser 401(k) Plan | 7.04 |
| Purchaser Balance Sheet | 5.11 |
| Purchaser's Representatives | 6.02 |
| Representative | Preface |
| Schedule shortfall | Article IV 4.08(n) |
| Specified Persons | 9.03(b) |
| Specified Purchaser Financing Covenants | 7.08 |
| Stockholder Approval | Preface |
| Survival Period Termination Date | 8.01 |
| Surviving Corporation | 1.01(a) |
| Tax Benefit | 8.06 |
| Top Merchant Originators | 4.20(a) |
| Top Merchants | 4.20(a) |
| Top Vendors | 4.20(a) |
| Transfer Taxes | 10.05 |
| Updated Disclosure Schedules | 6.06 |




---

ARTICLE XII

**MISCELLANEOUS**

12.01 Press Releases and Communications. No press release or public announcement related to this Agreement or the transactions contemplated herein, or prior to the Closing any other announcement or communication to the employees, customers or suppliers of the Company, shall be issued or made by any party hereto without the joint approval of the Purchaser and the Representative, unless required by law (in the reasonable opinion of counsel) in which case the Purchaser and the Representative shall have the right to review such press release, announcement or communication prior to issuance, distribution or publication.

12.02 Expenses. Except as otherwise expressly provided herein, the Stockholders, on the one hand, and the Purchaser and Merger Sub, on the other hand, shall pay all of their own expenses (including attorneys' and accountants' fees and expenses) in connection with the negotiation of this Agreement, the performance of their obligations hereunder and the consummation of the transactions contemplated by this Agreement; provided that the Stockholders shall bear all Transaction Expenses of the Company, which the Purchaser shall pay on behalf of the Stockholders and/or the Company as provided in Section 2.02(k).

12.03 Knowledge Defined. For purposes of this Agreement, the "UCompany's knowledgeU" and "Uknowledge of the CompanyU" as used herein shall mean the actual knowledge of Thomas A. Wimsett, Steve Stevenson, Jim Oberman, Mark Schatz, Joe Natoli, Kyle Howat, Blair Sanders and Kathleen Clark.

12.04 Notices. All notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given (a) when personally delivered, (b) when transmitted via telecopy (or other facsimile device) to the number set out below if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid. Notices, demands and communications, in each case to the respective parties, shall be sent to the applicable address set forth below, unless another address has been previously specified in writing:



---

Notices to the Purchaser
and/or the Merger Sub:

Fifth Third Processing Solutions, LLC
Fifth Third Center
38 Fountain Square Plaza
Cincinnati, OH 45263
Attention: Charles Drucker
Adam Coyle
Facsimile: (513) 534-3587

with a copy (which shall not constitute notice) to:

Weil, Gotshal and Manges, LLP

100 Federal Street, 34th Floor
Boston, Massachusetts 02110
Attention: Marilyn French
Facsimile: (617) 772-8333

Notices to the Representative:

National Processing Holdings, LLC
c/o GTCR Fund VIII, L.P.
300 North LaSalle, Suite 5600
Chicago, Illinois 60654
Attn: Collin E. Roche
Facsimile No.: (312) 382-2201

with a copy (which shall not constitute notice) to:

Kirkland & Ellis LLP
300 North LaSalle
Chicago, Illinois 60654
Attn: Stephen L. Ritchie, P.C.
Mark A. Fennell, P.C.
Facsimile: (312) 862-2200

Notices to the Company:

NPC Group, Inc.
5100 Interchange Way
Louisville, KY 40229
Attention: Thomas Wimsett



---

with copies before the Closing (which shall not constitute notice) to:

GTCR Fund VIII, L.P.
300 North LaSalle, Suite 5600
Chicago, Illinois 60654
Attn: Collin E. Roche
Facsimile No.: (312) 382-2201

and

Kirkland & Ellis LLP
300 North LaSalle
Chicago, Illinois 60654
Attn: Stephen L. Ritchie, P.C.
Mark A. Fennell, P.C.
Facsimile: (312) 862-2200

12.05 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, except that neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned or delegated by either the Purchaser or the Merger Sub without the prior written consent of the Company and the Representative; provided that the Purchaser and the Merger Sub may collaterally assign their rights hereunder to their lenders and other financing sources, in which case the Purchaser and the Merger Sub shall remain fully responsible for the performance of all of their obligations hereunder.

12.06 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

12.07 References. The table of contents and the section and other headings and subheadings contained in this Agreement and the exhibits hereto are solely for the purpose of reference, are not part of the agreement of the parties hereto, and shall not in any way affect the meaning or interpretation of this Agreement or any exhibit hereto. All references to days or months shall be deemed references to calendar days or months. All references to "$" shall be deemed references to United States dollars. Unless the context otherwise requires, any reference to a "Section," "Exhibit," "Disclosure Schedule" or "Schedule" shall be deemed to refer to a section of this Agreement, exhibit to this Agreement or a schedule to this Agreement, as applicable. The words "hereof," "herein" and "hereunder" and words of similar import referring to this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. The word "including" or any variation thereof means "including, without limitation" and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

12.08 Construction. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any Person. The specification of any dollar amount or the inclusion of any item in the representations and warranties contained in this Agreement or the Disclosure Schedules or Exhibits attached hereto is not intended to imply that the amounts, or higher or lower amounts, or the items so included, or other items, are or are not required to be disclosed (including whether such amounts or items are required to be disclosed as material or threatened) or are within or outside of the ordinary course of business, and no party shall use the fact of the setting of the amounts or the fact of the inclusion of any item in this Agreement or the Disclosure Schedules or Exhibits in any dispute or controversy between the parties as to whether any obligation, item or matter not described or included in this Agreement or in any Schedule or Exhibit is or is not required to be disclosed (including whether the amount or items are required to be disclosed as material or threatened) or is within or outside of the ordinary of business for purposes of this Agreement. The information contained in this Agreement and in the Disclosure Schedules and Exhibits hereto is disclosed solely for purposes of this Agreement, and no information contained herein or therein shall be deemed to be an admission by any party hereto to any third party of any matter whatsoever (including any violation of law or breach of contract). For purposes of this Agreement, if the Company or a Person acting on its behalf posts and provides unrestricted access to each of the Purchaser, its legal counsel and its accounting and Tax advisors a document to the online data room hosted on behalf of the Company and located at https://datasite.merrillcorp.com, such document shall be deemed to have been "delivered," "furnished" or "made available" (or any phrase of similar import) to the Purchaser by the Company, but shall not be considered disclosed on a Disclosure Schedule unless expressly set forth on such Disclosure Schedule.

12.09 Amendment and Waiver. Any provision of this Agreement or the Disclosure Schedules (except as contemplated by Section 6.06) or Exhibits hereto may be amended or waived only in a writing signed by the Purchaser, the Company and the Representative. No waiver of any provision hereunder or any breach or default thereof shall extend to or affect in any way any other provision or prior or subsequent breach or default.

12.10 Complete Agreement. This Agreement and the documents referred to herein (including the Confidentiality Agreement) contain the complete agreement between the parties hereto and supersede any prior understandings, agreements or representations by or between the parties, written or oral, which may have related to the subject matter hereof in any way.

12.11 Third-Party Beneficiaries. Certain provisions of this Agreement are intended for the benefit of, and shall be enforceable by, the Stockholders; provided that only the Representative shall have the right (on behalf of and for the benefit of the Stockholders) to enforce any rights of the Stockholders under this Agreement. Section 7.03 shall be enforceable by the current and former officers, directors and similar functionaries of the Company and/or its Subsidiaries and his or her heirs and representatives. Except as otherwise expressly provided herein, nothing expressed or referred to in this Agreement will be construed to give any Person other than the parties to this Agreement and the Stockholders any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement. Each Lender Related Party is intended to be, and shall be, a third party beneficiary of, and shall



be entitled to enforce, the agreements contained in this Section 12.11 and in Sections 9.03(b) and 12.21, and (b) each Non-Recourse Party is intended to be, and shall be, a third party beneficiary of, and shall be entitled to enforce, the agreements contained in Section 12.19.

12.12 Waiver of Trial by Jury. THE PARTIES TO THIS AGREEMENT EACH HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION (A) ARISING UNDER THIS AGREEMENT OR (B) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO IN RESPECT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY, OR OTHERWISE. THE PARTIES TO THIS AGREEMENT EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT THE PARTIES TO THIS AGREEMENT MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

12.13 Prevailing Party. In the event any litigation or other court action, arbitration or similar adjudicatory proceeding (a "Proceeding") is commenced or threatened by any party hereto (the "Claiming Party") to enforce its rights under this Agreement, other than pursuant to Section 1.09, against another party hereto (the "Defending Party"), if the Defending Party is the prevailing party in such Proceeding, all fees, costs and expenses, including reasonable attorneys fees and court costs, incurred by the Defending Party in such Proceeding ("Enforcement Costs") shall be reimbursed by the Claiming Party; provided that if the Defending Party prevails in part, and loses in part, in such Proceeding, the court, arbitrator or other adjudicator presiding over such Proceeding shall award a reimbursement of the fees, costs and expenses incurred by the Defending Party on an equitable basis. For purposes hereof, and without limitation, the Defending Party shall be deemed to have prevailed in any Proceeding described in the immediately preceding sentence if the Claiming Party commences or threatens any such Proceeding and (i) such underlying claim(s) are subsequently dropped or voluntarily dismissed, and/or (ii) the Defending Party defeats any such claim(s). This Section 12.13 shall survive the termination of this Agreement and be the sole and exclusive right of any party to Enforcement Costs (and Losses under Sections 8.02 and 8.03 shall not include Enforcement Costs).

12.14 Purchaser Deliveries. The Purchaser agrees and acknowledges that all documents or other items delivered or made available to the Purchaser's Representatives shall be deemed to be delivered or made available, as the case may be, to the Purchaser for all purposes hereunder.

12.15 Delivery by Facsimile. This Agreement and any signed agreement entered into in connection herewith or contemplated hereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine, shall be treated in all manner and respects as an original contract and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person. At the request of any party



hereto or to any such contract, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such contract shall raise the use of a facsimile machine to deliver a signature or the fact that any signature or contract was transmitted or communicated through the use of facsimile machine as a defense to the formation of a contract and each such party forever waives any such defense.

12.16 Counterparts. This Agreement may be executed in multiple counterparts, any one of which need not contain the signature of more than one party, but all such counterparts taken together shall constitute one and the same instrument.

12.17 Governing Law. All issues and questions concerning the construction, validity, interpretation and enforceability of this Agreement (and all claims, controversies and causes of action related hereto, or arising in connection herewith, whether in contract, tort or otherwise) and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

12.18 Jurisdiction. Except as otherwise expressly provided in this Agreement (including, without limitation, as set forth in Section 12.21), any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in the United States District Court for the District of Delaware, the Delaware Court of Chancery of the State of Delaware or any other court of the State of Delaware, and each of the parties hereto hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 12.04 shall be deemed effective service of process on such party.

12.19 No Recourse. Notwithstanding any provision of this Agreement or otherwise, the parties to this Agreement agree on their own behalf and on behalf of their respective Subsidiaries and Affiliates that no Non-Recourse Party of a party to this Agreement shall have any liability relating to this Agreement or any of the transactions contemplated herein. The Non-Recourse Parties shall be third party beneficiaries of this Section 12.19.

12.20 Specific Performance.

(a) Subject to the limitations set forth in Sections 12.20(b) and (d), each of the parties hereto acknowledges that the rights of each party to consummate the transactions contemplated hereby are unique and recognizes and affirms that in the event of an actual or threatened breach of this Agreement by any party, money damages may be inadequate and the non-breaching party may have no adequate remedy at law. Accordingly, the parties agree that,



prior to the termination of this Agreement in accordance with Article IX, the non-breaching party shall have the right, (x) in the case of the Purchaser and Merger Sub, in addition to any other rights and remedies existing in their favor under this Agreement (but subject to the limitations set forth herein), at law or in equity, to enforce their rights and the other party's obligations hereunder not only by an action or actions for damages but also by an action or actions for specific performance, injunctive and/or other equitable relief (without posting of bond or other security) and, (y) in the case of the Company, in addition to any other rights and remedies existing in its favor under this Agreement (but subject to the limitations set forth herein), to enforce their rights and the other party's obligations hereunder by an action or actions for specific performance to the extent expressly permitted in Sections 12.20(b) and (d).

(b) Subject to Section 9.03, it is explicitly agreed that the Company shall be entitled to seek specific performance of (i) the Purchaser's and the Merger Sub's performance of the Specified Purchaser Financing Covenants, and (ii) the Purchaser's and the Merger Sub's obligation to consummate the Merger, in the case of clause (ii) only in the event that (A) the Purchaser and the Merger Sub are required to complete the Closing pursuant to Section 3.01, (B) the Debt Financing (or any alternative financing) has been funded or is available to be funded at the Closing on the terms set forth in the Debt Financing Commitments (or any alternative financing) if the Purchaser funds any remaining cash portion of the Merger Consideration contemplated to be funded by this Agreement and the Debt Financing Commitments (or any alternative financing), (C) the Purchaser and the Merger Sub fail to complete the Closing in accordance with Article II, and (D) the Company has irrevocably confirmed in writing that if specific performance is granted and the Debt Financing is funded, then the Closing will occur promptly after a timely grant of specific performance. If a court of competent jurisdiction has declined to specifically enforce the obligations of the Purchaser and the Merger Sub to consummate the Merger pursuant to a claim for specific performance brought against the Purchaser and the Merger Sub pursuant to this Section 12.20(b) but the standards set forth in this Section 12.20(b) for the Company's entitlement to specific performance have been met and would otherwise entitle the Company to seek specific performance, then the Company shall be entitled to, and the Purchaser and the Merger Sub shall pay to the Company (or as directed by the Company), the Reverse Termination Fee (which shall be the sole and exclusive remedy for any action relating (directly or indirectly) to this Agreement and the transactions contemplated hereby (other than for the Specified Obligations and for fraud)) as promptly as reasonably practicable within two (2) Business Days of such court's determination, payable by wire transfer of same day funds.

(c) Each of the parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief when expressly available pursuant to the terms of this Section 12.20 on the basis that the other parties have an adequate remedy at law or an award of specific performance is not an appropriate remedy for any reason at law or equity. Any party seeking an injunction or injunctions to prevent breaches of this Agreement when expressly available pursuant to the terms of this Agreement and to enforce specifically the terms and provisions of this Agreement when expressly available pursuant to the terms of this Agreement shall not be required to provide any bond or other security in connection with any such order or injunction.



(d) Notwithstanding anything to the contrary in this Agreement, except as and to the extent expressly permitted by Section 12.20(b), the parties acknowledge that the Company shall not be entitled to an injunction or injunctions to prevent breaches of this Agreement by the Purchaser and the Merger Sub or any remedy to enforce specifically the terms and provisions of this Agreement and that the Company's sole and exclusive remedies (other than the Specified Obligations) with respect to any such breach shall be the remedies set forth in Article VIII.

(e) To the extent any party hereto brings any action to enforce specifically the performance of the terms and provisions of this Agreement when expressly available to such party pursuant to the terms of this Agreement, the Outside Date shall automatically be extended by (i) the amount of time during which such action is pending, plus twenty (20) Business Days, or (ii) such other time period established by the court presiding over such action.

12.21 Lender Party Arrangements. Notwithstanding anything to the contrary contained in this Agreement, each of the parties hereto agrees (a) that any claim, cross-claim, suit, action or proceeding or any kind or description, whether in law or in equity, whether in contract or in tort or otherwise, involving any of the Lender Related Parties arising out of or relating to this Agreement or the transactions contemplated hereby, the transactions contemplated by the Debt Financing or the performance of services thereunder shall be subject to the exclusive jurisdiction of a state or federal court sitting in the Borough of Manhattan within the City of New York and the appellate courts thereof, (b) not to bring or permit any of their Affiliates to bring or support anyone else in bringing any such claim, suit, action or proceeding in any other courts other than a state or federal court sitting in the Borough of Manhattan within the City of New York, and (c) to irrevocably waive all right to a trial by jury in any such claim, suit, action or proceeding.

* * * *



---

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and Plan of Merger on the day and year first above written.

**Company**
**NPC GROUP, INC.**

By: /s/ Thomas A. Wimsett
Name: Thomas A. Wimsett
Title: President and Chief Executive Officer

**Purchaser**
**FIFTH THIRD PROCESSING SOLUTIONS, LLC**

By: /s/ Charles Drucker
Name: Charles Drucker
Title: Chief Executive Officer and President

**Merger Sub**
**FTPS-BG ACQUISITION CORP.**

By: /s/ Charles Drucker
Name: Charles Drucker
Title: Chief Executive Officer and President

**Representative**
**NATIONAL PROCESSING HOLDINGS, LLC**,
solely in its capacity as the Representative

By: /s/ Thomas A. Wimsett
Name: Thomas A. Wimsett
Title: President and Chief Executive Officer

**Exhibit 10.2**

EXECUTION VERSION

FIRST LIEN LOAN AGREEMENT

AMONG

FIFTH THIRD PROCESSING SOLUTIONS, LLC,
a Delaware limited liability company, as Borrower

VARIOUS LENDERS
FROM TIME TO TIME PARTY HERETO,

BANK OF AMERICA, N.A., CREDIT SUISSE SECURITIES (USA) LLC and MORGAN STANLEY SENIOR FUNDING, INC., as Co-Syndication Agents,

FIFTH THIRD BANK, MORGAN STANLEY SENIOR FUNDING, INC. and SUNTRUST BANK, as Co-Documentation Agents,

and

GOLDMAN SACHS LENDING PARTNERS LLC,
as Administrative Agent and Collateral Agent,

DATED AS OF NOVEMBER 3, 2010

GOLDMAN SACHS LENDING PARTNERS LLC and J.P. MORGAN SECURITIES LLC, as Joint Lead Arrangers,

and

GOLDMAN SACHS LENDING PARTNERS LLC, J.P. MORGAN SECURITIES LLC, CREDIT SUISSE SECURITIES (USA) LLC, MORGAN STANLEY SENIOR FUNDING, INC. and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (successor-in-interest to Banc of America Securities LLC), as Joint Book Runners.

**TABLE OF CONTENTS**


| SECTION | | HEADING | PAGE |
|---|---|---|---|
| SECTION 1. | Definitions; Interpretation | | 1 |
| | Section 1.1. | Definitions | 1 |
| | Section 1.2. | Interpretation | 35 |
| | Section 1.3. | Change in Accounting Principles | 36 |
| SECTION 2. | The Loan Facilities | | 36 |
| | Section 2.1. | The Term B Loans | 36 |
| | Section 2.2. | Revolving Credit Commitments | 36 |
| | Section 2.3. | Letters of Credit | 36 |
| | Section 2.4. | Applicable Interest Rates | 39 |
| | Section 2.5. | Manner of Borrowing Loans and Designating Applicable Interest Rates | 41 |
| | Section 2.6. | Minimum Borrowing Amounts; Maximum Eurodollar Loans | 43 |
| | Section 2.7. | Maturity of Loans | 43 |
| | Section 2.8. | Prepayments | 43 |
| | Section 2.9. | Place and Application of Payments | 46 |
| | Section 2.10. | Commitment Terminations | 48 |
| | Section 2.11. | Swing Loans | 48 |
| | Section 2.12. | Evidence of Indebtedness | 49 |
| | Section 2.13. | Fees | 50 |
| | Section 2.14. | Incremental Credit Extensions | 51 |
| SECTION 3. | Conditions Precedent | | 53 |
| | Section 3.1. | All Credit Extensions | 53 |
| | Section 3.2. | Initial Credit Extension | 53 |
| SECTION 4. | The Collateral And the Guaranty | | 58 |

Section 4.1. Collateral 58
Section 4.2. Liens on Real Property 58
Section 4.3. Guaranty 58
Section 4.4. Further Assurances 59
Section 4.5. Limitation on Collateral 59

SECTION 5. Representations and Warranties 59

Section 5.1. Financial Statements 59
Section 5.2. Organization and Qualification 60
Section 5.3. Authority and Enforceability 60
Section 5.4. No Material Adverse Change 61
Section 5.5. Litigation and Other Controversies 61



---

Section 5.6. True and Complete Disclosure 61
Section 5.7. Use of Proceeds; Margin Stock 61
Section 5.8. Taxes 62
Section 5.9. ERISA 62
Section 5.10. Subsidiaries 62
Section 5.11. Compliance with Laws 63
Section 5.12. Environmental Matters 63
Section 5.13. Investment Company 63
Section 5.14. Intellectual Property 63
Section 5.15. Good Title 63
Section 5.16. Labor Relations 64
Section 5.17. Capitalization 64
Section 5.18. Governmental Authority and Licensing 64
Section 5.19. Approvals 64
Section 5.20. Solvency 64
Section 5.21. Foreign Assets Control Regulations and Anti-Money Laundering 64
Section 5.22. Senior Indebtedness 65

SECTION 6. Covenants 65

Section 6.1. Information Covenants 65
Section 6.2. Inspections 68
Section 6.3. Maintenance of Property, Insurance, Environmental Matters, etc. 69
Section 6.4. Books and Records 69
Section 6.5. Preservation of Existence 69
Section 6.6. Compliance with Laws 70
Section 6.7. ERISA 70
Section 6.8. Payment of Taxes 70
Section 6.9. Designation of Subsidiaries 70
Section 6.10. Interest Rate Protection 70
Section 6.11. Contracts with Affiliates 71
Section 6.12. No Changes in Fiscal Year 72
Section 6.13. Change in the Nature of Business; Limitations on the Activities of Holdco 72
Section 6.14. Indebtedness 73
Section 6.15. Liens 76
Section 6.16. Consolidation, Merger, Sale of Assets, etc. 79
Section 6.17. Advances, Investments and Loans 81
Section 6.18. Restricted Payments 83
Section 6.19. Limitation on Restrictions 85
Section 6.20. Optional Payments of Certain Indebtedness; Modifications of Certain Indebtedness and Organizational Documents 86
Section 6.21. OFAC 86
Section 6.22. Financial Covenants 87
Section 6.23. Maintenance of Rating 87
Section 6.24. Limitation on Non-Material Subsidiaries 88
Section 6.25. Post-Closing Obligations 88



---

SECTION 7. Events of Default and Remedies 88

Section 7.1. Events of Default 88
Section 7.2. Non Bankruptcy Defaults 90
Section 7.3. Bankruptcy Defaults 90
Section 7.4. Collateral for Undrawn Letters of Credit 90
Section 7.5. Notice of Default 91

Section 7.6. Equity Cure 91

SECTION 8. Change in Circumstances and Contingencies 92

Section 8.1. Funding Indemnity 92
Section 8.2. Illegality 93
Section 8.3. Reserved 93
Section 8.4. Yield Protection 93
Section 8.5. Substitution of Lenders 94
Section 8.6. Lending Offices 95

SECTION 9. The Administrative Agent 95

Section 9.1. Appointment and Authorization of Administrative Agent 95
Section 9.2. Administrative Agent and its Affiliates 95
Section 9.3. Action by Administrative Agent 96
Section 9.4. Consultation with Experts 96
Section 9.5. Liability of Administrative Agent; Credit Decision; Delegation of Duties 96
Section 9.6. Indemnity 98
Section 9.7. Resignation of Administrative Agent and Successor Administrative Agent 99
Section 9.8. L/C Issuer 100
Section 9.9. Hedging Liability and Funds Transfer Liability and Deposit Account Liability Obligation Arrangements 100
Section 9.10. Designation of Additional Administrative Agents 100
Section 9.11. Authorization to Enter into, and Enforcement of, the Collateral Documents 101
Section 9.12. Authorization to Release Liens and Limit Amount of Certain Claims 101

SECTION 10. Miscellaneous 102

Section 10.1. Withholding Taxes 102
Section 10.2. No Waiver; Cumulative Remedies; Collective Action 104
Section 10.3. Non-Business Days 105
Section 10.4. Documentary Taxes 105
Section 10.5. Survival of Representations 105
Section 10.6. Survival of Indemnities 105
Section 10.7. Sharing of Set-Off 106



---

Section 10.8. Notices 106
Section 10.9. Counterparts 107
Section 10.10. Successors and Assigns; Assignments and Participations 107
Section 10.11. Amendments 112
Section 10.12. Heading 114
Section 10.13. Costs and Expenses; Indemnification 114
Section 10.14. Set-off 115
Section 10.15. Entire Agreement 116
Section 10.16. Governing Law 116
Section 10.17. Severability of Provisions 116
Section 10.18. Excess Interest 116
Section 10.19. Construction 117
Section 10.20. Lender’s Obligations Several 117
Section 10.21. USA Patriot Act 117
Section 10.22. Submission to Jurisdiction; Waiver of Jury Trial 117
Section 10.23. Treatment of Certain Information; Confidentiality 117
Section 10.24. Conflicts with Intercreditor Agreement 118

Signature Page S-1

EXHIBIT A — Notice of Payment Request
EXHIBIT B — Notice of Borrowing
EXHIBIT C — Notice of Continuation/Conversion
EXHIBIT D-1 — Term B Note
EXHIBIT D-2 — Revolving Note
EXHIBIT D-3 — Swing Note
EXHIBIT E — Solvency Certificate
EXHIBIT F — Compliance Certificate
EXHIBIT G — Assignment and Assumption
EXHIBIT H-1 — Form of Trademark Security Agreement
EXHIBIT H-2 — Form of Patent Security Agreement
EXHIBIT H-3 — Form of Copyright Security Agreement
EXHIBIT I — Form of Intercreditor
EXHIBIT J — Form of Security Agreement
EXHIBIT K — Form of Guaranty

SCHEDULE 1 — Term B Loan Commitments and Revolving Credit Commitments as of the Closing Date
SCHEDULE 5.10 — Subsidiaries
SCHEDULE 5.17 — Capitalization
SCHEDULE 6.11 — Contracts with Affiliates
SCHEDULE 6.14 — Indebtedness
SCHEDULE 6.15 — Liens



---

SCHEDULE 6.17 — Investments
SCHEDULE 6.25 — Post-Closing Obligations



---

**FIRST LIEN LOAN AGREEMENT**

This First Lien Loan Agreement is entered into as of November 3, 2010, by and among FIFTH THIRD PROCESSING SOLUTIONS, LLC, a Delaware limited liability company (the *"Borrower"*), the various institutions from time to time party to this Agreement, as Lenders, BANK OF AMERICA, N.A., CREDIT SUISSE SECURITIES (USA) LLC and MORGAN STANLEY SENIOR FUNDING, INC., as Co-Syndication Agents (the *"Co-Syndication Agents"*), FIFTH THIRD BANK, MORGAN STANLEY SENIOR FUNDING, INC. and SUNTRUST BANK, as Co-Documentation Agents (the *"Co-Documentation Agents"*) and GOLDMAN SACHS LENDING PARTNERS LLC, as administrative agent and collateral agent (the *"Administrative Agent"* or *"Collateral Agent"*).

The Borrower, NPC Group, Inc. (the *"Target"*), FTPS-BG Acquisition Corp. (*"Merger Sub"*), and National Processing Holdings, LLC, solely in its capacity as the representative of the Target's stockholders, have entered into the Agreement and Plan of Merger (the *"Acquisition Agreement"*), dated September 15, 2010, which provides, subject to the terms and conditions set forth therein, that Merger Sub will merge with and into the Target, with the Target as the surviving corporation (the *"NPC Acquisition"*). Immediately following the NPC Acquisition, the Target will be a direct or indirect subsidiary of the Borrower, with 100% of the common stock of the Target owned by the Borrower.

The Borrower has requested, and the Lenders have agreed to extend, certain credit facilities on the terms and conditions of this Agreement. In consideration of the mutual agreements set forth in this Agreement, the parties to this Agreement agree as follows:

SECTION 1. DEFINITIONS; INTERPRETATION.

Section 1.1. *Definitions*. The following terms when used herein shall have the following meanings:

*"Acquisition"* means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in (a) the acquisition of all or substantially all of the assets of a Person, or of any business or division of a Person, (b) the acquisition of in excess of 50% of the capital stock, partnership interests, membership interests or equity of any Person (other than a Person that is a Restricted Subsidiary), or otherwise causing any Person to become a Restricted Subsidiary (other than in connection with the formation or creation of a Restricted Subsidiary), or (c) a merger or consolidation or any other combination with another Person (other than a Person that is already a Restricted Subsidiary), *provided* that the Borrower or a Restricted Subsidiary is the surviving entity.

"*Acquisition Agreement*" as defined in the preamble hereof.

*"Additional Lender"* means any Additional Revolving Lender or any Additional Term Lender, as applicable.

*"Additional Revolving Lender"* means, at any time, any bank or other financial institution that agrees to provide any portion of any Revolving Credit Commitment Increase pursuant to an Incremental Amendment in accordance with Section 2.14; *provided* that the relevant Persons under Section 10.10(b) (including those specified in



---

the definition of "Eligible Assignee") shall have consented to such Additional Revolving Lender's providing such incremental revolving credit commitments, if such consent would be required under Section 10.10(b) for an assignment of Revolving Credit Commitments to such Additional Lender.

*"Additional Term Lender"* means, at any time, any bank or other financial institution that agrees to provide any portion of any Term Commitment Increase pursuant to an Incremental Amendment in accordance with Section 2.14; *provided* that the relevant Persons under Section 10.10(b) (including those specified in the definition of "Eligible Assignee") shall have consented to such Additional Term Lender's making such incremental term loans, if such consent would be required under Section 10.10(b) for an assignment of Loans to such Additional Lender.

*"Adjusted LIBOR"* means, (a) for any Borrowing of Term B Loans that are Eurodollar Loans, a rate per annum equal to the greater of: (i) 1.50% and (ii) the quotient of (A) LIBOR, divided by (B) one minus the Reserve Percentage and (b) for any Borrowing of Revolving Loans that are Eurodollar Loans, a rate per annum equal to the quotient of (x) LIBOR, divided by (y) one minus the Reserve Percentage.

*"Administrative Agent"* means Goldman Sachs Lending Partners LLC, as contractual representative for itself and the other Lenders and any successor pursuant to Section 9.7 hereof.

"*Administrative Questionnaire*" means, with respect to each Lender, an Administrative Questionnaire in a form supplied by the Administrative Agent and duly completed by such Lender.

"*Advent*" means Advent International Corp.

"*Affected Lender*" is defined in Section 8.5 hereof.

"*Affiliate*" means any Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, another Person. A Person shall be deemed to control another Person for the purposes of this definition if such Person (i) possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the other Person, whether through the ownership of voting securities, by contract or otherwise; or (ii) can vote 15% or more of the securities having ordinary voting power for the election of directors of such Person.

"*Affiliated Lender*" is defined in Section 10.10(h) hereof.

"*Agreement*" means this First Lien Loan Agreement, as the same may be amended, modified, restated, amended and restated or supplemented from time to time pursuant to the terms hereof.

"*Applicable Laws*" means, as to any Person, any law (including common law), statute, regulation, ordinance, rule, order, decree, judgment, consent decree, writ, injunction, settlement agreement or governmental requirement enacted, promulgated or

---

imposed or entered into or agreed by any Governmental Authority, in each case applicable to or binding on such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

"*Applicable Margin*" *means* (a) with respect to Term B Loans, (i) for Eurodollar Loans, 4.00% per annum and (ii) for Base Rate Loans, 3.00% per annum, (b) with respect to any Swing Loans, the applicable percentage per annum set forth below under the caption "Base Rate Revolving Spread", (c) with respect to any Revolving Loan that is a Eurodollar Loan or a Base Rate Loan, the applicable percentage per annum set forth below under the caption "Eurodollar Revolving Spread" or "Base Rate Revolving Spread" and (d) with respect to the Commitment Fee, 0.50% (in the case of clauses (b) and (c) above, based upon the Leverage Ratio as of the relevant date of determination):

| **Leverage Ratio** | **Eurodollar Revolving Spread** | **Base Rate Revolving Spread** |
|---|---|---|
| Category 1<br>Greater than 3.5 to 1.00 | 3.50% | 2.50% |
| Category 2<br>Less than or equal to 3.5 to 1.00 but greater than 2.5 to 1.00 | 3.25% | 2.25% |
| Category 3<br>Less than or equal to 2.5 to 1.00 | 3.00% | 2.00% |

In respect of clauses (b) and (c) of this definition, each change in the Applicable Margin resulting from a change in the Leverage Ratio shall be effective on and after the date of delivery to the Administrative Agent of the financial statements required to be delivered pursuant to Section 6.1(a) or (b) and a Compliance Certificate indicating such change until and including the date immediately preceding the next date of delivery of such financial statements and the related Compliance Certificate indicating another such change. Notwithstanding the foregoing, (x) until the Borrower shall have delivered the financial statements and the related Compliance Certificate covering a period that includes the first full fiscal quarter of the Borrower ended after the Closing Date, the Leverage Ratio shall be deemed to be in Category 1 for purposes of determining the Applicable Margin and (y) during the existence of any Event of Default under Section 7.1(a), (j) or (k), the Leverage Ratio shall be deemed to be in Category 1 for purposes of determining the Applicable Margin. In addition, at the option of the Administrative Agent and the Required Lenders, at any time during which the Borrower has failed to deliver the financial statements or the related Compliance Certificate by the date required thereunder, then the Leverage Ratio shall be deemed to be in the then-existing Category for the purposes of determining the Applicable Margin (but only for so long as such failure continues, after which the Category shall be otherwise as determined as set forth above).

"*Application*" is defined in Section 2.3(b) hereof.

---

"*Approved Fund*" means any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"*Assignment and Assumption*" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.10), and accepted by the Administrative Agent, in substantially the form of Exhibit G or any other form approved by the Administrative Agent and the Borrower.

"*Audited Financial Statements*" is defined in Section 3.2(j) hereof.

"*Authorized Representative*" means those persons shown on the list of officers provided by the Borrower pursuant to Section 3.2(a)(v) hereof or on any update of any such list provided by the Borrower to the Administrative Agent, or any further or different officers of the Borrower so named by any Authorized Representative of the Borrower in a written notice to the Administrative Agent.

"*Available Amount*" means, at any time, an amount equal to, without duplication:

(a) the amount of any capital contributions or other equity issuances (other than any amounts constituting a Cure Amount) received as cash equity by the Borrower or any of its Restricted Subsidiaries, plus the fair market value, as determined in good faith by the Borrower, of

marketable securities or other property received by the Borrower or its Restricted Subsidiaries as a capital contribution or in return for issuances of equity, in each case, during the period from and including the Business Day immediately following the Closing Date through and including such time; minus

(b) the aggregate amount of any investments made by the Borrower or any Restricted Subsidiary pursuant to Section 6.17(l) after the Closing Date and prior to such time.

"*Base Rate*" means for any day the greatest of: (i) the Prime Rate in effect on such day, (ii) the sum of (x) the Federal Funds Rate, plus (y) 1/2 of 1% and (iii) the sum of (x) the Adjusted LIBOR that would be applicable to a Eurodollar Loan with a one month Interest Period advanced on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus (y) 1.00%; *provided* that, for the avoidance of doubt, the Adjusted LIBOR for any day shall be based on the rate determined on such day at approximately 11 a.m. (London time) by reference to the British Bankers' Association Interest Settlement Rates for deposits in dollars (as set forth by any service selected by the Administrative Agent that has been nominated by the British Bankers' Association as an authorized vendor for the purpose of displaying such rates). Any change in the Base Rate due to a change in the Federal Funds Rate or the Adjusted LIBOR shall be effective on the effective date of such change in the Federal Funds Rate or the Adjusted LIBOR, as the case may be.

---

"*Base Rate Loan*" means a Term B Loan or Revolving Loan bearing interest at a rate specified in Section 2.4(a) or Section 2.4(c) hereof, as applicable.

"*Borrower*" is defined in the introductory paragraph of this Agreement.

"*Borrowing*" means the total of Loans of a single type advanced, continued for an additional Interest Period, or converted from a different type into such type by the Lenders under the applicable Facility on a single date and, in the case of Eurodollar Loans, for a single Interest Period. Borrowings of Loans are made and maintained ratably from each of the Lenders under the applicable Facility according to their Percentages of such Facility. A Borrowing of Loans is "advanced" on the day Lenders advance funds comprising such Borrowing to the Borrower, is "continued" on the date a new Interest Period for the same type of Loans commences for such Borrowing, and is "converted" when such Borrowing is changed from one type of Loans to the other, all as requested by the Borrower pursuant to Section 2.5(a) hereof. Base Rate Loans and Eurodollar Loans are each a "type" of Loans. Borrowings of Swing Loans are made by the Administrative Agent in accordance with the procedures set forth in Section 2.11 hereof.

"*Business*" means "Business" as defined in the Master Investment Agreement.

"*Business Day*" means any day (other than a Saturday or Sunday) on which banks are not authorized or required to close in the State of New York; *provided, however*, that when used in connection with a Eurodollar Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in Dollar deposits in the London interbank market.

"*Capital Lease*" means any lease of Property which in accordance with GAAP is required to be capitalized on the balance sheet of the lessee; *provided* that, notwithstanding the foregoing, in no event will any lease that would have been categorized as an operating lease as determined in accordance with GAAP as of November 3, 2010 be considered a Capital Lease.

"*Capitalized Lease Obligation*" means, for any Person, the amount of the liability shown on the balance sheet of such Person in respect of a Capital Lease determined in accordance with GAAP.

"*Cash Equivalents*" means, as to any Person: (a) investments in direct obligations of the United States of America or of any agency or instrumentality thereof whose obligations constitute full faith and credit obligations of the United States of America, *provided* that any such obligations shall mature within one year of the date of issuance thereof; (b) investments in commercial paper rated at least P-1 by Moody's or at least A-1 by S&P (or, if at any time neither Moody's or S&P shall be rating such obligations, an equivalent rating from another nationally recognized rating service) maturing within 90 days from the date of issuance thereof; (c) investments in certificates of deposit or bankers' acceptances issued by any Lender or by any United States commercial bank having capital and surplus of not less than $500,000,000 which have a

---

maturity of one year or less; (d) investments in repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (a) above entered into with any bank meeting the qualifications specified in clause (c) above, *provided* that, all such agreements require physical delivery of the securities securing such repurchase agreement, except those delivered through the Federal Reserve Book Entry System; (e) marketable short-term money market or similar securities having a rating of at least P-1 by Moody's or A-1 by S&P (or, if at any time neither Moody's or S&P shall be rating such obligations, an equivalent rating from another nationally recognized rating service) and (f) investments in money market funds that invest solely, and which are restricted by their respective charters to invest solely, in investments of the type described in the immediately preceding clauses (a), (b), (c), and (d) above.

"*Cash Flow*" means, with reference to any period, the difference (if any) of (a) Consolidated Net Income for such period plus the sum of all amounts deducted in arriving at such Consolidated Net Income amount in respect of all charges for (i) depreciation of fixed assets and amortization of intangible assets for such period and (ii) all other non-cash charges or expenses deducted in computing Consolidated Net Income for such period minus (plus) (b) additions (reductions) to non-cash working capital of the Borrower and its Subsidiaries for such period (i.e., the increase or decrease in consolidated non-cash current assets of the Borrower and its Restricted Subsidiaries minus the consolidated current liabilities (excluding the current maturities of long-term debt) of the Borrower and its Restricted Subsidiaries from the beginning to the end of such period) minus (c) all non-cash gains or benefits added in computing Consolidated Net Income for such period.

"*Cash Management Services*" means treasury, depository, overdraft, credit or debit card, including noncard payables services, purchase card, electronic funds transfer, automated clearing house fund transfer services, other cash management services and all services performed by any of the Lenders or their Affiliates under the Clearing Agreement.

“*Class*” means (i) with respect to Lenders, each of the following classes of Lenders: (a) Lenders having Term B Loan Exposure or (b) Lenders having Revolving Exposure (including the Swing Line Lender) and (ii) with respect to Loans, each of the following classes of Loans: (a) Term B Loans and (b) Revolving Loans.

“*CERCLA*” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§9601 *et seq.*, and any future amendments.

A “*Change of Control*” shall be deemed to have occurred if (a) the Permitted Investors cease to have the power, directly or indirectly, to vote or direct the voting of the Voting Stock of the Borrower; *provided* that the occurrence of the foregoing event shall not be deemed a Change of Control if,

(i) any time prior to the consummation of a Qualified Public Offering, and for any reason whatsoever, (A) the Permitted Investors otherwise have the right,

---

directly or indirectly, to designate (and do so designate) a majority of the board of directors of the Borrower or (B) the Permitted Investors own, directly or indirectly, of record and beneficially an amount of Voting Stock of the Borrower that is equal to or more than 50% of the amount of Voting Stock of the Borrower owned, directly or indirectly, by the Permitted Investors of record and beneficially as of the Closing Date (determined by taking into account any stock splits, stock dividends or other events subsequent to the Closing Date that changed the amount of Voting Stock, but not the percentage of Voting Stock, held by the Permitted Investors) and such ownership by the Permitted Investors represents the largest single block of Voting Stock of the Borrower held by any person or related group for purposes of Section 13(d) of the Securities Exchange Act of 1934, or

(ii) at any time after the consummation of a Qualified Public Offering, and for any reason whatsoever, (A) no “person” or “group” (as such terms (and each other reference thereto in this clause) are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934 as in effect on the date hereof, but excluding any employee benefit plan of such Person and its subsidiaries, and any Person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), excluding the Permitted Investors and any group of which any Permitted Investor holds 51% or more of the outstanding Voting Stock held by such group, shall become the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under such Act), directly or indirectly, of more than the greater of (x) 35% of outstanding Voting Stock of the Borrower and (y) the percentage of the then outstanding Voting Stock of the Borrower owned, directly or indirectly, beneficially and of record by the Permitted Investors, and (B) during each period of 12 consecutive months, a majority of natural persons who are members of the board of directors (or similar governing body) of the Borrower shall consist of the same persons who are members of the board of directors (or similar governing body) of the Borrower on the Closing Date (together with any new or replacement directors (or similar persons) whose initial nomination for election was approved or recommended by either the Permitted Investors or by a majority of the directors (or similar persons) who were either directors (or similar persons) on the Closing Date or previously so approved or recommended), or

(b) at any time prior to the consummation of a Qualified Public Offering by the Borrower, Holdco shall cease to directly own and control, of record and beneficially, 100% of Voting Stock of the Borrower free and clear of all Liens (other than Liens permitted or created under the Loan Documents or the Second Lien Loan Documents); or

(c) a “Change of Control” (or any other defined term having a similar purpose) as defined in the Second Lien Loan Agreement, has occurred.

“*Clearing Agreement*” means Clearing, Settlement and Sponsorship Services Agreement by and between the Borrower and Fifth Third Bank dated as of June 30, 2009, as the same may be amended, modified, supplemented, restated or amended and restated from time to time.

---

“*Closing Date*” means the date on which the conditions precedent set forth in Section 3.2 shall have been satisfied or waived in accordance with this Agreement.

“*Closing Date Material Adverse Effect*” means (a) any change, effect, event, occurrence, state of facts or development that, individually or in the aggregate, is, or would reasonably be expected to be, materially adverse to the business, properties, assets, financial condition or results of operations of the Target and its Subsidiaries taken as a whole or (b) a material adverse effect on the ability of the Target to consummate the NPC Acquisition; *provided, however*, that, for purposes of clause (a) above, none of the following shall be deemed in themselves, either alone or in combination, to constitute, and none of the following shall be taken into account in determining whether there has been or will be, a Closing Date Material Adverse Effect: any adverse change, effect, event, occurrence, state of facts or development attributable to (i) the announcement or consummation of the transactions contemplated by the Acquisition Agreement, (ii) conditions affecting the Industry, except to the extent that the Target or any of its Subsidiaries is disproportionately affected relative to the other participants in the Industry; (iii) the taking of any action required by the Acquisition Agreement; (iv) conditions affecting the U.S. economy as a whole or the capital markets in general or the markets in which the Target and its Subsidiaries operate; (v) any change in, or proposed or potential change in, applicable laws or card association rules or regulations or the interpretation of any of the foregoing, except to the extent that the Target or any of its Subsidiaries is disproportionately affected relative to the other participants in the Industry; (vi) any change in GAAP or other accounting requirements or principles or any change in applicable laws, rules or regulations or the interpretation thereof; (vii) the failure of the Target or any Subsidiary of the Target to meet or achieve the results set forth in any projection or forecast (*provided* that clause (vii) shall not prevent a determination that any change or effect underlying such failure to meet projections or forecasts has resulted in a Closing Date Material Adverse Effect (to the extent such change or effect is not otherwise excluded from this definition of Closing Date Material Adverse Effect)); (viii) the commencement, continuation or escalation of a war, material armed hostilities or other material international or national calamity or act of terrorism or (ix) any of the matters disclosed on the Taxes Schedule, the Litigation Schedule, the Compliance with Laws Schedule, the Employee Schedule or the Merchants, Merchant Originators and Vendors Schedule (without giving effect to any new or updated matters, facts, circumstances or developments set forth on any Updated Disclosure Schedules) (in each case, as defined in the Acquisition Agreement as of September 15, 2010) as such matters are known to the Joint Lead Arrangers and Joint Book Runners as of September 15, 2010.

*"Code"* means the Internal Revenue Code of 1986, as amended, and any successor statute thereto.

*"Collateral"* means all properties, rights, interests, and privileges of the Loan Parties on which a Lien is required to be granted to the Collateral Agent, or any security trustee therefor, by Section 4.1.

*"Collateral Account"* is defined in Section 7.4 hereof.

---

*"Collateral Agent"* means GS Lending Partners and any successor pursuant to Section 9.7 hereof.

*"Collateral Documents"* means the Security Agreement, the Intellectual Property Security Agreements and all other mortgages, deeds of trust, security agreements, pledge agreements, assignments, financing statements and other documents pursuant to which Liens are granted to the Collateral Agent or such Liens are perfected, and as shall from time to time secure the Obligations, the Hedging Liability, and the Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, or any part thereof pursuant to Section 4.

*"Commitment Fee"* is defined in Section 2.13(a) hereof.

*"Commitment Increase"* is defined in Section 2.14(a) hereof.

"*Compliance Certificate*" means the Compliance Certificate to be delivered pursuant to Section 6.1(e) hereof, substantially in the form of Exhibit F hereof.

*"Consolidated EBITDA"* means, for any period, the Consolidated Net Income for such period, plus:

(a) without duplication and to the extent already deducted (and not added back) in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(i) interest expense and, to the extent not reflected in such interest expense, unused line fees and letter of credit fees payable hereunder,

(ii) provision for taxes based on income, profits or capital, including federal, foreign, state, franchise, excise and similar taxes paid or accrued during such period (including in respect of repatriated funds), including Distributions made to Holdco to permit it to make Quarterly Distributions,

(iii) depreciation and amortization, including amortization of intangible assets established through purchase accounting and amortization of deferred financing fees or costs,

(iv) any expenses or charges (other than depreciation or amortization expense) related to any equity offering, investment, acquisition, disposition, recapitalization or the incurrence or repayment of Indebtedness (including a refinancing or amendment, waiver or other modification thereof), in each case, permitted under this Agreement (whether or not successful),

(v) Non-Cash Charges,

(vi) extraordinary losses in accordance with GAAP,

---

(vii) (a) all Stand Alone Costs (including those funded by Fifth Third Bank) incurred on or prior to June 30, 2012 and all other fees or expenses incurred or paid by the Borrower or any of its Restricted Subsidiaries in connection with the performance of the Master Investment Agreement and the Ancillary Agreements (as defined in the Master Investment Agreement); *provided* that, amounts under this clause shall not exceed $60,000,000 for any period ending on or prior to September 30, 2011 and $40,000,000 for any period after September 30, 2011 and ending on or prior to June 30, 2012,

(viii) operating expenses attributable to the implementation of cost savings initiatives, severance, relocation costs, integration and facilities' opening costs, signing costs, retention or completion bonuses, transition costs and costs related to closure/consolidation/separation of facilities and systems and in an aggregate amount not to exceed $25,000,000 for such period,

(ix) the amount of any minority interest expense consisting of subsidiary income attributable to minority Equity Interests of third parties in any non-Wholly-Owned Subsidiary, and

(x) the amount of management, monitoring, consulting, transaction and advisory fees and related expenses paid in such period to the Existing Shareholders to the extent otherwise permitted under Section 6.11(a); *less*

(b) without duplication and to the extent included in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(i) extraordinary gains and unusual or non-recurring gains, and

(ii) non-cash gains (excluding any non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash item that reduced Consolidated EBITDA in any prior period); *provided*, in each case, that if any non-cash gain represents an accrual or asset for future cash items in any future period, the cash payment in respect thereof shall in such future period be added to Consolidated EBITDA for such period to the extent excluded from Consolidated EBITDA in any prior period,

(c) increased or decreased by (without duplication):

(i) any net gain or loss resulting in such period from Hedging Obligations and the application of Statement of Financial Accounting Standards No. 133 and International Accounting Standards No. 39 and their respective related pronouncements and interpretations; plus or minus, as applicable, and

(ii) any net gain or loss resulting in such period from currency translation gains or losses related to currency remeasurements of indebtedness (including any net loss or gain resulting from hedge agreements for currency exchange risk),

---

in each case, as determined on a consolidated basis for the Borrower and its Restricted Subsidiaries in accordance with GAAP.

"*Consolidated Net Income*" means, for any period, the net income (loss) of the Borrower and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP, excluding, without duplication, (a) the cumulative effect of a change in accounting principles during such period to the extent included in net income (loss), (b) accruals and reserves that are established or adjusted as a result of the transactions contemplated herein in accordance with GAAP or changes as a result of the adoption or modification of accounting policies during such period, (c) the income (or loss) of any Person (other than a Restricted Subsidiary of Holdco) in which any other Person (other than Holdco or any of its Restricted Subsidiaries) has an ownership interest, except to the extent of the amount of dividends or other distributions actually paid to Holdco or any of its Restricted Subsidiaries by such Person during such period, (d) the income of any Restricted Subsidiary of Holdco (other than the Borrower or any other Loan Party) to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that income is subject to an absolute prohibition during such period by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary, (e) the income (or loss) of any Person accrued prior to the date it becomes a Restricted Subsidiary of Holdco or is merged into or consolidated with Holdco or any of its Restricted Subsidiaries or that Person's assets are acquired by Holdco or any of its Subsidiaries (except as provided in the definition of "Pro Forma Basis"), and (f) non-cash, equity-based award compensation expenses (including with respect to any interest relating to membership interests in any partnership or limited liability company).

"*Contingent Obligation*" means as to any Person, any obligation of such Person guaranteeing or intended to guarantee any Indebtedness ("*primary obligations*") of any other Person (the "*primary obligor*") in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent, (i) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (ii) to advance or supply funds (x) for the purchase or payment of any such primary obligation or (y) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the holder of such primary obligation against loss in respect thereof; *provided, however,* that the term Contingent Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

---

"*Controlled Group*" means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) or of an affiliated service group under common control which, together with the Borrower, are treated as a single employer under Section 414 of the Code.

"*Co-Documentation Agents*" as defined in the preamble hereto.

"*Co-Syndication Agents*" as defined in the preamble hereto.

"*Credit Extension*" means the advancing of any Loan or the issuance of, or increase in the amount of, any Letter of Credit.

"*Cure Amount*" is defined in Section 7.6 hereof.

"*Cure Right*" is defined in Section 7.6 hereof.

"*Damages*" means all damages including, without limitation, punitive damages, liabilities, costs, expenses, losses, judgments, diminutions in value, fines, penalties, demands, claims, cost recovery actions, lawsuits, administrative proceedings, orders, response action, removal and remedial costs, compliance costs, investigation expenses, consultant fees, attorneys' and paralegals' fees and litigation expenses.

"*Debt Fund Affiliate*" means (a) any fund managed by, or under common management with, Advent, and (b) any other affiliate of Holdco that is a bona fide diversified debt fund, in each case with fiduciary obligations with respect to investment decisions independent from any equity fund managed by, or under common management with, Advent or any other Permitted Investor which has a direct or indirect equity investment in Holdco, the Borrower or its Subsidiaries.

"*Default*" means any event or condition the occurrence of which would, with the passage of time or the giving of notice, or both, constitute an Event of Default.

"*Default Excess*" has the meaning provided in Section 2.8(d) hereof.

"*Defaulting Lender*" means any Lender that (a) has failed to fund any portion of the Loans, participations in Reimbursement Obligations or participations in Swing Loans required to be funded by it hereunder within three Business Days of the date required to be funded by it hereunder unless such failure has been cured, (b) has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to

be paid by it hereunder within three Business Days of the date when due, unless the subject of a good faith dispute or unless such failure has been cured, or (c) has been deemed insolvent by any Governmental Authority or become the subject of a receivership, bankruptcy or insolvency proceeding.

"*Departing Administrative Agent*" is defined in Section 9.7 hereof.

"*Disposition*" means the sale, lease, conveyance or other disposition of Property pursuant to Section 6.16(g) or Section 6.16(o).

---

"*Disqualified Equity Interests*" means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (i) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (other than solely for Equity Interests which are not otherwise Disqualified Equity Interests or as a result of a Change of Control, Qualified Public Offering or asset sale so long as any rights of the holders thereof upon the occurrence of a Change of Control, Qualified Public Offering or asset sale shall be subject to the termination of the Facilities), pursuant to a sinking fund obligation or otherwise, (ii) is redeemable at the option of the holder thereof (other than solely for Equity Interests which are not otherwise Disqualified Equity Interests), in whole or in part, (iii) provides for scheduled payments or dividends in cash, or (iv) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 91 days after the Term B Termination Date.

"*Distribution*" has the meaning provided in Section 6.18 hereof.

"*Dollars*" and "*$*" each means the lawful currency of the United States of America.

"*Domestic Holding Company*" means any Domestic Subsidiary of Borrower that is treated as a disregarded entity for U.S. federal income tax purposes and all of its assets (other than immaterial assets) consist of the Equity Interests of one or more Foreign Subsidiaries that are controlled foreign corporations within the meaning of Section 957 of the Code.

"*Domestic Subsidiary*" means each Subsidiary of the Borrower that is organized under the Applicable Laws of the United States, any state thereof, or the District of Columbia.

"*Dutch Auction*" means an auction (an "*Auction*") conducted by Holdco or one of its Subsidiaries in order to purchase Term B Loans (or any loans funded under a Term Commitment Increase, which for purposes of this definition, shall be deemed to be Term B Loans (and the holders thereof, Term B Lenders)) in accordance with the following procedures:

(a) Notice Procedures. In connection with an Auction, the Borrower will provide notification to the Administrative Agent (for distribution to the Term B Lenders) of the Term B Loans that will be the subject of the Auction (an "*Auction Notice*"). Each Auction Notice shall be in a form reasonably acceptable to the Administrative Agent and shall contain (i) the total cash value of the bid, in a minimum amount of $10,000,000 with minimum increments of $1,000,000 (the "*Auction Amount*"), and (ii) the discount to par, which shall be a range (the "*Discount Range*") of percentages of the par principal amount of the Term B Loans at issue that represents the range of purchase prices that could be paid in the Auction.

(b) Reply Procedures. In connection with any Auction, each Term B Lender

---

may, in its sole discretion, participate in such Auction and may provide the Administrative Agent with a notice of participation (the "*Return Bid*") which shall be in a form reasonably acceptable to the Administrative Agent and shall specify (i) a discount to par that must be expressed as a price (the "*Reply Discount*"), which must be within the Discount Range, and (ii) a principal amount of Term B Loans which must be in increments of $1,000,000 (the "*Reply Amount*"). A Term B Lender may avoid the minimum amount condition solely when submitting a Reply Amount equal to the Term B Lender's entire remaining amount of such Term B Loans. Term B Lenders may only submit one Return Bid per Auction but each Return Bid may contain up to three bids only one of which can result in a Qualifying Bid (as defined below). In addition to the Return Bid, the participating Term B Lender must execute and deliver, to be held in escrow by the Administrative Agent, an Assignment and Assumption with the dollar amount of the Term B Loan to be left in blank, which amount shall be completed by the Administrative Agent in accordance with the final determination of such Term B Lender's Qualifying Bid pursuant to subclause (C) below.

(c) Acceptance Procedures. Based on the Reply Discounts and Reply Amounts received by the Administrative Agent, the Administrative Agent, in consultation with the Borrower, will determine the applicable discount (the "*Applicable Discount*") for the Auction, which will be the lowest Reply Discount for which Holdco or its Subsidiary, as applicable, can complete the Auction at the Auction Amount; *provided* that, in the event that the Reply Amounts are insufficient to allow Holdco or its Subsidiary, as applicable, to complete a purchase of the entire Auction Amount (any such Auction, a "*Failed Auction*"), Holdco or its Subsidiary shall either, at its election, (i) withdraw the Auction or (ii) complete the Auction at an Applicable Discount equal to the highest Reply Discount. Holdco or its Subsidiary, as applicable, shall purchase Term B Loans (or the respective portions thereof) from each Term B Lender with a Reply Discount that is equal to or greater than the Applicable Discount ("*Qualifying Bids*") at the Applicable Discount; *provided* that if the aggregate proceeds required to purchase all Term B Loans subject to Qualifying Bids would exceed the Auction Amount for such Auction, Holdco or its Subsidiary, as applicable, shall purchase such Term B Loans at the Applicable Discount ratably based on the principal amounts of such Qualifying Bids (subject to rounding requirements specified by the Administrative Agent). If a Term B Lender has submitted a Return Bid containing multiple bids at different Reply Discounts, only the bid with the highest Reply Discount that is equal to or greater than the Applicable Discount will be deemed the Qualifying Bid of such Term B Lender. Each participating Term B Lender will receive notice of a Qualifying Bid as soon as reasonably practicable but in no case later than five Business Days from the date the Return Bid was due.

(d) Additional Procedures. Once initiated by an Auction Notice, Holdco or its Subsidiary, as applicable, may not withdraw an Auction other than a Failed Auction. Furthermore, in connection with any Auction, upon submission by a Term B Lender of a Qualifying Bid, such

Term B Lender (each, a *"Qualifying Lender"*) will be obligated to sell the entirety or its allocable portion of the Reply Amount, as the case may be, at the Applicable Discount.

"*EFT Business*" means "EFT Business" as defined in the Master Investment Agreement.

---

"*Eligible Assignee*" means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, and (d) any other Person (other than a natural person) approved by (i) the Administrative Agent, (ii) in the case of any assignment of a Revolving Credit Commitment, the L/C Issuer, and (iii) unless (x) an Event of Default has occurred and is continuing under Section 7.1(a), (j) or (k) hereof, or (y) such assignment occurs during the Syndication Period, the Borrower (each such approval not to be unreasonably withheld); *provided* that, notwithstanding the foregoing, "Eligible Assignee" shall not include (A) any Prohibited Lenders or (B) except to the extent provided in Section 10.10(h), any Affiliated Lender.

"*Environmental Claim*" means any investigation, written notice, violation, written demand, written allegation, action, suit, injunction, judgment, order, consent decree, penalty, fine, lien, proceeding or claim (whether administrative, judicial or private in nature) arising (a) pursuant to, or in connection with an actual or alleged violation of, any Environmental Law, (b) from any actual or threatened abatement, removal, remedial, corrective or response action in connection with the Release of Hazardous Material, Environmental Law or order of a Governmental Authority under Environmental Law or (c) from any actual or alleged damage, injury, threat or harm to human health or safety as it relates to exposure to Hazardous Materials, natural resources or the environment.

"*Environmental Law*" means any current or future Applicable Law pertaining to (a) the protection of the environment, or health and safety as it relates to exposure to Hazardous Materials, (b) the protection of natural resources and wildlife, (c) the protection of surface water or groundwater quality, (d) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, Release, threatened Release, abatement, removal, remediation or handling of, or exposure to, any Hazardous Material or (e) any Release of Hazardous Materials to air, land, surface water or groundwater, and any amendment, rule, regulation, order or directive issued thereunder.

"*ERISA*" means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute thereto.

"*Equity Interests*" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire any of the foregoing.

"*Eurodollar Loan*" means a Term B Loan or Revolving Loan bearing interest at the rate specified in Section 2.4(b) or Section 2.4(d) hereof, as applicable.

"*Event of Default*" means any event or condition identified as such in Section 7.1 hereof.

---

"*Event of Loss*" means, with respect to any Property, any of the following: (a) any loss, destruction or damage of such Property or (b) any condemnation, seizure, or taking, by exercise of the power of eminent domain or otherwise, of such Property, or confiscation of such Property.

"*Excess Cash Flow*" means, with respect to any period, the amount (if any) by which (a) Cash Flow during such period exceeds (b) the sum of (i) the aggregate amount of payments required to be (and actually) made or otherwise paid by the Borrower and its Restricted Subsidiaries during such period in respect of all principal on all Indebtedness (whether at maturity, as a result of mandatory prepayment, acceleration or otherwise, but excluding (x) voluntary prepayments of the Loans and (y) prepayments of the Loans made out of Excess Cash Flow, and including any voluntary prepayments of Second Lien Loans pursuant to Section 6.20(a)(x)), plus, (ii) to the extent each of the following is not deducted in computing Consolidated Net Income,

(A) without duplication of amounts deducted pursuant to subclause (D) below in a prior period, capital expenditures of the Borrower and its Restricted Subsidiaries made in cash (except to the extent financed with long-term Indebtedness (other than revolving Indebtedness) or equity contributed for such purpose),

(B) without duplication of amounts deducted pursuant to subclause (D) below in a prior period, the amount of investments made by the Borrower and its Restricted Subsidiaries pursuant to Section 6.17(f), (l) or (o) (except to the extent financed with long-term Indebtedness (other than revolving Indebtedness) or equity contributed for such purpose),

(C) cash losses from any sale or disposition outside the ordinary course of business,

(D) without duplication of amounts deducted from Excess Cash Flow in a prior period, the aggregate consideration required to be paid in cash by the Borrower and its Restricted Subsidiaries pursuant to binding contracts (the *"Contract Consideration"*) entered into prior to or during such period relating to investments permitted pursuant to Section 6.17(f), (l) or (o) or capital expenditures to be consummated or made during the period of four consecutive fiscal quarters of the Borrower following the end of such period (except, in each case, to the extent financed with long-term Indebtedness (other than revolving Indebtedness) or equity contributed for such purpose), and

(E) the sum of all Distributions made to Holdco for the sole purpose of permitting Holdco to make Quarterly Distributions required to be made by it during such period.

"*Excess Interest*" is defined in Section 10.18 hereof.

"*Excluded Equity Interests*" means (a) any capital stock or other Equity Interests of any Person with respect to which the cost or other consequences (including any

---

adverse tax consequences) of pledging such Equity Interests shall be excessive in view of the benefits to be obtained by the Lenders therefrom as reasonably determined by the Administrative Agent and the Borrower, (b) solely in the case of any pledge of Equity Interests of any First-Tier Foreign Subsidiary or Domestic Holding Company to secure the Obligations, any Equity Interests in excess of 65% of the outstanding Equity Interests of such First-Tier Foreign Subsidiary or Domestic Holding Company, (c) any Equity Interests to the extent the pledge thereof would be prohibited by any applicable law or contractual obligation (only to the extent such prohibition is applicable and not rendered ineffective) and (d) the capital stock of any Unrestricted Subsidiary if in connection with any financing to be obtained by such Unrestricted Subsidiary, such capital stock (i) is required to be pledged to the providers of such financing (or any agent or trustee therefor) or (ii) would be subject to a negative pledge in favor of such financing providers (or any agent or trustee therefor).

"*Excluded Property*" means (a) any Excluded Equity Interests, (b) any property to the extent that the grant of a Lien thereon (i) is prohibited by applicable law or contractual obligation, (ii) requires a consent not obtained of any governmental authority pursuant to such applicable law or any third party pursuant to any contract between the Borrower or any Subsidiary and such third party or (iii) would trigger a termination event pursuant to any "change of control" or similar provision, (c) United States intent-to-use trademark applications to the extent that, and solely during the period in which, the grant of a Lien thereon would impair the validity or enforceability of such intent-to-use trademark applications under applicable United States federal law, (d) local petty cash deposit accounts maintained by the Borrower and its Subsidiaries in proximity to their operations; *provided* that the total amount on deposit at any one time shall not exceed $10,000,000 in the aggregate, (e) payroll accounts maintained by the Borrower and its Subsidiaries; *provided* that the total amount on deposit at any time does not exceed the current amount of the Borrower or any Subsidiary's payroll obligation, as applicable, (f) all vehicles and other assets subject to certificates of title, (g) Property that is subject to a Lien securing a purchase money obligation or Capitalized Lease Obligation permitted to be incurred pursuant to this Agreement, if the contract or other agreement in which such Lien is granted (or the documentation providing for such purchase money obligation or Capitalized Lease Obligation) validly prohibits the creation of any other Lien on such Property, (h) any interest in partnerships, joint ventures and non-Wholly owned Subsidiaries which cannot be pledged without the consent of one or more third parties, (i)(x) any leasehold real property and (y) any fee-owned real property having an individual fair market value not exceeding $2,500,000; *provided* that the aggregate fair market value of all such fee-owned real property shall not exceed $5,000,000, (j) the Settlement Account, as such term is defined in the Clearing Agreement, and similar accounts pursuant to similar sponsorship, clearinghouse and/or settlement arrangements and all cash in such accounts, (k) any Letter-of-Credit Rights that are not Supporting Obligations (each as defined in the UCC) and (l) any direct proceeds, substitutions or replacements of any of the foregoing, but only to the extent such proceeds, substitutions or replacements would otherwise constitute Excluded Property.

"*Excluded Subsidiary*" means (a) any Subsidiary that is prohibited by any applicable law, regulation or contractual obligation from guaranteeing or providing

---

collateral for the Obligations (only to the extent such prohibition is applicable and not rendered ineffective) or would require a governmental (including regulatory) consent, approval, license or authorization in order to provide such guarantee, (b) any Domestic Holding Company, (c) any Foreign Subsidiary and any direct or indirect Domestic Subsidiary of such Foreign Subsidiary, (d) any Subsidiary that is not a Material Subsidiary, (e) any special purpose entity used for securitization vehicles, (f) any captive insurance subsidiary, (g) any Subsidiary that is not a Wholly-owned Subsidiary, and (h) any other Subsidiary with respect to which the cost or other consequences (including any adverse tax consequences) of providing Collateral or guaranteeing the Obligations shall be excessive in view of the benefits to be obtained by the Lenders therefrom as reasonably determined by the Administrative Agent and the Borrower.

"*Existing Loan Agreement*" shall mean that certain Loan Agreement, among Fifth Third Processing Solutions, LLC, as borrower, the various lenders from time to time party thereto and Fifth Third Bank as administrative agent, dated as of May 29, 2009 (as amended and restated by an Assignment, Assumption, Amendment and Restatement Agreement dated as of June 1, 2009, as further amended and restated by an Amendment and Restatement Agreement and Reaffirmation dated as of June 30, 2009, and as may have been further amended, restated, amended and restated or otherwise modified prior to the date hereof).

"*Existing NPC Credit Agreements*" shall mean the (i) Amended and Restated Credit Agreement, dated as of October 31, 2006 among National Processing Company Group, Inc., as a borrower, the financial institutions from time to time party thereto as lenders, Merrill Lynch Capital, a division of Merrill Lynch Business Financial Services Inc., as agent and first lien collateral agent and the other parties thereto and (ii) Amended and Restated Second Lien Credit Agreement, dated as of October 31, 2006 among National Processing Company Group, Inc., as a borrower, the financial institutions from time to time party thereto as lenders, Merrill Lynch Capital, a division of Merrill Lynch Business Financial Services Inc., as agent and second lien collateral agent and the other parties thereto (in each case, as amended, restated, amended and restated, or otherwise modified prior to the date hereof).

"*Existing Shareholders*" means Advent and its Affiliates and Fifth Third Bank and its Affiliates.

"*Facility*" means any of the Revolving Facility and the Term B Facility.

"*Federal Funds Rate*" means for any day, the rate per annum (expressed, as a decimal, rounded upwards, if necessary, to the next higher 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; *provided*, (i) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the

---

average rate quoted to the Administrative Agent on such day on such transactions as determined by the Administrative Agent.

"*Fifth Third Bank*" means Fifth Third Bank, an Ohio banking corporation.

"*First-Tier Foreign Subsidiary*" means a Foreign Subsidiary, the Equity Interests of which are directly owned by the Borrower or a Domestic Subsidiary that is not a Subsidiary of a Foreign Subsidiary.

"*Foreign Subsidiary*" means each Subsidiary of the Borrower that is not a Domestic Subsidiary.

"*FTPS Headquarters*" means the property located at 8500-8550 Governor's Hill Drive, Cincinnati, Ohio 45249.

"*Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations*" means the liability of the Borrower or any of its Restricted Subsidiaries owing to any of the Lenders, or any Affiliates of such Lenders, arising out of (a) the execution or processing of electronic transfers of funds by automatic clearing house transfer, wire transfer or otherwise to or from the deposit accounts of the Borrower and/or any Restricted Subsidiary now or hereafter maintained with any of the Lenders or their Affiliates, (b) the acceptance for deposit or the honoring for payment of any check, draft or other item with respect to any such deposit accounts, (c) any other deposit, disbursement, and Cash Management Services afforded to the Borrower or any such Restricted Subsidiary by any of such Lenders or their Affiliates and (d) the Master Services Agreement between the Borrower and Fifth Third Bancorp, an Ohio corporation, dated June 30, 2009, as amended, modified, supplemented or restated from time to time.

"*GAAP*" means generally accepted accounting principles in the United States of America, as in effect from time to time.

"*Governmental Authority*" means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to the United States government.

"*Growth Amount*" means, at any time an amount equal to, without duplication:

(a) the sum, without duplication, of:

(i) at any time when the pro forma Leverage Ratio is equal to or less than the then applicable financial covenant level set forth in Section 6.22, an amount, not less than zero, determined on a cumulative basis equal to the amount of Excess Cash Flow for each fiscal year ending after December 31, 2010 that is not required prior to such date to be applied as a mandatory

---

prepayment under Section 2.8(c)(iii) or Section 2.8(b)(iii) of the Second Lien Loan Agreement; plus

(ii) the Available Amount; minus

(b) the sum, without duplication, of:

(i) the aggregate amount of any investments, loans or advances made by the Borrower or any Restricted Subsidiary pursuant to Section 6.17(o) after the Closing Date and prior to such time;

(ii) the aggregate amount of any Distributions made by the Borrower pursuant to Section 6.18(f) after the Closing Date and prior to such time; and

(iii) the aggregate amount of any optional or voluntary payments, prepayments, repurchases, redemptions or defeasances made by the Borrower or any Restricted Subsidiary pursuant to Section 6.20(a) after the Closing Date and prior to such time.

"*GSLP Funds*" means collectively, GSLP I Offshore Holdings Fund A, L.P., GSLP I Offshore Holdings Fund B, L.P., GSLP Holdings Fund C, L.P. and GSLP Onshore Holdings Fund, L.L.C.

"*Guarantor*" is defined in Section 4.3 hereof.

"*Guaranty*" is defined in Section 4.3 hereof.

"*Hazardous Material*" means any (a) asbestos, polychlorinated biphenyls and petroleum (including crude oil or any fraction thereof) and (b) any substance, waste or material classified or regulated as "hazardous," "toxic," "contaminant" or "pollutant" or words of like import pursuant to an applicable Environmental Law.

"*Hedge Agreement*" means any interest rate, currency or commodity swap agreements, cap agreements, collar agreements, floor agreements, exchange agreements, forward contracts, option contracts or similar interest rate or currency or commodity hedging arrangements.

"*Hedging Liability*" means Hedging Obligations owing to any of the Lenders, or any Affiliates of such Lenders.

"*Hedging Obligations*" means, with respect to any Person, the obligations of such Person under Hedge Agreements.

"*Holdco*" means FTPS Holding, LLC, a Delaware limited liability company.

"*Holdco LLC Agreement*" means the Limited Liability Company Agreement of Holdco, dated as of February 24, 2009, created by Fifth Third Bank, as amended and restated pursuant to that certain Amended and Restated Limited Liability Company

Agreement by and among Advent - Kong Blocker Corp., a Delaware corporation, Fifth Third Bank, FTPS Partners, LLC, a Delaware limited liability company, Holdco and each other member of Holdco pursuant to the terms of such agreement, dated as of June 30, 2009.

"*Hostile Acquisition*" means the acquisition of the capital stock or other Equity Interests of a Person through a tender offer or similar solicitation of the owners of such capital stock or other Equity Interests which has not been approved (prior to such acquisition) by resolutions of the board of directors of such Person or by similar action if such Person is not a corporation, and, if such acquisition has been so approved, as to which such approval has been withdrawn.

"*Incremental Amendment*" is defined in Section 2.14(a) herein.

"*Incremental Facility*" is defined in Section 2.14(a) herein.

"*Indebtedness*" means for any Person (without duplication):

(a) all indebtedness of such Person for borrowed money, whether current or funded, or secured or unsecured,

(b) all indebtedness for the deferred purchase price of Property,

(c) all indebtedness secured by a purchase money mortgage or other Lien to secure all or part of the purchase price of Property subject to such mortgage or Lien,

(d) all obligations under leases which shall have been or must be, in accordance with GAAP, recorded as Capital Leases in respect of which such Person is liable as lessee,

(e) any liability in respect of banker's acceptances or letters of credit,

(f) any indebtedness, whether or not assumed, of the types described in clauses (a) through (c) above or clauses (g) and (h) below, secured by Liens on Property acquired by such Person at the time of acquisition thereof,

(g) all obligations under any so-called "synthetic lease" transaction entered into by such Person, and

(h) all Contingent Obligations in respect of indebtedness of the types described in clauses (a) through (g) hereof,

*provided,* that the term "Indebtedness" shall not include (i) trade payables arising in the ordinary course of business, (ii) any earn-out obligation until such obligations become a liability on the balance sheet of such Person in accordance with GAAP, (iii) prepaid or deferred revenue arising in the ordinary course of business, and (iv) purchase price holdbacks arising in the ordinary course of business in respect of a portion of the

---

purchase price of an asset to satisfy warrants or other unperformed obligations of the seller of such asset.

"*Industry*" means the merchant acquirer and payment card processing industry in which the Target or any Subsidiary of the Target operates its business, including (1) electronic card and check processing and settlement, (2) merchant underwriting, boarding, setup and training, (3) bankcard association and industry data security standard validation and compliance, (4) point-of-sale equipment sale, leasing, deployment, software and support, (5) risk management, chargeback and dispute resolution services, (6) customer service and technical support and management, (7) delivery of ancillary payment products and solutions, (8) Independent Sales Organizations ("ISOs"), direct sale, alliance partners sales support and residual payment platforms, (9) related support and assistance (e.g., reporting, etc.).

"*Information*" has the meaning provided in Section 10.23.

"*Intellectual Property Security Agreements*" means any of the following agreements executed on the Closing Date: (a) a Trademark Security Agreement substantially in the form of Exhibit H-1, (b) a Patent Security Agreement substantially in the form of Exhibit H-2 or (c) a Copyright Security Agreement substantially in the form of Exhibit H-3.

"*Intercreditor Agreement*" means that Intercreditor Agreement, dated the date hereof, as the same may be amended, modified, restated, amended and restated or supplemented from time to time, among the Borrower, the Administrative Agent and Credit Suisse AG, Cayman Islands Branch as administrative agent under the Second Lien Loan Agreement, substantially in the form of Exhibit I.

"*Interest Expense*" means, with reference to any period, (a) the sum of all interest charges (including imputed interest charges with respect to Capitalized Lease Obligations) of the Borrower and its Restricted Subsidiaries payable in cash for such period determined on a consolidated basis in accordance with GAAP but excluding (i) any non-cash interest expense attributable to the movement in the mark to market valuation of Hedging Obligations or other derivative instruments pursuant to GAAP, amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses, and (ii) any expensing of bridge, commitment and other financing fees minus (b) interest income of the Borrower and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.

"*Interest Period*" means, with respect to Eurodollar Loans, the period commencing on the date a Borrowing of Eurodollar Loans is advanced, continued or created by conversion and ending 1, 2, 3, 6, or if available to all affected Lenders, 9 or 12 months thereafter; *provided, however,* that:

(i) whenever the last day of any Interest Period would otherwise be a day that is not a Business Day, the last day of such Interest Period shall be extended to the next succeeding Business Day, *provided* that, if such extension

---

would cause the last day of an Interest Period for a Borrowing of Eurodollar Loans to occur in the following calendar month, the last day of such Interest Period shall be the immediately preceding Business Day; and

(ii) for purposes of determining an Interest Period for a Borrowing of Eurodollar Loans, a month means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month; *provided*, *however*, that if there is no numerically corresponding day in the month in which such an Interest Period is to end or if such an Interest Period begins on the last Business Day of a calendar month, then such Interest Period shall end on the last Business Day of the calendar month in which such Interest Period is to end.

"*Joint Lead Arrangers*" means Goldman Sachs Lending Partners LLC and J.P. Morgan Securities LLC.

"*L/C Backstop*" means, in respect of any Letter of Credit, (a) a letter of credit delivered to the L/C Issuer which may be drawn by the L/C Issuer to satisfy any obligations of the Borrower in respect of such Letter of Credit or (b) cash or Cash Equivalents deposited with the L/C Issuer to satisfy any obligation of the Borrower in respect of such Letter of Credit, in each case, in an amount not to exceed 100% of the undrawn face amount and any unpaid Reimbursement Obligations with respect to such Letter of Credit and on terms and pursuant to arrangements (including, if applicable, any appropriate reimbursement agreement) reasonably satisfactory to the respective L/C Issuer.

"*L/C Issuer*" means Fifth Third Bank.

"*L/C Obligations*" means the aggregate undrawn face amounts of all outstanding Letters of Credit and all unpaid Reimbursement Obligations.

"*L/C Sublimit*" means $40,000,000, as reduced pursuant to the terms hereof.

"*Lenders*" means the several banks and other financial institutions and other lenders from time to time party to this Agreement (excluding Prohibited Lenders), including each assignee Lender pursuant to Section 10.10 hereof.

"*Lending Office*" is defined in Section 8.6 hereof.

"*Letter of Credit*" is defined in Section 2.3(a) hereof.

"*Letter of Credit Usage*" means, as at any date of determination, the sum of (i) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding, and (ii) the aggregate amount of all drawings under Letters of Credit honored by the L/C Issuer and not theretofore reimbursed by or on behalf of Borrower.

---

"*Leverage Ratio*" means, as of the date of determination thereof, the ratio of Total Funded Debt of the Borrower and its Restricted Subsidiaries as of such date to Consolidated EBITDA for the period of four fiscal quarters then ended.

"*LIBOR*" shall mean, with respect to any Eurodollar Borrowing, the rate per annum determined by the Administrative Agent, at approximately 11:00 a.m. (London time) on the date which is two Business Days prior to the beginning of the relevant Interest Period (as specified in the applicable Borrowing Request) by reference to the British Bankers' Association Interest Settlement Rates for deposits in Dollars (as set forth by any service which has been nominated by the British Bankers' Association as an authorized information vendor for the purpose of displaying such rates) for a period equal to such Interest Period, *provided* that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provision of this definition, the "LIBOR" shall be the interest rate per annum, determined by the Administrative Agent to be the average of the rates per annum at which deposits in Dollars are offered for such relevant Interest Period to major banks in the London interbank market in London, England by the Administrative Agent at approximately 11:00 a.m. (London time) on the date which is two Business Days prior to the beginning of such Interest Period.

"*Lien*" means any deed of trust, mortgage, lien, security interest, pledge, charge or encumbrance in the nature of security in respect of any Property, including the interests of a vendor or lessor under any conditional sale, Capital Lease or other title retention arrangement.

"*Loan*" means any Revolving Loan, Term B Loan or Swing Loan.

"*Loan Documents*" means this Agreement, the Notes (if any), the Intercreditor Agreement, the Guaranty, and the Collateral Documents.

"*Loan Parties*" means the Borrower and each Guarantor.

"*Master Investment Agreement*" means the Master Investment Agreement dated March 27, 2009, among Fifth Third Bank, the Borrower, Holdco and Advent-Kong Blocker Corp., a Delaware corporation.

"*Material Adverse Effect*" means (a) a material adverse effect upon the business, assets, financial condition or results of operations of the Borrower and its Restricted Subsidiaries taken as a whole, or (b) a material adverse effect upon (i) the rights and remedies of the Administrative Agent and the Lenders under any Loan Document or (ii) the ability of the Borrower or any Guarantor to perform its payment obligations under any Loan Document.

"*Material Plan*" is defined in Section 7.1(h) hereof.

"*Material Indebtedness*" means Indebtedness (other than the Obligations), of any one or more of Holdco, the Borrower and the Restricted Subsidiaries in an aggregate principal amount exceeding $25,000,000.

---

"*Material Subsidiary*" shall mean and include (i) each Subsidiary that is a Domestic Subsidiary, except any Subsidiary that is a Domestic Subsidiary and does not have (together with its Subsidiaries) (a) at any time, consolidated total assets the book value of which constitutes more than 5% of the book value of the consolidated total assets of the Borrower and its Restricted Subsidiaries at such time or (b) net income in accordance with GAAP for any four consecutive fiscal quarters of the Borrower ending on or after December 31, 2010, that constitute more than 5% of the consolidated net income in accordance with GAAP of the Borrower and its Restricted Subsidiaries during such period and (ii) each Domestic Subsidiary that the Borrower has designated to the Administrative Agent in writing as a Material Subsidiary.

"*Maximum Rate*" is defined in Section 10.18 hereof.

"*Merger Sub*" as defined in the preamble hereof.

"*MNPI*" is defined in Section 10.10(h).

"*Moody's*" means Moody's Investors Service, Inc.

"*Net Cash Proceeds*" means, with respect to any mandatory prepayment event pursuant to Section 2.8(c), (a) the gross cash and cash equivalent proceeds (including payments from time to time in respect of installment obligations, if applicable) received by or on behalf of the Borrower or any of its Restricted Subsidiaries in respect of such prepayment event or issuance, as the case may be, less (b) the sum of:

(i) the Borrower's good faith estimate of taxes paid or payable in connection with any such prepayment event,

(ii) the amount of any reasonable reserve established in accordance with GAAP against any liabilities (other than any taxes deducted pursuant to clause (i) above) (x) associated with the assets that are the subject of such prepayment event and (y) retained by the Borrower (or any of its members or direct or indirect parents) or any of the Restricted Subsidiaries, including, with respect to Net Cash Proceeds from a Disposition, liabilities under any indemnification obligations or purchase price adjustment associated with such Disposition and other liabilities associated with the asset disposed of and retained by the Borrower or any of its Restricted Subsidiaries after such Disposition, including pension and other post-employment benefit liabilities and liabilities related to environmental matters; *provided* that the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such a prepayment event occurring on the date of such reduction,

(iii) the amount of any Indebtedness secured by a Lien permitted hereunder on the assets that are the subject of such prepayment event that is repaid upon consummation of such prepayment event, and

---

(iv) reasonable and customary costs and fees payable in connection therewith.

"*Non-Cash Charges*" means (a) any impairment charge or asset write-off or write-down related to intangible assets (including goodwill), long-lived assets, and investments in debt and equity securities pursuant to GAAP, (b) all non-cash losses from investments recorded using the equity method, (c) all Non-Cash Compensation Expenses, (d) the non-cash impact of purchase accounting, and (e) all other non-cash charges (*provided*, in each case, that if any non-cash charges represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period).

"*Non-Cash Compensation Expense*" means any non-cash expenses and costs that result from the issuance of stock-based awards, limited liability company or partnership interest-based awards and similar incentive-based compensation awards or arrangements.

"*Non-Consenting Lender*" as defined in Section 10.11(b).

"*Non-Debt Fund Affiliate*" means any Affiliate of Holdco (including without limitation, Fifth Third Bank) other than (a) any Subsidiary of Holdco, (b) any Debt Fund Affiliate and (c) any natural person.

"*Note*" and "*Notes*" means and includes the Revolving Notes, the Term B Notes and the Swing Note.

"*Notice of Intent to Cure*" is defined in Section 7.6 hereof.

"*NPC Acquisition*" as defined in the preamble hereto.

"*Obligations*" means all obligations of the Borrower to pay principal and interest on the Loans, all Reimbursement Obligations owing under the Applications, all fees and charges payable hereunder, and all other payment obligations of the Borrower or any of its Restricted Subsidiaries arising under or in relation to any Loan Document, in each case whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired.

"*OID*" is defined in Section 2.14(a) hereof.

"*Participant*" is defined in Section 10.10(d) hereof.

"*Participating Interest*" is defined in Section 2.3(d) hereof.

"*Participating Lender*" is defined in Section 2.3(d) hereof.

"*Patriot Act*" is defined in Section 5.21(b) hereof.

*"PBGC"* means the Pension Benefit Guaranty Corporation or any Person succeeding to any or all of its functions under ERISA.

*"Percentage"* means for any Lender its Revolver Percentage or Term B Loan Percentage, as applicable; and where the term "Percentage" is applied on an aggregate basis, such aggregate percentage shall be calculated by aggregating the separate components of the Revolver Percentage and Term B Loan Percentage, and expressing such components on a single percentage basis.

*"Permitted Acquisition"* means any Acquisition with respect to which all of the following conditions shall have been satisfied:

(a) after giving effect to the Acquisition, the Borrower is in compliance with Section 6.13 hereof;

(b) the Acquisition is not a Hostile Acquisition;

(c) the Total Consideration for any acquired business that does not become a Guarantor (or the assets of which are not acquired by the Borrower or a Guarantor), when taken together with the Total Consideration for all such acquired businesses acquired after the Closing Date, does not exceed (i) $100,000,000 plus (ii) the Available Amount at such time;

(d) if a new Subsidiary (other than an Excluded Subsidiary) is formed or acquired as a result of or in connection with the Acquisition, the Borrower shall have complied with the requirements of Section 4 hereof in connection therewith; and

(e) immediately prior to, and after giving effect to the Acquisition, (i) no Default or Event of Default shall exist and (ii) the Borrower and its Restricted Subsidiaries shall be in compliance, on a Pro Forma Basis, with the covenants set forth in Section 6.22 recomputed as of the last day of the most recently completed period.

*"Permitted Investors"* shall mean (a) the Existing Shareholders, their respective limited partners and any Person making an investment in any direct or indirect parent of the Borrower or its Subsidiaries concurrently with the Existing Shareholders and (b) the members of management of any direct or indirect parent of the Borrower and its Subsidiaries who are investors, directly or indirectly, in the Borrower (collectively, the *"Management Investors"*).

*"Permitted Lien"* is defined in Section 6.15 hereof.

*"Person"* means any natural person, partnership, corporation, limited liability company, association, trust, unincorporated organization or any other entity or organization, including a government or agency or political subdivision thereof.

"*Plan*" means any "employee pension benefit plan covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code that either (a) is maintained by a member of the Controlled Group (including the Borrower) for

---

current or former employees of a member of the Controlled Group (including the Borrower) or (b) is maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group (including the Borrower) is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions or under which a member of the Controlled Group (including the Borrower) is reasonably expected to incur liability.

*"Post-Acquisition Period"* means, with respect to any Specified Transaction, the period beginning on the date such Specified Transaction is consummated and ending on the last day of the fourth full consecutive fiscal quarter immediately following the date on which such Specified Transaction is consummated.

*"Prime Rate"* means the rate of interest quoted in the print edition of *The Wall Street Journal*, Money Rates Section as the Prime Rate (currently defined as the base rate on corporate loans posted by at least 75% of the nation's thirty (30) largest banks), as in effect from time to time. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. The Administrative Agent or any other Lender may make commercial loans or other loans at rates of interest at, above or below the Prime Rate.

*"Pro Forma Adjustment"* means, for any period that includes all or any part of a fiscal quarter included in any Post-Acquisition Period, the pro forma increase or decrease in Consolidated EBITDA pursuant to a Pro Forma Adjustment Certificate of the Borrower, which pro forma increase or decrease shall be based on the Borrower's good faith projections and reasonable assumptions as a result of (a) actions taken, prior to or during such Post-Acquisition Period, for the purposes of realizing reasonably identifiable and factually supportable cost savings, or (b) any additional costs incurred prior to or during such Post-Acquisition Period to effect operating expense reductions and other operating improvements or synergies reasonably expected to result from a Specified Transaction; *provided* that (A) so long as such actions are taken prior to or during such Post-Acquisition Period or such costs are incurred prior to or during such Post-Acquisition Period it may be assumed, for purposes of projecting such pro forma increase or decrease to Consolidated EBITDA, that such cost savings will be realizable during the entirety of such period, or such additional costs will be incurred during the entirety of such period, and (B) any such pro forma increase or decrease to Consolidated EBITDA shall be without duplication for cost savings or additional costs already included in Consolidated EBITDA for such period. Notwithstanding the foregoing, any Pro Forma Adjustment shall not exceed 7.5% of Consolidated EBITDA for any period.

*"Pro Forma Adjustment Certificate"* means any certificate by the chief financial officer of the Borrower or any other officer of the Borrower reasonably acceptable to the Administrative Agent delivered pursuant to Section 6.1(h).

*"Pro Forma Basis," "Pro Forma Compliance"* and *"Pro Forma Effect"* means, with respect to compliance with any test or covenant hereunder, that (A) to the extent applicable, the Pro Forma Adjustment shall have been made and (B) all Specified

---

Transactions and the following transactions in connection therewith shall be deemed to have occurred as of the first day of the applicable period of measurement in such test or covenant: (a) income statement items (whether positive or negative) attributable to the property or Person subject to

such Specified Transaction, (i) in the case of a sale, transfer or other disposition of all or substantially all capital stock in any Subsidiary of the Borrower or any division or product line of the Borrower or any of its Subsidiaries, shall be excluded, and (ii) in the case of a Permitted Acquisition or investment described in the definition of the term "Specified Transaction", shall be included, (b) any retirement or repayment of Indebtedness and (c) any Indebtedness incurred by the Borrower or any of its Subsidiaries in connection therewith and if such indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness at the relevant date of determination; *provided* that, without limiting the application of the Pro Forma Adjustment pursuant to (A) above (but without duplication thereof or in addition thereto), the foregoing pro forma adjustments may be applied to any such test or covenant solely to the extent that such adjustments are consistent with the definition of Consolidated EBITDA and give effect to events (including operating expense reductions) that are (i) (x) directly attributable to such transaction, (y) expected to have a continuing impact on the Borrower and its Subsidiaries and (z) factually supportable or (ii) otherwise consistent with the definition of the term "Pro Forma Adjustment".

"*Pro Forma Financial Statements*" is defined in Section 5.1(c) hereof.

"*Prohibited Lender*" means any natural person or any Person identified as a "disqualified institution" by the Borrower to the Joint Lead Arrangers on or prior to September 15, 2010.

"*Property*" means, as to any Person, all types of real, personal, tangible, intangible or mixed property owned by such Person whether or not included in the most recent balance sheet of such Person and its Subsidiaries under GAAP.

"*Qualified Public Offering*" shall mean the issuance by the Borrower or any direct or indirect parent of the Borrower of its common Equity Interests in an underwritten primary public offering (other than a public offering pursuant to a registration statement on Form S-8) pursuant to an effective registration statement filed with the U.S. Securities and Exchange Commission in accordance with the Securities Act of 1933, as amended.

"*Quarterly Distributions*" has the meaning assigned to such term in the Holdco LLC Agreement.

"*RCRA*" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§6901 *et seq.*, and any future amendments.

---

"*Refinancing*" shall mean the refinancing of that certain Existing Loan Agreement and the Existing NPC Credit Agreements.

"*Refinancing Indebtedness*" shall have the meaning assigned to such term under Section 6.14(t) hereof.

"*Register*" is defined in Section 10.10(c) hereof.

"*Regulatory Event*" means, with respect to any Lender, that (i) the Federal Deposit Insurance Corporation or any other Governmental Authority is appointed as conservator or Receiver for such Lender; (ii) such Lender is considered in "troubled condition" for the purposes of 12 U.S.C. § 1831i or any regulation promulgated thereunder; (iii) such Lender qualifies as "Undercapitalized," "Significantly Undercapitalized," or "Critically Undercapitalized" as those terms are defined in 12 C.F.R. § 208.43; or (iv) such Lender becomes subject to any formal or informal regulatory action requiring the Lender to materially improve its capital, liquidity or safety and soundness.

"*Reimbursement Obligations*" is defined in Section 2.3(c) hereof.

"*Rejecting Lender*" as defined in Section 2.8(c)(v) hereof.

"*Related Parties*" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees and agents of such Person and of such Person's Affiliates.

"*Release*" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or migration into the environment.

"*Reportable Event*" means any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty day notice period is waived under subsections .27, .28, .29, .30, .31, .32, .34 or .35 of PBGC Regulation Section 4043.

"*Required Lenders*" means, as of the date of determination thereof, Lenders whose outstanding Loans and interests in Letters of Credit and Unused Revolving Credit Commitments constitute more than 50% of the sum of the total outstanding Loans, interests in Letters of Credit and Unused Revolving Credit Commitments; *provided* that, the Revolving Credit Commitment of, and the portion of the outstanding Loans, interests in Letters of Credit and Unused Revolving Credit Commitments held or deemed held by, any Defaulting Lender shall, so long as such Lender is a Defaulting Lender, be excluded for purposes of making a determination of Required Lenders.

"*Reserve Percentage*" means, for any Borrowing of Eurodollar Loans, the daily average for the applicable Interest Period of the maximum rate, expressed as a decimal, at which reserves (including, without limitation, any supplemental, marginal, and emergency reserves) are imposed during such Interest Period by the Board of Governors of the Federal Reserve System (or any successor) on "eurocurrency liabilities," as defined

---

in such Board's Regulation D (or in respect of any other category of liabilities that includes deposits by reference to which the interest rate on Eurodollar Loans is determined or any category of extensions of credit or other assets that include loans by non-United States offices of any Lender to United States residents), subject to any amendments of such reserve requirement by such Board or its successor, taking into account any transitional adjustments thereto. For purposes of this definition, the Eurodollar Loans shall be deemed to be "eurocurrency liabilities" as defined in Regulation D without benefit or credit for any prorations, exemptions or offsets under Regulation D.

"*Restricted Subsidiary*" means any Subsidiary other than an Unrestricted Subsidiary.

"*Revolver Percentage*" means, for each Lender, the percentage of the aggregate Revolving Credit Commitments represented by such Lender's Revolving Credit Commitment or, if the Revolving Credit Commitments have been terminated, the percentage held by such Lender (including through participation interests in Reimbursement Obligations) of the aggregate principal amount of all Revolving Loans and L/C Obligations then outstanding.

"*Revolving Credit Commitment*" means, as to any Lender, the obligation of such Lender to make Revolving Loans and to participate in Swing Loans and Letters of Credit issued for the account of the Borrower hereunder in an aggregate principal or face amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 1 attached hereto and made a part hereof, as the same may be reduced, increased or otherwise modified at any time or from time to time pursuant to the terms hereof. The Borrower and the Lenders acknowledge and agree that the Revolving Credit Commitments of the Lenders aggregate $150,000,000 on the date hereof.

"*Revolving Credit Commitment Increase*" is defined in Section 2.14(a) hereof.

"*Revolving Credit Termination Date*" means November 3, 2015 or such earlier date on which the Revolving Credit Commitments are terminated in whole pursuant to Sections 2.10, 7.2 or 7.3 hereof.

"*Revolving Exposure*" means, with respect to any Lender as of any date of determination, (i) prior to the termination of the Revolving Credit Commitments, that Lender's Revolving Credit Commitment; and (ii) after the termination of the Revolving Credit Commitments, the sum of (a) the aggregate outstanding principal amount of the Revolving Loans of that Lender, (b) in the case of L/C Issuer, the aggregate Letter of Credit Usage in respect of all Letters of Credit issued by that Lender (net of any participations by Lenders in such Letters of Credit), (c) the aggregate amount of all participations by that Lender in any outstanding Letters of Credit or any unreimbursed drawing under any Letter of Credit, (d) in the case of the Swing Line Lender, the aggregate outstanding principal amount of all Swing Loans (net of any participations therein by other Lenders), and (e) the aggregate amount of all participations therein by that Lender in any outstanding Swing Loans.

---

"*Revolving Facility*" means the credit facility for making Revolving Loans and Swing Loans and issuing Letters of Credit described in Sections 2.2, 2.3 and 2.11 hereof.

"*Revolving Loan*" is defined in Section 2.2 hereof and, as so defined, includes a Base Rate Loan or a Eurodollar Loan, each of which is a "type" of Revolving Loan hereunder.

"*Revolving Note*" is defined in Section 2.12(d) hereof.

"*S&P*" means Standard & Poor's Financial Services LLC.

"*Second Lien Loan Agreement*" shall mean that Second Lien Loan Agreement, dated the date hereof, as the same may be amended, restated, amended and restated or supplemented from time to time in accordance with this Agreement and the Intercreditor Agreement, among the Borrower, Credit Suisse AG, Cayman Islands Branch as administrative agent and the other parties thereto.

"*Second Lien Loan Documents*" means the "Loan Documents" as defined in the Second Lien Loan Agreement.

"*Second Lien Loans*" means the "Term Loans" as defined in the Second Lien Loan Agreement.

"*Secured Parties*" has the meaning assigned to that term in the Security Agreement.

"*Security Agreement*" means that certain Security Agreement, substantially in the form of Exhibit J, dated the date hereof by and between the Loan Parties party thereto and the Collateral Agent, as the same may be amended, modified, supplemented, restated or amended and restated from time to time.

"*Solvency Certificate*" means the Solvency Certificate delivered pursuant to Section 3.2(a)(vii) hereof, substantially in the form of Exhibit E to this Agreement.

"*Specified Transaction*" means, with respect to any period, (a) the Transactions, (b) any incurrence or repayment of Indebtedness, (c) any Permitted Acquisition or the making of other investment pursuant to which all or substantially all of the assets or stock of a Person (or any line of business or division thereof) are acquired, (d) the disposition of all or substantially all of the assets or stock of a Subsidiary (or any line of business or division thereof) or (e) other event that by the terms of the Loan Documents requires Pro Forma Compliance with a test or covenant hereunder or requires such test or covenant to be calculated on a Pro Forma Basis.

"*Stand Alone Costs*" means all costs and expenses incurred by the Borrower or any of its Restricted Subsidiaries (except to the extent not reflected as a deduction in arriving at Consolidated Net Income) related to the transition of the Business to a stand alone company, including the cost of establishing separate systems and infrastructure and other carve-out related costs.

---

"*Subsidiary*" means, as to any particular parent corporation or organization, any other corporation or organization more than 50% of the outstanding Voting Stock of which is at the time directly or indirectly owned by such parent corporation or organization or by any one or more other entities which are themselves subsidiaries of such parent corporation or organization. Unless otherwise expressly noted herein, the term "Subsidiary" means a Subsidiary of the Borrower or of any of its direct or indirect Subsidiaries.

"*Swing Line*" means the credit facility for making one or more Swing Loans described in Section 2.11 hereof.

"*Swing Line Lender*" means Fifth Third Bank.

"*Swing Line Sublimit*" means $50,000,000, as reduced pursuant to the terms hereof.

"*Swing Loan*" and "*Swing Loans*" each is defined in Section 2.11(a) hereof.

"*Swing Note*" is defined in Section 2.12(d) hereof.

"*Syndication Period*" shall mean the period from September 15, 2010 until the earlier to occur of (a) the date that is 60 days after the Closing Date or (b) the date that a successful syndication has been completed.

"*Target*" as defined in the preamble hereof.

"*Term B Facility*" means the credit facility for the Term B Loans described in Section 2.1 hereof.

"*Term B Lender*" means any Lender holding all or a portion of the Term B Facility.

"*Term B Loan*" is defined in Section 2.1 hereof.

"*Term B Loan Commitment*" means, as to any Lender, the obligation of such Lender to make Term B Loans hereunder in an aggregate principal amount not to exceed the amount set forth opposite such Lender's name on Schedule 1 attached hereto and made a part hereof, as the same may be reduced pursuant to Section 2.10. The Borrower and the Lenders acknowledge and agree that the Term B Loan Commitments of the Lenders aggregate $1,575,000,000.

"*Term B Loan Exposure*" means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Term B Loans of such Lender; *provided*, at any time prior to the making of the Term B Loans, the Term B Loan Exposure of any Lender shall be equal to such Lender's Term B Loan Commitment.

"*Term B Loan Percentage*" means, for any Lender, the percentage held by such Lender of the aggregate principal amount of all Term B Loans then outstanding.

---

"*Term B Note*" is defined in Section 2.12(d) hereof.

"*Term B Termination Date*" is defined in Section 2.7(a) hereof.

"*Term Commitment Increase*" is defined in Section 2.14(a) hereof,

"*Total Consideration*" means the total amount (but without duplication) of (a) cash paid in connection with any Acquisition, plus (b) Indebtedness for borrowed money payable to the seller in connection with such Acquisition, plus (c) the fair market value of any equity securities, including any warrants or options therefor, delivered to the seller in connection with any Acquisition, plus (d) the amount of Indebtedness assumed in connection with any Acquisition.

"*Total Funded Debt*" means, at any time the same is to be determined, (a) the aggregate of all Indebtedness under clauses (a), (c), (d) and (e) (to the extent, in the case of clause (e), that such obligations are funded obligations) of such definition of the Borrower and its Restricted Subsidiaries as determined on a consolidated basis in accordance with GAAP, minus (b) the amount of unrestricted cash and Cash Equivalents held by the Borrower and its Restricted Subsidiaries and cash and Cash Equivalents restricted in favor of the Administrative Agent, the Collateral Agent or the Administrative Agent or Collateral Agent under the Second Lien Loan Agreement; *provided* that in making a calculation of Total Funded Debt, the amount of Revolving Loans and/or Swing Loans included therein shall be deemed to be the sum of the outstanding balance of Revolving Loans and Swing Loans outstanding on each day of the period ending on the date of determination divided by the number of days in such period; *provided further* that, to the extent any Cure Amount is included in the calculation of Consolidated EBITDA for any period, then such Cure Amount shall be excluded from clause (b) above.

"*Transaction Expenses*" means any fees, costs or expenses incurred or paid by the Borrower or any of its Restricted Subsidiaries in connection with the Transactions.

"*Transactions*" means, collectively, (a) the transactions contemplated by this Agreement and the other Loan Documents, (b) the funding of the Second Lien Loans and the other transactions contemplated by the Second Lien Loan Agreement and the other Second Lien Loan Documents, (c) the consummation of the NPC Acquisition, (d) the Refinancing and (e) the payment of the Transaction Expenses.

"*UCC*" means the Uniform Commercial Code as in effect from time to time (except as otherwise specified) in any applicable state or jurisdiction.

"*Unfunded Vested Liabilities*" means, for any Plan at any time, the amount (if any) by which the present value of all vested nonforfeitable accrued benefits under such Plan exceeds the fair market value of all Plan assets allocable to such benefits, all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of a member of the Controlled Group to the PBGC or the Plan under Title IV of ERISA.

---

"*Unrestricted Subsidiary*" means (a) any Subsidiary designated by the Borrower as an Unrestricted Subsidiary pursuant to Section 6.9 subsequent to the Closing Date and (b) any Subsidiary of an Unrestricted Subsidiary.

*"Unused Revolving Credit Commitments"* means, at any time, the difference between the Revolving Credit Commitments then in effect and the aggregate outstanding principal amount of Revolving Loans and L/C Obligations; *provided* that Swing Loans outstanding from time to time shall not be deemed to reduce the Unused Revolving Credit Commitment of the Lenders for purposes of computing the Commitment Fee under Section 2.13(a) hereof.

*"Voting Stock"* of any Person means capital stock or other Equity Interests of any class or classes (however designated) having ordinary power for the election of directors or other similar governing body of such Person (including, without limitation, general partners of a partnership), other than stock or other Equity Interests having such power only by reason of the happening of a contingency.

*"Weighted Average Life to Maturity"* means, when applied to any Indebtedness at any date, the quotient obtained by dividing:

(a) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Indebtedness multiplied by the amount of such payment; by

(b) the sum of all such payments.

*"Welfare Plan"* means a "welfare plan" as defined in Section 3(1) of ERISA.

*"Wholly-owned Subsidiary"* means, at any time, any Subsidiary of which all of the issued and outstanding shares of capital stock (other than directors' qualifying shares and shares held by a resident of the jurisdiction, in each case, as required by law) or other Equity Interests are owned by any one or more of the Borrower and the Borrower's other Wholly-owned Subsidiaries at such time.

Section 1.2. *Interpretation*. The foregoing definitions are equally applicable to both the singular and plural forms of the terms defined. The words "hereof," "herein," and "hereunder" and words of like import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All references to time of day herein are references to New York City, New York time unless otherwise specifically provided. Where the character or amount of any asset or liability or item of income or expense is required to be determined or any consolidation or other accounting computation is required to be made for the purposes of this Agreement, it shall be done in accordance with GAAP, except as otherwise provided herein in the definition of "Capital Lease". All terms that are used in this Agreement which are defined in the UCC of the State of New York shall have the same meanings herein as such terms are defined in the New York UCC, unless this Agreement shall otherwise specifically provide.

---

Section 1.3. *Change in Accounting Principles*. If, after the date of this Agreement, there shall occur any change in GAAP from those used in the preparation of the financial statements referred to in Section 6.1 hereof and such change shall result in a change in the method of calculation of any financial covenant, standard or term found in this Agreement, either the Borrower or the Required Lenders may by notice to the Lenders and the Borrower, respectively, require that the Lenders and the Borrower negotiate in good faith to amend such covenants, standards, and term so as equitably to reflect such change in accounting principles, with the desired result being that the criteria for evaluating the financial condition of the Borrower and its Restricted Subsidiaries shall be the same as if such change had not been made. No delay by the Borrower or the Required Lenders in requiring such negotiation shall limit their right to so require such a negotiation at any time after such a change in accounting principles. Until any such covenant, standard, or term is amended in accordance with this Section 1.3, financial covenants (and all related defined terms) shall be computed and determined in accordance with GAAP in effect prior to such change in accounting principles. Without limiting the generality of the foregoing, the Borrower shall neither be deemed to be in compliance with any covenant hereunder nor out of compliance with any covenant hereunder if such state of compliance or noncompliance, as the case may be, would not exist but for the occurrence of a change in accounting principles after the date hereof.

SECTION 2. THE LOAN FACILITIES.

Section 2.1. *The Term B Loans*. Subject to the terms and conditions set forth herein, each Term B Lender agrees, severally and not jointly, to make a term loan (each individually a *"Term B Loan"* and, collectively, the *"Term B Loans"*) in Dollars to the Borrower on the Closing Date in a principal amount not to exceed such Term B Lender's Term B Loan Commitment.

Section 2.2. *Revolving Credit Commitments*. Prior to the Revolving Credit Termination Date, each Lender severally and not jointly agrees, subject to the terms and conditions hereof, to make revolving loans (each individually a "*Revolving Loan*" and, collectively, the *"Revolving Loans"*) in Dollars to the Borrower from time to time up to the amount of such Lender's Revolving Credit Commitment in effect at such time; *provided, however,* the sum of the aggregate principal amount of Revolving Loans, Swing Loans and L/C Obligations at any time outstanding shall not exceed the sum of the total Revolving Credit Commitments in effect at such time. Each Borrowing of Revolving Loans shall be made ratably by the Lenders in proportion to their respective Revolver Percentages. As provided in Section 2.5(a), and subject to the terms hereof, the Borrower may elect that each Borrowing of Revolving Loans be either Base Rate Loans or Eurodollar Loans. Revolving Loans may be repaid and reborrowed before the Revolving Credit Termination Date, subject to the terms and conditions hereof. Subject to Section 5.7, no more than $50,000,000 of the Revolving Credit Commitments shall be available for borrowings on the Closing Date.

Section 2.3. *Letters of Credit.*

(a) *General Terms*. Subject to the terms and conditions hereof, as part of the Revolving Facility, the L/C Issuer shall issue standby letters of credit (each a *"Letter of Credit"*) for the Borrower's and its Subsidiaries' account in an aggregate undrawn face amount up to the

---

L/C Sublimit; *provided, however,* the sum of the Revolving Loans, Swing Loans and L/C Obligations at any time outstanding shall not exceed the sum of all Revolving Credit Commitments in effect at such time. Each Lender shall be obligated to reimburse the L/C Issuer for such Lender's Revolver Percentage of the amount of each drawing under a Letter of Credit and, accordingly, each Letter of Credit shall constitute usage of the Revolving Credit Commitment of each Lender pro rata in an amount equal to its Revolver Percentage of the L/C Obligations then outstanding.

(b) *Applications*. At any time before the Revolving Credit Termination Date, the L/C Issuer shall, at the request of the Borrower, issue one or more Letters of Credit in Dollars, in form and substance acceptable to the L/C Issuer, with expiration dates no later than the earlier of (i) 12 months from the

date of issuance (or which are cancelable not later than 12 months from the date of issuance and each renewal) or (ii) five days prior to the Revolving Credit Termination Date, in an aggregate face amount as requested by the Borrower subject to the limitations set forth in paragraph (a) of this Section 2.3, upon the receipt of a duly executed application for the relevant Letter of Credit in the form then customarily prescribed by the L/C Issuer for the Letter of Credit requested (each an *"Application"*); *provided* that any Letter of Credit with a 12-month tenor may provide for the renewal thereof for additional 12-month periods (which shall in no event extend beyond the date referred to in clause (ii) above). Notwithstanding anything contained in any Application to the contrary: (i) the Borrower shall pay fees in connection with each Letter of Credit as set forth in Section 2.13(b) hereof, and (ii) if the L/C Issuer is not timely reimbursed for the amount of any drawing under a Letter of Credit as required pursuant to paragraph (c) of this Section 2.3, the Borrower's obligation to reimburse the L/C Issuer for the amount of such drawing shall bear interest (which the Borrower hereby promises to pay) from and after the date such drawing is paid to but excluding the date of reimbursement by the Borrower at a rate per annum equal to the sum of 2.0% plus the Applicable Margin plus the Base Rate from time to time in effect (computed on the basis of a year of 365 or 366 days, as the case may be, and the actual number of days elapsed). Without limiting the foregoing, the L/C Issuer's obligation to issue a Letter of Credit or increase the amount of a Letter of Credit is subject to the terms or conditions of this Agreement (including the conditions set forth in Section 3.1 and the other terms of this Section 2.3).

(c) *The Reimbursement Obligations*. Subject to Section 2.3(b) hereof, the obligation of the Borrower to reimburse the L/C Issuer for all drawings under a Letter of Credit (a *"Reimbursement Obligation"*) shall be governed by the Application related to such Letter of Credit and this Agreement, except that reimbursement shall be paid by no later than 2:00 p.m. (New York City time) on the date which each drawing is to be paid if the Borrower has been informed of such drawing by the L/C Issuer on or before 11:30 a.m. (New York City time) on the date when such drawing is to be paid or, if notice of such drawing is given to the Borrower after 11:30 a.m. (New York City time) reimbursement shall be made on the next Business Day following the date when such drawing is to be paid, by the end of such day, in all instances in immediately available funds at the Administrative Agent's principal office in New York, New York or such other office as the Administrative Agent may designate in writing to the Borrower, and the Administrative Agent shall thereafter cause to be distributed to the L/C Issuer such amount(s) in like funds. If the Borrower does not make any such reimbursement payment on the date due and the Participating Lenders fund their participations in the manner set forth in Section 2.3(d) below, then all payments thereafter received by the Administrative Agent in discharge of

---

any of the relevant Reimbursement Obligations shall be distributed in accordance with Section 2.3(d) below. In addition, for the benefit of the Administrative Agent, the L/C Issuer and each Lender, the Borrower agrees that, notwithstanding any provision of any Application, its obligations under this Section 2.3(c) and each Application shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement and the Applications, under all circumstances whatsoever, and irrespective of any claim or defense that the Borrower may otherwise have against the Administrative Agent, the L/C Issuer or any Lender, including without limitation (i) any lack of validity or enforceability of any Loan Document; (ii) any amendment or waiver of or any consent to departure from all or any of the provisions of any Loan Document; (iii) the existence of any claim of set-off the Borrower may have at any time against a beneficiary of a Letter of Credit (or any Person for whom a beneficiary may be acting), the Administrative Agent, the L/C Issuer, any Lender or any other Person, whether in connection with this Agreement, another Loan Document, the transaction related to the Loan Document or any unrelated transaction; (iv) any statement or any other document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; (v) payment by the Administrative Agent or a L/C Issuer under a Letter of Credit against presentation to the Administrative Agent or a L/C Issuer of a draft or certificate that does not comply with the terms of the Letter of Credit, *provided* that the Administrative Agent's or L/C Issuer's determination that documents presented under the Letter of Credit complied with the terms thereof did not constitute gross negligence, bad faith or willful misconduct of the Administrative Agent or L/C Issuer; or (vi) any other act or omission to act or delay of any kind by the Administrative Agent or a L/C Issuer, any Lender or any other Person or any other event or circumstance whatsoever that might, but for the provisions of this Section 2.3(c), constitute a legal or equitable discharge of the Borrower's obligations hereunder or under an Application.

(d) *The Participating Interests*. Each Lender (other than the Lender acting as L/C Issuer) severally and not jointly agrees to purchase from the L/C Issuer, and the L/C Issuer hereby agrees to sell to each such Lender (a *"Participating Lender"*), an undivided participating interest (a *"Participating Interest"*) to the extent of its Revolver Percentage in each Letter of Credit issued by, and each Reimbursement Obligation owed to, the L/C Issuer. Upon Borrower's failure to pay any Reimbursement Obligation on the date and at the time required, or if the L/C Issuer is required at any time to return to the Borrower or to a trustee, receiver, liquidator, custodian or other Person any portion of any payment of any Reimbursement Obligation, each Participating Lender shall, not later than the Business Day it receives a certificate in the form of Exhibit A hereto from the L/C Issuer (with a copy to the Administrative Agent) to such effect, if such certificate is received before 12:00 noon (New York City time), or not later than 12:00 noon (New York City time) the following Business Day, if such certificate is received after such time, pay to the Administrative Agent for the account of the L/C Issuer an amount equal to such Participating Lender's Revolver Percentage of such unpaid Reimbursement Obligation together with interest on such amount accrued from the date the L/C Issuer made the related payment to the date of such payment by such Participating Lender at a rate per annum equal to: (i) from the date the L/C Issuer made the related payment to the date two Business Days after payment by such Participating Lender is due hereunder, the Federal Funds Rate for each such day and (ii) from the date two Business Days after the date such payment is due from such Participating Lender to the date such payment is made by such Participating Lender, the Base Rate in effect for each such day. Each such Participating Lender shall, after making its

---

appropriate payment, be entitled to receive its Revolver Percentage of each payment received in respect of the relevant Reimbursement Obligation and of interest paid thereon, with the L/C Issuer retaining its Revolver Percentage thereof as a Lender hereunder.

The several obligations of the Participating Lenders to the L/C Issuer under this Section 2.3 shall be absolute, irrevocable and unconditional under any and all circumstances and shall not be subject to any set-off, counterclaim or defense to payment which any Participating Lender may have or has had against the Borrower, the L/C Issuer, the Administrative Agent, any Lender or any other Person. Without limiting the generality of the foregoing, such obligations shall not be affected by any Default or Event of Default or by any reduction or termination of the Revolving Credit Commitment of any Lender, and each payment by a Participating Lender under this Section 2.3 shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) *Indemnification*. The Participating Lenders shall, to the extent of their respective Revolver Percentages, indemnify the L/C Issuer (to the extent not reimbursed by the Borrower) against any cost, expense (including reasonable counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from the L/C Issuer's gross negligence or willful misconduct) that the L/C Issuer may suffer or incur in connection with any Letter of Credit issued by it. The obligations of the Participating Lenders under this Section 2.3(e) and all other parts of this Section 2.3 shall survive termination of this Agreement and of all Applications, Letters of Credit, and all drafts and other documents presented in connection with drawings thereunder.

(f) *Manner of Requesting a Letter of Credit*. The Borrower shall provide at least three Business Days' advance written notice to the Administrative Agent (or such lesser notice as the Administrative Agent and the L/C Issuer may agree in their sole discretion) of each request for the issuance of a Letter of Credit, each such notice to be accompanied by a properly completed and executed Application for the requested Letter of Credit and, in the case of an extension or amendment or an increase in the amount of a Letter of Credit, a written request therefor, in a form acceptable to the Administrative Agent and the L/C Issuer, in each case, together with the fees called for by this Agreement. The Administrative Agent shall promptly notify the L/C Issuer of the Administrative Agent's receipt of each such notice and the L/C Issuer shall promptly notify the Administrative Agent and the Lenders of the issuance of a Letter of Credit.

(g) *Conflict with Application*. In the event of any conflict or inconsistency between this Agreement and the terms of any Application, the terms of the Agreement shall control.

(h) Letters of credit outstanding under the Existing Loan Agreement or the Existing NPC Credit Agreements on the Closing Date shall be deemed issued under the Revolving Facility to the extent the applicable letter of credit issuer under such facility is an L/C Issuer under the Revolving Facility.

---

Section 2.4. *Applicable Interest Rates.*

(a) *Term B Base Rate Loans*. Each Term B Loan that is a Base Rate Loan made or maintained by a Lender shall bear interest (computed on the basis of a year of 365 or 366 days, as the case may be, and the actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced or created by conversion from a Eurodollar Loan until, but excluding, the date of repayment thereof at a rate per annum equal to the sum of the Applicable Margin plus the Base Rate from time to time in effect, payable in arrears on the last Business Day of each March, June, September and December and at maturity (whether by acceleration or otherwise).

(b) *Term B Eurodollar Loans*. Each Term B Loan that is a Eurodollar Loan made or maintained by a Lender shall bear interest during each Interest Period it is outstanding (computed on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced, continued or created by conversion from a Base Rate Loan until, but excluding, the date of repayment thereof at a rate per annum equal to the sum of the Applicable Margin plus the Adjusted LIBOR applicable for such Interest Period, payable in arrears on the last day of the Interest Period and at maturity (whether by acceleration or otherwise), and, if the applicable Interest Period is longer than three months, on each day occurring every three months after the commencement of such Interest Period.

(c) *Revolving Base Rate Loans*. Each Revolving Loan that is a Base Rate Loan made or maintained by a Lender shall bear interest (computed on the basis of a year of 365 or 366 days, as the case may be, and the actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced or created by conversion from a Eurodollar Loan until, but excluding, the date of repayment thereof at a rate per annum equal to the sum of the Applicable Margin plus the Base Rate from time to time in effect, payable in arrears on the last Business Day of each March, June, September and December and at maturity (whether by acceleration or otherwise).

(d) *Revolving Eurodollar Loans*. Each Revolving Loan that is a Eurodollar Loan made or maintained by a Lender shall bear interest during each Interest Period it is outstanding (computed on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced, continued or created by conversion from a Base Rate Loan until, but excluding, the date of repayment thereof at a rate per annum equal to the sum of the Applicable Margin plus the Adjusted LIBOR applicable for such Interest Period, payable in arrears on the last day of the Interest Period and at maturity (whether by acceleration or otherwise), and, if the applicable Interest Period is longer than three months, on each day occurring every three months after the commencement of such Interest Period.

(e) *Default Rate*. While any Event of Default under Section 7.1(a) with respect to the late payment of principal or interest or Section 7.1(j) or (k) exists or after acceleration, the Borrower shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the overdue amounts of all Loans, Reimbursement Obligations, interest or other amounts owing hereunder by it at a rate per annum equal to 2.0% per annum plus (i) in the case of Loans, the interest rate otherwise applicable thereto and (ii) otherwise, the Base Rate then in effect. While any Event of Default exists or after acceleration, interest shall be paid on demand of the Administrative Agent at the request or with the consent of the Required Lenders.

---

(f) *Rate Determinations*. The Administrative Agent shall determine each interest rate applicable to the Revolving Loans and the Reimbursement Obligations hereunder, and its determination thereof shall be conclusive and binding except in the case of manifest error.

Section 2.5. *Manner of Borrowing Loans and Designating Applicable Interest Rates.*

(a) *Notice to the Administrative Agent*. The Borrower shall give notice to the Administrative Agent by no later than 12:00 noon (New York City time): (i) at least three Business Days before the date on which the Borrower requests the Lenders to advance a Borrowing of Loans that are Eurodollar Loans and (ii) on the date the Borrower requests the Lenders to advance a Borrowing of Loans that are Base Rate Loans. The Loans included in each Borrowing of Loans shall bear interest initially at the type of rate specified in such notice. Thereafter, the Borrower may from time to time elect to change or continue the type of interest rate borne by each Borrowing of Loans or, subject to Section 2.6 hereof, a portion thereof, as follows: (i) if such Borrowing of Loans is of Eurodollar Loans, on the last day of the Interest Period applicable thereto, the Borrower may continue part or all of such Borrowing as Eurodollar Loans or convert part or all of such Borrowing into Base Rate Loans or (ii) if such Borrowing of Loans is of Base Rate Loans, on any Business Day, the Borrower may convert all or part of such Borrowing into Eurodollar Loans for an Interest Period or Interest Periods specified by the Borrower. The Borrower shall give all such notices requesting the advance, continuation or conversion of a Borrowing of Loans to the Administrative Agent by telephone or telecopy (which notice shall be irrevocable once given and, if by telephone, shall be promptly confirmed in writing), substantially in the form attached hereto as Exhibit B (Notice of Borrowing) or Exhibit C (Notice of Continuation/Conversion), as applicable, or in such other form acceptable to the Administrative Agent. Notice of the continuation of a Borrowing of Loans that are Eurodollar Loans for an additional Interest Period or of the conversion of part or all of a Borrowing of Loans that are Base Rate Loans into Eurodollar Loans must be given by no later than 12:00 noon (New York City time) at least three Business Days before the date of the requested continuation or conversion. All notices concerning the advance, continuation or conversion of a Borrowing of Loans shall specify the date of the requested advance, continuation or conversion of a Borrowing of Loans (which shall be a Business Day), the amount of the requested Borrowing to be advanced, continued or converted, the type of Loans (Base Rate Loans or Eurodollar Loans) to comprise such new, continued or converted Borrowing and, if such Borrowing is to be comprised of Eurodollar Loans, the Interest Period applicable thereto. If no Interest Period is specified

in any such notice with respect to any conversion to or continuation as a Eurodollar Borrowing, the Borrower shall be deemed to have selected an Interest Period of one month's duration. The Borrower agrees that the Administrative Agent may rely on any such telephonic or telecopy notice given by any person the Administrative Agent in good faith believes is an Authorized Representative without the necessity of independent investigation (the Borrower hereby indemnifies the Administrative Agent from any liability or loss ensuing from such reliance) and, in the event any such notice by telephone conflicts with any written confirmation, such telephonic notice shall govern if the Administrative Agent has acted in reliance thereon.

(b) *Notice to the Lenders*. The Administrative Agent shall give prompt telephonic or telecopy notice to each Lender of any notice from the Borrower received pursuant to Section

---

2.5(a) above and, if such notice requests the Lenders to make Eurodollar Loans, the Administrative Agent shall give notice to the Borrower and each Lender of the interest rate applicable thereto promptly after the Administrative Agent has made such determination.

(c) *Borrower's Failure to Notify; Automatic Continuations and Conversions*. If the Borrower fails to give proper notice of the continuation or conversion of any outstanding Borrowing of Loans that are Eurodollar Loans before the last day of its then current Interest Period within the period required by Section 2.5(a) and such Borrowing is not prepaid in accordance with Section 2.8(b), such Borrowing shall, at the end of the Interest Period applicable thereto, automatically be converted into a Base Rate Borrowing. In the event the Borrower fails to give notice pursuant to Section 2.5(a) of a Borrowing of Loans equal to the amount of a Reimbursement Obligation and has not notified the Administrative Agent by 1:00 p.m. (New York City time) on the day such Reimbursement Obligation becomes due that it intends to repay such Reimbursement Obligation through funds not borrowed under this Agreement, the Borrower shall be deemed to have requested a Borrowing of Loans that are Base Rate Loans (or, at the option of the Administrative Agent, under the Swing Line) on such day in the amount of the Reimbursement Obligation then due, which Borrowing, if otherwise available hereunder, shall be applied to pay the Reimbursement Obligation then due.

(d) *Disbursement of Loans*. Not later than 2:00 p.m. (New York City time) on the date of any requested advance of a new Borrowing of Loans, subject to Section 3 hereof, each Lender shall make available its Loan comprising part of such Borrowing in funds immediately available at the principal office of the Administrative Agent in New York, New York. The Administrative Agent shall promptly wire transfer the proceeds of each new Borrowing of Loans to an account designated by the Borrower in the applicable notice of borrowing.

(e) *Administrative Agent Reliance on Lender Funding*. Unless the Administrative Agent shall have been notified by a Lender prior to (or, in the case of a Borrowing of Base Rate Loans, by 1:00 p.m. (New York City time) on such date) the date on which such Lender is scheduled to make payment to the Administrative Agent of the proceeds of a Loan (which notice shall be effective upon receipt) that such Lender does not intend to make such payment, the Administrative Agent may assume that such Lender has made such payment when due and the Administrative Agent, in reliance upon such assumption may (but shall not be required to) make available to the Borrower the proceeds of the Loan to be made by such Lender and, if any Lender has not in fact made such payment to the Administrative Agent, such Lender shall, on demand, pay to the Administrative Agent the amount made available to the Borrower attributable to such Lender together with interest thereon in respect of each day during the period commencing on the date such amount was made available to the Borrower and ending on (but excluding) the date such Lender pays such amount to the Administrative Agent at a rate per annum equal to: (i) from the date the related advance was made by the Administrative Agent to the date two Business Days after payment by such Lender is due hereunder, the greater of, for each such day, (x) the Federal Funds Rate and (y) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any standard administrative or processing fees charged by the Administrative Agent in connection with such Lender's non-payment and (ii) from the date two Business Days after the date such payment is due from such Lender to the date such payment is made by such Lender, the Base Rate in effect for each such day. If such amount is not received from such Lender by the Administrative Agent

---

immediately upon demand, the Borrower will, on demand, repay to the Administrative Agent the proceeds of the Loan attributable to such Lender with interest thereon at a rate per annum equal to the interest rate applicable to the relevant Loan, but without such payment being considered a payment or prepayment of a Loan under Section 8.1 hereof so that the Borrower will have no liability under such Section with respect to such payment.

Section 2.6. *Minimum Borrowing Amounts; Maximum Eurodollar Loans*. Each Borrowing of Base Rate Loans advanced under the applicable Facility shall be in an amount not less than $1,000,000 or such greater amount that is an integral multiple of $1,000,000. Each Borrowing of Eurodollar Loans advanced, continued or converted under the applicable Facility shall be in an amount equal to $1,000,000 or such greater amount that is an integral multiple of $1,000,000. Without the Administrative Agent's consent, there shall not be more than five Borrowings of Eurodollar Loans outstanding at any one time.

Section 2.7. *Maturity of Loans*.

(a) *Scheduled Payments of Term B Loans*. The Borrower shall make principal payments on the Term B Loans in installments on the last Business Day of each March, June, September and December in each year, commencing with the calendar quarter ending March 31, 2011, in an aggregate amount equal to 0.25% of the aggregate principal amount of the Term B Loans advanced on the Closing Date (which payments in each case shall be reduced as a result of the application of prepayments in accordance with the order of priority set forth in Section 2.8(a), Section 2.8(c) and Section 2.8(e), as applicable); it being further agreed that a final payment comprised of all principal and interest not sooner paid on the Term B Loans, shall be due and payable on November 3, 2016, the final maturity thereof (the *"Term B Termination Date"*).

(b) *Revolving Loans*. Each Revolving Loan, both for principal and interest, shall mature and become due and payable by the Borrower on the Revolving Credit Termination Date.

Section 2.8. *Prepayments*.

(a) *Voluntary Prepayments of Term B Loans*. The Borrower may, at its option, upon notice as herein provided, prepay without premium or penalty (except as set forth in Section 8.1 below) at any time all, or from time to time any part of, the Term B Loans, in a minimum aggregate amount of $5,000,000 or such greater amount that is an integral multiple of $1,000,000 or, if less, the entire principal amount thereof then outstanding. The Borrower will give the Administrative Agent written notice (or telephone notice promptly confirmed by written notice) of each optional prepayment under this Section 2.8(a) prior to 12:00 noon (New York time) at least one Business Day in the case of Base Rate Loans and three Business Days in the case of

Eurodollar Loans prior to the date fixed for such prepayment (which notice may be revoked at the Borrower's option). Each such notice shall specify the date of such prepayment (which shall be a Business Day), the principal amount of the Term B Loans to be prepaid and the interest to be paid on the prepayment date with respect to such principal amount being repaid. Any prepayments made pursuant to this Section 2.8(a) shall be applied against the remaining scheduled installments of principal due in respect of such Term B Loans in the manner specified

---

by the Borrower or, if not so specified on or prior to the date of such optional prepayment, in direct order of maturity and may not be reborrowed.

(b) *Voluntary Prepayments of Revolving Loans and Swing Loans*. The Borrower may prepay without premium or penalty (except as set forth in Section 8.1 below) and in whole or in part any Borrowing of (i) Revolving Loans that are Eurodollar Loans at any time upon at least three Business Days prior notice by the Borrower to the Administrative Agent, (ii) Revolving Loans that are Base Rate Loans at any time upon at least one Business Day's prior notice by the Borrower to the Administrative Agent (in the case of each of clauses (i) and (ii), such notice must be in writing (or telephone notice promptly confirmed by written notice) and received by the Administrative Agent prior to 2:00 p.m. (New York time) on such date) or (iii) Swing Loans at any time without prior notice, in each case, such prepayment to be made by the payment of the principal amount to be prepaid and, in the case of any Eurodollar Loans, accrued interest thereon to the date fixed for prepayment plus any amounts due the Lenders under Section 8.1; *provided, however,* the Borrower may not partially repay a Borrowing (other than a Borrowing of Swing Loans) (i) if such Borrowing is of Base Rate Loans, in a principal amount less than $500,000, and (ii) if such Borrowing is of Eurodollar Loans, in a principal amount less than $1,000,000, except, in each case, in such lesser amount of the entire principal amount thereof then outstanding.

(c) *Mandatory Prepayments.* (i) If the Borrower or any Restricted Subsidiary shall at any time or from time to time incur any Indebtedness (other than with respect to any Indebtedness permitted to be incurred pursuant to Section 6.14), then (x) the Borrower shall promptly notify the Administrative Agent of such Indebtedness (including the amount of the estimated Net Cash Proceeds to be received by the Borrower or such Restricted Subsidiary in respect thereof) and (y) promptly upon receipt by the Borrower or the Restricted Subsidiary of the Net Cash Proceeds from the incurrence of such Indebtedness, the Borrower shall prepay the Obligations in an aggregate amount equal to 100% of the amount of all such Net Cash Proceeds, net of underwriting discounts and commissions and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses. The amount of each such prepayment shall be applied first to the outstanding Term B Loans until paid in full and then to the Revolving Loans until paid in full and then to the Swing Loans.

(ii) If the Borrower or any Restricted Subsidiary shall at any time or from time to time make a Disposition or shall suffer an Event of Loss resulting in Net Cash Proceeds in excess of $5,000,000 in a single transaction or in a series of related transactions or $10,000,000 in the aggregate for all such Dispositions or Events of Loss during such fiscal year, then (x) the Borrower shall promptly notify the Administrative Agent of such Disposition or Event of Loss (including the amount of the estimated Net Cash Proceeds to be received by the Borrower or such Restricted Subsidiary in respect thereof) and (y) promptly upon receipt by the Borrower or the Restricted Subsidiary of the Net Cash Proceeds of such Disposition or such Event of Loss, the Borrower shall prepay the Obligations in an aggregate amount equal to 100% of the amount of all such Net Cash Proceeds in excess of the amount specified above; *provided* that in the case of each Disposition and Event of Loss, if the Borrower states in its notice of such event that the Borrower or the applicable Restricted Subsidiary intends to invest or

---

reinvest, as applicable, within one year of the applicable Disposition or receipt of Net Cash Proceeds from an Event of Loss, the Net Cash Proceeds thereof (A) in fixed or capital assets used or useful in the business of the Borrower or its Restricted Subsidiaries or (B) to finance Permitted Acquisitions and investments in third party companies or businesses permitted pursuant to Section 6.17, then so long as no Event of Default then exists, the Borrower shall not be required to make a mandatory prepayment under this Section in respect of such Net Cash Proceeds to the extent such Net Cash Proceeds are actually invested or reinvested within such one-year period, or the Borrower or a Restricted Subsidiary has entered into a binding contract to so invest or reinvest such Net Cash Proceeds during such one-year period and such Net Cash Proceeds are so reinvested within 180 days after the expiration of such one-year period; *provided, however,* that if any Net Cash Proceeds have not been so invested or reinvested prior to the expiration of the applicable period, the Borrower shall promptly prepay the Obligations in the amount of such Net Cash Proceeds in excess of the amount specified above not so invested or reinvested. The amount of each such prepayment shall be applied first to the outstanding Term B Loans until paid in full and then to the Revolving Loans until paid in full and then to the Swing Loans.

(iii) On or before April 10$^{th}$ of each year (beginning with April 10$^{th}$, 2012), the Borrower shall prepay the then-outstanding Loans by an amount equal to (A) 50% of Excess Cash Flow of Borrower and its Restricted Subsidiaries for the most recently completed fiscal year of the Borrower; *provided* that the foregoing percentage shall be reduced to 25% when the Leverage Ratio is equal to or less than 3.75:1.0 and 0% when the Leverage Ratio is equal to or less than 3.25:1.00 minus (B) the principal amount of any Term B Loans and Revolving Loans (to the extent accompanied by a permanent reduction of the Revolving Credit Commitment) voluntarily prepaid pursuant to paragraphs (a) and (b) above made during such fiscal year on or prior to April 10$^{th}$ of the current year; *provided* that, the amount required to be paid under this Section 2.8(c)(iii) shall not in any event be reduced to less than zero, and no such voluntary prepayments shall reduce the payments required to be made under this Section 2.8(c)(iii) for more than one fiscal year. The amount of each such prepayment shall be applied first to the outstanding Term B Loans until paid in full and then to the Revolving Loans until paid in full and then to the Swing Loans.

(iv) The Borrower shall, on each date the Revolving Credit Commitments are reduced pursuant to Section 2.10, prepay the Revolving Loans and Swing Loans and, if necessary after such Revolving Loans and Swing Loans have been repaid in full, replace or cause to be canceled (or provide an L/C Backstop or make other arrangements reasonably satisfactory to the L/C Issuer) outstanding Letters of Credit by the amount, if any, necessary to reduce the sum of the aggregate principal amount of Revolving Loans, Swing Loans and L/C Obligations then outstanding to the amount to which the Revolving Credit Commitments have been so reduced.

---

(v) Notwithstanding the foregoing, each Term B Lender shall have the right to reject its Term B Loan Percentage of any mandatory prepayment of the Term B Loans pursuant to Section 2.8(c)(i), (ii) and (iii) above (each such Lender, a *"Rejecting Lender"*), in which case the amounts so rejected may be retained by the Borrower.

(vi) Unless the Borrower otherwise directs, prepayments of Revolving Loans under this Section 2.8(c) shall be applied first to Borrowings of Base Rate Loans until payment in full thereof with any balance applied to Borrowings of Eurodollar Loans in the order in which their Interest Periods expire. Each prepayment of Loans under this Section 2.8(c) shall be made by the payment of the principal amount to be prepaid and, in the case of any Term B Loans, Swing Loans or Eurodollar Loans, accrued interest thereon to the date of prepayment together with any amounts due the Lenders under Section 8.1. Mandatory prepayments of the Term B Loans shall be applied to the installments thereof in the direct order of maturity other than with respect to that portion of any installment held by a Rejecting Lender. Each prefunding of L/C Obligations that the Borrower chooses to make to the Administrative Agent as a result of the application of Section 2.8(c)(iv) above by the deposit of cash or Cash Equivalents with the Administrative Agent shall be made in accordance with Section 7.4.

(d) *Defaulting Lenders*. Until such time as the Default Excess (as defined below) with respect to any Defaulting Lender has been reduced to zero, (i) any voluntary prepayment of the Revolving Loans pursuant to Section 2.8(b) shall, if the Borrower so directs at the time of making such voluntary prepayment, be applied to the Revolving Loans of other Lenders as if such Defaulting Lender had no loans outstanding and the Revolving Credit Commitments of such Defaulting Lender were zero and (ii) any mandatory prepayment of the Loans pursuant to Section 2.8(c) shall, if the Borrower so directs at the time of making such mandatory prepayment, be applied to the Loans of other Lenders (but not to the Loans of such Defaulting Lender) as if such Defaulting Lender has funded all defaulted Loans of such Defaulting Lender, it being understood and agreed that the Borrower shall be entitled to retain any portion of any mandatory prepayment of the Loans that is not paid to such Defaulting Lender solely as a result of the operation of the provisions of this paragraph (d). "*Default Excess*" means, with respect to any Defaulting Lender, the excess, if any, of such Defaulting Lender's Percentage of the aggregate outstanding principal amount of the applicable Loans of all the applicable Lenders (calculated as if all Defaulting Lenders (including such Defaulting Lender) had funded all of their respective defaulted Loans) over the aggregate outstanding principal amount of the applicable Loans of such Defaulting Lender.

(e) The Administrative Agent will promptly advise each Lender of any notice of prepayment it receives from the Borrower, and in the case of any partial prepayment under Section 2.8(a) hereof, such prepayment shall be applied to the remaining amortization payments on the Term B Loans in the manner specified by the Borrower or, if not so specified on or prior to the date of such optional prepayment, in the direct order of maturity.

Section 2.9. *Place and Application of Payment*. All payments of principal of and interest on the Loans and the Reimbursement Obligations, and of all other Obligations payable

---

by the Borrower under this Agreement and the other Loan Documents, shall be made by the Borrower to the Administrative Agent by no later than 2:00 p.m. (New York City time) on the due date thereof at the office of the Administrative Agent in New York, New York (or such other location as the Administrative Agent may designate to the Borrower in writing) for the benefit of the Lender or Lenders entitled thereto. Any payments received after such time shall be deemed to have been received by the Administrative Agent on the next Business Day. All such payments shall be made in Dollars, in immediately available funds at the place of payment, in each case without set-off or counterclaim, except as provided in Section 10.1. The Administrative Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal or interest on Loans and on Reimbursement Obligations in which the Lenders have purchased Participating Interests ratably to the Lenders and like funds relating to the payment of any other amount payable to any Lender to such Lender, in each case to be applied in accordance with the terms of this Agreement.

Anything contained herein to the contrary notwithstanding, (x) pursuant to the exercise of remedies under Sections 7.2 and 7.3 hereof or (y) after written instruction by the Required Lenders after the occurrence and during the continuation of an Event of Default, all payments and collections received in respect of the Obligations and all proceeds of the Collateral received, in each instance, by the Administrative Agent or any of the Lenders, shall be remitted to the Administrative Agent and distributed as follows:

(a) *first,* to the payment of any outstanding costs and expenses incurred by the Administrative Agent, and any security trustee therefor, in monitoring, verifying, protecting, preserving or enforcing the Liens on the Collateral, in protecting, preserving or enforcing rights under the Loan Documents, and in any event all costs and expenses of a character which the Borrower has agreed to pay the Administrative Agent under Section 10.13 hereof (such funds to be retained by the Administrative Agent for its own account unless it has previously been reimbursed for such costs and expenses by the Lenders, in which event such amounts shall be remitted to the Lenders to reimburse them for payments theretofore made to the Administrative Agent);

(b) *second,* to the payment of principal and interest on the Swing Loans until paid in full;

(c) *third,* to the payment of any outstanding interest and fees due under the Loan Documents to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof;

(d) *fourth,* to the payment of principal on the Term B Loans, Revolving Loans, unpaid Reimbursement Obligations, together with amounts to be held by the Administrative Agent as collateral security for any outstanding L/C Obligations pursuant to Section 7.4 hereof (until the Administrative Agent is holding an amount of cash equal to the then outstanding amount of all Letters of Credit, to the extent the same have not been replaced or cancelled or otherwise provided for to the reasonable satisfaction of the L/C Issuer), and Hedging Liability, the aggregate amount paid to, or held as collateral security for, the Lenders and, in the case of Hedging Liability, their Affiliates, to be

---

allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof;

(e) *fifth,* to the payment of all other unpaid Obligations and all other indebtedness, obligations, and liabilities of the Borrower and its Subsidiaries secured by the Collateral Documents (including, without limitation, Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations) to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof; and

(f) *sixth*, to the Borrower or whoever else may be lawfully entitled thereto.

Section 2.10. *Commitment Terminations*. The Term B Loan Commitments shall automatically terminate upon the making of the Term B Loans on the Closing Date. The Borrower shall have the right at any time and from time to time, upon three Business Days prior written notice to the Administrative Agent, to terminate the Revolving Credit Commitments in whole or in part, any partial termination to be (i) in an amount not less than $1,000,000 or any greater amount that is an integral multiple of $100,000 and (ii) allocated ratably among the Lenders in proportion to their respective Revolver Percentages, *provided* that the Revolving Credit Commitments may not be reduced to an amount less than the sum of the aggregate principal amount of Revolving Loans, Swing Loans and of L/C Obligations then outstanding. Any termination of the Revolving Credit Commitments below the L/C Sublimit then in effect shall reduce the L/C Sublimit by a like amount. Any termination of the Revolving Credit Commitments below the Swing Line Sublimit then in effect shall reduce the Swing Line Sublimit by a like amount. The Administrative Agent shall give prompt notice to each Lender of any such termination of the Revolving Credit Commitments. Any termination of the Revolving Credit Commitments pursuant to this Section 2.10 may not be reinstated.

Section 2.11. *Swing Loans*.

(a) *Generally*. Subject to the terms and conditions hereof, as part of the Revolving Facility, the Swing Line Lender agrees to make loans in Dollars to the Borrower under the Swing Line (individually a *"Swing Loan"* and collectively the *"Swing Loans"*) which shall not in the aggregate at any time outstanding exceed the Swing Line Sublimit; *provided, however,* the sum of the Revolving Loans, Swing Loans and L/C Obligations at any time outstanding shall not exceed the sum of all Revolving Credit Commitments in effect at such time. The Swing Loans may be availed of by the Borrower from time to time and borrowings thereunder may be repaid and used again during the period ending on the Revolving Credit Termination Date and each Swing Loan not sooner repaid shall mature and be due and payable by the Borrower on such date. Each Swing Loan shall be in a minimum amount of $250,000 or such greater amount which is an integral multiple of $100,000.

(b) *Interest on Swing Loans*. Each Swing Loan shall bear interest until repaid (whether by acceleration or otherwise) at a rate per annum equal to the sum of the Base Rate plus the Applicable Margin (computed on the basis of a year of 365 or 366 days, as the case may be, for the actual number of days elapsed). Interest on each Swing Loan shall be due and payable in arrears on the last Business Day of each of March, June, September and December and on the Revolving Credit Termination Date.

---

(c) *Requests for Swing Loans*. The Borrower shall give the Swing Line Lender prior notice (which may be written or oral), no later than 12:00 p.m. (New York City time) on the date upon which the Borrower requests that any Swing Loan be made or such later time as may be acceptable to the Swing Line Lender, in its reasonable discretion, of the amount and date of such Swing Loan, and the Interest Period requested therefor. Subject to the terms and conditions hereof, the proceeds of such Swing Loan shall be made available to the Borrower by wire transfer to an account designated by the Borrower.

(d) *Refunding of Swing Loans*. In its sole and absolute discretion, the Swing Line Lender may at any time, on behalf of the Borrower (which the Borrower hereby irrevocably authorizes the Swing Line Lender to act on its behalf for such purpose) and with notice to the Borrower, request each Lender to make a Revolving Loan in the form of a Base Rate Loan in an amount equal to such Lender's Revolver Percentage of the amount of the Swing Loans outstanding on the date such notice is given. Unless an Event of Default described in Section 7.1(j) or 7.1(k) exists with respect to the Borrower, regardless of the existence of any other Event of Default, each Lender shall make the proceeds of its requested Revolving Loan available to the Swing Line Lender, in immediately available funds, at the Swing Line Lender's principal office in New York, New York, before 1:00 p.m. (New York City time) on the Business Day following the day such notice is given. The proceeds of such Borrowing of Revolving Loans shall be immediately applied to repay the outstanding Swing Loans.

(e) *Participations*. If any Lender refuses or otherwise fails to make a Revolving Loan when requested by the Swing Line Lender pursuant to Section 2.11(d) above (because an Event of Default described in Section 7.1(j) or (k) exists with respect to the Borrower or otherwise), such Lender will, by the time and in the manner such Revolving Loan was to have been funded to the Swing Line Lender, purchase from the Swing Line Lender an undivided participating interest in the outstanding Swing Loans in an amount equal to its Revolver Percentage of the aggregate principal amount of Swing Loans that were to have been repaid with such Revolving Loans; *provided* that the foregoing purchases shall be deemed made hereunder without any further action by such Lender or the Swing Line Lender. Each Lender that so purchases a participation in a Swing Loan shall thereafter be entitled to receive its Revolver Percentage of each payment of principal received on the Swing Loan and of interest received thereon accruing from the date such Lender funded to the Swing Line Lender its participation in such Loan. The several obligations of the Lenders under this Section shall be absolute, irrevocable and unconditional under any and all circumstances whatsoever and shall not be subject to any set-off, counterclaim or defense to payment which any Lender may have or have had against the Borrower, any other Lender or any other Person whatever. Without limiting the generality of the foregoing, such obligations shall not be affected by any Default or Event of Default or by any reduction or termination of the Revolving Credit Commitments of any Lender, and each payment made by a Lender under this Section shall be made without any offset, abatement, withholding or reduction whatsoever.

Section 2.12. *Evidence of Indebtedness*. (a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

---

(b) The Administrative Agent shall also maintain accounts in which it will record (i) the amount of each Loan made hereunder, with respect to Revolving Loans, the type thereof and, with respect to Eurodollar Loans and Swing Loans, the Interest Period with respect thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender's share thereof.

(c) The entries maintained in the accounts maintained pursuant to paragraphs (a) and (b) above shall be prima facie evidence of the existence and amounts of the Obligations therein recorded; *provided, however,* that the failure of the Administrative Agent or any Lender to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Obligations in accordance with their terms.

(d) Any Lender may request that its Loans be evidenced by a promissory note or notes in the forms of Exhibit D-1 (in the case of its Term B Loan and referred to herein as a *"Term B Note"*), D-2 (in the case of its Revolving Loans and referred to herein as a *"Revolving Note"*) or D-3 (in the case of

its Swing Loans and referred to herein as a *"Swing Note"*), as applicable (the Term B Notes, Revolving Notes and Swing Note being hereinafter referred to collectively as the "Notes" and individually as a *"Note"*). In such event, the Borrower shall prepare, execute and deliver to such Lender a Note payable to the order of such Lender in the amount of such Lender's Percentage of the Term B Loan, Revolving Credit Commitment, or Swing Line Sublimit, as applicable. Thereafter, the Loans evidenced by such Note or Notes and interest thereon shall at all times (including after any assignment pursuant to Section 10.10) be represented by one or more Notes payable to the order of the payee named therein or any assignee pursuant to Section 10.10, except to the extent that any such Lender or assignee subsequently returns any such Note for cancellation and requests that such Loans once again be evidenced as described in subsections (a) and (b) above.

Section 2.13. *Fees.*

(a) *Revolving Credit Commitment Fee*. The Borrower shall pay to the Administrative Agent for the ratable account of the Lenders according to their Revolver Percentages a commitment fee at the rate per annum equal to the Applicable Margin (computed on the basis of a year of 360 days and the actual number of days elapsed) on the average daily Unused Revolving Credit Commitments (the *"Commitment Fee"*); *provided, however,* that no Commitment Fee shall accrue to the Unused Revolving Credit Commitment of a Defaulting Lender, or be payable for the benefit of such Lender, so long as such Lender shall be a Defaulting Lender. Such Commitment Fee shall be payable quarterly in arrears on the last day of each March, June, September, and December in each year (commencing on the first such date occurring after the date hereof) and on the Revolving Credit Termination Date, unless the Revolving Credit Commitments are terminated in whole on an earlier date, in which event the Commitment Fee for the period to the date of such termination in whole shall be paid on the date of such termination.

(b) *Letter of Credit Fees*. Quarterly in arrears, on the last day of each March, June, September, and December, commencing on the first such date occurring after the date hereof, and on the Revolving Credit Termination Date, the Borrower shall pay to the L/C Issuer for its

---

own account a fronting fee equal to 0.125% of the face amount of (or of the increase in the face amount of) each outstanding Letter of Credit. Quarterly in arrears, on the last day of each March, June, September, and December, commencing on the first such date occurring after the date hereof, and on the Revolving Credit Termination Date, the Borrower shall pay to the Administrative Agent, for the ratable benefit of the Lenders according to their Revolver Percentages, a letter of credit fee at a rate per annum equal to the Applicable Margin then in effect with respect to Eurodollar Loans under the Revolving Facility (computed on the basis of a year of 360 days and the actual number of days elapsed) during each day of such quarter applied to the daily average face amount of Letters of Credit outstanding during such quarter; *provided* that, while any Event of Default under Section 7.1(a) with respect to the late payment of principal or interest or Section 7.1(j) or Section 7.1(k) exists or after acceleration, such rate with respect to overdue fees shall increase by 2% over the rate otherwise payable and such fee shall be paid on demand of the Administrative Agent at the request or with the consent of the Required Lenders; *provided further* that, no letter of credit fee shall accrue to the Revolver Percentage of a Defaulting Lender, or be payable for the benefit of such Lender, so long as such Lender shall be a Defaulting Lender. In addition, the Borrower shall pay to the L/C Issuer for its own account the L/C Issuer's standard drawing, negotiation, amendment, transfer and other administrative fees for each Letter of Credit. Such standard fees referred to in the preceding sentence may be established by the L/C Issuer from time to time.

Section 2.14. *Incremental Credit Extensions*.

(a) At any time and from time to time after the Closing Date, subject to the terms and conditions set forth herein, the Borrower may, by notice to the Administrative Agent (whereupon the Administrative Agent shall promptly make such notice available to each of the Lenders), pursuant to an Incremental Amendment (*"Incremental Amendment"*) request to effect (i) one or more additional tranches of term loans hereunder or increases in the aggregate amount of the Term B Loans (each such increase, a *"Term Commitment Increase"*) from one or more Additional Term Lenders or (ii) increases in the aggregate amount of the Revolving Credit Commitments (each such increase, a *"Revolving Credit Commitment Increase"* and together with the Term Commitment Increase, a *"Commitment Increase"*) from Additional Revolving Lenders; *provided* that at the time of each such request and upon the effectiveness of each Incremental Amendment, (A) no Default or Event Default shall have occurred and be continuing or shall result therefrom, (B) the maturity date of any term loans or revolving loans incurred pursuant to such Term Commitment Increase or Revolving Credit Commitment Increase, as applicable, shall not be earlier than the Term B Termination Date or Revolving Credit Termination Date, as applicable, (C) the Weighted Average Life to Maturity of any term loans pursuant to such Term Commitment Increase shall not be less than the remaining Weighted Average Life to Maturity of the Term B Loans; (D) the Borrower shall be in compliance on a Pro Forma Basis with the covenants contained in Section 6.22 recomputed as of the last day of the most recently ended fiscal quarter of the Borrower (and assuming full utilization of the Revolving Credit Commitment), (E) the Borrower shall have delivered to the Administrative Agent a certificate of a financial officer certifying to the effect set forth in subclauses (A), (C) and (D) above, together with reasonably detailed calculations demonstrating compliance with subclause (C) above (which calculations shall, if made as of the last day of any fiscal quarter of the Borrower for which the Borrower has not delivered to the Administrative Agent the financial statements and Compliance Certificate required to be delivered by Section 6.1(e), be

---

accompanied by a reasonably detailed calculation of Consolidated EBITDA and Interest Expense for the relevant period), (F) the applicable yield relating to any term loans or revolving loans incurred pursuant to such Term Commitment Increase or Revolving Credit Commitment Increase (each facility thereunder, the *"Incremental Facility"*), as applicable, shall not be greater than that with respect to the existing Term B Facility or existing Revolving Facility, as applicable, plus 0.50% per annum unless the yield applicable to the existing Term B Facility or existing Revolving Facility, as applicable, is increased so that the yield applicable to the applicable Incremental Facility does not exceed the yield applicable to the existing Term B Facility or existing Revolving Facility, as applicable, by more than 0.50% per annum; *provided* that in determining the yield applicable to the existing Term B Facility or existing Revolving Facility, as applicable, and the applicable Incremental Facility, (x) original issue discount (*"OID"*) or upfront fees or other payments or any duration, ticking or similar fee (which shall be deemed to constitute like amounts of OID) payable by the Borrower to the Term B Lenders or Revolving Lenders, as applicable, or the applicable Incremental Facility in the primary syndication thereof shall be included (with OID being equated to interest based on an assumed four-year life to maturity or, if less, the remaining life to maturity of the applicable Incremental Facility), (y) customary arrangement or commitment fees payable to the Joint Lead Arrangers (or its affiliates in connection with the existing Term B Facility or existing Revolving Facility, as applicable, or to one or more arrangers (or their affiliates) of the applicable Incremental Facility shall be excluded and (z) if the eurodollar rate in respect of such Incremental Facility includes a floor greater than any floor applicable to the analogous existing Facility under the definition of "Adjusted LIBOR," such increased amount shall be equated to interest margin for purposes of determining any increase to the applicable yield under the analogous Facility, (G) the revolving loans incurred pursuant to such Revolving Credit Commitment Increase will mature no earlier than, and will require no scheduled amortization or mandatory commitment reduction prior to, the Revolving Credit Termination Date and all other terms of any such Incremental Facility (except as set forth in the foregoing clauses) shall be

substantially identical to the Revolving Facility or otherwise reasonably acceptable to the Administrative Agent, (H) to the extent the terms of any term loans incurred pursuant to a Term Commitment Increase are different from the terms applicable to the Term B Facility (except to the extent permitted by the foregoing clauses), such terms shall be reasonably satisfactory to the Administrative Agent, (I) all fees or other payments owing pursuant to Section 10.13 in respect of such increase to the Administrative Agent and the Lenders shall have been paid, and (J) each of the representations and warranties set forth herein and in the other Loan Documents shall be true and correct in all material respects (or all respects to the extent otherwise qualified by a materiality threshold) as of such date, except to the extent the same expressly relate to an earlier date. Notwithstanding anything to contrary herein, the sum of (i) the aggregate principal amount of all Commitment Increases and (ii) the aggregate principal amount of all Commitment Increases (as defined under the Second Lien Loan Agreement) under the Second Lien Loan Agreement shall not exceed $350,000,000 (plus, in the case of a Revolving Credit Commitment Increase that serves to effectively extend the maturity of the Revolving Facility, an amount equal to the reduction in the Revolving Facility to be replaced by a Revolving Credit Commitment Increase). Each Term Commitment Increase shall be in a minimum principal amount of $50,000,000 and integral multiples of $1,000,000 in excess thereof; *provided* that such amount may be less than $50,000,000 if such amount represents all the remaining availability under the aggregate principal amount of Commitment Increases set forth above.

---

(b) Each notice from the Borrower pursuant to this Section shall set forth the requested amount of the relevant Revolving Credit Commitment Increase or Term Commitment Increase.

SECTION 3. CONDITIONS PRECEDENT.

Section 3.1. *All Credit Extensions*. At the time of each Credit Extension (other than the initial Credit Extension on the Closing Date) under the Revolving Facility hereunder:

(a) each of the representations and warranties set forth herein and in the other Loan Documents shall be and remain true and correct in all material respects (or in all respects, if qualified by a materiality threshold) as of said time, except to the extent the same expressly relate to an earlier date;

(b) no Default or Event of Default shall have occurred and be continuing or would occur as a result of such Credit Extension;

(c) after giving effect to any requested extension of credit, the aggregate principal amount of all Revolving Loans, Swing Loans and L/C Obligations under this Agreement shall not exceed the aggregate Revolving Credit Commitments;

(d) in the case of a Borrowing, the Administrative Agent shall have received the notice required by Section 2.5 hereof, in the case of the issuance of any Letter of Credit the L/C Issuer shall have received a duly completed Application, and, in the case of an extension or increase in the amount of a Letter of Credit, a written request therefor in a form reasonably acceptable to the L/C Issuer; and

(e) such Credit Extension shall not violate any Applicable Law with respect to the Administrative Agent or any Lender (including, without limitation, Regulation U of the Board of Governors of the Federal Reserve System) as then in effect; *provided* that, any such Applicable Law shall not entitle any Lender that is not affected thereby to not honor its obligation hereunder to advance, continue or convert any Loan or, in the case of the L/C Issuer, to extend the expiration date of or increase the amount of any Letter of Credit hereunder.

Each request for a Borrowing hereunder and each request for the issuance of, increase in the amount of, or extension of the expiration date of, a Letter of Credit shall be deemed to be a representation and warranty by the Borrower on the date of such Credit Extension as to the facts specified in subsections (a) through (d), both inclusive, of this Section.

Section 3.2. *Initial Credit Extension*. The obligations of the L/C Issuer and each Lender to make their respective initial Credit Extensions hereunder are subject solely to the satisfaction or waiver of the following conditions precedent:

(a) subject in all respects to the final paragraph of this Section 3.2, the Administrative Agent shall have received each of the following, each of which shall be originals or facsimiles (or delivered by other electronic transmission, including .pdf) unless otherwise specified:

---

(i) a counterpart of this Agreement signed on behalf of the Borrower;

(ii) copies of the certificate of formation, certificate of organization, operating agreement, articles of incorporation and bylaws, as applicable (or comparable organizational documents) of each Loan Party and any amendments thereto, certified in each instance by its Secretary, Assistant Secretary or Chief Financial Officer and, with respect to organizational documents filed with a Governmental Authority, by the applicable Governmental Authority;

(iii) copies of resolutions of the board of directors (or similar governing body) of each Loan Party approving and authorizing the execution, delivery and performance of the Loan Documents to which it is a party, together with specimen signatures of the persons authorized to execute such documents on each Loan Party’s behalf, all certified as of the Closing Date in each instance by its Secretary, Assistant Secretary or Chief Financial Officer as being in full force and effect without modification or amendment;

(iv) copies of the certificates of good standing (if available) for each Loan Party from the office of the secretary of state or other appropriate governmental department or agency of the state of its formation, incorporation or organization, as applicable;

(v) a list of the Borrower’s Authorized Representatives;

(vi) (A) a favorable written opinion (addressed to the Administrative Agent and the Lenders) of Weil, Gotshal & Manges LLP, special counsel to the Loan Parties and (B) a favorable written opinion (addressed to the Administrative Agent and the Lenders) of Cunningham, Blackburn, Francis, Brock & Cunningham, local counsel to National Processing Company in the state of Nebraska in each case in form and substance reasonably satisfactory to the Administrative Agent;

(vii) an executed Solvency Certificate signed on behalf of the Borrower, dated the date hereof;

(viii) the Intercreditor Agreement, executed and delivered by the Borrower and Credit Suisse, AG, Cayman Islands Branch;

(ix) the Guaranty, duly executed by the Loan Parties;

(x) the Security Agreement, duly executed by each Loan Party, together with:

(A) the certificates representing the shares of Equity Interests required to be pledged by any Loan Party pursuant to the Security Agreement, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof,

---

(B) each promissory note (if any) required to be pledged to the Collateral Agent by any Loan Party pursuant to the Security Agreement, endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof; and

(C) proper financing statements in form appropriate for filing under the UCC of all jurisdictions that the Administrative Agent may deem reasonably necessary in order to perfect the Liens created under the Security Agreement, covering the Collateral of the Loan Parties;

(xi) the Intellectual Property Security Agreements, duly executed by each Loan Party party thereto;

(xii) evidence of the existence of insurance required to be maintained by the Borrower and its Restricted Subsidiaries pursuant to Section 6.3(a), together with certificates of insurance and endorsements naming the Administrative Agent, on behalf of the Lenders, as an additional insured or loss payee, as the case may be, under all such insurance policies maintained with respect to the assets and properties of the Loan Parties that constitute Collateral; provided that with respect to any insurance certificate or endorsement that may not be provided prior to the Closing Date after use of commercially reasonable efforts to do so, then delivery of such certificate or endorsement shall not constitute a condition precedent to the initial Loans on the Closing Date (but shall be required to be delivered as promptly as practicable after the Closing Date and in any event within the period specified therefor in Schedule 6.25 or such later date as the Administrative Agent may reasonably agree); and

(xiii) a true and complete copy of the Acquisition Agreement as in effect on the Closing Date;

(b) The condition in Section 3.01(a) of the Acquisition Agreement (but only with respect to representations and warranties that are material to the interests of the Lenders, and only to the extent that the accuracy of such representation or warranty is a condition of the Borrower's obligation to close under the Acquisition Agreement or the Borrower has (or the Borrower's Affiliates have) the right to terminate the Borrower's (or its Affiliate's) obligations under the Acquisition Agreement as a result of a breach of such representations and warranties in the Acquisition Agreement) shall be satisfied;

(c) the representations and warranties of the Borrower set forth in Sections 5.1(a) and (a), Section 5.2(i), Section 5.3, Section 5.7(a), Section 5.13, Section 5.20, Section 5.21(b) and Section 5.22 shall be true and correct in all material respects on and as of the Closing Date (except for any such representations and warranties expressly relating to an earlier date, which representations and warranties shall be true and correct in all material respects as of such earlier date);

(d) the NPC Acquisition shall have been or, substantially concurrently with the making of the Borrowings hereunder on the Closing Date shall be, consummated, in

---

accordance with the terms of the Acquisition Agreement (but without giving effect to any alterations, amendments, modifications, supplements, waivers or consents by the Borrower, or updated disclosure schedules delivered to the Borrower, that are, individually or in the aggregate, materially adverse to the Joint Lead Arrangers without their reasonable consent); *provided* that any updated disclosure schedules delivered to the Borrower shall not be deemed to be materially adverse to the Joint Lead Arrangers unless such updated disclosure schedules, together with all previous alterations, modifications, amendments, supplements, waivers and consents (whether or not consented to by the Joint Lead Arrangers), would result in a termination right under Section 6.06 of the Acquisition Agreement; *provided further* that (x) any reduction in the acquisition consideration by more than 10% shall be deemed to be materially adverse and (y) any reduction in the acquisition consideration of less than or equal to 10% shall reduce, on a dollar for dollar basis, the aggregate amount of the Facilities under this Agreement and Second Lien Loan Agreement (with allocations across the facilities as agreed by the Joint Lead Arrangers and the Borrower);

(e) the Borrower shall have repaid, or substantially concurrently with the making of the Borrowings hereunder on the Closing Date shall repay, all amounts outstanding under the Existing Loan Agreement, all commitments thereunder shall have been, or substantially concurrently with the making of the Borrowings hereunder on the Closing Date shall be, terminated and all guarantees thereof and security therefor discharged and released;

(f) Target shall have repaid, or substantially concurrently with the making of the Borrowings hereunder on the Closing Date shall repay, all amounts outstanding under the Existing NPC Credit Agreements, all commitments thereunder shall have been, or substantially concurrently with the making of the Borrowings hereunder on the Closing Date shall be, terminated and all guarantees thereof and security therefor discharged and released;

(g) after giving effect to the NPC Acquisition and the financing contemplated hereby, the Borrower and its Subsidiaries shall have no material Indebtedness for borrowed money other than (a) pursuant to this Agreement and the Second Lien Loan Agreement and (b) Indebtedness

listed on Schedule 6.14;

(h) since June 30, 2010, a Closing Date Material Adverse Effect shall not have occurred;

(i) the Administrative Agent shall have received all documentation and other information about the Loan Parties as shall have been reasonably requested in writing at least five Business Days prior to the Closing Date by the Administrative Agent that the Administrative Agent shall have reasonably determined is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the Patriot Act;

(j) the Administrative Agent shall have received (a)(i) audited consolidated balance sheets of the Borrower for the two most recently completed fiscal years of the

---

Borrower, (ii) audited consolidated statements of income and cash flows of the Borrower for the three most recently completed fiscal years of the Borrower, (iii) audited consolidated statements of stockholders' equity of the Borrower for the six months ended December 31, 2009 and the one month ended June 30, 2009 and (iv) audited consolidated balance sheets and related statements of income, stockholders' equity and cash flows of the Target for the three most recently completed fiscal years of the Target, in each case, ended at least 90 days before the Closing Date (together, the *"Audited Financial Statements"*), (b) unaudited consolidated balance sheets and related statements of income and cash flows of the Borrower and the Target for each subsequent fiscal quarter ended at least 45 days before the Closing Date and (c) a pro forma consolidated balance sheet and related pro forma consolidated statement of income of the Borrower as of and for the four-fiscal quarter period most recently ended pursuant to paragraph (a) or (b) above, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of such other financial statements);

(k) the Administrative Agent shall have received all fees, other payments and expenses previously agreed in writing by the Borrower to be due and payable on or prior to the Closing Date, including, to the extent invoiced at least two Business Days prior to the Closing Date (or such later date as the Borrower may reasonably agree), reimbursement or payment of all out-of-pocket expenses (including reasonable fees, charges and disbursements of counsel) required to be reimbursed or paid by any Loan Party under any Loan Document;

(l) subject in all respects to the final paragraph of this Section 3.2, all other actions not identified in paragraph (a) above that are necessary to establish that the Collateral Agent (for the benefit of the Secured Parties) will have a perfected Lien (subject to Permitted Liens and Liens (as defined in the Second Lien Loan Agreement) permitted under the Second Lien Loan Agreement, respectively) on the Collateral shall have been taken;

(m) the Administrative Agent shall have received the results of a recent Lien search in each of the jurisdictions of organization of each Loan Party and each jurisdiction where material assets of the Loan Parties are located; *provided* that with respect to any searches that may not be completed prior to the Closing Date after use of commercially reasonable efforts to do so, then delivery of such search results shall not constitute a condition precedent to the availability of the initial Loans on the Closing Date (but shall be required to be delivered as promptly as practicable after the Closing Date and in any event within the period specified therefor in Schedule 6.25 or such later date as the Administrative Agent may reasonably agree); and

(n) the Second Lien Loan Documents shall have been executed or, substantially concurrently with the making of the Borrowings hereunder on the Closing Date shall be consummated, in accordance with the terms and conditions thereof.

For purposes of determining compliance with the conditions specified in this Section 3.2, each Lender that has signed this Agreement shall be deemed to have consented to, approved or

---

accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

Notwithstanding anything to the contrary in this Section 3.2, to the extent that any Collateral required to be provided or perfected hereunder is not provided or perfected on the Closing Date after the Borrower's use of commercially reasonable efforts to do so, then the satisfaction of such requirements (other than the granting of any Lien on Collateral which may be perfected solely by the filing of a UCC financing statement or the pledge of the capital stock of the Borrower and the Guarantors) shall not be a condition precedent to the availability of the initial Loans on the Closing Date (but shall be required to be satisfied as promptly as practicable after the Closing Date and in any event within the period specified therefor in Schedule 6.25 or such later date as the Administrative Agent may reasonably agree).

SECTION 4. THE COLLATERAL AND THE GUARANTY.

Section 4.1. *Collateral*. The Obligations, Hedging Liability, and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations shall be secured by (a) valid, perfected, and enforceable Liens on all right, title, and interest of Holdco, the Borrower and each Restricted Subsidiary (other than an Excluded Subsidiary) in all capital stock and other Equity Interests (other than Excluded Equity Interests) held by such Person in each of its Subsidiaries, whether now owned or hereafter formed or acquired, and all proceeds thereof, and (b) valid, perfected, and enforceable Liens on all right, title, and interest of Holdco, the Borrower and each Restricted Subsidiary (other than an Excluded Subsidiary) in all personal property and fixtures, whether now owned or hereafter acquired or arising, and all proceeds thereof (other than Excluded Property).

Section 4.2. *Liens on Real Property*. In the event that the Borrower or any Restricted Subsidiary (other than an Excluded Subsidiary) owns or hereafter acquires real property having a fair market value in excess of $5,000,000 in the aggregate (other than any Excluded Property), within 90 days of the Closing Date or the acquisition thereof (or such longer period as to which the Administrative Agent may consent), the Borrower shall, or shall cause such Restricted Subsidiary to, execute and deliver to the Administrative Agent (or a security trustee therefor) a mortgage or deed of trust reasonably acceptable in form and substance to the Administrative Agent for the purpose of granting to the Administrative Agent a Lien on such real property to secure the

Obligations, Hedging Liability, and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations and shall pay all taxes and reasonable costs and expenses incurred by the Administrative Agent in recording such mortgage or deed of trust.

Section 4.3. *Guaranty*. The payment and performance of the Obligations, Hedging Liability, and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations shall at all times be guaranteed by Holdco and each Restricted Subsidiary (other than an Excluded Subsidiary) (each, a *"Guarantor"* and, collectively, the *"Guarantors"*) pursuant to a guaranty agreement in substantially the form attached as Exhibit K, as the same may be amended, restated, amended and restated, modified or supplemented from time to time (the *"Guaranty"*). If all of the Equity Interests of any Guarantor or any of its successors in interest

---

hereunder shall be sold or otherwise disposed of (including by merger or consolidation) in accordance with the terms and conditions hereof, the Guaranty of such Guarantor or such successor in interest, as the case may be, hereunder shall automatically be discharged and released without any further action by any Person effective as of the time of such sale or disposal.

Section 4.4. *Further Assurances*. The Borrower agrees that it shall, and shall cause each Restricted Subsidiary (other than any Excluded Subsidiary) to, from time to time at the request of the Administrative Agent or the Required Lenders, execute and deliver such documents and do such acts and things as the Administrative Agent or the Required Lenders may reasonably request in order to provide for or perfect or protect such Liens on the Collateral. In the event the Borrower or any Restricted Subsidiary forms or acquires any other Restricted Subsidiary (other than an Excluded Subsidiary) after the date hereof, on or prior to the later to occur of (a) 30 days following the date of such acquisition or formation and (ii) the date of the required delivery of the Compliance Certificate following the date of such acquisition or formation (or such longer period as to which the Administrative Agent may consent), the Borrower shall cause such newly formed or acquired Restricted Subsidiary to execute such Collateral Documents (or supplements, assumptions or amendments to existing Collateral Documents) as the Administrative Agent may then require, and the Borrower shall also deliver to the Administrative Agent, or cause such Restricted Subsidiary to deliver to the Administrative Agent, at the Borrower's cost and expense, such other instruments, documents, certificates, and opinions reasonably required by the Administrative Agent in connection therewith; *provided* that no foreign law security or pledge agreements and no control agreements shall be required.

Section 4.5. *Limitation on Collateral*. Notwithstanding anything to the contrary in Sections 4.1 through 4.4 or any other Collateral Document (a) the Administrative Agent shall not require the taking of a Lien on, or require the perfection of any Lien granted in, those assets as to which the cost of obtaining or perfecting such Lien (including any mortgage, stamp, intangibles or other tax or expenses relating to such Lien) is excessive in relation to the benefit to the Lenders of the security afforded thereby as reasonably determined by the Borrower and the Administrative Agent and (b) Liens required to be granted pursuant to Section 4.4 shall be subject to exceptions and limitations consistent with those set forth in the Collateral Documents as in effect on the Closing Date (to the extent appropriate in the applicable jurisdiction).

SECTION 5. REPRESENTATIONS AND WARRANTIES.

The Borrower represents and warrants to each Lender and the Administrative Agent that:

Section 5.1. *Financial Statements*. i. The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein and (ii) fairly present in all material respects in accordance with GAAP the financial condition of the Borrower and its Restricted Subsidiaries as of such dates and for such periods and their results of operations for the period covered thereby.

(a) The unaudited consolidated balance sheet and related statements of income and cash flows of the Borrower and the Target (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted

---

therein, and (ii) fairly present in all material respects in accordance with GAAP the financial condition of the Borrower and its Restricted Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.

(b) The Lenders have been furnished the consolidated pro forma balance sheet of the Borrower and its Restricted Subsidiaries as at June 30, 2010, and the related consolidated pro forma statement of income of the Borrower as of and for the twelve-month period then ended (such pro forma balance sheet and statement of income, the "*Pro Forma Financial Statements*"), which have been prepared giving effect to the Transactions (excluding the impact of purchase accounting effects required by GAAP) as if such transactions had occurred on such date or at the beginning of such period, as the case may be. The Pro Forma Financial Statements have been prepared in good faith, based on assumptions believed by the Borrower to be reasonable as of the date of delivery thereof, and present fairly in all material respects on a pro forma basis and in accordance with GAAP the estimated financial position of the Borrower and its Restricted Subsidiaries as at June 30, 2010, and their estimated results of operations for the periods covered thereby, assuming that the Transactions had actually occurred at such date or at the beginning of such period (excluding the impact of purchase accounting effects required by GAAP), it being understood that the projections and estimates contained in such Pro Forma Financial Statements are subject to uncertainties and contingencies, many of which are beyond the control of the Borrower, that actual results may vary from projected results and such variances may be material and that the Borrower makes no representation as to the attainability of such projections or as to whether such projections will be achieved or will materialize.

Section 5.2. *Organization and Qualification*. The Borrower and each of its Restricted Subsidiaries (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (ii) has the power and authority to own its property and to transact the business in which it is engaged and proposes to engage, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, and (iii) is duly qualified and in good standing in each jurisdiction where the ownership, leasing or operation of property or the conduct of its business requires such qualification, except, in each case, under this clause (iii) where the same could not be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect.

Section 5.3. *Authority and Enforceability*. The Borrower has the power and authority to enter into this Agreement and the other Loan Documents executed by it, to make the borrowings herein provided for, to issue its Notes (if any), to grant to the Administrative Agent the Liens described in the Collateral Documents executed by the Borrower, and to perform all of its obligations hereunder and under the other Loan Documents executed by it.

Each other Loan Party has the power and authority to enter into the Loan Documents executed by it, to grant to the Administrative Agent the Liens described in the Collateral Documents executed by such Person, and to perform all of its obligations under the Loan Documents executed by it. The Loan Documents delivered by the Loan Parties have been duly authorized by proper corporate and/or other organizational proceedings, executed, and delivered by such Person and constitute valid and binding obligations of such Person enforceable against it in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or similar laws affecting creditors' rights generally and general principles of equity (regardless of

---

whether the application of such principles is considered in a proceeding in equity or at law); and this Agreement and the other Loan Documents do not, nor does the performance or observance by any Loan Party, if any, of any of the matters and things herein or therein provided for, (a) violate any provision of law or any judgment, injunction, order or decree binding upon any Loan Party, (b) contravene or constitute a default under any provision of the organizational documents (e.g., charter, articles of incorporation, by-laws, articles of association, operating agreement, partnership agreement or other similar document) of any Loan Party, (c) contravene or constitute a default under any covenant, indenture or agreement of or affecting any Loan Party or any of its Property, or (d) result in the creation or imposition of any Lien on any Property of any Loan Party other than the Liens granted in favor of the Administrative Agent pursuant to the Collateral Documents and Permitted Liens, except with respect to paragraphs (a), (c) or (d), to the extent, individually or in the aggregate, that such violation, contravention, breach, conflict, default or creation or imposition of any Lien could not reasonably be expected to result in a Material Adverse Effect.

Section 5.4. *No Material Adverse Change*. Since the Closing Date, there has been no event or circumstance which individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

Section 5.5. *Litigation and Other Controversies*. There is no litigation, arbitration or governmental proceeding pending or, to the knowledge of the Borrower and its Subsidiaries, threatened against the Borrower or any of its Subsidiaries that could reasonably be expected to have a Material Adverse Effect.

Section 5.6. *True and Complete Disclosure*. As of the Closing Date, all information (other than projections or any other forward-looking information and any information of a general economic or industry-specific nature) furnished by or on behalf of the Borrower or any of its Restricted Subsidiaries in writing to the Administrative Agent, the L/C Issuer or any Lender for purposes of or in connection with this Agreement, or any transaction contemplated herein, is true and accurate in all material respects and not incomplete by omitting to state any fact necessary to make such information (taken as a whole) not misleading in light of the circumstances under which such information was provided; *provided* that, with respect to projected financial information furnished by or on behalf of the Borrower or any of its Restricted Subsidiaries, the Borrower only represents and warrants that such information is prepared in good faith based upon assumptions believed to be reasonable at the time (it being understood that such projections are subject to uncertainties and contingencies, many of which are beyond the control of the Borrower, that actual results may vary from projected results and such variances may be material and that the Borrower makes no representation as to the attainability of such projections or as to whether such projections will be achieved or will materialize).

Section 5.7. *Use of Proceeds; Margin Stock*. ii. No proceeds of the Term B Loans have been used for any purpose other than to finance a portion of the NPC Acquisition, to consummate the Refinancing, to refinance certain indebtedness and hedging obligations of the Target and its subsidiaries or to pay fees, other payments and expenses related to the Transactions and related transactions (including any funding of discount and upfront fees and other payments). No proceeds of the Revolving Loans and Swing Loans have been used for any purpose other than (i) on the Closing Date, in an aggregate principal amount of up to $50

---

million, to consummate the Refinancing, to refinance certain indebtedness and hedging obligations of the Target and its subsidiaries, to pay fees, other payments and expenses related to the Transactions and related transactions (including any funding of discount and upfront fees and other payments) or for seasonal working capital and variations from projected working capital at the closing of the NPC Acquisition and (ii) after the Closing Date, to finance the working capital needs and other general corporate purposes of the Borrower and its Subsidiaries, or for any other purpose (other than the making of "non ordinary course dividends," which term shall be deemed to exclude, without limitation, dividends and other Distributions permitted under Sections 6.18(a), (b), (c), (d), (e), (g) and (h)) not prohibited by the Loan Documents.

(a) No part of the proceeds of any Loan or other extension of credit hereunder will be used by the Borrower or any Restricted Subsidiary thereof to purchase or carry any margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System, *"Margin Stock"*) or to extend credit to others for the purpose of purchasing or carrying any margin stock. Neither the making of any Loan or other extension of credit hereunder nor the use of the proceeds thereof will violate or be inconsistent with the provisions of Regulations T, U or X of the Board of Governors of the Federal Reserve System and any successor to all or any portion of such regulations. Margin Stock constitutes less than 25% of the value of those assets of the Borrower and its Restricted Subsidiaries that are subject to any limitation on sale, pledge or other restriction hereunder.

Section 5.8. *Taxes*. The Borrower and each of its Subsidiaries has filed or caused to be filed all tax returns required to be filed by the Borrower and/or any of its Subsidiaries, except where failure to so file could not be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect. The Borrower and each of its Subsidiaries has paid all taxes, assessments and other governmental charges payable by them (other than taxes, assessments and other governmental charges which are not delinquent), except those (a) not overdue by more than thirty (30) days or (b) if more than 30 days overdue, (i) those that are being contested in good faith and by proper legal proceedings and as to which appropriate reserves have been provided for in accordance with GAAP or (ii) those the non-payment of which could not be reasonably expected to result in a Material Adverse Effect.

Section 5.9. *ERISA*. The Borrower and each other member of its Controlled Group has fulfilled its obligations under the minimum funding standards of, and is in compliance in all material respects with, ERISA and the Code to the extent applicable to it and, other than a liability for premiums under Section 4007 of ERISA, has not incurred any liability to the PBGC or a Plan, except where the failure, noncompliance or incurrence of such could not be reasonably expected, individually or in the aggregate, to have a Material Adverse Effect. The Borrower and its Subsidiaries have no contingent liabilities with respect to any post-retirement benefits under a Welfare Plan, other than liability for continuation coverage described in article 6 of Title 1 of ERISA, and except as could not be reasonably expected to have a Material Adverse Effect.

Section 5.10. *Subsidiaries*. Schedule 5.10 correctly sets forth, as of the Closing Date, each Subsidiary of the Borrower, its respective jurisdiction of organization and the percentage ownership (whether directly or indirectly) of the Borrower in each class of capital stock or other Equity

Interests of each of its Subsidiaries and also identifies the direct owner

thereof.  As of the Closing Date, all of the Subsidiaries of the Borrower will be Restricted Subsidiaries.

Section 5.11. *Compliance with Laws*.  The Borrower and each of its Restricted Subsidiaries is in compliance with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all Governmental Authority in respect of the conduct of their businesses and the ownership of their property, except such noncompliances as could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

Section 5.12. *Environmental Matters*.  The Borrower and each of its Subsidiaries is in compliance with all applicable Environmental Laws and the requirements of any permits issued under such Environmental Laws, except to the extent that the aggregate effect of all noncompliances could not reasonably be expected to have a Material Adverse Effect.  There are no pending or, to the knowledge of the Borrower and its Subsidiaries, threatened Environmental Claims, including any such claims (regardless of materiality) for liabilities under CERCLA relating to the disposal of Hazardous Materials, against the Borrower or any of its Subsidiaries or any real property, including leaseholds, owned or operated by the Borrower or any of its Subsidiaries, except such claims as could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.  Except as could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect, there are no facts, circumstances, conditions or occurrences on any real property, including leaseholds, owned or operated by the Borrower or any of its Subsidiaries that, to the knowledge of the Borrower and its Subsidiaries, could reasonably be expected (i) to form the basis of an Environmental Claim against the Borrower or any of its Subsidiaries or any such real property, or (ii) to cause any such real property to be subject to any restrictions on the ownership, occupancy, use or transferability of such real property by the Borrower or any of its Subsidiaries under any applicable Environmental Law.  To the knowledge of the Borrower, Hazardous Materials have not been Released on or from any real property, including leaseholds, owned or operated by the Borrower or any of its Subsidiaries where such Release, individually, or when combined with other Releases, in the aggregate, may reasonably be expected to have a Material Adverse Effect.

Section 5.13. *Investment Company*.  Neither the Borrower nor any Restricted Subsidiary is an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

Section 5.14. *Intellectual Property*.  The Borrower and each of its Restricted Subsidiaries own all the patents, trademarks, service marks, trade names, copyrights, trade secrets, know-how or other intellectual property rights, or each has obtained licenses or other rights of whatever nature necessary for the present conduct of its businesses, in each case without any known conflict with the rights of others which, or the failure to obtain which, as the case may be, could reasonably be expected to result in a Material Adverse Effect.

Section 5.15. *Good Title*.  The Borrower and its Restricted Subsidiaries have good and indefeasible title, or valid leasehold interests, to their material properties and assets as reflected on the Borrower's most recent consolidated balance sheet provided to the Administrative Agent (except for sales of assets in the ordinary course of business, and such

defects in title that could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect) and is subject to no Liens, other than Permitted Liens.

Section 5.16. *Labor Relations*.  Neither the Borrower nor any of its Restricted Subsidiaries is engaged in any unfair labor practice that could reasonably be expected to have a Material Adverse Effect.  There is (i) no strike, labor dispute, slowdown or stoppage pending against the Borrower or any of its Restricted Subsidiaries or, to the knowledge of the Borrower and its Restricted Subsidiaries, threatened against the Borrower or any of its Restricted Subsidiaries and (ii) to the knowledge of the Borrower and its Restricted Subsidiaries, no union representation proceeding is pending with respect to the employees of the Borrower or any of its Restricted Subsidiaries and no union organizing activities are taking place, except (with respect to any matter specified in clause (i) or (ii) above, either individually or in the aggregate) such as could not reasonably be expected to have a Material Adverse Effect.

Section 5.17. *Capitalization*.  Except as set forth on Schedule 5.17, all outstanding Equity Interests of the Borrower and its Restricted Subsidiaries have been duly authorized and validly issued, and, to the extent applicable, are fully paid and nonassessable, and as of the Closing Date there are no outstanding commitments or other obligations of any Restricted Subsidiary to issue, and no rights of any Person to acquire, any Equity Interests in any Restricted Subsidiary.

Section 5.18. *Governmental Authority and Licensing*.  The Borrower and its Restricted Subsidiaries have received all licenses, permits, and approvals of each Governmental Authority necessary to conduct their businesses, in each case where the failure to obtain or maintain the same could reasonably be expected to have a Material Adverse Effect.  No investigation or proceeding that could reasonably be expected to result in revocation or denial of any license, permit or approval is pending or, to the knowledge of the Borrower, threatened, except where such revocation or denial could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

Section 5.19. *Approvals*.  No authorization, consent, license or exemption from, or filing or registration with, any Governmental Authority, nor any approval or consent of any other Person, is or will be necessary to the valid execution, delivery or performance by the Borrower or any other Loan Party of any Loan Document, except (a) for such approvals which have been obtained prior to the date of this Agreement and remain in full force and effect, (b) filings necessary to perfect Liens created by the Loan Documents and (c) consents, approvals, registrations, filings, permits or actions the failure to obtain or perform which could not be reasonably expected to have a Material Adverse Effect.

Section 5.20. *Solvency*.  As of the Closing Date, the Borrower and its Subsidiaries, on a consolidated basis after giving effect to the Transactions, are solvent, able to pay their debts as they become due, and have sufficient capital to carry on their business as currently conducted and all businesses in which they are about to engage.

Section 5.21. *Foreign Assets Control Regulations and Anti-Money Laundering.*

(a) *OFAC*. Neither Borrower nor any of its Restricted Subsidiaries is (i) a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Party and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) a person who engages in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise associated with any such person in any manner violative of Section 2, or (iii) a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other U.S. Department of Treasury's Office of Foreign Assets Control regulation or executive order.

(b) *Patriot Act*. The Borrower and its Restricted Subsidiaries are in compliance, in all material respects, with the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the *"Patriot Act"*). No part of the proceeds of the Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

Section 5.22. *Senior Indebtedness*. The Obligations constitute "Senior Indebtedness" of the Borrower under and as defined in the Intercreditor Agreement. The obligations of each Guarantor under the Guaranty constitute "Guarantor Senior Indebtedness" of such Guarantor under and as defined in the Intercreditor Agreement.

SECTION 6. COVENANTS.

The Borrower covenants and agrees that, so long as any Loan or other Obligation hereunder shall remain unpaid or unsatisfied (other than any contingent indemnity obligations):

Section 6.1. *Information Covenants*. The Borrower will furnish to the Administrative Agent (for delivery to the Lenders):

(a) *Quarterly Reports*. Within 45 days after the end of each fiscal quarter of the Borrower not corresponding with the fiscal year end, commencing with the first full fiscal quarter of the Borrower ending after the Closing Date, the Borrower's consolidated balance sheet as at the end of such fiscal quarter and the related consolidated statements of income and retained earnings and of cash flows for such fiscal quarter and for the elapsed portion of the fiscal year-to-date period then ended, each in reasonable detail, prepared by the Borrower in accordance with GAAP, and starting with the first full fiscal quarter after the first anniversary of the Closing Date setting forth comparative figures for the corresponding fiscal quarter in the prior fiscal year, all of which shall be certified by the chief financial officer or other financial or accounting officer of the Borrower that they fairly present in all material respects in accordance with GAAP the financial condition of the Borrower and its Restricted Subsidiaries as of the dates indicated and the results of their operations and changes in their cash flows for the periods indicated, subject to normal year-end audit adjustments and the absence of footnotes.

---

(b) *Annual Statements*. Within 100 days after the close of each fiscal year of the Borrower (commencing with the fiscal year ending December 31, 2010), a copy of the Borrower's consolidated balance sheet as of the last day of the fiscal year then ended and the Borrower's consolidated statements of income, retained earnings, and cash flows for the fiscal year then ended, and accompanying notes thereto, each in reasonable detail and starting with the first full fiscal year after the first anniversary of the Closing Date showing in comparative form the figures for the previous fiscal year, accompanied by an unqualified opinion of a firm of independent public accountants of recognized national standing, selected by the Borrower, to the effect that the consolidated financial statements have been prepared in accordance with GAAP and present fairly in accordance with GAAP the consolidated financial condition of the Borrower and its Restricted Subsidiaries as of the close of such fiscal year and the results of their operations and cash flows for the fiscal year then ended and that an examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards. Notwithstanding the foregoing, for the fiscal year ending December 31, 2010, the financial statements delivered under this paragraph (b) need only cover the period from and after the Closing Date through and including December 31, 2010.

(c) *Annual Budget*. Within 45 days after the commencement of each fiscal year of the Borrower, a detailed consolidated budget for the Borrower and its Restricted Subsidiaries for such fiscal year (including a projected consolidated balance sheet and consolidated statements of projected operations, comprehensive income and cash flows as of the end of and for such fiscal year and setting forth the material assumptions used for purposes of preparing such budget).

(d) *Management Discussion and Analysis*. Within 45 days after the close of each of the first three fiscal quarters, a management discussion and analysis of the Borrower's and its Restricted Subsidiaries' financial performance for that fiscal quarter and a comparison of financial performance for that financial quarter to the corresponding fiscal quarter of the previous fiscal year (in form reasonably acceptable to the Administrative Agent, which shall not be unacceptable solely because it does not contain all of the information required to be included in unaudited interim financial statements by Item 303 of Regulation S-K of the Securities Act of 1933, as amended). Within 100 days after the close of each fiscal year, a management discussion and analysis of each of the Borrower's and its Restricted Subsidiaries' financial performance for that fiscal year and a comparison of financial performance for that fiscal year to the prior year.

(e) *Compliance Certificate*. At the time of the delivery of the financial statements provided for in Sections 6.1(a) and (b), a certificate of the chief financial officer or other financial or accounting officer of the Borrower substantially in the form of Exhibit F (x) stating no Default or Event of Default has occurred and is then continuing or, if a Default or Event of Default exists, a detailed description of the Default or Event of Default and all actions the Borrower is taking with respect to such Default or Event of Default, and (y) showing the Borrower's compliance with the covenants set forth in Section 6.22.

---

(f) *Notice of Default or Litigation*. Promptly after any senior executive officer of the Borrower obtains knowledge thereof, notice of (i) the occurrence of any event which constitutes a Default or an Event of Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Borrower proposes to take with respect thereto, (ii) the commencement of, or threat in writing of, or any

significant development in, any litigation, labor controversy, arbitration or governmental proceeding pending against the Borrower or any of its Restricted Subsidiaries which would reasonably be expected to result in a Material Adverse Effect.

(g) *Other Reports and Filings*. To the extent not required by any other paragraph in this Section 6.1, promptly, copies of all financial information, proxy materials and other material information which the Borrower or any of its Restricted Subsidiaries has delivered to holders of, or to any agent or trustee with respect to, Indebtedness of the Borrower or any of its Subsidiaries in their capacity as such a holder, agent or trustee to the extent that the aggregate principal amount of such Indebtedness exceeds (or upon the utilization of any unused commitments may exceed) $15,000,000.

(h) *Pro Forma Adjustment Certificate*. On or before the date on which a Pro Forma Adjustment is made, a certificate of an officer of the Borrower in form reasonably acceptable to the Administrative Agent setting forth the amount of such Pro Forma Adjustment and, in reasonable detail, the calculations and basis therefor, which certificate shall, in the case of any Pro Forma Adjustment made as a result of any Permitted Acquisition equal to or greater than $30,000,000, be accompanied by financial statements for such acquired business for each fiscal quarter ending during the relevant period, to the extent available.

(i) *Environmental Matters*. Promptly after any senior executive officer of the Borrower obtains knowledge thereof, notice of one or more of the following environmental matters which individually, or in the aggregate, may reasonably be expected to have a Material Adverse Effect: (i) any notice of an Environmental Claim against the Borrower or any of its Subsidiaries or any real property owned or operated by the Borrower or any of its Subsidiaries; (ii) any condition or occurrence on or arising from any real property owned or operated by the Borrower or any of its Subsidiaries that (a) results in noncompliance by the Borrower or any of its Subsidiaries with any applicable Environmental Law or (b) could reasonably be expected to form the basis of an Environmental Claim against the Borrower or any of its Subsidiaries or any such real property; (iii) any condition or occurrence on any real property owned or operated by the Borrower or any of its Subsidiaries that could reasonably be expected to cause such real property to be subject to any restrictions on the ownership, occupancy, use or transferability by the Borrower or any of its Subsidiaries of such real property under any Environmental Law; and (iv) any removal or remedial actions to be taken in response to the actual or alleged presence of any Hazardous Material on any real property owned or operated by the Borrower or any of its Subsidiaries as required by any Environmental Law or any Governmental Authority. All such notices shall describe in reasonable detail the nature of the claim, investigation, condition, occurrence or removal or remedial action and the Borrower's or such Subsidiary's response thereto. In addition, the Borrower agrees to provide the Lenders with copies of all material non-privileged written

---

communications by the Borrower or any of its Subsidiaries with any Person or Governmental Authority relating to any of the matters set forth in clauses (i)-(iv) above, and such detailed reports relating to any of the matters set forth in clauses (i)-(iv) above as may reasonably be requested by the Administrative Agent or the Required Lenders.

(j) *Other Information*. From time to time, such other information or documents (financial or otherwise) as the Administrative Agent or any Lender (through the Administrative Agent) may reasonably request; *provided* that, the Administrative Agent and any Lender (through the Administrative Agent) may request such information in their respective capacities as Administrative Agent and Lender only and may not use such information for any purpose other than a purpose reasonably related to its capacity as Administrative Agent or Lender, as applicable.

Information and documents required to be delivered pursuant to this Section 6.1 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address provided to the Administrative Agent or on an Intralinks or similar site to which the Lenders have been granted access; or (ii) on which such documents are transmitted by electronic mail to the Administrative Agent.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 6.1 may be satisfied with respect to financial information of the Borrower and its Subsidiaries by furnishing (A) the applicable financial statements of any direct or indirect parent of the Borrower or (B) the Borrower's (or any direct or indirect parent thereof), as applicable, Form 10-K or 10-Q, as applicable, filed with the Securities and Exchange Commission.

Section 6.2. *Inspections*. The Borrower will, and will cause each Restricted Subsidiary to, permit officers, designated representatives and agents of the Administrative Agent (or any Lender solely if accompanying the Administrative Agent), to visit and inspect any Property of the Borrower or such Restricted Subsidiary, and to examine the books of account of the Borrower or such Restricted Subsidiary and discuss the affairs, finances and accounts of the Borrower or such Restricted Subsidiary with its and their officers and independent accountants, all at such reasonable times as the Administrative Agent may request; *provided* that, (i) prior written notice of any such visit, inspection or examination shall be provided to the Borrower and such visit, inspection or examination shall be performed at reasonable times to be agreed to by the Borrower, which agreement will not be unreasonably withheld, (ii) excluding any such visits and inspections during the continuation of an Event of Default, the Administrative Agent shall not exercise its rights under this Section 6.2 more often than one time during any such fiscal year, the Borrower is not obligated to compensate the Administrative Agent for more than one inspection and examination by the Administrative Agent during any calendar year and any such compensation shall be subject to the limitations of Section 10.13, and (iii) the Administrative Agent may conduct inspections pursuant to this Section 6.2 in its respective capacity as Administrative Agent only and may not conduct inspections or utilize information from such inspections for any purpose other than a purpose reasonably related to its capacity as Administrative Agent. The Administrative Agent shall give the Borrower a reasonable opportunity to participate in any discussions with the Borrower's independent public accountants.

---

Section 6.3. *Maintenance of Property, Insurance, Environmental Matters, etc.*

(a) The Borrower will, and will cause each of its Subsidiaries to, (i) keep its property, plant and equipment in good repair, working order and condition, except (A) normal wear and tear and casualty and condemnation and (B) to the extent that failure to do so would not reasonably be expected to result in a Material Adverse Effect, and (ii) maintain in full force and effect with financially sound and reputable insurance companies insurance against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business of the Borrower and shall furnish to the Administrative Agent upon its reasonable request (but not more than twice per fiscal year in the absence of an Event of Default) reasonably detailed information as to the insurance so carried.

(b) Without limiting the generality of Section 6.3(a), the Borrower and its Subsidiaries: (i) shall comply with, and maintain all real property in compliance with, any applicable Environmental Laws; (ii) shall obtain and maintain in full force and effect all governmental approvals required for its operations at or on its properties by any applicable Environmental Laws; (iii) shall cure as soon as reasonably practicable any violation of applicable Environmental Laws with respect to any of its properties which individually or in the aggregate may reasonably be expected to have a Material Adverse Effect; (iv) shall not, and shall not permit any other Person to, own or operate on any of its properties any landfill or dump or hazardous waste treatment, storage or disposal facility as defined pursuant to the RCRA, or any comparable state law; and (v) shall not use, generate, treat, store, release or dispose of Hazardous Materials at or on any of the real property except in the ordinary course of its business and in compliance with all Environmental Laws; except, with respect to clauses (i), (ii), (iv) and (v), to the extent, either individually or in the aggregate, all of the same could not be reasonably expected to have a Material Adverse Effect. With respect to any Release of Hazardous Materials, the Borrower and its Restricted Subsidiaries shall conduct any necessary or required investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other response action necessary to remove, cleanup or abate any material quantity of Hazardous Materials released at or on any of its properties as required by any applicable Environmental Law.

Section 6.4. *Books and Records*. Each of Holdco and the Borrower will, and will cause each Restricted Subsidiary to, maintain proper books of record and account in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of Holdco, the Borrower or its Restricted Subsidiary, as the case may be.

Section 6.5. *Preservation of Existence*. The Borrower will, and will cause each of its Restricted Subsidiaries to, do or cause to be done, all things necessary to preserve and keep in full force and effect (a) its existence under the laws of its jurisdiction of organization and (b) its franchises, authority to do business, licenses, patents, trademarks, copyrights and other proprietary rights, except, in the case of clause (b) where the failure to do so would not reasonably be expected to have a Material Adverse Effect; *provided, however,* that nothing in this Section 6.5 shall prevent the Borrower or any Restricted Subsidiary from consummating any transaction permitted by Section 6.16.

---

Section 6.6. *Compliance with Laws*. The Borrower shall, and shall cause each Restricted Subsidiary to, comply in all respects with the requirements of all laws, rules, regulations, ordinances and orders applicable to its property or business operations of any Governmental Authority, where any such non-compliance, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect or result in a Lien upon any of its Property (other than a Permitted Lien).

Section 6.7. *ERISA*. The Borrower shall, and shall cause each Subsidiary to, promptly pay and discharge all obligations and liabilities arising under ERISA of a character which if unpaid or unperformed would reasonably be expected to have a Material Adverse Effect. The Borrower shall, and shall cause each Subsidiary to, promptly notify the Administrative Agent of: (a) the occurrence of any Reportable Event with respect to a Plan, (b) receipt of any notice from the PBGC of its intention to seek termination of any Plan or appointment of a trustee therefor and (c) its intention to terminate or withdraw from any Plan, in each case, except as could not reasonably be expected to have a Material Adverse Effect.

Section 6.8. *Payment of Taxes*. The Borrower will, and will cause each of its Restricted Subsidiaries to, pay and discharge, all material taxes, assessments, fees and other material governmental charges imposed upon it or any of its Property, before becoming delinquent and before any material penalties accrue thereon, unless and to the extent that (a) the same are being contested in good faith and by proper proceedings and as to which appropriate reserves are provided therefor, unless and until any material Lien resulting therefrom attaches to any of its Property or (b) the failure to pay the same could not be reasonably expected to have a Material Adverse Effect.

Section 6.9. *Designation of Subsidiaries*. The Borrower may at any time after the Closing Date designate any Restricted Subsidiary of the Borrower as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that (i) immediately before and after such designation on a Pro Forma Basis, no Event of Default shall have occurred and be continuing and (ii) immediately after giving effect to such designation, the Borrower shall be in compliance, on a Pro Forma Basis, with the covenants set forth in Section 6.22 recomputed as of the last day of the most recent period for which financial statements have been (or were required to be) delivered hereunder. The designation of any Subsidiary as an Unrestricted Subsidiary after the Closing Date shall constitute an investment by the Borrower therein at the date of designation in an amount equal to the fair market value of the Borrower's or its Restricted Subsidiary's (as applicable) investment therein. Such designation will be permitted only if an investment in such amount would be permitted at such time pursuant to Section 6.17. Unrestricted Subsidiaries will not be subject to any of the mandatory prepayments, representations and warranties, covenants or Events of Default set forth in the Loan Documents.

Section 6.10. *Interest Rate Protection*. In the case of the Borrower, within 180 days after the Closing Date, enter into, and thereafter maintain, Hedge Agreements to the extent necessary to provide that at least 50% of the aggregate principal amount of (i) the Loans funded on the Closing Date and (ii) the Second Lien Loans are subject to either a fixed interest rate or interest rate protection for a period of not less than two years, which Hedge Agreements shall have terms and conditions reasonably satisfactory to the Administrative Agent.

---

Section 6.11. *Contracts with Affiliates*. The Borrower shall not, nor shall it permit any Restricted Subsidiary to, enter into any contract, agreement or business arrangement with any of its Affiliates (other than its Restricted Subsidiaries) except on terms that are not materially less favorable to the Borrower or such Restricted Subsidiary as would have been obtained in a comparable arm's-length transaction with a Person that is not an Affiliate; *provided* that the foregoing restrictions shall not apply to:

(a) the payment of customary fees to the Existing Shareholders for management, consulting and financial services rendered to the Borrower and the Restricted Subsidiaries and customary investment banking fees paid to the Existing Shareholders for services rendered to the Borrower and the Restricted Subsidiaries in connection with divestitures, acquisitions, financings and other transactions, in each case, in an amount not to exceed $1,000,000 per fiscal year and payment of the expenses and indemnification claims of the Existing Shareholders in connection with their performance of such services,

(b) transactions permitted by Section 6.18,

(c) the Transactions and the transactions contemplated by the Master Investment Agreement and the Ancillary Agreements (as defined in the Master Investment Agreement),

(d) the issuance of capital stock or other Equity Interests of the Borrower or other payment to the management of the Borrower (or any direct or indirect parent thereof) or any of its Restricted Subsidiaries in connection with the Transactions, pursuant to arrangements described in the following paragraph (e), or otherwise to the extent permitted under this Section 6,

(e) employment and severance arrangements and health, disability and similar insurance or benefit plans between the Borrower (or any direct or indirect parent thereof) and the Restricted Subsidiaries and their respective directors, officers, employees (including management and employee benefit plans or agreements, subscription agreements or similar agreements pertaining to the repurchase of capital stock pursuant to put/call rights or similar rights with current or former employees, officers or directors and stock option or incentive plans and other compensation arrangements) in the ordinary course of business or as otherwise approved by the board of directors (or similar governing body) of the Borrower,

(f) the payment of customary fees and reasonable out of pocket costs to, and indemnities provided on behalf of, directors, managers, consultants, officers and employees of the Borrower and the Restricted Subsidiaries (or any direct or indirect parent of the Borrower) in the ordinary course of business (in the case of any direct or indirect parent of the Borrower, to the extent attributable to the operations of the Borrower or its Restricted Subsidiaries),

(g) transactions with joint ventures for the purchase and sale of goods, equipment or services entered into in the ordinary course of business,

---

(h) transactions pursuant to permitted agreements in existence on the Closing Date and set forth on Schedule 6.11 or any amendment thereto to the extent such an amendment is not adverse, taken as a whole, to the Lenders in any material respect,

(i) payments by the Borrower and its Restricted Subsidiaries to each other pursuant to tax sharing agreements or arrangements among any direct or indirect parent of Borrower and such parent's Restricted Subsidiaries on customary terms,

(j) loans and other transactions among the Borrower and its Subsidiaries (and any direct and indirect parent company of the Borrower) to the extent permitted under this Section 6; *provided* that any Indebtedness of any Loan Party owed to a Subsidiary that is not a Loan Party shall be subordinated in right of payment to the Obligations, and

(k) payments or loans (or cancellation of loans) to directors, officers, employees, members of management or consultants of the Borrower, any of its direct or indirect parent companies or any of its Restricted Subsidiaries which are approved by a majority of the board of directors of the Borrower in good faith.

Section 6.12. *No Changes in Fiscal Year*. The Borrower shall not, nor shall it permit any Restricted Subsidiary to, change its fiscal year for financial reporting purposes from its present basis without the prior written consent of the Administrative Agent (which consent shall not be unreasonably withheld); *provided*, that in the event that the Administrative Agent shall so consent to such change, the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary in order to reflect such change in financial reporting.

Section 6.13. *Change in the Nature of Business; Limitations on the Activities of Holdco*. (a) The Borrower and its Restricted Subsidiaries, taken as a whole, will not fundamentally and substantively alter the character of their business, taken as a whole, from the Business conducted by the Borrower on the Closing Date and other business activities incidental or related to any of the foregoing unless such change occurs as a result of any Regulatory Event at any Lender.

(b) Holdco will not conduct, transact or otherwise engage in any business or operations other than (i) the ownership of the capital stock of each direct Subsidiary of Holdco, as applicable, on the Closing Date, (ii) maintaining its corporate existence, (iii) participating in tax, accounting and other administrative activities as a member of the consolidated group of companies, including the Loan Parties, (iv) the execution and delivery of the Loan Documents, the Second Lien Loan Documents (or the documentation governing any Refinancing Indebtedness in connection therewith) and other documents relating to the Transactions to which it is a party and the performance of its obligations thereunder, (v) the performance of its obligations under the Master Investment Agreement and the Ancillary Agreements (as defined in the Master Investment Agreement), (vi) any Qualified Public Offering or any other issuance of its Equity Interests not prohibited by Section 6, (vii) providing indemnification to officers and directors, (viii) holding any cash or property received in connection with Distributions permitted under Section 6.18 and (ix) activities incidental to the businesses

---

or operations described in clauses (i) through (viii) above; or create, incur, assume or suffer to exist (i) any Indebtedness except pursuant to the Transactions, or the transactions contemplated under the Master Investment Agreement or the Ancillary Agreements (as defined in the Master Investment Agreement) or (ii) Liens except pursuant to the Transactions, or the transactions contemplated under the Master Investment Agreement or the Ancillary Agreements (as defined in the Master Investment Agreement) and non-consensual Liens.

Section 6.14. *Indebtedness*. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, contract, create, incur, assume or suffer to exist any Indebtedness, except;

(a) (i) Indebtedness of the Borrower in respect of the Second Lien Loan Agreement in an aggregate principal amount not to exceed (x) $550,000,000 minus (y) the amount of any Commitment Increases hereunder and (ii) Contingent Obligations of any Restricted Subsidiary in respect of such Indebtedness; *provided* that such Contingent Obligations are secured only to the extent of the secured obligations under the Second Lien Loan Agreement.

(b) the Obligations, Hedging Liability (other than for speculative purposes), and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations of the Borrower and its Restricted Subsidiaries;

(c) Indebtedness owed pursuant to Hedge Agreements entered into in the ordinary course of business and not for speculative purposes with Persons other than Lenders (or their Affiliates);

(d) intercompany Indebtedness among the Borrower and its Restricted Subsidiaries to the extent permitted by Section 6.17;

(e) Indebtedness (including Capitalized Lease Obligations and other Indebtedness arising under Capital Leases) the proceeds of which are used to finance the acquisition, lease, construction, repair, replacement, expansion or improvement of fixed or capital assets or otherwise incurred in respect of capital expenditures, whether through the direct purchase of assets or the purchase of capital stock of any Person owning such assets; *provided* that the aggregate principal amount of Indebtedness outstanding under this paragraph (e), together with any Refinancing Indebtedness incurred under paragraph (t) below in respect thereof, shall not exceed $50,000,000 at any time;

(f) Indebtedness of the Borrower and its Restricted Subsidiaries not otherwise permitted by this Section in an amount not to exceed $200,000,000 in the aggregate at any one time outstanding;

(g) Contingent Obligations incurred by (i) any Restricted Subsidiary in respect of Indebtedness of the Borrower or any other Subsidiary that is permitted to be incurred under this Agreement and (ii) the Borrower in respect of Indebtedness of any Subsidiary that is permitted to be incurred under this Agreement; *provided* that any such Contingent Obligations incurred by the Borrower or any Loan Party with respect to

---

Indebtedness incurred by any Subsidiary that is not a Loan Party, must not be prohibited by Section 6.17;

(h) Contingent Obligations incurred in the ordinary course of business in respect of obligations to suppliers, customers, franchisees, lessors, licensees or distribution partners;

(i) (i) unsecured Indebtedness in respect of obligations of the Borrower or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; *provided* that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Hedge Agreements and (ii) unsecured Indebtedness in respect of intercompany obligations of the Borrower or any Restricted Subsidiary in respect of accounts payable incurred in connection with goods sold or services rendered in the ordinary course of business and not in connection with the borrowing of money;

(j) Indebtedness arising from agreements of the Borrower or any Restricted Subsidiary providing for indemnification, adjustment of purchase price or similar obligations, in each case, entered into in connection with the disposition of any business, assets or capital stock permitted hereunder, other than Contingent Obligations incurred by any Person acquiring all or any portion of such business, assets or capital stock for the purpose of financing such acquisition;

(k) Indebtedness arising from agreements of the Borrower or any Restricted Subsidiary providing for indemnification, adjustment of purchase price or similar obligations, in each case, entered into in connection with Permitted Acquisitions or other investments permitted under Section 6.17;

(l) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds, performance and completion guarantees and similar obligations incurred in the ordinary course of business and not in connection with the borrowing of money or Hedge Agreements;

(m) Indebtedness of the Borrower or any Restricted Subsidiary consisting of (i) obligations to pay insurance premiums or (ii) take or pay obligations contained in supply agreements, in each case arising in the ordinary course of business and not in connection with the borrowing of money or Hedge Agreements;

(n) Indebtedness representing deferred compensation or similar arrangements to employees, consultants or independent contractors of the Borrower (or its direct or indirect parent) and its Restricted Subsidiaries incurred in the ordinary course of business or otherwise incurred in connection with the Transactions or any Permitted Acquisition or other investment permitted under Section 6.17;

(o) Indebtedness consisting of promissory notes issued to current or former officers, managers, consultants, directors and employees (or their respective spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees) to

---

finance the purchase or redemption of capital stock of the Borrower or any of its direct or indirect parent companies permitted by Section 6.18;

(p) Indebtedness in respect of Cash Management Services, netting services, automatic clearing house arrangements, employees' credit or purchase cards, overdraft protections and similar arrangements in each case incurred in the ordinary course of business;

(q) Indebtedness incurred by the Borrower or any Restricted Subsidiary to finance the acquisition of the FTPS Headquarters not to exceed $10,200,000 and any Contingent Obligations by the Borrower in respect of such Indebtedness;

(r) Indebtedness of the Borrower and its Restricted Subsidiaries in existence on the Closing Date and set forth in all material respects on Schedule 6.14;

(s) Indebtedness incurred by the Borrower or any Restricted Subsidiary constituting reimbursement obligations with respect to bankers' acceptances and letters of credit issued in the ordinary course of business, including letters of credit in respect of workers' compensation laws, unemployment insurance laws or similar legislation, or other Indebtedness with respect to reimbursement type obligations regarding workers' compensation laws, unemployment insurance laws or similar legislation; *provided, however*, that upon the drawing of such bankers' acceptances and letters of credit or the incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or incurrence;

(t) the incurrence by the Borrower or any Restricted Subsidiary of Indebtedness which serves to refund or refinance any Indebtedness permitted under paragraphs (a), (e), (q), (r) and (u) of this Section 6.14 or any Indebtedness issued to so refund, replace or refinance such Indebtedness, including, in each case, additional Indebtedness incurred to pay premiums (including tender premiums), defeasance costs and fees and expenses in connection therewith (collectively, the *"Refinancing Indebtedness"*) prior to its respective maturity; *provided, however,* that such Refinancing Indebtedness:

(A) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the remaining Weighted Average Life to Maturity of the Indebtedness being refunded or refinanced;

(B) to the extent such Refinancing Indebtedness refinances Indebtedness (1) subordinated or *pari passu* to the Obligations, such Refinancing Indebtedness is subordinated or *pari passu* to the Obligations at least to the same extent as the Indebtedness being refinanced or refunded or (2) secured by the Collateral on a *pari passu* or junior basis, such Refinancing Indebtedness is secured only to the extent as the Indebtedness being refinanced or refunded;

(C) shall not include Indebtedness of a non-Loan Party that refinances Indebtedness of a Loan Party; and

---

(D) shall be permitted by and subject to the terms of the Intercreditor Agreement, in the case of any refunding, replacement or refinancing of Indebtedness permitted pursuant to Section 6.14(a);

(u) Indebtedness of (x) the Borrower or any Subsidiary incurred to finance a Permitted Acquisition or (y) Persons that are acquired by the Borrower or any Subsidiary or merged into the Borrower or a Subsidiary in a Permitted Acquisition in accordance with the terms of this Agreement or that is assumed by the Borrower or any Subsidiary in connection with such Permitted Acquisition; *provided* that such Indebtedness under this clause (y) is not incurred in contemplation of such Permitted Acquisition:

(A) no Default exists or shall result therefrom;

(B) any Indebtedness incurred in reliance on clause (x) of this Section 6.14(u) shall not be secured by a Lien and shall not mature or require any payment of principal, in each case, prior to the date which is 91 days after the maturity date of the Term B Loans as set forth in Section 2.7(a);

(C) in the case of any Indebtedness incurred in reliance on clause (y) of this Section 6.14(u) the aggregate principal amount of such Indebtedness that is secured by any Lien, together with all Refinancing Indebtedness in respect thereof, shall not exceed $100,000,000; and

(D) subject to subclause (C) above, immediately prior to, and after giving effect to such Permitted Acquisition, the Borrower and its Restricted Subsidiaries shall be in compliance, on a Pro Forma Basis, with the covenants set forth in Section 6.22 recomputed as of the last day of the most recently completed period;

(v) Indebtedness of the Borrower or any of its Restricted Subsidiaries supported by a letter of credit in a principal amount not to exceed the face amount of such letter of credit; and

(w) all customary premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in each of Section 6.14(a) through 6.14(v) above.

Section 6.15. *Liens*. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, create, incur or suffer to exist any Lien on any of its Property; *provided* that the foregoing shall not prevent the following (the Liens described below, the *"Permitted Liens"*):

(a) inchoate Liens for the payment of taxes which are not yet due and payable or the payment of which is not required by Section 6.8;

(b) Liens (i) arising by statute in connection with worker's compensation, unemployment insurance, old age benefits, social security obligations, taxes, assessments, statutory obligations or other similar charges, (ii) in connection with bids, tenders, contracts or leases to which the Borrower or any Restricted Subsidiary is a party or (iii) to

---

secure public or statutory obligations of such Person or deposits of cash or Cash Equivalents to secure surety or appeal bonds to which such Person is a party, or deposits as security for contested taxes or for the payment of rent, in each case, incurred in the ordinary course of business;

(c) mechanics', workmen's, materialmen's, landlords', carriers' or other similar Liens arising in the ordinary course of business with respect to obligations which are not overdue by a period of more than 30 days or if more than 30 days over due (i) which could not reasonably be expected to have a Material Adverse Effect or (ii) which are being contested in good faith by appropriate proceedings;

(d) Liens created by or pursuant to this Agreement and the Collateral Documents;

(e) Liens on property of the Borrower or any Restricted Subsidiary created solely for the purpose of securing indebtedness permitted by Section 6.14(e) hereof, *provided* that no such Lien shall extend to or cover other Property of the Borrower or such Restricted Subsidiary other than the respective Property so acquired or similar Property acquired from the same lender or its Affiliates, and the principal amount of indebtedness secured by any such Lien shall at no time exceed the purchase price of all such Property;

(f) Liens assumed in connection with Permitted Acquisitions;

(g) easements, rights-of-way, restrictions, and other similar encumbrances as to the use of real property of the Borrower or any Restricted Subsidiary incurred in the ordinary course of business which do not impair their use in the operation of the business of such Person;

(h) Liens in favor of (i) Fifth Third Bank created pursuant to the Clearing Agreement, (ii) one or more financial institutions pursuant to similar sponsorship, clearinghouse and/or settlement arrangements, *provided* that no Liens permitted under this clause (ii) will extend to cover Property of the Borrower or any Restricted Subsidiary other than that held by the other party to such agreement and the amount of such Lien shall not exceed the amount owed by the Borrower or any Restricted Subsidiary under such agreement;

(i) ground leases or subleases, licenses or sublicenses in respect of real property on which facilities owned or leased by the Borrower or any of its Restricted Subsidiaries are located;

(j) Liens arising from judgments or decrees for the payment of money in circumstances not constituting an Event of Default under Section 7.1;

(k) any interest or title of a lessor, sublessor, licensor or sublicensor or Lien securing a lessor's, sublessor's, licensor's or sublicensor's interest under any lease not prohibited by this Agreement;

---

(l) licenses and sublicenses of intellectual property granted in the ordinary course of business;

(m) any zoning or similar law or right reserved to, or vested in, any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary course of conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(n) Liens (i) of a collection bank arising under Section 4-210 of the UCC on items in the course of collection, (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business and (iii) in favor of a banking institution arising as a matter of law encumbering deposits (including the right to set off), which are within the general parameters customary in the banking industry;

(o) Liens (i) on cash advances in favor of the seller of any property to be acquired in an investment permitted pursuant to Section 6.17 to be applied against the purchase price for such investment or (ii) consisting of an agreement to sell, transfer, lease or otherwise dispose of any property in a transaction permitted under Section 6.16;

(p) Liens on securities that are the subject of repurchase agreements constituting Cash Equivalents;

(q) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of indebtedness, (ii) relating to pooled deposit, automatic clearing house or sweep accounts of the Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and its Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any Restricted Subsidiary in the ordinary course of business;

(r) Liens solely on any cash earnest money deposits or escrow arrangements made by the Borrower or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;

(s) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(t) Liens incurred to secure any Indebtedness permitted to be incurred under Section 6.14; *provided* that the aggregate principal amount of all Indebtedness secured by such Liens, together with all Refinancing Indebtedness in respect thereof, shall not exceed $200,000,000;

(u) Liens in favor of the issuer of customs, stay, performance, bid, appeal or surety bonds or completion guarantees and other obligations of a like nature or letters of credit issued pursuant to the request of and for the account of such Person in the ordinary course of its business;

---

(v) Liens existing on the Closing Date and described on Schedule 6.15;

(w) Liens on property or shares of stock of a Person at the time such Person becomes a Restricted Subsidiary; *provided, however,* such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming such a Restricted Subsidiary or concurrently therewith; *provided, further,* that such Liens may not extend to any other property owned by the Borrower or any of its Restricted Subsidiaries; *provided, further,* that such Liens secure Indebtedness permitted to be incurred under clause (y) of Section 6.14(u);

(x) Liens on property at the time the Borrower or a Subsidiary acquired the property or concurrently therewith, including any acquisition by means of a merger or consolidation with or into the Borrower or any of its Restricted Subsidiaries; *provided, however,* that such Liens are not created or incurred in connection with, or in contemplation of, such acquisition; *provided, further,* that the Liens may not extend to any other property owned by the Borrower or any of its Restricted Subsidiaries; *provided, further,* that such Liens secure Indebtedness permitted to be incurred under clause (y) of Section 6.14(u);

(y) Liens on specific items of inventory or other goods and the proceeds thereof of any Person securing such Person's obligations under any agreement to facilitate the purchase, shipment or storage of such inventory or other goods, and pledges or deposits in the ordinary course of business securing inventory purchases from vendors;

(z) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancing, refunding, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness permitted by Section 6.14 and secured by any Lien referred to in the foregoing paragraphs (e), (v), (w) and (x); *provided, however,* that (i) such new Lien shall be limited to all or part of the same property that secured the original

Lien (plus improvements on such property), and (ii) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount or, if greater, committed amount of the Indebtedness described under paragraphs (e), (v), (w) and (x) at the time the original Lien became a Permitted Lien hereunder, and (B) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing, refunding, extension, renewal or replacement;

(aa) Liens created by or existing pursuant to the Second Lien Loan Documents or any loan documentation governing any Refinancing Indebtedness thereof; and

(bb) Liens securing Indebtedness permitted by Section 6.14(q) so long as such Indebtedness is only secured by the FTPS Headquarters and improvements thereon (including fixtures), any leases thereof and any rent, income, profits or proceeds derived therefrom.

Section 6.16. *Consolidation, Merger, Sale of Assets, etc.* The Borrower will not, and will not permit any of its Restricted Subsidiaries to, wind up, liquidate or dissolve its affairs or

---

merge or consolidate, or convey, sell, lease or otherwise dispose of all or any part of its Property, including any disposition as part of any sale-leaseback transactions except that this Section shall not prevent:

(a) the sale and lease of inventory in the ordinary course of business;

(b) the sale, transfer or other disposition of any Property that, in the reasonable judgment of the Borrower or its Restricted Subsidiaries, has become uneconomic, obsolete or worn out or is no longer useful in its business;

(c) the sale, transfer, lease, or other disposition of Property of the Borrower and its Restricted Subsidiaries to one another; *provided* that the fair market value of any Property in respect of any such sale, transfer, lease, or other disposition made by any Loan Party to any Restricted Subsidiary which is not a Loan Party plus the fair market value of any Loan Party that is merged with and into any Restricted Subsidiary that is not a Loan Party pursuant to a merger permitted by Section 6.16(d) hereof shall not exceed $50,000,000 in the aggregate during the term of this Agreement;

(d) the merger of any Restricted Subsidiary with and into the Borrower or any other Restricted Subsidiary; *provided* that, in the case of any merger involving the Borrower, the Borrower is the legal entity surviving the merger; and *provided further* that the fair market value of any Loan Party that is merged with and into any Restricted Subsidiary which is not a Loan Party plus the fair market value of any Property in respect of any sale, transfer, lease, or other disposition by a Loan Party to a Restricted Subsidiary which is not a Loan Party permitted by Section 6.16(c) hereof shall not exceed $50,000,000 in the aggregate during the term of this Agreement;

(e) the disposition or sale of Cash Equivalents;

(f) any Restricted Subsidiary may dissolve if the Borrower determines in good faith that such dissolution is in the best interests of the Borrower, such dissolution is not disadvantageous to the Lenders and the Borrower or any Restricted Subsidiary receives any assets of such dissolved Subsidiary, subject in the case of a dissolution of a Loan Party that results in a distribution of assets to a non-Loan Party to the limitations set forth in the provisos in each of paragraphs (c) and (d) above;

(g) the sale, transfer, lease, or other disposition of Property of the Borrower or any Restricted Subsidiary (including any disposition of Property as part of a sale and leaseback transaction) aggregating for the Borrower and its Restricted Subsidiaries not more than $25,000,000 during any fiscal year of the Borrower;

(h) the lease, sublease, license (or cross-license) or sublicense (or cross-sublicense) of real or personal property in the ordinary course of business;

(i) the sale, transfer or other disposal of property (including like-kind exchanges) to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such disposition are promptly applied to the purchase price of such replacement property;

---

(j) the sale, transfer or other disposal of investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements or similar binding arrangements;

(k) any transaction permitted by Section 6.17;

(l) [Reserved];

(m) the unwinding of any Hedge Agreement;

(n) the disposition of any asset between or among the Borrower and/or its Restricted Subsidiaries as a substantially concurrent interim disposition in connection with a disposition otherwise permitted pursuant to paragraphs (a) through (m) above; and

(o) the sale of the EFT Business; *provided* that at least 75% of the consideration received therefore must be in the form of cash or Cash Equivalents; and *provided further* that 100% of the net cash proceeds therefrom are applied toward the repayment of the Obligations in the manner set forth in Section 2.8(c)(ii) and Section 2.8(c)(vi).

To the extent any Collateral is disposed of as expressly permitted by this Section 6.16 to any Person other than a Loan Party, such Collateral shall automatically be sold free and clear of the Liens created by the Loan Documents, and the Administrative Agent shall be authorized to take any actions

deemed appropriate in order to effect the foregoing.

Section 6.17. *Advances, Investments and Loans*. The Borrower will not, and will not permit any of its Restricted Subsidiaries to make loans or advances to, guarantee any obligations of, or make, retain or have outstanding any investments (whether through purchase of Equity Interests or debt obligations) in, any Person or enter into any partnerships or joint ventures, or purchase or own a futures contract or otherwise become liable for the purchase or sale of currency or other commodities at a future date in the nature of a futures contract (all of the foregoing, collectively, "*investments*"), except that this Section shall not prevent:

(a) investments constituting receivables created in the ordinary course of business;

(b) investments in Cash Equivalents;

(c) investments (including debt obligations) received in connection with the bankruptcy or reorganization of a Person and in settlement of delinquent obligations of, and other disputes with, a Person arising in the ordinary course of business;

(d) (i) the Borrower's equity investments from time to time in its Restricted Subsidiaries, and (ii) investments made from time to time by a Restricted Subsidiary in the Borrower or one or more of its Restricted Subsidiaries; *provided* that any such investments made by any Loan Party in any Restricted Subsidiary which is not a Loan Party plus any intercompany advances by a Loan Party to any Restricted Subsidiary

---

which is not a Loan Party permitted by Section 6.17(e) hereof shall not exceed $50,000,000 in the aggregate at any one time outstanding;

(e) intercompany advances (including in the form of a guarantee for the benefit of such Person) made from time to time from (i) the Borrower to any one or more Restricted Subsidiaries, (ii) from one or more Restricted Subsidiaries to the Borrower and (iii) from one or more Restricted Subsidiaries to one or more Restricted Subsidiaries; *provided* that any such advances made by a Loan Party to a Restricted Subsidiary that is not a Loan Party plus any equity investments by any Loan Party in any Restricted Subsidiary which is not a Loan Party permitted by Section 6.17(d) hereof shall not exceed $50,000,000 in the aggregate at any one time outstanding;

(f) other investments (including investments in joint ventures or similar entities that do not constitute Restricted Subsidiaries), in each case, as valued at the fair market value of such investment at the time each such investment is made, in an aggregate amount for all such investments under this paragraph (f) that, at the time such investment is made, would not exceed the sum of (i) $50,000,000 plus (ii) the amount of any returns of capital, dividends or other distributions received in connection with such investment (not to exceed the original amount of the investment);

(g) loans and advances to officers, directors, employees and consultants of the Borrower (or its direct or indirect parent company) or any of its Restricted Subsidiaries for reasonable and customary business related travel expenses, entertainment expenses, moving expenses and similar expenses, in each case incurred in the ordinary course of business and advances of payroll payments to employees, consultants or independent contractors or other advances of salaries or compensation to employees, consultants or independent contractors, in each case in the ordinary course of business; *provided* that, the aggregate amount of such loan in advance outstanding at any time shall not exceed $5,000,000;

(h) investments in Hedge Agreements permitted by Section 6.14(b) and (c);

(i) investments received upon the foreclosure with respect to any secured investment or other transfer of title with respect to any secured investment;

(j) investments in the ordinary course of business consisting of Article 3 endorsements for collection or deposit and Article 4 customary trade arrangements with customers consistent with past practices;

(k) guarantees by the Borrower or any Restricted Subsidiary of leases (other than Capital Leases) or of other obligations that do not constitute indebtedness for borrowed money, in each case entered into in the ordinary course of business;

(l) Permitted Acquisitions;

(m) investments in Restricted Subsidiaries for the purpose of consummating transactions permitted under Section 6.16(n) or any Permitted Acquisition;

---

(n) investments permitted under Sections 6.14, 6.15, 6.16 and 6.18;

(o) other investments, loans and advances in addition to those otherwise permitted by this Section in an amount not to exceed $50,000,000 plus the Growth Amount in the aggregate at any one time outstanding;

(p) investments consisting of consideration received in connection with any disposition or other transfer made in compliance with Section 6.16;

(q) other investments, loans and advances existing as of the Closing Date and set forth on Schedule 6.17 (as the same may be renewed, refinanced or extended from time to time);

(r) investments the sole consideration for which is Equity Interests of Holdco (or any direct or indirect parent of Holdco) or, following the consummation of a Qualified Public Offering of the Borrower, the Borrower; and

(s) investments in or loans to Domestic Subsidiaries for the purpose of consummating the NPC Acquisition.

Section 6.18. *Restricted Payments*. The Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to, (i) declare or pay any dividends on or make any other distributions in respect of any class or series of its Equity Interests or (ii) directly or indirectly purchase, redeem, or otherwise acquire or retire any of its Equity Interests or any warrants, options, or similar instruments to acquire the same (all the foregoing, *"Distributions"*); *provided, however*:

(a) any Subsidiary of the Borrower may make Distributions to its parent corporation (and, in the case of any non-Wholly-owned Subsidiary, pro rata to its parent companies based on their relative ownership interests);

(b) so long as no Event of Default has occurred, is continuing or would result therefrom, the Borrower may redeem, acquire, retire or repurchase (and the Borrower may declare and pay Distributions, the proceeds of which are used to so redeem, acquire, retire or repurchase and to pay withholding or similar tax payments that are expected to be payable in connection therewith) its Equity Interests (or any options or warrants or stock appreciation rights issued with respect to any of such Equity Interests) (or make Distributions to allow any of the Borrower's direct or indirect parent companies to so redeem, retire, acquire or repurchase their equity) held by current or former officers, managers, consultants, directors and employees (or their respective spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees) of Borrower (or any direct or indirect parent thereof) and its Restricted Subsidiaries, with the proceeds of Distributions from, seriatim, the Borrower, upon the death, disability, retirement or termination of employment of any such Person or otherwise in accordance with any stock option or stock appreciation rights plan, any management, director and/or employee stock ownership or incentive plan, stock subscription plan, employment termination agreement or any other employment agreements or equity holders' agreement; *provided* that, the

---

aggregate amount of Distributions made pursuant to this Section shall not exceed $5,000,000;

(c) the Borrower may repurchase Equity Interests (or pay Distributions to permit any direct or indirect parent to repurchase Equity Interests) upon exercise of options or warrants if such Equity Interest represents all or a portion of the exercise price of such options or warrants;

(d) the Borrower may pay Distributions, the proceeds of which shall be used to allow any direct or indirect parent of Borrower to pay its operating expenses incurred in the ordinary course of business and other corporate overhead costs and expenses (including administrative, legal, accounting and similar expenses provided by third parties), which are reasonable and customary and incurred in the ordinary course of business, in an aggregate amount not to exceed $1,000,000 in any fiscal year of the Borrower plus any reasonable and customary indemnification claims made by directors or officers of the Borrower (or any parent thereof) attributable to the ownership or operations of the Borrower and its Restricted Subsidiaries;

(e) the Borrower may make Distributions in an aggregate amount equal to all Quarterly Distributions as of the time such Distribution is made;

(f) so long as (i) no Event of Default has occurred, is continuing or would result therefrom and (ii) the Borrower shall be in compliance, on a Pro Forma Basis, with the covenants set forth in Section 6.22, the Borrower may make Distributions in an aggregate amount not to exceed (x) $50,000,000 minus any amounts paid pursuant to Section 6.20(a)(x) plus (y) the Growth Amount at the time such Distribution is made;

(g) the Borrower may make Distributions to (i) redeem, repurchase, retire or otherwise acquire any (A) Equity Interests (*"Treasury Capital Stock"*) of the Borrower or any Subsidiary or (B) Equity Interests of any direct or indirect parent company of the Borrower, in the case of each of subclause (A) and (B), in exchange for, or out of the proceeds of the substantially concurrent sale (other than to the Borrower or a Subsidiary) of, Equity Interests of the Borrower, or any direct or indirect parent company of the Borrower to the extent contributed to the capital of the Borrower or any Subsidiary (*"Refunding Capital Stock"*) and (ii) declare and pay dividends on the Treasury Capital Stock out of the proceeds of the substantially concurrent sale (other than to the Borrower or a Subsidiary) of the Refunding Capital Stock;

(h) Distributions the proceeds of which will be used to make cash payments in lieu of issuing fractional Equity Interests in connection with the exercise of warrants, options or other securities convertible or exchangeable for Equity Interests of the Borrower (or its direct or indirect parent) in an amount not to exceed $100,000 in any fiscal year;

(i) to the extent constituting a Distribution, transactions permitted by Section 6.11 and 6.16; and

---

(j) following any Qualified Public Offering, Distributions by the Borrower (or to any direct or indirect parent to fund a Distribution) of up to 6% of the net cash proceeds received by (or contributed to the capital of) the Borrower in or from any such Qualified Public Offering.

Section 6.19. *Limitation on Restrictions*. The Borrower will not, and it will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual restriction on the ability of any such Restricted Subsidiary to (a) pay dividends or make any other distributions on its capital stock or other Equity Interests owned by the Borrower or any other Restricted Subsidiary, (b) pay or repay any Indebtedness owed to the Borrower or any other Restricted Subsidiary, (c) make loans or advances to the Borrower or any other Restricted Subsidiary, (d) transfer any of its Property to the Borrower or any other Restricted Subsidiary, (e) encumber or pledge any of its assets to or for the benefit of the Administrative Agent or (f) guaranty the Obligations, Hedging Liability and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, except for, in each case:

(i) restrictions and conditions imposed by any Loan Document or Second Lien Loan Document or which (x) exist on the date hereof and (y) to the extent contractual obligations permitted by subclause (x) are set forth in an agreement evidencing Indebtedness, are set forth in any agreement evidencing any permitted renewal, extension or refinancing of such Indebtedness so long as such renewal, extension or refinancing does not expand the scope of such contractual obligation;

(ii) customary restrictions and conditions contained in agreements relating to any sale of assets pending such sale, *provided* such restrictions and conditions apply only to the Person or property that is to be sold;

(iii) restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the Person obligated under such Indebtedness and its Subsidiaries or the property or assets intended to secure such Indebtedness;

(iv) contractual obligations binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary, so long as such contractual obligations were not entered into solely in contemplation of such Person becoming a Restricted Subsidiary;

(v) customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted under Section 6.17 and applicable solely to such joint venture entered into in the ordinary course of business;

(vi) restrictions on cash, other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business and customary provisions in leases, subleases, licenses, sublicenses and other

---

contracts restricting the assignment thereof, in each case entered into in the ordinary course of business;

(vii) secured Indebtedness otherwise permitted to be incurred under Sections 6.14 and 6.15 that limit the right of the obligor to dispose of the assets securing such Indebtedness; and

(viii) any encumbrances or restrictions of the types referred to in paragraphs (a) through (f) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (i) through (vii) above; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Borrower, no more restrictive with respect to such encumbrance and other restrictions taken as a whole than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 6.20. *Optional Payments of Certain Indebtedness; Modifications of Certain Indebtedness and Organizational Documents*. The Borrower will not, and it will not permit any of its Restricted Subsidiaries to:

(a) directly or indirectly make any optional or voluntary payment, prepayment, repurchase or redemption of or otherwise optionally or voluntarily defease the principal amount of any subordinated Indebtedness, Indebtedness secured by junior Liens or unsecured Indebtedness, including Indebtedness under the Second Lien Loan Agreement, other than (i) in connection with the incurrence of Refinancing Indebtedness, (ii) in connection with a conversion or exchange of such Indebtedness to, or for, as applicable, Equity Interests of Holdco (or any direct or indirect parent of Holdco) or the Borrower (other than Disqualified Equity Interests), and (iii) so long as (A) no Default has occurred, is continuing or would result therefrom and (B) the Borrower shall be in compliance, on a Pro Forma Basis, with the covenants set forth in Section 6.22, additional payments, prepayments, repurchases, redemptions and defeasances in respect of such Indebtedness in an aggregate amount up to (x) $50,000,000 minus any amounts paid pursuant to Section 6.18(f)(x) plus (y) the Growth Amount;

(b) amend, modify, or otherwise change any of the terms of the Second Lien Loan Agreement except as permitted by the Intercreditor Agreement; or

(c) amend, modify, or otherwise change in any manner any of the terms of (i) the documentation governing any subordinated Indebtedness, Indebtedness secured by junior Liens (other than the Second Lien Loan Documents or any documents governing any Permitted Refinancing thereof) or unsecured Indebtedness or (ii) the charter documents of the Borrower or such Restricted Subsidiary, except, in the case of each of clauses (i) and (ii) if the effect of any such amendment, modification or change is not materially adverse to the interests of the Lenders.

Section 6.21. *OFAC*. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, (i) become a person whose property or interests in property are

---

blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Party and Prohibiting Transactions With Persons Who Commit, Threaten to Commit or Support Terrorism (66 Fed. Reg. 49079(2001)), (ii) engage in any dealings or transactions prohibited by Section 2 of such executive order, or be otherwise associated with any such person in any manner violative of Section 2, and (iii) become a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other U.S. Department of Treasury's Office of Foreign Assets Control regulation or executive order.

Section 6.22. *Financial Covenants*.

(a) *Leverage Ratio*. The Borrower shall not, as of the last day of each fiscal quarter of the Borrower ending during each of the periods specified below, permit the Leverage Ratio to be greater than:

| FROM AND INCLUDING | TO AND INCLUDING | THE LEVERAGE RATIO SHALL NOT BE GREATER THAN: |
|---|---|---|
| JANUARY 1, 2011 | JUNE 30, 2011 | 5.50 to 1.00 |
| JULY 1, 2011 | JUNE 30, 2012 | 5.25 to 1.00 |
| JULY 1, 2012 | JUNE 30, 2013 | 4.75 to 1.00 |
| JULY 1, 2013 | JUNE 30, 2014 | 3.75 to 1.00 |
| JULY 1, 2014 | ALL TIMES THEREAFTER | 3.00 to 1.00 |

(b) *Interest Coverage Ratio*. The Borrower shall not, as of the last day of each fiscal quarter of the Borrower ending during each of the periods specified below, permit the ratio of Consolidated EBITDA for the four fiscal quarters of the Borrower then ended (*provided* if Consolidated EBITDA for such

period is less than $1, then for purposes of this covenant Consolidated EBITDA shall be deemed to be $1) to Interest Expense for the same four fiscal quarters then ended to be less than:

| FROM AND INCLUDING | TO AND INCLUDING | THE INTEREST COVERAGE RATIO SHALL NOT BE LESS THAN: |
|---|---|---|
| JANUARY 1, 2011 | JUNE 30, 2012 | 2.50 to 1.00 |
| JULY 1, 2012 | JUNE 30, 2013 | 2.75 to 1.00 |
| JULY 1, 2013 | JUNE 30, 2014 | 3.00 to 1.00 |
| JULY 1, 2014 | ALL TIMES THEREAFTER | 3.25 to 1.00 |

(c) *Pro Forma Compliance*. Compliance with the financial covenants set forth in paragraphs (a) and (b) above shall always be calculated on a Pro Forma Basis.

Section 6.23. *Maintenance of Rating*s. The Borrower shall use its commercially reasonable efforts to maintain a (i) long-term credit rating of the Borrower and (y) a credit rating for the Facilities, in each case, from both S&P and Moody's.

---

Section 6.24. *Limitation on Non-Material Subsidiaries*. The Borrower shall not permit (i), at any time, the aggregate book value of the assets of all Restricted Subsidiaries that are Domestic Subsidiaries but that are not Material Subsidiaries to exceed 5% of the book value of the consolidated assets of the Borrower and its Restricted Subsidiaries that are Domestic Subsidiaries or (ii), as of the last day of each fiscal quarter of the Borrower, the aggregate net income computed in accordance with GAAP of all Restricted Subsidiaries that are Domestic Subsidiaries but that are not Material Subsidiaries during the four fiscal quarters of the Borrower then ending, not to exceed 5% of the consolidated net income computed in accordance with GAAP of the Borrower and its Restricted Subsidiaries that are Domestic Subsidiaries during such period.

Section 6.25. *Post-Closing Obligations*. As promptly as practicable, and in any event within the time period after the Closing Date specified in Schedule 6.25 or such later date as the Administrative Agent agrees to in writing, the Borrower shall deliver the documents or take the actions specified on Schedule 6.25.

SECTION 7. EVENTS OF DEFAULT AND REMEDIES.

Section 7.1. *Events of Default*. Any one or more of the following shall constitute an "Event of Default" hereunder:

(a) default (i) in the payment when due (whether at the stated maturity thereof or at any other time provided for in this Agreement) of all or any part of the principal of any Loan or Reimbursement Obligation or (ii) in the payment when due of interest on any Loan or any other Obligation payable hereunder or under any other Loan Document and such default shall continue unremedied for a period of five Business Days;

(b) default in the observance or performance of any covenant set forth in Sections 6.1(f), 6.5 (with respect to the Borrower), 6.11, 6.12, 6.13, 6.14, 6.15, 6.16, 6.17, 6.18, 6.19, 6.20, 6.21, 6.22 or 6.24 hereof.

(c) default in the observance or performance of any other provision hereof or of any other Loan Document which is not remedied within 30 days after written notice of such default is given to the Borrower by the Administrative Agent;

(d) any representation or warranty made or deemed made herein or in any other Loan Document or in any certificate delivered to the Administrative Agent or the Lenders pursuant hereto or thereto proves untrue in any material respect (or in all respects, if qualified by a materiality threshold) as of the date of the issuance or making thereof;

(e) any of the Loan Documents shall for any reason not be or shall cease to be in full force and effect or is declared to be null and void (other than pursuant to the terms thereof or as a result of the gross negligence, bad faith or willful misconduct of the Administrative Agent), or any of the Collateral Documents shall for any reason fail to create a valid and perfected Lien in favor of the Administrative Agent in any Collateral purported to be covered thereby except as expressly permitted by the terms hereof or

---

thereof (other than as a result of the gross negligence, bad faith or willful misconduct of the Administrative Agent), or any Loan Party terminates, repudiates in writing or rescinds any Loan Document executed by it or any of its obligations thereunder;

(f) default shall occur under any Material Indebtedness, or under any indenture, agreement or other instrument under which the same may be issued, the effect of which default is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause any such Indebtedness to become due prior to its stated maturity, or the principal or interest under any such Indebtedness shall not be paid when due (whether by demand, lapse of time, acceleration or otherwise) after giving effect to applicable grace or cure periods, if any;

(g) any final judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes, shall be entered or filed against the Borrower or any of its Restricted Subsidiaries, or against any of its Property, in an aggregate amount in excess of $25,000,000 (except to the extent paid or covered by insurance (other than the applicable deductible) and the insurer has not denied coverage therefor in writing), and which remains undischarged, unvacated, unbonded or unstayed for a period of 60 days from the entry thereof;

(h) a Reportable Event shall have occurred which could reasonably be expected to result in a Material Adverse Effect; the Borrower or any of its Restricted Subsidiaries, or any member of its Controlled Group, shall fail to pay when due an amount or amounts aggregating in excess of $25,000,000 which it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or notice of intent to terminate a Plan or Plans having aggregate Unfunded Vested Liabilities in excess of $25,000,000 (collectively, a *"Material Plan"*) shall be filed under Title IV of ERISA by the Borrower or any of its Restricted Subsidiaries, or any other member of its Controlled Group, any plan administrator or any

combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any Material Plan or a proceeding shall be instituted by a fiduciary of any Material Plan against the Borrower or any of its Restricted Subsidiaries, or any member of its Controlled Group, to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated;

(i) any Change of Control shall occur;

(j) Holdco, the Borrower or any of its Restricted Subsidiaries shall (i) have entered involuntarily against it an order for relief under the United States Bankruptcy Code, as amended, (ii) admit in writing its inability to pay its debts generally as they become due, (iii) make a general assignment for the benefit of creditors, (iv) apply for, seek, consent to or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property, or (v) institute any proceeding seeking to have entered against it an order for relief under the United States Bankruptcy Code, as amended, to adjudicate it insolvent, or seeking

---

dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors;

(k) a custodian, receiver, trustee, examiner, liquidator or similar official shall be appointed for Holdco, the Borrower or any of its Restricted Subsidiaries, or any substantial part of any of its Property, or a proceeding described in Section 7.1(j)(v) shall be instituted against Holdco, the Borrower or any Restricted Subsidiary, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of 60 days; or

(l) The Intercreditor Agreement shall cease, for any reason, to be in full force and effect, or shall cease to be legal, valid and binding upon any of the parties thereto other than the Administrative Agent or any Lender or the Liens securing the obligations under the Second Lien Loan Agreement or any other subordinated or junior secured Material Indebtedness, shall cease, for any reason, to be validly subordinated to the Liens securing the Obligations, or any Loan Party shall assert in writing any of the foregoing.

Section 7.2. *Non Bankruptcy Defaults*. When any Event of Default other than those described in subsection (j) or (k) of Section 7.1 hereof has occurred and is continuing, the Administrative Agent shall, by written notice to the Borrower: (a) if so directed by the Required Lenders, terminate the remaining Revolving Credit Commitments and all other obligations of the Lenders hereunder on the date stated in such notice (which may be the date thereof); (b) if so directed by the Required Lenders, declare the principal of and the accrued interest on all outstanding Loans to be forthwith due and payable and thereupon all outstanding Loans, including both principal and interest thereon, shall be and become immediately due and payable together with all other amounts payable under the Loan Documents without further demand, presentment, protest or notice of any kind; and (c) if so directed by the Required Lenders, demand that the Borrower immediately pay to the Administrative Agent, as cash collateral, the full amount then available for drawing under each or any Letter of Credit, whether or not any drawings or other demands for payment have been made under any Letter of Credit. The Administrative Agent, after giving notice to the Borrower pursuant to Section 7.1(c) or this Section 7.2, shall also promptly send a copy of such notice to the other Lenders, but the failure to do so shall not impair or annul the effect of such notice.

Section 7.3. *Bankruptcy Defaults*. When any Event of Default described in subsections (j) or (k) of Section 7.1 hereof has occurred and is continuing, then all outstanding Loans shall immediately become due and payable together with all other amounts payable under the Loan Documents without presentment, demand, protest or notice of any kind, the Revolving Credit Commitments and any and all other obligations of the Lenders to extend further credit pursuant to any of the terms hereof shall immediately terminate and the Borrower shall immediately pay to the Administrative Agent, as cash collateral, the full amount then available for drawing under all outstanding Letters of Credit, whether or not any draws or other demands for payment have been made under any of the Letters of Credit.

Section 7.4. *Collateral for Undrawn Letters of Credit*. iii. If the prepayment of the amount available for drawing under any or all outstanding Letters of Credit is required under

---

Section 2.8(c)(iv) or under Section 7.2 or 7.3 above, the Borrower shall forthwith pay the amount required to be so prepaid, to be held by the Administrative Agent as provided in subsection (a) below.

(a) All amounts prepaid pursuant to paragraph (a) above shall be held by the Administrative Agent in one or more separate collateral accounts (each such account, and the credit balances, properties, and any investments from time to time held therein, and any substitutions for such account, any certificate of deposit or other instrument evidencing any of the foregoing and all proceeds of and earnings on any of the foregoing being collectively called the *"Collateral Account"*) as security for, and for application by the Administrative Agent (to the extent available) to, the reimbursement of any payment under any Letter of Credit then or thereafter made by the L/C Issuer, and to the payment of the unpaid balance of any other Obligations in respect of any Letter of Credit. The Collateral Account shall be held in the name of and subject to the exclusive dominion and control of the Administrative Agent for the benefit of the Administrative Agent, the Lenders, and the L/C Issuer. If and when requested by the Borrower, the Administrative Agent shall invest funds held in the Collateral Account from time to time in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America with a remaining maturity of one year or less, *provided* that the Administrative Agent is irrevocably authorized to sell investments held in the Collateral Account when and as required to make payments out of the Collateral Account for application to amounts due and owing from the Borrower to the L/C Issuer, the Administrative Agent or the Lenders in respect of any Letter of Credit; *provided, however*, that if (i) the Borrower shall have made payment of all such obligations referred to in paragraph (a) above and (ii) no Letters of Credit remain outstanding hereunder, then the Administrative Agent shall release to the Borrower any remaining amounts held in the Collateral Account.

Section 7.5. *Notice of Default*. The Administrative Agent shall give notice to the Borrower under Section 7.1(c) hereof promptly upon being requested to do so by the Required Lenders and shall at such time also notify all the Lenders thereof.

Section 7.6. *Equity Cure*. Notwithstanding anything to the contrary contained in this Section 7, in the event that the Borrower fails to comply with the requirements of Section 6.22 as of the end of any relevant fiscal quarter, the Borrower shall have the right (the *"Cure Right"*) (at any time during such fiscal quarter or thereafter until the date that is 15 days after the date the Compliance Certificate is required to be delivered pursuant to Section 6.1(e)) to issue Equity Interests for cash or otherwise receive cash contributions to its common equity (the *"Cure Amount"*), and thereupon the Borrower's compliance with Section 6.22 shall be recalculated giving effect to the following pro forma adjustment: Consolidated EBITDA shall be increased (notwithstanding the absence of an addback in the definition of "Consolidated EBITDA"), solely for the purposes of determining compliance with Section 6.22 hereof, including determining compliance with Section 6.22 hereof as of the end of such fiscal quarter and applicable subsequent periods that include such fiscal quarter, by an amount equal to the Cure Amount. If, after giving effect to the foregoing recalculations (but not, for the avoidance of doubt, taking into account any immediate repayment of Indebtedness in connection therewith), the requirements of Section 6.22 shall be satisfied, then the requirements of Section 6.22 shall be deemed satisfied as of the end of the relevant fiscal quarter with the same effect as though there had been no failure

---

to comply therewith at such date, and the applicable breach or default of Section 6.22 that had occurred shall be deemed cured for the purposes of this Agreement.

Notwithstanding anything herein to the contrary, (v) in each four consecutive fiscal quarter period of the Borrower there shall be at least two fiscal quarters in which the Cure Right is not exercised, (w) during the term of this Agreement, the Cure Right shall not be exercised more than five times, (x) the Cure Amount shall be no greater than the amount required for purposes of complying with Section 6.22, (y) upon the Administrative Agent's receipt of a notice from the Borrower that it intends to exercise the Cure Right (a *"Notice of Intent to Cure"*), until the 15th day following the date of delivery of the Compliance Certificate under Section 6.1(e) to which such Notice of Intent to Cure relates, none of the Administrative Agent nor any Lender shall exercise the right to accelerate the Loans or terminate the Revolving Credit Commitments and neither the Administrative Agent nor any other Lender or secured party shall exercise any right to foreclose on or take possession of the Collateral solely on the basis of an Event of Default having occurred and being continuing under Section 6.22 and (z) the Cure Amount received pursuant to any exercise of the Cure Right shall be disregarded for purposes of determining any financial ratio-based conditions, pricing or any available basket (in reliance upon the Available Amount, Growth Amount or otherwise) under Section 6 of this Agreement.

SECTION 8. CHANGE IN CIRCUMSTANCES AND CONTINGENCIES.

Section 8.1. *Funding Indemnity*

. If any Lender shall incur any loss, cost or expense (including, without limitation, any loss, cost or expense incurred by reason of the liquidation or re-employment of deposits or other funds acquired by such Lender to fund or maintain any Eurodollar Loan, but excluding any loss of margin) as a result of:

(a) any payment, prepayment or conversion of a Eurodollar Loan on a date other than the last day of its Interest Period,

(b) any failure (because of a failure to meet the conditions of Section 3 or otherwise) by the Borrower to borrow or continue a Eurodollar Loan, or to convert a Loan that is a Base Rate Loan into a Eurodollar Loan, on the date specified in a notice given pursuant to Section 2.5(a) hereof,

(c) any failure by the Borrower to make any payment of principal on any Eurodollar Loan when due (whether by acceleration or otherwise), or

(d) any acceleration of the maturity of a Eurodollar Loan as a result of the occurrence of any Event of Default hereunder,

then, within ten days after the demand of such Lender, the Borrower shall pay to such Lender such amount as will reimburse such Lender for such loss, cost or expense. If any Lender makes such a claim for compensation, it shall provide to the Borrower, with a copy to the Administrative Agent, a certificate setting forth the amount of such loss, cost or expense in reasonable detail (including an explanation of the basis for and the computation of such loss, cost or expense) and the amounts shown on such certificate shall be conclusive absent manifest error.

---

Section 8.2. *Illegality*. Notwithstanding any other provisions of this Agreement or any other Loan Document, if at any time any change in applicable law, rule or regulation or in the interpretation thereof makes it unlawful for any Lender to make or continue to maintain any Eurodollar Loans or to perform its obligations as contemplated hereby with respect to such Eurodollar Loans, such Lender shall promptly give notice thereof to the Borrower and the Administrative Agent and such Lender's obligations to make or maintain Eurodollar Loans under this Agreement shall be suspended until it is no longer unlawful for such Lender to make or maintain Eurodollar Loans. Such Lender may require that such affected Eurodollar Loans be converted to Base Rate Loans from such Lender automatically on the effective date of the notice provided above, and such Base Rate Loans shall not be made ratably by the Lenders but only from such affected Lender. Such Lender shall withdraw such notice promptly following any date on which it becomes lawful for such Lender to make and maintain Eurodollar Loans or give effect to its obligations as contemplated hereby with respect to any Eurodollar Loan.

Section 8.3. *Reserved*.

Section 8.4. *Yield Protection*. iv. If, on or after the date hereof, the adoption of any applicable law, rule or regulation, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority charged with the interpretation or administration thereof, or compliance by any Lender (or its Lending Office) with any request or directive (whether or not having the force of law) of any such Governmental Authority:

(i) shall subject any Lender (or its Lending Office) to any tax, duty or other charge (other than net income tax (including branch profits tax), franchise taxes and other similar taxes), with respect to its Eurodollar Loans, its Revolving Notes, its Letter(s) of Credit, or its participation in any thereof, any Reimbursement Obligations owed to it or its obligation to make Eurodollar Loans, issue a Letter of Credit, or to participate therein (other than taxes subject to Section 10.1(a) hereof); or

(ii) shall impose, modify or deem applicable any reserve, special deposit or similar requirement (including, without limitation, any such requirement imposed by the Board of Governors of the Federal Reserve System, but excluding with respect to any Eurodollar Loans any such requirement included in an applicable Reserve Percentage) against assets of, deposits with or for the account of, or credit extended by, any Lender (or its Lending Office) or shall impose on any Lender (or its Lending Office) or on the interbank market any other condition affecting its Eurodollar Loans, its Revolving Notes, its Letter(s) of Credit, or its participation in any thereof, any Reimbursement Obligation owed to it, or its obligation to make Eurodollar Loans, or to issue a Letter of Credit, or to participate therein;

and the result of any of the foregoing is to increase the cost to such Lender (or its Lending Office) of making or maintaining any Eurodollar Loan, issuing or maintaining a Letter of Credit, or participating therein, or to reduce the amount of any sum received or receivable by such Lender (or its Lending Office) under this Agreement or under any other Loan Document with respect thereto, by an amount deemed by such Lender to be material, then, within 30 days after

---

demand by such Lender (with a copy to the Administrative Agent), the Borrower shall be obligated to pay to such Lender such additional amount or amounts as will compensate such Lender for such increased cost or reduction.

(b) If, after the date hereof, any Lender or the Administrative Agent shall have determined that the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority charged with the interpretation or administration thereof, or compliance by any Lender (or its Lending Office) or any corporation controlling such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) of any such Governmental Authority has had the effect of reducing the rate of return on such Lender's or such corporation's capital as a consequence of its obligations hereunder to a level below that which such Lender or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Lender's or such corporation's policies with respect to capital adequacy) by an amount deemed by such Lender to be material, then from time to time, within 30 days after demand by such Lender (with a copy to the Administrative Agent), the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender for such reduction.

(c) A certificate of a Lender claiming compensation under this Section 8.4 and setting forth the additional amount or amounts to be paid to it hereunder shall be delivered to Borrower at the time of such demand and shall be conclusive absent manifest error. In determining such amount, such Lender may use any reasonable averaging and attribution methods.

Section 8.5. *Substitution of Lenders*. Upon the receipt by the Borrower of (a) a claim from any Lender for compensation under Section 8.4 or Section 10.1 hereof, (b) notice by any Lender to the Borrower of any illegality pursuant to Section 8.2 hereof, (c) in the event any Lender is a Defaulting Lender or (d) in the event any Lender fails to consent to any amendment, waiver, supplement or other modification pursuant to Section 10.11 requiring the consent of all Lenders or each Lender directly affected thereby, and as to which the Required Lenders have otherwise consented (any such Lender referred to in paragraph (a), (b), (c) or (d) above being hereinafter referred to as an *"Affected Lender"*), the Borrower may, in addition to any other rights the Borrower may have hereunder or under applicable law, (i) require, at its expense, any such Affected Lender to assign, at par plus accrued interest and fees, without recourse, all of its interest, rights, and obligations hereunder (including all of its Revolving Credit Commitments and the Revolving Loans and participation interests in Letters of Credit and other amounts at any time owing to it hereunder and the other Loan Documents) to an Eligible Assignee specified by the Borrower, *provided* that (A) such assignment shall not conflict with or violate any law, rule or regulation or order of any Governmental Authority, (B) if the assignment is to a Person other than a Lender, the Borrower shall have received the written consent of the Administrative Agent and, in the case of any Revolving Credit Commitment, the L/C Issuer, which consents shall not be unreasonably withheld or delayed, to such assignment, (C) the Borrower shall have paid to the Affected Lender all monies (together with amounts due such Affected Lender under Section 8.1 hereof as if the Loans owing to it were prepaid rather than assigned) other than principal owing to it hereunder, (D) the Borrower shall repay (or the replacement bank or institution shall purchase, at par) all Loans and other amounts (other than any disputed amounts), pursuant to Section 10.10 owing to such replaced Lender prior to the date of replacement, (E) the assignment

---

is entered into in accordance with the other requirements of Section 10.10 hereof, (F) solely with respect to assignments in connection with clause (a) (with respect to claims under Section 10.1) or (c) above, no Event of Default shall have occurred and be continuing at the time of such assignment and (G) any such assignment shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against the Affected Lender, or (ii) terminate the Revolving Credit Commitment of such Affected Lender and repay all Obligations of the Borrower owing to such Lender as of such termination date.

Section 8.6. *Lending Offices*. Each Lender may, at its option, elect to make its Loans hereunder at the branch, office or affiliate specified on the appropriate signature page hereof (each a *"Lending Office"*) for each type of Loan available hereunder or at such other of its branches, offices or affiliates as it may from time to time elect and designate in a written notice to the Borrower and the Administrative Agent. To the extent reasonably possible, a Lender shall designate an alternative branch or funding office with respect to its Eurodollar Loans to reduce any liability of the Borrower to such Lender under Section 8.4 hereof or to avoid the unavailability of Eurodollar Loans under Section 8.2 hereof, so long as such designation is not disadvantageous to the Lender.

SECTION 9. THE ADMINISTRATIVE AGENT.

Section 9.1. *Appointment and Authorization of Administrative Agent*. Each Lender hereby appoints Goldman Sachs Lending Partners LLC, as the Administrative Agent and Collateral Agent under the Loan Documents and hereby authorizes the Administrative Agent to take such action as Administrative Agent on its behalf and to exercise such powers, rights and remedies under the Loan Documents as are delegated to the Administrative Agent by the terms thereof, together with such powers as are reasonably incidental thereto. The Administrative Agent shall have only those duties and responsibilities that are expressly specified in the Loan Documents. Each Agent may exercise such powers, rights and remedies and perform such duties by or through its agents or employees. Notwithstanding the use of the word "Administrative Agent" as a defined term, the Lenders expressly agree that the Administrative Agent is not acting as a fiduciary of any Lender in respect of the Loan Documents, the Borrower or otherwise, and nothing herein or in any of the other Loan Documents shall result in any duties or obligations on the Administrative Agent or any of the Lenders except as expressly set forth herein and therein. The provisions of this Section 9 (other than to the extent provided in Sections 9.1, 9.3, 9.7, 9.11 and 9.12) are solely for the benefit of the Administrative Agent and the Lenders and no Loan Party shall have any rights as a third party beneficiary of any of the provisions thereof. In performing its functions and duties hereunder, the Administrative Agent shall act solely as an agent of the Lenders and does not assume and shall not be deemed to have

assumed any obligation towards or relationship of agency or trust with or for Holdco, Borrower or any of its Subsidiaries, other than as provided in Section 10.10(c) with respect to the maintenance of the Register.

Section 9.2. *Administrative Agent and its Affiliates*. The Administrative Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any other Lender and may exercise or refrain from exercising such rights and power as though it were not the Administrative Agent, and the Administrative Agent and its affiliates may accept deposits from, lend money to, own securities of and generally engage in any kind of banking,

---

trust, financial advisory or other business with the Borrower or any Affiliate of the Borrower as if it were not the Administrative Agent under the Loan Documents, and may accept fees and other consideration from the Borrower for services in connection herewith and otherwise without having to account for the same to the Lenders. The term "Lender" as used herein and in all other Loan Documents, unless the context otherwise clearly requires, includes the Administrative Agent in its individual capacity as a Lender. References in Section 2 hereof to the amount owing to the Administrative Agent for which an interest rate is being determined, refer to the Administrative Agent in its individual capacity as a Lender.

Section 9.3. *Action by Administrative Agent*. If the Administrative Agent receives from the Borrower a written notice of an Event of Default pursuant to Section 6.1 hereof, the Administrative Agent shall promptly give each of the Lenders written notice thereof. Without limiting the generality of the foregoing, the Administrative Agent shall not be required to take any action hereunder with respect to any Default or Event of Default, except as expressly provided in the Loan Documents. Upon the occurrence of an Event of Default, the Administrative Agent shall take such action to enforce its Lien on the Collateral and to preserve and protect the Collateral as may be directed by the Required Lenders. Unless and until the Required Lenders give such direction, the Administrative Agent may (but shall not be obligated to) take or refrain from taking such actions as it deems appropriate and in the best interest of all the Lenders. In no event, however, shall the Administrative Agent be required to take any action in violation of Applicable Law or of any provision of any Loan Document, and the Administrative Agent shall in all cases be fully justified in failing or refusing to act hereunder or under any other Loan Document unless it first receives any further assurances of its indemnification from the Lenders that it may require, including prepayment of any related expenses and any other protection it requires against any and all costs, expense, and liability which may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall be entitled to assume that no Default or Event of Default exists unless notified in writing to the contrary by a Lender or the Borrower. In all cases in which the Loan Documents do not require the Administrative Agent to take specific action, the Administrative Agent shall be fully justified in using its discretion in failing to take or in taking any action thereunder. Any instructions of the Required Lenders, or of any other group of Lenders called for under the specific provisions of the Loan Documents, shall be binding upon all the Lenders and the holders of the Obligations.

Section 9.4. *Consultation with Experts*. The Administrative Agent may consult with legal counsel, independent public accountants, and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts.

Section 9.5. *Liability of Administrative Agent; Credit Decision; Delegation of Duties*. (a) Neither the Administrative Agent nor any of its officers, partners, directors, employees or agents shall be liable to the Lenders for any action taken or omitted by the Administrative Agent under or in connection with any of the Loan Documents except to the extent caused by the Administrative Agent's gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction. The Administrative Agent shall be entitled to refrain from any act or the taking of any action (including the failure to take an action) in connection herewith or any of the other Loan

---

Documents or from the exercise of any power, discretion or authority vested in it hereunder or thereunder unless and until the Administrative Agent shall have received instructions in respect thereof from the Required Lenders (or such other Lenders as may be required to give such instructions under Section 10.11) and, upon receipt of such instructions from Required Lenders (or such other Lenders, as the case may be), the Administrative Agent shall be entitled to act or (where so instructed) refrain from acting, or to exercise such power, discretion or authority, in accordance with such instructions. Without prejudice to the generality of the foregoing, (i) the Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any communication, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper party or parties, and shall be entitled to rely and shall be protected in relying on opinions and judgments of attorneys (who may be attorneys for Holdco, the Borrower and its Subsidiaries), accountants, experts and other professional advisors selected by it; and (ii) no Lender shall have any right of action whatsoever against the Administrative Agent as a result of it acting or (where so instructed) refraining from acting hereunder or any of the other Loan Documents in accordance with the instructions of Required Lenders (or such other Lenders as may be required to give such instructions under Section 10.11). In particular and without limiting any of the foregoing, the Administrative Agent shall have no responsibility for confirming the accuracy of any Compliance Certificate or other document or instrument received by it under the Loan Documents. Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be responsible for or have any duty to ascertain, inquire into or verify: (i) any statement, warranty, representation or recital made in connection with this Agreement, any other Loan Document or any Credit Extension, or made in any written or oral statements or in any financial or other statements, instruments, reports or certificates or any other documents furnished or made by the Administrative Agent to the Lenders or by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the Loan Documents and the transactions contemplated thereby or for the financial condition or business affairs of any Loan Party or any other Person liable for the payment of any Obligations; (ii) the performance or observance of any of the terms, conditions, provisions, covenants or agreements of the Borrower or any Subsidiary contained herein or in any other Loan Document or any Credit Extension or the use of the proceeds of the Loans or as to the existence or possible existence of any Event of Default or Default or to make any disclosures with respect to the foregoing; (iii) the satisfaction of any condition specified in Section 3 hereof, except receipt of items required to be delivered to the Administrative Agent; or (iv) the execution, validity, effectiveness, genuineness, enforceability, perfection, value, worth or collectibility hereof or of any other Loan Document or of any other documents or writing furnished in connection with any Loan Document or of any Collateral; and the Administrative Agent makes no representation of any kind or character with respect to any such matter mentioned in this sentence. The Administrative Agent may execute any of its duties under any of the Loan Documents by or through employees, agents, and attorneys-in-fact and shall not be answerable to the Lenders, the Borrower, or any other Person for the default or misconduct of any such agents or attorneys-in-fact selected with reasonable care. The Administrative Agent may treat the payee of any Note as the holder thereof until written notice of transfer shall have been filed with the Administrative Agent signed by such payee in form satisfactory to the Administrative Agent. Each Lender acknowledges, represents and warrants that it has independently and without reliance on the Administrative Agent or any other Lender, and based upon such information, investigations and inquiries as it deems appropriate, made its own credit analysis and decision to extend credit to the Borrower in the

---

manner set forth in the Loan Documents. It shall be the responsibility of each Lender to keep itself informed as to the creditworthiness of the Borrower and its Subsidiaries, and the Administrative Agent shall have no liability to any Lender with respect thereto. The Administrative Agent shall not have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of Lenders or to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter, and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to Lenders.

(b) Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers under this Agreement or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent (and not otherwise reasonably objected to by the Borrower within 10 days after notice of such appointment). The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Affiliates. The exculpatory, indemnification and other provisions of this Section 9.5 and of Section 9.6 shall apply to any Affiliates of the Administrative Agent and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Administrative Agent. All of the rights, benefits, and privileges (including the exculpatory and indemnification provisions) of this Section 9.5 and of Section 9.6 shall apply to any such sub-agent and to the Affiliates of any such sub-agent, and shall apply to their respective activities as sub-agent as if such sub-agent and Affiliates were named herein. Notwithstanding anything herein to the contrary, with respect to each sub-agent appointed by the Administrative Agent, (i) such sub-agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory rights and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of Loan Parties and the Lenders, (ii) such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be modified or amended without the consent of such sub-agent, and (iii) such sub-agent shall only have obligations to the Administrative Agent and not to any Loan Party, Lender or any other Person and no Loan Party, Lender or any other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise, against such sub-agent.

Section 9.6. *Indemnity*. The Lenders shall ratably, in accordance with their respective Percentages, indemnify the Administrative Agent, to the extent that the Administrative Agent has not been reimbursed by any Loan Party, for and against any and all liabilities, obligations, losses, damages, taxes, penalties, actions, judgments, suits, costs, expenses (including counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Administrative Agent in exercising its powers, rights and remedies or performing its duties hereunder or under the other Loan Documents or otherwise in its capacity as Administrative Agent in any way relating to or arising out of this Agreement or the other Loan Documents; *provided*, no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, taxes, penalties, actions,

---

judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction. If any indemnity furnished to the Administrative Agent for any purpose shall, in the opinion of the Administrative Agent, be insufficient or become impaired, the Administrative Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; *provided*, in no event shall this sentence require any Lender to indemnify the Administrative Agent against any liability, obligation, loss, damage, tax, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's ratable share thereof, in accordance with such Lender's respective Percentage; and *provided further*, this sentence shall not be deemed to require any Lender to indemnify the Administrative Agent against any liability, obligation, loss, damage, tax, penalty, action, judgment, suit, cost, expense or disbursement described in the proviso in the immediately preceding sentence. The obligations of the Lenders under this Section shall survive termination of this Agreement. The Administrative Agent shall be entitled to offset amounts received for the account of a Lender under this Agreement against unpaid amounts due from such Lender to the Administrative Agent hereunder (whether as fundings of participations, indemnities or otherwise), but shall not be entitled to offset against amounts owed to the Administrative Agent by any Lender arising outside of this Agreement and the other Loan Documents.

Section 9.7. *Resignation of Administrative Agent and Successor Administrative Agent*. The Administrative Agent may resign at any time by giving written notice thereof to the Lenders and the Borrower and the Administrative Agent may be removed at any time with or without cause by an instrument or concurrent instruments in writing delivered to the Borrower and the Administrative Agent and signed by the Required Lenders (such retiring or replaced Administrative Agent, the "*Departing Administrative Agent*"). The Administrative Agent shall have the right to appoint a financial institution to act as Administrative Agent and/or Collateral Agent hereunder, with the written consent of the Borrower and the Required Lenders (not to be unreasonably withheld), and the Administrative Agent's resignation shall become effective on the earliest of (i) 30 days after delivery of the notice of resignation, (ii) the acceptance of such successor Administrative Agent by the Borrower and the Required Lenders or (iii) such other date, if any, agreed to by the Borrower and the Required Lenders. Upon any such notice of resignation or any such removal, if a successor Administrative Agent has not already been appointed by the retiring Administrative Agent, the Required Lenders shall have the right, upon the written consent of the Borrower (not to be unreasonably withheld), to appoint a successor Administrative Agent. If neither the Required Lenders nor the Administrative Agent have appointed a successor Administrative Agent, the Required Lenders shall be deemed to have succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; *provided* that, until a successor Administrative Agent is so appointed by Required Lenders or the Administrative Agent, any collateral security held by the Administrative Agent in its role as Collateral Agent on behalf of the Lenders or the L/C Issuer under any of the Loan Documents shall continue to be held by the retiring Collateral Agent as nominee until such time as a successor Collateral Agent is appointed. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, that successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the Departing Administrative Agent and the Departing Administrative Agent shall promptly (i) transfer to such successor Administrative Agent all sums, securities and

---

other items of Collateral held under the Collateral Documents, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Administrative Agent under the Loan Documents, and (ii) execute and deliver to such successor Administrative Agent such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Administrative Agent of the security interests created under the Collateral Documents, whereupon such Departing Administrative Agent shall be discharged from its duties and obligations hereunder. Except as provided above, any resignation or removal of Goldman Sachs Lending Partners LLC or its successor as Administrative Agent pursuant to this Section shall also constitute the resignation or removal of GS Lending Partners or its successor as Collateral Agent. After any Departing Administrative Agent's resignation or replacement hereunder as Administrative Agent, the provisions of this Section 9 and all protective provisions of the other Loan Documents shall inure to its benefit as to any actions taken or omitted to be taken by it while it was

Administrative Agent, but no successor Administrative Agent shall in any event be liable or responsible for any actions of its predecessor. Any successor Administrative Agent appointed pursuant to this Section shall, upon its acceptance of such appointment, become the successor Collateral Agent of all purposes hereunder.

Section 9.8. *L/C Issuer*. The L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith. The L/C Issuer shall have all of the benefits and immunities (i) provided to the Administrative Agent in this Section 9 with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and the Applications pertaining to such Letters of Credit as fully as if the term "Administrative Agent", as used in this Section 9, included the L/C Issuer with respect to such acts or omissions and (ii) as additionally provided in this Agreement with respect to such L/C Issuer.

Section 9.9. *Hedging Liability and Funds Transfer Liability and Deposit Account Liability Obligation Arrangements*. By virtue of a Lender's execution of this Agreement or an assignment agreement pursuant to Section 10.10 hereof, as the case may be, any Affiliate of such Lender with whom the Borrower or any Subsidiary has entered into an agreement creating Hedging Liability or Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations shall be deemed a Lender party hereto for purposes of any reference in a Loan Document to the parties for whom the Administrative Agent is acting, it being understood and agreed that the rights and benefits of such Affiliate under the Loan Documents consist exclusively of such Affiliate's right to share in payments and collections out of the Collateral as more fully set forth in Section 2.9 and Section 4 hereof. In connection with any such distribution of payments and collections, the Administrative Agent shall be entitled to assume no amounts are due to any Lender or its Affiliate with respect to Hedging Liability or Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations unless such Lender has notified the Administrative Agent in writing of the amount of any such liability owed to it or its Affiliate prior to such distribution.

Section 9.10. *Designation of Additional Administrative Agents*. The Administrative Agent shall have the continuing right, for purposes hereof, at any time and from time to time to designate one or more of the Lenders (and/or its or their Affiliates) as "syndication agents," "documentation agents," "arrangers" or other designations for purposes hereto, but such

---

designation shall have no substantive effect, and such Lenders and their Affiliates shall have no additional powers, duties or responsibilities as a result thereof.

Section 9.11. *Authorization to Enter into, and Enforcement of, the Collateral Documents*. The Administrative Agent or Collateral Agent, as applicable, is hereby irrevocably authorized by each Secured Party to be the agent for and representative of the Secured Parties and to execute and deliver the Collateral Documents and Guaranty on behalf of and for the benefit of the Secured Parties and to take such action and exercise such powers under the Collateral Documents as the Administrative Agent or Collateral Agent, as applicable considers appropriate; *provided* that neither the Administrative Agent nor the Collateral Agent shall owe any fiduciary duty, duty of loyalty, duty of care, duty of disclosure or any other obligation whatsoever to any other holder of Obligations with respect to any Hedge Agreement. The Administrative Agent shall not (except as expressly provided in Section 10.11) amend the Collateral Documents unless such amendment is agreed to in writing by the Required Lenders. Each Lender acknowledges and agrees that it will be bound by the terms and conditions of the Collateral Documents upon the execution and delivery thereof by the Administrative Agent. Except as otherwise specifically provided for herein, no Lender (or its Affiliates) other than the Administrative Agent shall have the right to institute any suit, action or proceeding in equity or at law for the foreclosure or other realization upon any Collateral or for the execution of any trust or power in respect of the Collateral or for the appointment of a receiver or for the enforcement of any other remedy under the Collateral Documents; it being understood and intended that no one or more of the Lenders (or their Affiliates) shall have any right in any manner whatsoever to affect, disturb or prejudice the Lien of the Administrative Agent (or any security trustee therefor) under the Collateral Documents by its or their action or to enforce any right thereunder, and that all proceedings at law or in equity shall be instituted, had, and maintained by the Administrative Agent (or its security trustee) in the manner provided for in the relevant Collateral Documents for the benefit of the Lenders and their Affiliates.

Section 9.12. *Authorization to Release Liens and Limit Amount of Certain Claims*. The Administrative Agent or Collateral Agent, as applicable, is hereby irrevocably authorized by each of the Lenders (and shall, upon the written request of the Borrower) to (and to execute any documents or instruments necessary to):

(i) release any Lien covering any Property of the Borrower or its Subsidiaries that is the subject of a disposition that is permitted by this Agreement or that has been consented to in accordance with Section 10.11;

(A) upon the date when all Revolving Credit Commitments have terminated, no Letters of Credit are outstanding and the Loans and other non-contingent obligations have been paid in full, release the Borrower and each of the Guarantors from its Obligations under the Loan Documents (other than those that specifically survive termination of this Agreement) and any Liens covering any of their Property with respect thereto; and

(B) release any Guarantor from its obligations under any Loan Document to which it is a party if such Person ceases to be a Restricted

---

Subsidiary as a result of a transaction or designation permitted by this Agreement and the Liens on such Obligations shall be automatically released; and

(ii) at the request of the Borrower, to subordinate any Lien on any Property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such Property that is permitted by paragraph (e), (w) or (x) or, with respect to the replacement of Liens, permitted by paragraph (e), (w) or (x) of the definition of Permitted Liens.

SECTION 10. MISCELLANEOUS.

Section 10.1. *Withholding Taxes.*

(a) *Payments Free of Withholding*. Except as otherwise required by law and subject to Section 10.1(b) hereof, each payment by or on behalf of any Loan Party under this Agreement or the other Loan Documents shall be made without withholding or deduction for or on account of any present or future United States withholding taxes or any taxes of any other jurisdiction (other than overall net income taxes (including branch profits tax), franchise taxes and other similar taxes on the recipient imposed by the jurisdiction (or any political subdivision thereof) in which its principal executive office or Lending Office is located or taxes imposed on a recipient as a result of a present or former connection between such recipient and the United States (other than in connection with entering into this Agreement, the receipt of payments hereunder or the enforcement of rights hereunder)). If any such withholding is so required, such withholding or deduction shall be made, the amount withheld shall be paid to the appropriate Governmental Authority before penalties attach thereto or interest accrues thereon, and the relevant Loan Party shall pay such additional amount as may be necessary to ensure that the net amount actually received by each Lender and the Administrative Agent free and clear of such taxes (including such taxes on such additional amount) is equal to the amount which that Lender or the Administrative Agent (as the case may be) would have received had such withholding not been made. If the Administrative Agent or any Lender pays any amount in respect of any such taxes, amounts subject to Section 10.4, or any related penalties or interest, the Borrower shall reimburse the Administrative Agent or such Lender for that payment on demand in the currency in which such payment was made whether or not such amounts were correctly or legally imposed. Notwithstanding the foregoing, a Loan Party shall not be required to pay any additional amounts or reimburse any Lender or the Administrative Agent with respect to any taxes, penalties or backup withholding tax (i) that, except as provided in Section 10.1(c), are attributable to a Lender's failure to comply with the requirements of Section 10.1(b), (ii) that are United States federal withholding taxes imposed on amounts payable to a Lender or Administrative Agent at the time such Lender or Administrative Agent becomes a party to this Agreement, except to the extent such Lender's assignor (if any) was entitled, at the time of assignment, to receive additional amounts or reimbursement under this Section 10.1(a) or (iii) imposed due to a failure by any Lender, Administrative Agent or any foreign financial institution through which payments under this Agreement are made to comply with any applicable certification, documentation, information or other reporting requirement concerning the nationality, residence, identity, direct or indirect ownership of or investment in, or connection with the United States of America of any Lender or Administrative Agent or any foreign financial institution through which payments under this Agreement are made if such compliance

---

is required by Sections 1471-1474 of the Code or any federal regulation promulgated or Revenue Ruling, Revenue Procedure, or Notice issued by the U.S. Internal Revenue Service (the *"IRS"*) thereunder as a precondition to relief or exemption from such tax, penalty or backup withholding. If a Loan Party pays any such taxes, penalties or interest, it shall deliver official tax receipts evidencing that payment or certified copies thereof (or, if such receipts are not available, other evidence of payment reasonably acceptable to the relevant Lender or Administrative Agent) to the Lender or Administrative Agent on whose account such withholding was made (with a copy to the Administrative Agent if not the recipient of the original) on or before the thirtieth day after payment.

(b) *U.S. Withholding Tax Exemptions.* Each Lender that is not a United States person (as such term is defined in Section 7701(a)(30) of the Code) shall submit to the Borrower and the Administrative Agent (x) on or before the Closing Date or, if later, the date such financial institution becomes a Lender hereunder, (y) on or prior to the date 60 days after written notice from Borrower that such form or certificate shall expire or become obsolete other than in connection with an event described in (z), and (z) after the occurrence of any event within such Lender's control requiring a change in the most recent form of certification previously delivered by it, two duly completed and signed originals of (i) Form W-8BEN (relating to such Lender and entitling it to a complete exemption from, or a reduced rate of, withholding under the Code on all amounts to be received by such Lender, including fees, pursuant to the Loan Documents and the Obligations), Form W-8ECI (relating to all amounts to be received by such Lender, including fees, pursuant to the Loan Documents and the Obligations) or Form W-8IMY (relating to entities acting as intermediaries) of the IRS, or any successor forms, (ii) solely if such Lender is claiming exemption from United States withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest", a Form W-8BEN, or any successor form prescribed by the IRS, and a certificate representing that such Lender is not a bank for purposes of Section 881(c) of the Code, is not a ten-percent shareholder (within the meaning of Section 871(h)(3)(B) of the Code) of the Borrower and is not a controlled foreign corporation related to the Borrower (within the meaning of Section 864(d)(4) of the Code) or (iii) any other applicable document prescribed by the IRS certifying as to the entitlement of such Lender to such exemption from United States withholding tax or reduced rate with respect to all payments to be made to such Lender under the Loan Documents. Each Lender that is a United States person (as such term is defined in Section 7701(a)(30) of the Code) shall (A) on or prior to the Closing Date or, if later, the date such financial institution becomes a Lender hereunder, (B) on or prior to the date 60 days after written notice from Borrower that such form or certification shall expire or become obsolete other than in connection with an event described in (C), (C) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this paragraph (b) and (D) from time to time if requested by the Borrower or the Administrative Agent, provide the Administrative Agent and the Borrower with two completed originals of Form W-9 (certifying that such Lender is entitled to an exemption from U.S. backup withholding tax) or any successor form. Thereafter and from time to time, each Lender, within 60 days of Borrower's written request, shall submit to the Borrower and the Administrative Agent such additional duly completed and signed copies of one or the other of such forms (or such successor forms as shall be adopted from time to time by the relevant United States taxing authorities) and such other certificates as may be (i) requested by the Borrower in a written notice, directly or through the Administrative Agent, to such Lender and (ii) required under then-current United States law or regulations to avoid or reduce United States

---

withholding taxes on payments in respect of all amounts to be received by such Lender, including fees, pursuant to the Loan Documents or the Obligations.

(c) *Inability of Lender to Submit Forms*. If as a result of any change in Applicable Law, regulation or treaty, or in any official application or interpretation thereof applicable to the payments made by or on behalf of any Loan Party or by the Administrative Agent under any Loan Document or any change in an income tax treaty applicable to any Lender, any Lender is unable to submit to the Borrower or the Administrative Agent any form or certificate that such Lender is obligated to submit pursuant to subsection (b) of this Section 10.1 or such Lender is required to withdraw or cancel any such form or certificate previously submitted or any such form or certificate otherwise becomes ineffective or inaccurate, such Lender shall promptly notify the Borrower and Administrative Agent of such fact and the Lender shall to that extent not be obligated to provide any such form or certificate and will be entitled to withdraw or cancel any affected form or certificate, as applicable.

(d) *Tax Refunds.* If the Administrative Agent or any Lender determines, in its sole discretion, that it has received a refund of taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 10.1 or Section 10.4, it shall pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 10.1 or Section 10.4 giving rise to such refund), net of all reasonable out of pocket expenses of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority) with respect to such refund; *provided*, that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower plus any penalties, interest or other charges imposed by the relevant Governmental Authority to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such

refund to such Governmental Authority. This paragraph shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Borrower or any other Person.

(e) *Mitigation*. Any Lender claiming any additional amounts payable pursuant to this Section 10.1 shall use its reasonable efforts (consistent with its internal policies and Applicable Laws) to change the jurisdiction of its lending office if such a change would reduce any such additional amounts (or any similar amount that may thereafter accrue) and would not, in the sole determination of such Lender, be otherwise disadvantageous to such Lender.

Section 10.2. *No Waiver; Cumulative Remedies; Collective Action*. No delay or failure on the part of the Administrative Agent or any Lender or on the part of the holder or holders of any of the Obligations in the exercise of any power or right under any Loan Document shall operate as a waiver thereof or as an acquiescence in any default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The rights and remedies hereunder of the Administrative Agent, the Lenders and of the holder or holders of any of the Obligations are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have.

---

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 7.2, Section 7.3 and Section 7.4 for the benefit of all the Lenders and the L/C Issuer, and each Lender and the L/C Issuer hereby agree with each other Lender and the L/C Issuer, as applicable, that no Lender shall (and the L/C Issuer shall not) take any action to protect or enforce its rights under this Agreement or any other Loan Document (including exercising any rights of set-off) without first obtaining the prior written consent of the Administrative Agent or the Required Lenders; *provided*, *however*, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) the L/C Issuer or the Swing Line Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer or Swing Line Lender, as the case may be) hereunder and under the other Loan Documents, or (c) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any debtor relief law.

Section 10.3. *Non-Business Days*. Except as otherwise provided herein, if any payment hereunder or date for performance becomes due and payable or performable (in each case, including as a result of the expiration of any relevant notice period) on a day which is not a Business Day, the due date of such payment or the date for such performance shall be extended to the next succeeding Business Day on which date such payment shall be due and payable or such other requirement shall be performed. In the case of any payment of principal falling due on a day which is not a Business Day, interest on such principal amount shall continue to accrue during such extension at the rate per annum then in effect, which accrued amount shall be due and payable on the next scheduled date for the payment of interest.

Section 10.4. *Documentary Taxes*. The Borrower agrees to pay within ten days after demand therefor any documentary, stamp, excise, property or similar taxes payable in respect of this Agreement or any other Loan Document, including interest and penalties, in the event any such taxes are assessed, irrespective of when such assessment is made and whether or not any credit is then in use or available hereunder.

Section 10.5. *Survival of Representations*. All representations and warranties made herein or in any other Loan Document or in certificates given pursuant hereto or thereto shall survive the execution and delivery of this Agreement and the other Loan Documents, and shall continue in full force and effect with respect to the date as of which they were made as long as any Lender or the L/C Issuer has any Revolving Credit Commitment hereunder or any Obligations remain unpaid hereunder.

Section 10.6. *Survival of Indemnities*. All indemnities and other provisions relative to reimbursement to the Lenders of amounts sufficient to protect the yield of the Lenders with respect to the Loans and Letters of Credit, including, but not limited to, Sections 8.1, 8.4, 10.4 and 10.13 hereof, shall survive the termination of this Agreement and the other Loan Documents and the payment of the Obligations.

---

Section 10.7. *Sharing of Set-Off*. Each Lender agrees with each other Lender a party hereto that if such Lender shall receive and retain any payment, whether by set-off or application of deposit balances or otherwise (except pursuant to a valid assignment or participation pursuant to Section 10.10), on any of the Loans or Reimbursement Obligations in excess of its ratable share of payments on all such Obligations then outstanding to the Lenders, then such Lender shall purchase for cash at face value, but without recourse, ratably from each of the other Lenders such amount of the Loans or Reimbursement Obligations, or participations therein, held by each such other Lenders (or interest therein) as shall be necessary to cause such Lender to share such excess payment ratably with all the other Lenders; *provided*, *however*, that if any such purchase is made by any Lender, and if such excess payment or part thereof is thereafter recovered from such purchasing Lender, the related purchases from the other Lenders shall be rescinded ratably and the purchase price restored as to the portion of such excess payment so recovered, but without interest. For purposes of this Section, amounts owed to or recovered by the L/C Issuer in connection with Reimbursement Obligations in which Lenders have been required to fund their participation shall be treated as amounts owed to or recovered by the L/C Issuer as a Lender hereunder.

Section 10.8. *Notices*. Except as otherwise specified herein, all notices hereunder and under the other Loan Documents shall be in writing (including, without limitation, notice by facsimile or email transmission) and shall be given to the relevant party at its physical address, facsimile number or email address set forth below, or such other physical address, facsimile number or email address as such party may hereafter specify by notice to the Administrative Agent and the Borrower given by courier, by United States certified or registered mail, by facsimile, email transmission or by other telecommunication device capable of creating a written record of such notice and its receipt. Notices under the Loan Documents to any Lender shall be addressed to its physical address or facsimile number or email address set forth on its Administrative Questionnaire; and notices under the Loan Documents to the Borrower or the Administrative Agent shall be addressed to their respective physical addresses, facsimile numbers or email addresses set forth below:

| to the Borrower: | to the Administrative Agent: |
|---|---|
| Fifth Third Processing Solutions, LLC<br>38 Fountain Square Plaza, 11th Floor<br>MD 1090BH<br>Cincinnati, OH 45263<br>Attention: Mark Heimbouch | Goldman Sachs Lending Partners LLC<br>c/o Goldman, Sachs & Co.<br>30 Hudson Street, 36th Floor<br>Jersey City, NJ 07302<br>Attention: SBD Operations |

Telephone: (513) 534-2037
Facsimile: (513) 534-0318
Email: Mark.Heimbouch@53.com

Facsimile (646) 769-7700
Email: gsd.link@gs.com and
ficc-sbdagency-nydallas@ny.email.gs.com

With a copy of any notice of any
Default or Event of Default (which shall
not constitute notice to the Borrower) to:

---

Weil, Gotshal & Manges LLP
200 Crescent Court, Suite 300
Dallas, Texas 75201
Attention: Kelly M. Dybala
Telephone: (214) 746-7898
Facsimile: (214) 746-7777
Email: kelly.dybala@weil.com

Each such notice, request or other communication shall be effective (i) if given by facsimile, when such facsimile is transmitted to the facsimile number specified in this Section 10.8 or in the relevant Administrative Questionnaire and a confirmation of such telecopy has been received by the sender, (ii) if given by mail, five days after such communication is deposited in the mail, certified or registered with return receipt requested, addressed as aforesaid, (iii) if by email, when delivered (all such notices and communications sent by email shall be deemed delivered upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgement)), or (iv) if given by any other means, when delivered at the addresses specified in this Section 10.8 or in the relevant Administrative Questionnaire; *provided* that any notice given pursuant to Section 2 hereof shall be effective only upon receipt.

Section 10.9. *Counterparts*. This Agreement may be executed in any number of counterparts, and by the different parties hereto on separate counterpart signature pages, and all such counterparts taken together shall be deemed to constitute one and the same instrument.

Section 10.10. *Successors and Assigns; Assignments and Participations*.

(a) *Successors and Assigns Generally*. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations under any Loan Document without the prior written consent of the Administrative Agent and each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of paragraph (b) of this Section, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in paragraph (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) *Assignments by Lenders*. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement with respect to all or a portion of its Revolving Credit Commitment(s) and the Loans at the time owing to it; *provided* that:

---

(i) except in the case of an assignment of the entire remaining amount of the assigning Lender's Revolving Credit Commitment(s) and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, the aggregate amount of the Revolving Credit Commitment(s) (which for this purpose includes Loans outstanding thereunder) or, if the applicable Revolving Credit Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of such Trade Date) shall not be less than $5,000,000, in the case of any assignment in respect of the Revolving Facility, or less than $1,000,000, in the case of any assignment in respect of the Term B Facility (calculated, in each case, in the aggregate with respect to multiple, simultaneous assignments by two or more Approved Funds which are Affiliates or share the same (or affiliated) manager or advisor and/or two or more lenders that are Affiliates) unless each of the Administrative Agent and the Borrower otherwise consent (each such consent not to be unreasonably withheld or delayed);

(ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Facility or the Revolving Credit Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis;

(iii) any assignment of a Revolving Credit Commitment must be approved by the Administrative Agent, the L/C Issuer and the Borrower (each such approval not to be unreasonably withheld) unless the Person that is the proposed assignee is itself a Lender with a Revolving Credit Commitment (whether or not the proposed assignee would otherwise qualify as an Eligible Assignee);

(iv) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500 (unless otherwise waived or reduced by the Administrative Agent in its sole discretion), and the Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire; and

(v) the Eligible Assignee provides the Borrower and the Administrative Agent the forms required by Section 10.1(b) prior to the assignment and shall not be entitled to any additional amounts or indemnification of taxes under Section 10.1 in excess of the amounts

that would be paid to its assignor.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to paragraph (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 8.4 and 10.13 and subject to any obligations hereunder with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be void *ab initio*. All parties hereto consent that assignments to the Borrower permitted by the terms hereof shall not be construed as violating pro rata, optional redemption or any other provisions hereof, it being understood that, not withstanding anything to the contrary elsewhere in this Agreement, immediately upon receipt by the Borrower of any Loans and/or Revolving Credit Commitments the same shall be deemed cancelled and no longer outstanding for any purpose under this Agreement, including without limitation, Section 10.11, and in no event shall the Borrower have any rights of a Lender under this Agreement or any other Loan Document.

(c) *Register*. (i) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, the Revolving Credit Commitment(s) of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time, and each repayment in respect of the principal amount (and any interest thereon) (the *"Register"*). The entries in the Register shall be conclusive absent manifest error or except to the extent an assignment has been recorded therein which assignment does not comply with Section 10.10(b), and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary; *provided* that in the event any assignment contemplated by paragraph (b) above is not effected in accordance with the requirements of that Section, nothing in the Register to the contrary shall override the nullity of such assignment as provided pursuant to paragraph (b) above. The Register shall be available for inspection by the Borrower and any Lender (as to its own interest, but not the interest of any other Lender), at any reasonable time and from time to time upon reasonable prior notice.

(ii) The Administrative Agent shall (A) accept the Assignment and Assumption and (B) promptly record the information contained therein in the Register once all the requirements of paragraph (a) above have been met. No assignment shall be effective unless it has been recorded in the Register.

(d) *Participations*. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person) (each, a *"Participant"*) in all or a portion of such Lender's rights and/or obligations under the this Agreement (including all or a portion of its Revolving Credit Commitment(s) and/or the Loans owing to it); *provided* that, (i) such Lender's obligations under this Agreement

shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification, supplement or waiver of any provision of this Agreement; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification, supplement or waiver described in subclause (A) (to the extent that such Participant is directly affected) or (B) of Section 10.11 Subject to paragraph (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 8.1, 8.4(b) and 10.1(a) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.14 as though it were a Lender, *provided* such Participant agrees to be subject to Section 10.7 as though it were a Lender.

Each Lender that sells a participation pursuant to this Section 10.10(d) shall maintain a register for the recordation of the names and addresses of the Participants, the commitments of, and principal amounts (and stated interest) of the Loans owing to, each Participant pursuant to the terms hereof from time to time, and each repayment in respect of the principal amount (and any interest thereon) (each, a "Participant Register"). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register pursuant to the terms hereof as the owner of a participation for all purposes of this Agreement, notwithstanding notice to the contrary.

(e) *Limitations upon Participant Rights*. A Participant shall not be entitled to receive any greater payment under iv than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant. A Participant shall not be entitled to receive any greater payment under Section 10.1(a) than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant. A Participant that is not a United States person (as such term is defined in Section 7701(a)(30) of the Code) shall not be entitled to the benefits of Section 10.1(a) unless the Borrower is notified of the participation sold to such Participant and such Participant complies with Section 10.1(b) and (c) as though it were a Lender.

(f) *Certain Pledges*. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) *Electronic Execution of Assignments*. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of

a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the Ohio Uniform Electronic Transactions Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(h) So long as no Default or Event of Default has occurred or is continuing, any Lender may, at any time, assign all or a portion of its rights and obligations in respect of the Term B Loans to (a) Advent, (b) any Non-Debt Fund Affiliate and/or (c) Holdco and/or any Subsidiary of Holdco (each of the Persons identified in paragraphs (a), (b) and (c), an *"Affiliated Lender"*) on a non pro rata basis through (x) Dutch Auctions open to all Lenders on a pro rata basis and/or (y) solely in the case of Advent or any Non-Debt Fund Affiliate, open market purchases, subject to the following limitations:

(i) such Affiliated Lender shall make a representation that, as of the date of any such purchase and assignment, it is not in possession of material non-public information (*"MNPI"*) with respect to the Borrower, its Subsidiaries or their respective securities that (A) has not been disclosed to the assigning Lender prior to such date and (B) could reasonably be expected to have a material effect upon, or otherwise be material to, a Lender's decision to assign Loans to such Affiliated Lender, as the case may be (in each case, other than because such assigning Lender does not wish to receive MNPI with respect to the Borrower, its Subsidiaries or their respective securities);

(ii) all Term B Loans held by any Affiliated Lender shall be deemed to be not outstanding for all purposes of calculating whether the Required Lenders have taken any action;

(iii) the aggregate principal amount of Term B Loans purchased by assignment pursuant to this Section 10.10(h) and held at any one time by Affiliated Lenders may not exceed 25% of the outstanding principal amount of all Term B Loans plus the outstanding principal amount of all term loans made pursuant to a Term Commitment Increase;

(iv) Affiliated Lenders will not receive information provided solely to Lenders by the Administrative Agent or any Lender and will not be permitted to attend or participate in meetings attended solely by the Lenders and the Administrative Agent, other than the receipt of notices of Borrowings, notices of prepayments and other administrative notices in respect of its Loans or Revolving Credit Commitments required to be delivered to Lenders pursuant to Section 2;

(v) No Affiliated Lender shall take any action in any bankruptcy, insolvency or reorganization proceeding to object to, impede or delay the exercise of any right or the taking of any action by the Administrative Agent or Collateral Agent or the taking of any action by a third party that is supported by the Administrative Agent or Collateral Agent (including, without limitation, voting on any plan of reorganization, liquidation or similar scheme) so long as such Affiliated Lender is treated in connection therewith on the same or better terms as the other Lenders upon the resolution of such proceeding;

---

(vi) in the case of any Dutch Auction conducted by Holdco, the Borrower or any of its Restricted Subsidiaries, (A) the Borrower shall be in Pro Forma Compliance with the financial covenants under Section 6.22, (B) the Revolving Facility shall not be utilized to fund the assignment, and after giving effect thereto, the aggregate amount outstanding under the Revolving Facility may not exceed the aggregate amount of unrestricted cash and Cash Equivalents of the Borrower and the Guarantors and (C) the loans purchased by Holdco or its Subsidiaries shall be immediately cancelled (provided that neither Holdco nor its Subsidiaries may increase the amount of Consolidated EBITDA by any non-cash gains associated with such cancellation of debt).

It is understood and agreed that the limitations set forth in clauses (ii), (iii), (iv) and (v) above shall be applicable to and in respect of any Affiliated Lender that is a party to this agreement whether such Lender is a party hereto on the Closing Date, becomes a Lender as a result of assignment pursuant to this Section 10.10(h) or otherwise and shall only be applicable with respect to the Term B Loans that are held by such Affiliated Lender while such Term B Loans are held by such Affiliated Lender.

Notwithstanding anything to the contrary contained in the foregoing, (a) Advent and any Non-Debt Fund Affiliate may (but shall not be required to) contribute any Term B Loans so purchased under this Section 10.10(h) to Holdco or any of its Subsidiaries for purposes of cancellation of such debt and (b) each Affiliated Lender shall have the right to vote on any amendment, modification, waiver or consent that would require the vote of all Lenders or the vote of all Lenders directly and adversely affected thereby pursuant to subclauses (A) or (B) of Section 10.11(a).

In addition, Term B Loans and/or Revolving Credit Commitments may be purchased by and assigned to any Debt Fund Affiliate on a non-*pro rata* basis through (a) Dutch Auctions open to all Lenders on a pro rata basis in accordance with customary procedures and/or (b) open market purchases. The limitations under clauses (i) through (iv) above shall not apply to any such purchase by a Debt Fund Affiliate, and each Lender shall be permitted to assign all or a portion of such Lender's Term B Loans and/or Revolving Commitments to any Debt Fund Affiliate without regard to such foregoing provisions.

Section 10.11. *Amendments*. (a) Any provision of this Agreement or the other Loan Documents may be amended, modified, supplemented or waived if, but only if, such amendment, modification, supplement or waiver is in writing and is signed by (i) the Borrower, (ii) the Required Lenders, (iii) if the rights or duties of the Administrative Agent are adversely affected thereby, the Administrative Agent, and (iv) if the rights or duties of the L/C Issuer are affected thereby, the L/C Issuer; *provided* that:

(A) no amendment, modification, supplement or waiver pursuant to this Section 10.11 shall (i) increase any Revolving Credit Commitment or extend the expiry date of any such Revolving Credit Commitment of any Lender without the consent of such Lender (it being understood that any such amendment, modification, supplement or waiver that provides for the payment of interest in kind in addition to, and not as substitution for or as conversion of, the interest otherwise payable hereunder shall only require the consent of the Required

---

Lenders and that a waiver of any condition precedent or the waiver of any Default or Event of Default or mandatory prepayment shall not constitute an extension or increase of any Revolving Credit Commitment), (ii) reduce the amount of, postpone the date for any scheduled

payment of any principal of or interest or fee on, or extend the final maturity of any Loan or of any Reimbursement Obligation or of any fee payable hereunder (other than with respect to a waiver of default interest) without the consent of the Lender to which such payment is owing or which has committed to make such Loan or Letter of Credit (or participate therein) hereunder or (iii) change the application of payments set forth in Section 2.9 hereof without the consent of any Lender adversely affected thereby;

(B) no amendment, modification, supplement or waiver pursuant to this Section 10.11 shall, unless signed by each Lender, change the definition of Required Lenders in a manner that reduces the voting percentages set forth therein, change the provisions of this Section 10.11, release all or substantially all of the Collateral (except as expressly provided in the Loan Documents) or all or substantially all of the value of the guarantees provided by the Guarantors (except as expressly provided in the Loan Documents), affect the number of Lenders required to take any action hereunder or under any other Loan Document, or change or waive any provision of any Loan Document that provides for the pro rata nature of disbursements or payments to Lenders or sharing of Collateral among the Lenders (except in connection with any transaction permitted by the last paragraph of this Section 10.11(a) or Section 10.10(h)); and

(C) no amendment, modification, supplement or waiver pursuant to this Section 10.11 shall amend or otherwise modify Section 2.8 or any other provisions of any Loan Document in a manner that by its terms adversely affects the rights in respect of payments due to Lenders holding Loans of any Class differently than those holding Loans of any other Class, without the consent of Lenders representing a majority in interest of each affected Class (it being understood that the Required Lenders may waive, in whole or in part, any prepayment of Loans hereunder so long as the application, as between Classes, of any portion of such prepayment that is still required to be made is not altered).

Notwithstanding anything to the contrary herein, (a) no Defaulting Lender shall have any right to approve or disapprove any amendment, modification, supplement, waiver or consent hereunder or otherwise give any direction to the Administrative Agent; (b) the Administrative Agent may, with the consent of Borrower only, amend, modify or supplement this Agreement or any other Loan Document to cure any ambiguity, omission, defect or inconsistency, so long as such amendment, modification or supplement does not adversely affect the rights of any Lender or the Lenders shall have received, at least five Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment and (c) any agreement of the Required Lenders to forbear (and/or direction to the Administrative Agent to forbear) from exercising any of their rights and remedies upon a Default or Event of Default shall be effective without the consent of the Administrative Agent or any other Lender.

---

In addition, notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders (as determined hereunder prior to any such amendment or amendment and restatement), the Administrative Agent and the Borrower (i) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Loans and the accrued interest and fees in respect thereof and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders, the Required Term Lenders, the Required Revolving Lenders and other definitions related to such new credit facilities; *provided* that, no Lender shall be obligated to commit to or hold any part of such credit facilities.

(b) If any Lender (such Lender, a *"Non-Consenting Lender"*) has failed to consent to a proposed amendment, modification, supplement, waiver, discharge or termination which pursuant to the terms of this Section 10.11 requires the consent of all of the Lenders affected and with respect to which the Required Lenders shall have granted their consent, then provided no Event of Default then exists, the Borrower shall have the right (unless such Non-Consenting Lender grants such consent) to (i) replace such Non-Consenting Lender by requiring such Non-Consenting Lender to assign its relevant outstanding Loans plus any accrued and unpaid interest and fees, its Revolving Credit Commitments and all of its rights and obligations hereunder to one or more assignees, *provided* that: (a) all Obligations of the Borrower owing to such Non-Consenting Lender being replaced shall be paid in full to such Non-Consenting Lender concurrently with such assignment, (b) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon, and (c) the replacement Lender shall grant such consent or (ii) terminate the Revolving Credit Commitment of such Non-Consenting Lender and repay all Obligations of the Borrower owing to such Lender as of such termination date. In connection with any such assignment, the Borrower, Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 10.10 hereof.

(c) Each waiver, amendment, modification, supplement or consent made or given pursuant to this Section 10.11 shall be effective only in the specific instance and for the specific purpose for which given, and such waiver, amendment, modification or supplement shall apply equally to each of the Lenders and shall be binding on the Loan Parties, the Lenders, the Administrative Agent and all future holders of the Loans and Revolving Credit Commitments.

Section 10.12. *Heading*. Section headings and the Table of Contents used in this Agreement are for reference only and shall not affect the construction of this Agreement.

Section 10.13. *Costs and Expenses; Indemnification*. (a) The Borrower agrees to pay all reasonable and documented out-of-pocket costs and expenses (within thirty days of a written demand therefor, together with reasonable backup documentation supporting such reimbursement request) of (i) the Administrative Agent and Joint Lead Arrangers in connection with the syndication of the Facilities and the preparation, execution, delivery and administration of the Loan Documents and any amendment, modification, supplement, waiver or consent related to the Loan Documents, together with any fees and charges suffered or incurred by the Administrative Agent in connection with collateral filing fees and lien searches and (ii) the

---

Administrative Agent and the Lenders (within thirty days of a written demand therefor together with reasonable backup documentation supporting such reimbursement request) in connection with the enforcement of the Loan Documents.

(b) The Borrower further agrees to indemnify the Administrative Agent in its capacity as such, each Lender, and their respective directors, officers, employees, advisors, agents and Affiliates against all Damages (including, without limitation, reasonable attorney's fees and other expenses of litigation or preparation therefor, whether or not the indemnified Person is a party thereto, or any settlement arrangement arising from or relating to any such litigation) which any of them may pay or incur arising out of or relating to any Loan Document or any of the transactions

contemplated thereby or the direct or indirect application or proposed application of the proceeds of any Loan or Letter of Credit, other than those which (i) arise from the gross negligence, willful misconduct or bad faith of, or material breach of the Loan Documents by, the party claiming indemnification (or any of its respective directors, officers, employees, advisors, agents and Affiliates), in each case, to the extent determined by a court of competent jurisdiction in a final and non-appealable judgment or (ii) arise out of any dispute solely among indemnitees (other than in connection with any agent acting in its capacity as a Joint Lead Arranger or Administrative Agent or any other agent or co-agent (if any) designated by the Joint Lead Arrangers, in each case in their respective capacities as such, or in connection with any syndication activities, but in each case solely to the extent such indemnification would not be denied pursuant to clause (b)(i)) that a court of competent jurisdiction has determined in a final and non-appealable decision did not arise out of any act or omission of the Borrower or any of its Affiliates. Notwithstanding the foregoing, each indemnified person shall be obligated to refund and return any and all amounts paid by the Borrower to such indemnified person for fees, expenses or damages to the extent such indemnified person is not entitled to payment of such amounts in accordance with the terms hereof.

(c) Notwithstanding any of the foregoing clauses (a) or (b) to the contrary, in no event shall the Borrower be obligated to pay for the legal expenses or fees of more than one firm of outside counsel (and shall not be obligated to pay for any in-house counsel) and, if reasonably necessary, one local counsel and one regulatory counsel in any relevant material jurisdiction, to the Administrative Agent, or the Administrative Agent and the Lenders, taken as a whole, as the case may be, except, solely in the case of a conflict of interest under clauses (a)(ii) or (b) above, one additional counsel to the affected persons similarly situated, taken as a whole. The obligations of the Borrower under this Section shall survive the termination of this Agreement.

Section 10.14. *Set-off* In addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, but subject to Section 10.2, upon the occurrence and during the continuation of any Event of Default, each Lender and each subsequent holder of any Obligation is hereby authorized by the Borrower at any time or from time to time, without prior notice to the Borrower or to any other Person, any such notice being hereby expressly waived, to set-off and to appropriate and to apply any and all deposits (general or special, including, but not limited to, indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts, and in whatever currency

---

denominated) and any other indebtedness at any time held or owing by that Lender or that subsequent holder to or for the credit or the account of the Borrower, whether or not matured, against and on account of any amount due and payable by the Borrower hereunder. Each Lender or any such subsequent holder of any Obligations agrees to promptly notify the Borrower and the Administrative Agent after any such set-off and application made by such Lender, *provided* that the failure to give such notice shall not affect the validity of such set-off and application.

Section 10.15. *Entire Agreement*. The Loan Documents constitute the entire understanding of the parties thereto with respect to the subject matter thereof and any prior agreements, whether written or oral, with respect thereto are superseded hereby.

Section 10.16. *Governing Law*. This Agreement and the rights and obligations of the parties hereunder shall be governed by, and construed by and interpreted in accordance with, the law of the State of New York, including section 5 -1401 of the general obligations law of the State of New York, but excluding the laws applicable to conflicts or choice of law.

Section 10.17. *Severability of Provisions*. Any provision of any Loan Document which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All rights, remedies and powers provided in this Agreement and the other Loan Documents may be exercised only to the extent that the exercise thereof does not violate any applicable mandatory provisions of law, and all the provisions of this Agreement and other Loan Documents are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Agreement or the other Loan Documents invalid or unenforceable.

Section 10.18. *Excess Interest*. Notwithstanding any provision to the contrary contained herein or in any other Loan Document, no such provision shall require the payment or permit the collection of any amount of interest in excess of the maximum amount of interest permitted by Applicable Law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the Loans or other obligations outstanding under this Agreement or any other Loan Document (*"Excess Interest"*). If any Excess Interest is provided for, or is adjudicated to be provided for, herein or in any other Loan Document, then in such event (a) the provisions of this Section shall govern and control, (b) neither the Borrower nor any guarantor or endorser shall be obligated to pay any Excess Interest, (c) any Excess Interest that the Administrative Agent or any Lender may have received hereunder shall, at the option of the Administrative Agent, be (i) applied as a credit against the then outstanding principal amount of Obligations hereunder and accrued and unpaid interest thereon (not to exceed the maximum amount permitted by Applicable Law), (ii) refunded to the Borrower, or (iii) any combination of the foregoing, (d) the interest rate payable hereunder or under any other Loan Document shall be automatically subject to reduction to the maximum lawful contract rate allowed under applicable usury laws (the *"Maximum Rate"*), and this Agreement and the other Loan Documents shall be deemed to have been, and shall be, reformed and modified to reflect such reduction in the relevant interest rate, and (e) neither the Borrower nor any guarantor or endorser shall have any action against the Administrative Agent or any Lender for any Damages whatsoever arising out of the payment or collection of any Excess Interest. Notwithstanding the foregoing, if for any

---

period of time interest on any of Borrower's Obligations is calculated at the Maximum Rate rather than the applicable rate under this Agreement, and thereafter such applicable rate becomes less than the Maximum Rate, the rate of interest payable on the Borrower's Obligations shall remain at the Maximum Rate until the Lenders have received the amount of interest which such Lenders would have received during such period on the Borrower's Obligations had the rate of interest not been limited to the Maximum Rate during such period.

Section 10.19. *Construction*. The parties acknowledge and agree that the Loan Documents shall not be construed more favorably in favor of any party hereto based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the negotiation of the Loan Documents. The provisions of this Agreement relating to Subsidiaries shall apply only during such times as the Borrower has one or more Subsidiaries. In the event of any conflict or inconsistency between or among this Agreement and the other Loan Documents, the terms and conditions of this Agreement shall govern and control.

Section 10.20. *Lender's Obligations Several*. The obligations of the Lenders hereunder are several and not joint. Nothing contained in this Agreement and no action taken by the Lenders pursuant hereto shall be deemed to constitute the Lenders a partnership, association, joint venture or other entity.

Section 10.21. *USA Patriot Act*. Each Lender hereby notifies the Borrower that pursuant to the requirements of the Patriot Act it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Patriot Act.

Section 10.22. *Submission to Jurisdiction; Waiver of Jury Trial*. Each of the parties hereto hereby submits to the nonexclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court sitting in New York City in the borough of Manhattan for purposes of all legal proceedings arising out of or relating to this Agreement, the other Loan Documents or the transactions contemplated hereby or thereby. Each of the parties hereto irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum. THE BORROWER, THE ADMINISTRATIVE AGENT AND THE LENDERS HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY.

Section 10.23. *Treatment of Certain Information; Confidentiality*. Each of the Administrative Agent, the Lenders and the L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and other representatives on a "need to know basis" (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential) solely in connection with the transactions contemplated or permitted hereby; *provided* that the Administrative Agent, the Lenders or the

---

L/C Issuer, as the case may be, shall be responsible for its Affiliates' compliance with this paragraph, (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by Applicable Laws or regulations or by any subpoena or similar legal process; *provided* that unless specifically prohibited by Applicable Law or court order, each Lender and the Administrative Agent shall promptly notify the Borrower in advance of any such disclosure, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section 10.23, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any Hedge Agreement relating to the Borrower and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section 10.23 or (y) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower (except to the extent that such Information was available to the Administrative Agent, any Lender or any of their Affiliates as a result of Administrative Agent's, any Lender's or their Affiliates' ownership interests in the Business or the Borrower). For purposes of this Section 10.23, "*Information*" means all information received by the Administrative Agent, any Lender or the L/C Issuer, as the case may be, from the Borrower or any of its Subsidiaries relating to the Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower or any of its Subsidiaries. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information. Notwithstanding the foregoing, the Administrative Agent and the Lenders agree not to disclose any Information to a (i) Prohibited Lender or (ii) any of their respective Affiliates or any of their and their Affiliates' officers, directors or employees that (x) are engaged as principles primarily in private equity or venture capital on a proprietary bases (other than, in each case, such Affiliates engaged by the Borrower with respect to the Transactions and the private equity group affiliated with the GSLP Funds or any other debt fund affiliates or any advisors thereto) or (y) to the knowledge of the Administrative Agent, the Lenders or the L/C Issuer, as the case may be, are engaged in businesses competing with the Borrower (including any Affiliate which has been previously identified in writing to the Joint Lead Arrangers as such); provided, that nothing contained in this Section 10.23 shall prohibit the disclosure of such Information to any officers, directors or employees of any Affiliate of the Administrative Agent, the Lenders or the L/C Issuer, as the case may be, who reasonably need to know such Information for purposes of evaluating, negotiating, enforcing or consummating any of the transactions contemplated hereby, so long as, such Information is used solely for such purposes.

Section 10.24. *Conflicts with Intercreditor Agreement.*

To the extent any obligation of any Loan Party hereunder or under any other Loan Document conflicts or is inconsistent with the terms of the Intercreditor Agreement, the

---

Intercreditor Agreement shall control, and such Loan Party shall not be required to fulfill such obligations. Each Lender hereby acknowledges that it has reviewed the Intercreditor Agreement, authorizes the Collateral Agent to execute and deliver such agreement and acknowledges that such Lender will be bound by the terms thereof.

**THE SIGNATURES OF EACH PARTY HERETO EVIDENCE EACH PARTIES' AGREEMENT TO BE BOUND BY THE TERMS OF THIS FIRST LIEN LOAN AGREEMENT.**

---

**FIFTH THIRD PROCESSING SOLUTIONS, LLC**

By: /s/ Mark Heimbouch
Name: Mark Heimbouch
Title: Executive Officer and
Chief Financial Officer

[*Signature Page to First Lien Loan Agreement*]

---

**GOLDMAN SACHS LENDING PARTNERS LLC**,
as Administrative Agent, Collateral Agent and as a Lender

By: /s/ Anna Ostrovsky
Name: Anna Ostrovsky
Title: Authorized Signatory

[*Signature Page to First Lien Loan Agreement*]

---

**CREDIT SUISSE SECURITIES (USA) LLC**, as Co-Syndication Agent

By: /s/ Jeffrey Cohen
Name: Jeffrey Cohen
Title: Managing Director

[*Signature Page to First Lien Loan Agreement*]

---

**MORGAN STANLEY SENIOR FUNDING INC.**,
as Co-Syndication Agent, Co-Documentation Agent and as a Lender

By: Illegible
Name:
Title: Authorized Signatory

[*Signature Page to First Lien Loan Agreement*]

---

**BANK OF AMERICA, N.A.**,
as Co-Syndication Agent and as a Lender

By: /s/ Robert Klawinski
Name: Robert Klawinski
Title: Senior Vice President

[*Signature Page to First Lien Loan Agreement*]

---

**FIFTH THIRD BANK**, as L/C Issuer, Swing Line Lender, Co-Documentation Agent and as a Lender

By: /s/ Michael J. Shaltz, Jr.
Name: Michael J. Schaltz, Jr.
Title: Vice President

[*Signature Page to First Lien Loan Agreement*]

---

**SUNTRUST BANK,** as Co-Documentation Agent and as a Lender

By: Illegible
Name:
Title: Vice President

[*Signature Page to First Lien Loan Agreement*]

---

**JPMORGAN CHASE BANK, N.A.,** as a Lender

By: /s/ Ann B. Kerns
Name: Ann B. Kerns
Title: Vice President

[*Signature Page to First Lien Loan Agreement*]

---

**CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,** as a Lender

By: /s/ Nupur Kumar
Name: Nupur Kumar
Title: Vice President

By: /s/ Vipul Dhadda
Name: Vipul Dhadda
Title: Associate

[*Signature Page to First Lien Loan Agreement*]

---

**MORGAN STANLEY BANK, N.A.,** as a Lender

By: /s/ Stephen B. King
Name: Stephen B. King
Title: Authorized Signatory

[*Signature Page to First Lien Loan Agreement*]

---

**GSLP I Offshore Holdings Fund A, L.P.,** as a Lender

By: /s/ Thomas Connolly
Name: Thomas Connolly
Title: Managing Director

---

**GSLP I Offshore Holdings Fund B, L.P.,** as a Lender

By: /s/ Thomas Connolly
Name: Thomas Connolly
Title: Managing Director

[*Signature Page to First Lien Loan Agreement*]

---

**GSLP I Offshore Holdings Fund C, L.P.,** as a Lender

By: /s/ Thomas Connolly
Name: Thomas Connolly
Title: Managing Director

[*Signature Page to First Lien Loan Agreement*]

---

**GSLP I Offshore Holdings Fund D, L.P.,** as a Lender

By: /s/ Thomas Connolly
Name: Thomas Connolly
Title: Managing Director

[*Signature Page to First Lien Loan Agreement*]

---

**GSLP I Onshore Holdings Fund, L.L.C.,** as a Lender

By: /s/ Thomas Connolly
Name: Thomas Connolly
Title: Managing Director

[*Signature Page to First Lien Loan Agreement*]

---

**Sumitomo Mitsui Banking Corporation,** as a Lender

By: /s/ William M. Ginn
Name: William M. Ginn
Title: Executive Officer

[*Signature Page to First Lien Loan Agreement*]

---

**Mizuho Corporate Bank, Ltd,** as a Lender

By: /s/ James R. Fayen
Name: James R. Fayen
Title: Deputy General Manager

---

**PNC Bank, National Association,** as a Lender

By: /s/ C. Joseph Richardson
Name: C. Joseph Richardson
Title: Senior Vice President

---

**RAYMOND JAMES BANK, FSB,** as a Lender

By: /s/ Garrett McKinnon
Name: Garrett McKinnon
Title: Senior Vice President

**Wells Fargo Bank N.A.,** as a Lender

By: /s/ Hank Biedrzycki
Name: Hank Biedrzycki
Title: Managing Director

---

## EXHIBIT A

## NOTICE OF PAYMENT REQUEST

**[Date]**

**[Name of Lender]**
**[Address]**

Attention:

Reference is made to the First Lien Loan Agreement, dated as of [ ], 2010, among FIFTH THIRD PROCESSING SOLUTIONS, LLC, a Delaware limited liability company, the Lenders party thereto, Goldman Sachs Lending Partners LLC, as Administrative Agent and the other agents party thereto (as amended, restated, amended and restated, supplemented or otherwise modified, the *"First Lien Loan Agreement"*). Capitalized terms used herein and not defined herein have the meanings assigned to them in the First Lien Loan Agreement. **[The Borrower has failed to pay its Reimbursement Obligation in the amount of $ . Your Revolver Percentage of the unpaid Reimbursement Obligation is $ ]** or **[the L/C Issuer has been required to return a payment by the Borrower of a Reimbursement Obligation in the amount of $ . Your Revolver Percentage of the returned Reimbursement Obligation is $ .]**

Very truly yours,

FIFTH THIRD BANK, as L/C Issuer

By ____________________
Name ____________________
Title ____________________

---

## EXHIBIT B

## NOTICE OF BORROWING

Date: ,

To: Goldman Sachs Lending Partners LLC, as Administrative Agent for the Lenders parties to the First Lien Loan Agreement dated as of [ ], 2010 (as extended, renewed, amended or restated from time to time, the *"First Lien Loan Agreement"*), among Fifth Third Processing Solutions, LLC, a Delaware limited liability company (the *"Borrower"*), certain Lenders which are signatories thereto, Goldman Sachs Lending Partners LLC, as Administrative Agent, and the other agents party thereto

Ladies and Gentlemen:

The undersigned, the Borrower, refers to the First Lien Loan Agreement, the terms defined therein being used herein as therein defined, and hereby gives you notice irrevocably, pursuant to Section 2.5 of the First Lien Loan Agreement, of the Borrowing of Loans specified below:

1. The Business Day of the proposed Borrowing is , .(1)

2. The aggregate amount of the proposed Borrowing is $ .(2)

3. The Borrowing is being advanced under the **[Revolving Facility][Term B Facility]**.

4. The Borrowing is to be comprised of **[Base Rate] [Eurodollar]** Loans.

**[5. The duration of the Interest Period for the Eurodollar Loans included in the Borrowing shall be months.](3)**

The undersigned hereby certifies that the following statements are true on the date hereof:

---

(1) Notice must be provided by telephone (promptly confirmed in writing) or telecopy by 12:00 noon (New York City time) (i) at least three Business Days before the date on which the Borrower requests the Lenders to advance a Borrowing of [Revolving][Term B] Loans that are Eurodollar Loans and (ii) on the date the Borrower requests the Lenders to advance a Borrowing of [Revolving][Term B] Loans that are Base Rate Loans.

(2) Each Borrowing of Base Rate Loans shall be in amount not less than $1,000,000 or such greater amount that is an integral multiple of $1,000,000. Each Borrowing of Eurodollar Loans advanced shall be in an amount equal to $1,000,000 or such greater amount that is in integral multiple of $1,000,000.

(3) May be 1, 2, 3, 6, or if available to all affected Lenders, 9 or 12 months.



---

(a) the representations and warranties of the Borrower contained in Section 5 of the First Lien Loan Agreement are true and correct in all material respects as though made on and as of such date (except to the extent such representations and warranties relate to an earlier date, in which case they are true and correct as of such date); and

(b) no Default or Event of Default has occurred and is continuing or would result from such proposed Borrowing.

FIFTH THIRD PROCESSING SOLUTIONS, LLC,

By ____________________
Name ____________________
Title ____________________



---

**EXHIBIT C**

**NOTICE OF CONTINUATION/CONVERSION**

Date: ,

To: Goldman Sachs Lending Partners LLC, as Administrative Agent for the Lenders parties to the First Lien Loan Agreement dated as of [ ], 2010 (as extended, renewed, amended or restated from time to time, the *"First Lien Loan Agreement"*) among Fifth Third Processing Solutions, LLC (the *"Borrower"*), certain Lenders which are signatories thereto, Goldman Sachs Lending Partners LLC, as Administrative Agent and the other agents party thereto

Ladies and Gentlemen:

The undersigned, Fifth Third Processing Solutions, LLC, refers to the First Lien Loan Agreement, the terms defined therein being used herein as therein defined, and hereby gives you notice irrevocably, pursuant to Section 2.5 of the First Lien Loan Agreement, of the **[conversion] [continuation]** of the [Revolving][Term B] Loans specified herein, that:

1. The conversion/continuation Date is , .(1)

2. The aggregate amount of the Loans to be [converted] [continued] is $ .(2)

3. The Loans are to be **[converted into] [continued as] [Eurodollar] [Base Rate]** Loans.

4. [If applicable:] The duration of the Interest Period for the Loans included in the **[conversion] [continuation]** shall be months.(3)

FIFTH THIRD PROCESSING SOLUTIONS, LLC

By ____________________
Name ____________________
Title ____________________

---

(1) Notice of the continuation of a Borrowing of Notes that are Eurodollar Loans for an additional Interest Period or of the conversion of part or all of a Borrowing of Loans that are Base Rate Loans into Eurodollar Loans must be given by no later than 12:00 noon (New York City time) at least three Business Days before the date of the requested continuation or conversion.

(2) Each Borrowing of Eurodollar Loans continued or converted shall be in an amount equal to $1,000,000 or such greater amount that in an integral multiple of $1,000,000.

(3) May be 1, 2, 3, 6, or if available to all affected Lenders, 9 or 12 months.



---

**EXHIBIT D-1**

**TERM B NOTE**

$ , 20

FOR VALUE RECEIVED, the undersigned, Fifth Third Processing Solutions, LLC, a Delaware limited liability company (the *"Borrower"*), hereby promises to pay to (the *"Lender"*) at the principal office of Goldman Sachs Lending Partners LLC, as Administrative Agent, in New York, New York, in immediately available funds, the principal sum of Dollars ($ ) or, if less, the aggregate unpaid principal amount of the Term B Loan made or maintained by the Lender to the Borrower pursuant to the First Lien Loan Agreement, in installments in the amounts and on the dates called for by Section 2.7(a) of the First Lien Loan Agreement, together with interest on the principal amount of such Term B Loan from time to time outstanding hereunder at the rates, and payable in the manner and on the dates, specified in the First Lien Loan Agreement.

This Note is one of the Term B Notes referred to in the First Lien Loan Agreement dated as of [ ], 2010 among the Borrower, Goldman Sachs Lending Partners LLC, as Administrative Agent, the Lenders party thereto, and the other agents party thereto (as amended, supplemented, restated, amended and restated or otherwise modified from time to time, the *"First Lien Loan Agreement"*), and this Note and the holder hereof are entitled to all the benefits and security provided for thereby or referred to therein, to which First Lien Loan Agreement reference is hereby made for a statement thereof. All defined terms used in this Note, except terms otherwise defined herein, shall have the same meaning as in the First Lien Loan Agreement. This Note shall be governed by and construed in accordance with the laws of the State of New York, including Section 5-1401 of the General Obligations Law of the State of New York (but excluding the laws applicable to conflicts or choice of law).

Voluntary prepayments may be made hereon, certain prepayments are required to be made hereon, and this Note may be declared due prior to the expressed maturity hereof, all on the terms and in the manner as provided for in the First Lien Loan Agreement.

The Borrower hereby waives demand, presentment, protest or notice of any kind hereunder.

FIFTH THIRD PROCESSING SOLUTIONS, LLC

By ________________________
Name ______________________
Title _______________________

---

**EXHIBIT D-2**

**REVOLVING NOTE**

$ , 20

FOR VALUE RECEIVED, the undersigned, Fifth Third Processing Solutions, LLC, a Delaware limited liability company (the *"Borrower"*), hereby promises to pay to (the *"Lender"*) on the Revolving Credit Termination Date of the hereinafter defined First Lien Loan Agreement, at the principal office of Goldman Sachs Lending Partners LLC, as Administrative Agent, in New York, New York, in immediately available funds, the principal sum of Dollars ($ ) or, if less, the aggregate unpaid principal amount of all Revolving Loans made by the Lender to the Borrower pursuant to the First Lien Loan Agreement, together with interest on the principal amount of each Revolving Loan from time to time outstanding hereunder at the rates, and payable in the manner and on the dates, specified in the First Lien Loan Agreement.

This Note is one of the Revolving Notes referred to in the First Lien Loan Agreement dated as of [ ], 2010 among the Borrower, Goldman Sachs Lending Partners LLC, as Administrative Agent, the Lenders party thereto, and the other agents party thereto (as amended, supplemented, restated, amended and restated or otherwise modified from time to time, the *"First Lien Loan Agreement"*), and this Note and the holder hereof are entitled to all the benefits and security provided for thereby or referred to therein, to which First Lien Loan Agreement reference is hereby made for a statement thereof. All defined terms used in this Note, except terms otherwise defined herein, shall have the same meaning as in the First Lien Loan Agreement. This Note shall be governed by and construed in accordance with the laws of the State of New York, including Section 5-1401 of the General Obligations Law of the State of New York (but excluding the laws applicable to conflicts or choice of law).

Voluntary prepayments may be made hereon, certain prepayments are required to be made hereon, and this Note may be declared due prior to the expressed maturity hereof, all on the terms and in the manner as provided for in the First Lien Loan Agreement.

The Borrower hereby waives demand, presentment, protest or notice of any kind hereunder.

FIFTH THIRD PROCESSING SOLUTIONS, LLC

By ________________________
Name ______________________
Title _______________________

---

**EXHIBIT D-3**

**SWING NOTE**

$ , 20

FOR VALUE RECEIVED, the undersigned, Fifth Third Processing Solutions, LLC, a Delaware limited liability company (the *"Borrower"*), hereby promises to pay to (the *"Lender"*) on the Revolving Credit Termination Date of the hereinafter defined First Lien Loan Agreement, at the principal office of Goldman Sachs Lending Partners LLC, as Administrative Agent, in New York, New York, in immediately available funds, the principal sum of ($ ) or, if less, the aggregate unpaid principal amount of all Swing Loans made by the Lender to the Borrower pursuant to the First Lien Loan Agreement, together with interest on the principal amount of each Swing Loan from time to time outstanding hereunder at the rates, and payable in the manner and on the dates, specified in the First Lien Loan Agreement.

This Note is one of the Swing Notes referred to in the First Lien Loan Agreement dated as of [ ], 2010 among the Borrower, the Lenders party thereto, Goldman Sachs Lending Partners LLC, as Administrative Agent, Fifth Third Bank, as L/C Issuer, and the other agents party thereto (as amended, supplemented, restated, amended and restated or otherwise modified from time to time, the *"First Lien Loan Agreement"*), and this Note and the holder hereof are entitled to all the benefits and security provided for thereby or referred to therein, to which First Lien Loan Agreement reference is hereby made for a statement thereof. All defined terms used in this Note, except terms otherwise defined herein, shall have the same meaning as in the First Lien Loan Agreement. This Note shall be governed by and construed in accordance with the laws of the State of New York, including Section 5-1401 of the General Obligations Law of the State of New York (but excluding the laws applicable to conflicts or choice of law).

Voluntary prepayments may be made hereon, certain prepayments are required to be made hereon, and this Note may be declared due prior to the expressed maturity hereof on the terms and in the manner as provided for in the First Lien Loan Agreement.

The Borrower hereby waives demand, presentment, protest or notice of any kind hereunder.

FIFTH THIRD PROCESSING SOLUTIONS, LLC

By ____________________________
Name __________________________
Title __________________________

---

**Exhibit E**

**Form of Solvency Certificate**

, 201

This Solvency Certificate is being executed and delivered pursuant to Section 3.2(a)(vii) of that certain First Lien Loan Agreement dated as of [ ], 2010 among the Borrower, Goldman Sachs Lending Partners LLC, as Administrative Agent, the Lenders party thereto and the other agents party thereto (as amended, restated, amended and restated, extended, supplemented or otherwise modified in writing from time to time, the "*First Lien Loan Agreement*"; the terms defined therein being used herein as therein defined).

I, **[ ]**, the Chief Financial Officer of the Borrower, in such capacity and not in an individual capacity, hereby certify as follows:

1. I am generally familiar with the businesses and assets of the Borrower and its Subsidiaries, taken as a whole, and am duly authorized to execute this Solvency Certificate on behalf of the Borrower pursuant to the First Lien Loan Agreement; and

2. As of the date hereof and after giving effect to the Transactions and the incurrence of the Indebtedness and obligations being incurred in connection with the First Lien Loan Agreement and the Transactions, that, (i) the sum of the debt and liabilities (including subordinated and contingent liabilities) of the Borrower and its Subsidiaries, taken as a whole, does not exceed the fair value of the present assets of the Borrower and its Subsidiaries, taken as a whole; (ii) the present fair saleable value of the assets of the Borrower and its Subsidiaries, taken as a whole, is greater than the total amount that will be required to pay the probable debt and liabilities (including subordinated and contingent liabilities) of the Borrower and its Subsidiaries as they become absolute and matured, (iii) the capital of the Borrower and its Subsidiaries, taken as a whole, is not unreasonably small in relation to the business of the Borrower or its Subsidiaries, taken as a whole, contemplated as of the date hereof and as proposed to be conducted following the Closing Date; and (iv) the Borrower and its Subsidiaries, taken as a whole, have not incurred, or believe that they will incur, debts or other liabilities including current obligations beyond their ability to pay such debt as they mature in the ordinary course of business. For the purposes hereof, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

*[Remainder of page intentionally left blank]*

---

IN WITNESS WHEREOF, I have executed this Solvency Certificate on the date first written above.

By: ____________________________
Name: [ ]
Title: Chief Financial Officer

---

**EXHIBIT F**

**COMPLIANCE CERTIFICATE**

To: Goldman Sachs Lending Partners LLC,
as Administrative Agent under the First Lien Loan Agreement
described below

This Compliance Certificate is furnished to the ADMINISTRATIVE AGENT (for delivery to the Lenders) pursuant to that certain First Lien Loan Agreement dated as of [ ], 2010 among Fifth Third Processing Solutions, LLC, a Delaware limited liability company (the *"Borrower"*), Goldman Sachs Lending Partners LLC, as Administrative Agent, the Lenders party thereto and the other agents party thereto (as amended, supplemented, restated, amended and restated or otherwise modified from time to time, the *"First Lien Loan Agreement"*). Unless otherwise defined herein, the terms used in this Compliance Certificate shall have the meanings ascribed thereto in the First Lien Loan Agreement.

THE UNDERSIGNED HEREBY CERTIFIES THAT:

1. I am the duly elected (1) of the Borrower;

2. I have reviewed the terms of the First Lien Loan Agreement and I have made, or have caused to be made under my supervision, a detailed review of the transactions and conditions of the Borrower and its Restricted Subsidiaries during the accounting period covered by the attached financial statements;

3. As of the date hereof, no Default or Event of Default has occurred and is continuing**[, except as set forth below]**;

**[Described below are the exceptions to paragraph 3 by listing, in detail, the nature of the condition or event and the action which the Borrower has taken, is taking, or proposes to take with respect to each such condition or event:**

**]**

4. (2)The financial statements required by Section 6.1(a) of the First Lien Loan Agreement and being furnished to you concurrently with this Compliance Certificate

(1) Must be the chief financial officer or other financial or accounting officer.

(2) Insert the following statement for Compliance Certificates delivered in conjunction with the delivery of quarterly financial statements under Section 6.1(a).



fairly present in all material respects in accordance with GAAP the financial condition of the Borrower and its Restricted Subsidiaries as of the dates indicated and the results of their operations and changes in their cash flows for the periods indicated, subject to normal year-end adjustments and the absence of footnotes; and

5. Schedule I hereto sets forth financial data and computations evidencing the Borrower's compliance with the financial covenants set forth in Section 6.22 of the First Lien Loan Agreement, all of which data and computations are, to the best of my knowledge, true, complete and correct and have been made in accordance with the relevant Sections of the First Lien Loan Agreement.

The foregoing certifications, together with the computations set forth in Schedule I hereto and the financial statements delivered with this Certificate in support hereof, are made and delivered this day of 20 .

FIFTH THIRD PROCESSING SOLUTIONS, LLC

By ____________________
Name __________________
Title __________________



**SCHEDULE I**
**TO COMPLIANCE CERTIFICATE**

**FIFTH THIRD PROCESSING SOLUTIONS, LLC**

**COMPLIANCE CALCULATIONS**
**FOR FIRST LIEN LOAN AGREEMENT DATED AS OF [ ], 2010***

CALCULATIONS AS OF ,

**A. Leverage Ratio (Section 6.22(a))**

| | | |
|---|---|---|
| 1. | Indebtedness for borrowed money | $ |
| 2. | Indebtedness secured by a purchase money mortgage or other Lien to secure purchase price | $ |
| 3. | Obligations under Capital Leases | $ |
| 4. | Liability in respect of bankers' acceptances or letters of credit (to the extent that such obligations are funded obligations) | $ |
| 5. | Sum of Lines A1, A2, A3 and A4 | $ |
| 6. | Unrestricted cash and Cash Equivalents and cash and Cash Equivalents restricted in favor of the Administrative Agent, the Collateral Agent or the Administrative Agent or Collateral Agent under the Second Lien Loan Agreement(4) | $ |
| 7. | Line A5 minus Line A6 (*"Total Funded Debt"*) | $ |
| 8. | Net income (loss) excluding (a) cumulative effect of a change in accounting principles, (b) accruals and reserves established or adjusted and (c) income (loss) of any Person (other than Holdco or any Restricted Subsidiary) in which any other Person (other than Holdco or any Restricted Subsidiary) has an ownership interest, except to the extent of the amount of dividends or other distributions actually paid to Holdco or any Restricted Subsidiary, (d) income of Holdco or any Restricted Subsidiary (other than the Borrower or any other Loan Party) to the extent that the | $ |

---

* Unless otherwise defined herein, the terms used in this Schedule 1 to Compliance Certificate shall have the meanings ascribed thereto in the Loan Agreement.

(4) Excludes any Cure Amount.



| | | |
|---|---|---|
| | declaration or payment of dividends is subject to an absolute prohibition by operation of terms of its charter or any agreement, instrument or law, (e) income (loss) of any Person accrued prior to the date it becomes a Restricted Subsidiary of Holdco or is merged into or consolidated with Holdco or any of its Restricted Subsidiaries or that Person's assets are acquired by Holdco or any of its Subsidiaries (except as provided in the definition of "Pro Forma Basis") and (f) non-cash, equity-based award compensation expenses | |
| 9. | Interest expense and, to the extent not reflected in Interest Expense, unused line fees and letter of credit fees payable under First Lien Loan Agreement | $ |
| 10. | Taxes based on income, profits or capital, including Distributions made to permit Holdco to make Quarterly Distributions | $ |
| 11. | Depreciation and amortization, including amortization of intangible assets established through purchase accounting and amortization of deferred financing fees or costs | $ |
| 12. | Expenses or charges related to any equity offering, investment, acquisition, disposition, recapitalization or the incurrence or repayment of Indebtedness permitted under the First Lien Loan Agreement (whether or not successful) | $ |
| 13. | Non-Cash Charges | $ |
| 14. | Extraordinary losses in accordance with GAAP | $ |
| 15. | (a) All Stand Alone Costs incurred on or prior to June 30, 2012 and all other fees or expenses incurred or paid by the Borrower or any of its Restricted Subsidiaries in connection with the performance of Master Investment Agreement and the Ancillary Agreements not to exceed $60,000,000 for any period ending on or prior to September 30, 2011 and $40,000,000 for any period after September 30, 2011 and ending on or prior to June 30, 2012 | $ |
| 16. | Operating expenses attributable to implementation of cost savings initiatives, severance, relocation costs, integration and facilities' opening costs, signing costs, retention or completion bonuses, transition costs and costs related to closure/consolidation/separation of facilities and systems not to exceed $25,000,000 for such period | $ |
| 17. | Amount of any minority interest expense consisting of subsidiary income attributable to minority Equity Interests of third parties in any non-Wholly-Owned Subsidiary | $ |



| | | |
|---|---|---|
| 18. | Amount of management, monitoring, consulting, transaction and advisory fees and related expenses paid to the Existing Shareholders to the extent permitted under Section 6.11(a) | $ |
| 19. | Sum of Lines A8, A9, A10, A11, A12, A13, A14, A15, A16, A17 and A18 | $ |

| | | |
|---|---|---|
| 20. | Extraordinary gains and unusual or non-recurring gains | $ |
| 21. | Non-cash gains (excluding any non-cash gain representing reversal of an accrual or reserve for a potential cash item that reduced Consolidated EBITDA in any prior period) | $ |
| 22. | Sum of Lines A20 and A21 | $ |
| 23. | Net gain (loss) resulting from Hedging Obligations and the application of Statement of Financial Accounting Standards No. 133 and International Accounting Standards No. 39 | $ |
| 24. | Any net gain (loss) resulting from currency translation gains or losses related to currency remeasurements of indebtedness (including any net loss or gain resulting from hedge agreements for currency exchange risk) | $ |
| 25. | Line A23 plus or minus Line A24, as applicable | $ |
| 26. | Line A19 minus Line A22, increased or decreased by Line A25, as applicable (*"Consolidated EBITDA"*) | $ |
| 27. | Ratio of Line A7 to Line A26 | :1.00 |
| 28. | Line A27 ratio must not exceed | :1.00 |
| 29. | The Borrower is in compliance (circle yes or no) | yes / no |

**B. Interest Coverage Ratio (Section 6.22(b))**

| | | |
|---|---|---|
| 1. | Consolidated EBITDA (Line A26) | $ |
| 2. | Interest charges for four fiscal quarters then ended (including imputed interest charges with respect to Capitalized Lease Obligations payable in cash | $ |
| 3. | Non-cash interest expense for four fiscal quarters then ended attributable to the movement in the mark to market valuation of Hedging Obligations or other derivative instruments pursuant to GAAP, amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses | $ |
| 4. | Any expensing of bridge, commitment and other financing fees for four fiscal quarters then ended | $ |
| 5. | Line B2 minus Lines B3 and B4 | $ |
| 6. | Interest income for four fiscal quarters then ended | $ |



| | | |
|---|---|---|
| 7. | Line B5 minus Line B6 (*"Interest Expense"*) | $ |
| 8. | Ratio of Line B1 to Line B7 | :1.00 |
| 9. | Line B8 shall exceed | :1.00 |
| 10. | The Borrower is in compliance (circle yes or no) | yes / no |



**EXHIBIT G**

**ASSIGNMENT AND ASSUMPTION**

This Assignment and Assumption (the *"Assignment and Assumption"*) is dated as of the Effective Date set forth on the signature page hereof and is entered into by and between **[Insert name of Assignor]** (the *"Assignor"*) and **[Insert name of Assignee]** (the *"Assignee"*). Capitalized terms used but not defined herein shall have the meanings given to them in the First Lien Loan Agreement (as defined below), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex I attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the First Lien Loan Agreement, as of the Effective Date (i) all of the Assignor's rights and obligations in its capacity as a Lender under the First Lien Loan Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and Percentage identified below of all of such outstanding rights and obligations of the Assignor under the respective Facilities identified below (including any Letters of Credit and Swing Loans included in such Facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the First Lien Loan Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as, the *"Assigned*

*Interest"*). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. *Assignor*:

2. *Assignee*:

**[and is an Affiliate/Approved Fund of [identify Lender](1)**

3. *Borrower*: Fifth Third Processing Solutions, LLC

4. *Administrative Agent*: Goldman Sachs Lending Partners LLC, as the Administrative Agent under the First Lien Loan Agreement

---

(1) Select as applicable.



---

5. *First Lien Loan Agreement*: The First Lien Loan Agreement dated as of [ ], 2010, among Fifth Third Processing Solutions, LLC, the Lenders parties thereto, Goldman Sachs Lending Partners LLC, as Administrative Agent and the other agents party thereto (as amended, restated, amended and restated, supplemented or otherwise modified, the *"First Lien Loan Agreement"*).

6. *Assigned Interest*:

| Facility Assigned(1) | Aggregate Amount of Commitments/Loans for all Lenders(2) | Amount of Commitment/Loans Assigned(2) | Percentage Assigned of Commitments/Loans(3) |
|---|---|---|---|
| | | | |
| | | | |

**[7. *Trade Date*: ](4)**

[Page break]

---

(1) Fill in the appropriate terminology for the types of facilities under the Loan Agreement that are being assigned under this Assignment (*e.g. "Revolving Credit Commitment," "Term B Credit,"* etc.)

(2) Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

(3) Set forth, to at least 9 decimals, as a percentage of the Commitments/Loans of all Lenders thereunder.

(4) To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.



---

Effective Date: , 20 **[TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]**

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

**[NAME OF ASSIGNOR]**

By: ____________________
Title: ____________________

ASSIGNEE

**[NAME OF ASSIGNEE]**

By: ____________________
Title: ____________________

Consented to and Accepted:

GOLDMAN SACHS LENDING PARTNERS LLC,
as Administrative Agent

By ____________________

Title: ______________________________

**[Consented to:]**(1)

**[NAME OF RELEVANT PARTY]**

By ______________________________
Title: ______________________________

---

(1) To be added only if the consent of the Borrower and/or other parties is required by the terms of the Loan Agreement.



---

**ANNEX 1**

**STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT AND ASSUMPTION**

SECTION 1. REPRESENTATIONS AND WARRANTIES.

*Section 1.1.* *Assignor*. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the First Lien Loan Agreement or any other Loan Document (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

*Section 1.2.* *Assignee*. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the First Lien Loan Agreement, (ii) it meets all the requirements and has received all consents necessary to be an assignee under Section 10.10(b)(iii) and the definition of "Eligible Assignee" of the First Lien Loan Agreement, (iii) from and after the Effective Date, it shall be bound by the provisions of the First Lien Loan Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the First Lien Loan Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 6.1 thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest, and (vii) if it is not a United States person (as such term is defined in Section 7701(a)(30) of the Code) attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the First Lien Loan Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.



---

*Section 2.* *Payments*. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

*Section 3.* *General Provisions*. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.



---

**Exhibit H-1**

**Form of Trademark Security Agreement**

This November [ ], 2010, NATIONAL PROCESSING COMPANY, a Nebraska corporation ("*Debtor*") with its principal place of business and mailing address at 5100 Interchange Way, Louisville, Kentucky 40229, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, assigns, mortgages and pledges as collateral security to GOLDMAN SACHS LENDING PARTNERS LLC, a Delaware limited liability

company (the *"Agent"*), with its mailing address at 200 West Street, New York, New York 10282, acting as collateral agent hereunder for the Secured Creditors as defined in the Security Agreement referred to below, and its successors and assigns, and grants to the Agent for the benefit of the Secured Creditors a first priority lien on and security interest in, and acknowledges and agrees that the Agent has and shall continue to have until the Termination Date for the benefit of the Secured Creditors a continuing first priority lien on and security interest in, and right of set-off against, all right, title, and interest of such Debtor, whether now owned or existing or hereafter created, acquired or arising, in and to all of the following:

(i) Each trademark, trademark registration, and trademark application owned by the Debtor, and all of the goodwill of the business connected with the use of, and symbolized by, each such trademark, trademark registration, and trademark application, including those listed on Schedule A hereto; and

(ii) All proceeds of the foregoing, including without limitation any claim by Debtor against third parties for damages by reason of past, present or future infringement of any trademark, trademark registration, or trademark application listed on Schedule A hereto or by reason of injury to the goodwill associated with any such trademark, trademark registration, or trademark application, in each case together with the right to sue for and collect said damages;

to secure the prompt and complete payment and performance of all Secured Obligations of Debtor as set out in that certain Security Agreement bearing even date herewith among Debtor, Agent and the other debtors party thereto, as the same may be amended, restated, amended and restated or otherwise modified from time to time (the *"Security Agreement"*). All capitalized terms used herein without definition have the meanings given to such terms in the Security Agreement.

Debtor does hereby further acknowledge and affirm that the rights and remedies of the Agent with respect to the assignment, mortgage, pledge and security interest in the trademarks, trademark registrations, and trademark applications made and granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Trademark Collateral Agreement and the terms of the Security Agreement, the terms of the Security Agreement shall govern.

THIS TRADEMARK COLLATERAL AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED BY AND INTERPRETED IN

---

ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, INCLUDING SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW.

[SIGNATURE PAGE TO FOLLOW]

---

IN WITNESS WHEREOF, Debtor has caused this Trademark Collateral Agreement to be duly executed as of the date and year last above written.

NATIONAL PROCESSING COMPANY, a Nebraska corporation

By:

Name:
Title:

Accepted and agreed to as of the date and year last above written.

GOLDMAN SACHS LENDING PARTNERS LLC, a [ ] limited liability company, as Agent

By:

Name:
Title:

[Signature Page to Trademark Collateral Agreement]

---

**SCHEDULE A**
**TO TRADEMARK COLLATERAL AGREEMENT**

**U.S. TRADEMARK REGISTRATION NUMBERS**

| **Title** | **Reg. No./ App. No.** |
|---|---|
| | |
| | |

---

**Exhibit H-2**

**Form of Patent Security Agreement**

This November [    ], 2010, FIFTH THIRD PROCESSING SOLUTIONS, LLC, a Delaware limited liability company (*"Debtor"*) with its principal place of business and mailing address at 38 Fountain Square Plaza, 11th Floor, Cincinnati, Ohio 45263, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, assigns, mortgages and pledges as collateral security to GOLDMAN SACHS LENDING PARTNERS LLC, a Delaware limited liability company (the *"Agent"*), with its mailing address at 200 West Street, New York, New York 10282, acting as collateral agent hereunder for the Secured Creditors as defined in the Security Agreement referred to below, and its successors and assigns, and grants to the Agent for the benefit of the Secured Creditors a first priority lien on and security interest in, and acknowledges and agrees that the Agent has and shall continue to have until the Termination Date for the benefit of the Secured Creditors a continuing first priority lien on and security interest in, and right of set-off against, all right, title, and interest of such Debtor, whether now owned or existing or hereafter created, acquired or arising, in and to all of the following:

(i) Each patent and patent application owned by the Debtor and all of the inventions described and claimed therein and any and all reissues, continuations, continuations-in-part or extensions thereof, including those listed on Schedule A hereto; and

(ii) All proceeds of the foregoing, including without limitation any claim by Debtor against third parties for damages by reason of past, present or future infringement of any patent or patent application listed on Schedule A hereto, in each case together with the right to sue for and collect said damages;

to secure the prompt and complete payment and performance of all Secured Obligations of Debtor as set out in that certain Security Agreement bearing even date herewith among Debtor, Agent and the other debtors party thereto, as the same may be amended, restated, amended and restated or otherwise modified from time to time (the *"Security Agreement"*). All capitalized terms used herein without definition have the meanings given to such terms in the Security Agreement.

Debtor does hereby further acknowledge and affirm that the rights and remedies of the Agent with respect to the assignment, mortgage, pledge and security interest in the patents and patent applications made and granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Patent Collateral Agreement and the terms of the Security Agreement, the terms of the Security Agreement shall govern.

THIS PATENT COLLATERAL AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED BY AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, INCLUDING SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW.

---

[SIGNATURE PAGE TO FOLLOW]

---

IN WITNESS WHEREOF, Debtor has caused this Patent Collateral Agreement to be duly executed as of the date and year last above written.

FIFTH THIRD PROCESSING SOLUTIONS, LLC, a Delaware limited liability company

By:

Name:
Title:

Accepted and agreed to as of the date and year last above written.

GOLDMAN SACHS LENDING PARTNERS LLC, a [                ] limited liability company, as Agent

By:

Name:
Title:

[Signature Page to Patent Collateral Agreement - FTPS]

---

**SCHEDULE A**
**TO PATENT COLLATERAL AGREEMENT**

**U.S. PATENT NUMBERS**

| Title | Reg. No./ App. No. |
| --- | --- |
| | |
| | |

**Exhibit H-3**

**Form of Copyright Security Agreement**

This November [ ], 2010, FIFTH THIRD PROCESSING SOLUTIONS, LLC, a Delaware limited liability company (*"Debtor"*) with its principal place of business and mailing address at 38 Fountain Square Plaza, 11th Floor, Cincinnati, Ohio 45263, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, assigns, mortgages and pledges as collateral security to GOLDMAN SACHS LENDING PARTNERS LLC, a Delaware limited liability company (the *"Agent"*), with its mailing address at 200 West Street, New York, New York 10282, acting as collateral agent hereunder for the Secured Creditors as defined in the Security Agreement referred to below, and its successors and assigns, and grants to the Agent for the benefit of the Secured Creditors a first priority lien on and security interest in, and acknowledges and agrees that the Agent has and shall continue to have until the Termination Date for the benefit of the Secured Creditors a continuing first priority lien on and security interest in, and right of set-off against, all right, title, and interest of such Debtor, whether now owned or existing or hereafter created, acquired or arising, in and to all of the following:

(i) Each copyright, copyright registration, and copyright application owned by Debtor and all of the works of authorship described and claimed therein and any and all renewals, derivative works, enhancements, modifications, new releases and other revisions thereof, including those listed on Schedule A hereto; and

(ii ) All proceeds of the foregoing, including without limitation any claim by Debtor against third parties for damages by reason of past, present or future infringement of any copyright, copyright registration, or copyright application listed on Schedule A hereto, in each case together with the right to sue for and collect said damages;

to secure the prompt and complete payment and performance of all Secured Obligations of Debtor as set out in that certain Security Agreement bearing even date herewith among Debtor, Agent and the other debtors party thereto, as the same may be amended, restated, amended and restated or otherwise modified from time to time (the *"Security Agreement"*). All capitalized terms used herein without definition have the meanings given to such terms in the Security Agreement.

Debtor does hereby further acknowledge and affirm that the rights and remedies of the Agent with respect to the assignment, mortgage, pledge and security interest in the copyrights, copyright registrations, and copyright applications made and granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated herein by reference as if fully set forth herein. In the event of any conflict between the terms of this Copyright Collateral Agreement and the terms of the Security Agreement, the terms of the Security Agreement shall govern.

THIS COPYRIGHT COLLATERAL AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED BY AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, INCLUDING SECTION 5-1401 OF THE

GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Debtor has caused this Copyright Collateral Agreement to be duly executed as of the date and year last above written.

FIFTH THIRD PROCESSING SOLUTIONS, LLC, a Delaware limited liability company

By:

Name:
Title:

Accepted and agreed to as of the date and year last above written.

GOLDMAN SACHS LENDING PARTNERS LLC, a [ ] limited liability company, as Agent

By:

Name:
Title:

[Signature Page to Copyright Collateral Agreement]

---

**SCHEDULE A**
**TO COPYRIGHT COLLATERAL AGREEMENT**

**U.S. COPYRIGHT REGISTRATION NUMBERS**

| TITLE OF COPYRIGHT | REGISTRATION NUMBER |
|---|---|
| | |
| | |

---

**Exhibit I**

**Form of Intercreditor Agreement**

**[See Attached]**

---

**Exhibit J**

**Form of Security Agreement**

**[See Attached]**

---

**Exhibit K**

**Form of Guaranty**

**[See Attached]**

---

**SCHEDULE 1**

Term B Loan Commitments and Revolving Credit Commitments as of the Closing Date

| Commitment Party | Term B Commitments | | Revolving Facility | |
|---|---|---|---|---|
| Goldman Sachs Lending Partners LLC | $ | 1,425,000,000.00 | $ | 14,000,000.00 |
| GSLP I Offshore Holdings Fund A, L.P. | $ | 45,802,623.47 | | — |
| GSLP I Offshore Holdings Fund B, L.P. | $ | 45,802,623.47 | | — |
| GSLP I Offshore Holdings Fund C, L.P. | $ | 45,802,623.47 | | — |
| GSLP I Onshore Holdings Fund, L.L.C. | $ | 12,592,129.59 | | — |
| JPMorgan Chase Bank, N.A. | | — | $ | 9,000,000.00 |
| Credit Suisse AG, Cayman Islands Branch | | — | $ | 9,000,000.00 |
| Morgan Stanley Bank, N.A. | | — | $ | 9,000,000.00 |
| Bank of America, N.A. | | — | $ | 5,000,000.00 |
| Fifth Third Bank | | — | $ | 50,000,000.00 |
| SunTrust Bank | | — | $ | 9,000,000.00 |
| Mizuho Corporate Bank, Ltd. | | — | $ | 9,000,000.00 |
| PNC Bank, National Association | | — | $ | 9,000,000.00 |
| Raymond James Bank, FSB | | — | $ | 9,000,000.00 |
| Sumitomo Mitsui Banking Corporation | | — | $ | 9,000,000.00 |
| Wells Fargo Bank N.A. | | — | $ | 9,000,000.00 |

---

**SCHEDULE 5.10**

Subsidiaries

| Subsidiary of Borrower | Jurisdiction of Organization | Percentage Ownership of Equity Interest | Direct Owner |
|---|---|---|---|
| FTPS-BG Acquisition Corp. *(to be merged into NPC Group, Inc. on Closing Date)* | Delaware | 100% | Fifth Third Processing Solutions, LLC |
| NPC Group, Inc. | Delaware | 100% | Fifth Third Processing Solutions, LLC |
| National Processing Company Group, Inc. | Delaware | 100% | NPC Group, Inc. |
| National Processing Company | Nebraska | 100% | National Processing Company Group, Inc. |
| Best Payment Solutions, Inc. | Illinois | 100% | National Processing Company |
| National Processing Management Company | Delaware | 100% | NPC Group, Inc. |
| Card Management Company, LLC | Indiana | 100% | Fifth Third Processing Solutions, LLC |

---

**SCHEDULE 5.17**

Capitalization

None.

---

**SCHEDULE 6.11**

Contracts with Affiliates

1. Merchant Processing Agreements with Affiliates of Borrower listed below:

| Customer/Commitment | City | State |
|---|---|---|
| 5/3 BANK - OHIO VALLEY | HILLSBORO | OH |
| 5/3 BANK 334-BANKLINE | INDIANAPOLIS | IN |
| 5/3 BANK 334-CASH ADVANCE | INDIANAPOLIS | IN |
| 5/3 BANK MORTGAGE FTEM | Southfield | MI |
| 5/3 BANK MORTGAGE FTEM | Southfield | MI |
| 5/3 HEALTHCARE CONFERENCE | Rolling Meadows | IL |
| 5/3 MORTGAGE | COLUMBUS | OH |
| 5/3 MORTGAGE - OH VALLEY | HILLSBORO | OH |
| 5/3 MORTGAGE ATTN: S. BERNARD | COLUMBUS | OH |
| 5/3 MTG APP FEE | Fort Myers | FL |
| 5/3 MTG FEE LOAN 069 | Evansville | IN |
| 5/3 MTG LOAN FEE 016 | GRAND RAPIDS | MI |
| 5/3 MTG LOAN FEE 023 | Oak Lawn | IL |
| 5/3 MTG LOAN FEE 028 | Dublin | OH |
| 5/3 MTG LOAN FEE 034 | Toledo | OH |
| 5/3 MTG LOAN FEE 036 | Franklin | TN |
| 5/3 MTG LOAN FEE 038 | Lexington | KY |
| 5/3 MTG LOAN FEE 042 | Naples | FL |
| 5/3 MTG LOAN FEE 043 | Naples | FL |
| 5/3 MTG LOAN FEE 044 | Naples | FL |
| 5/3 MTG LOAN FEE 051 | Southfield | MI |
| 5/3 MTG LOAN FEE 052 | Cleveland | OH |
| 5/3 MTG LOAN FEE 053 | MIDLAND | MI |
| 5/3 MTG LOAN FEE 054 | Traverse City | MI |
| 5/3 MTG LOAN FEE 055 | Hillsboro | OH |
| 5/3 MTG LOAN FEE 065 | Indianapolis | IN |
| 5/3 RIVER BANK RUN | GRAND RAPIDS | MI |
| 5/3/ MORTGAGE | WESTERVILLE | OH |
| ABSOLUTE STORAGE MGMT. | WHITES CREEK | TN |
| CIVITAS BANK 50 & #0002 | EVANSVILLE | IN |
| CLUB 53 | EVANSVILLE | IN |
| 5/3 BANK - OHIO VALLEY | HILLSBORO | OH |
| 5/3 BANK - OHIO VALLEY | HILLSBORO | OH |
| 5/3 BANK 334-BANKLINE | INDIANAPOLIS | IN |
| 5/3 BANK 334-CASH ADVANCE | INDIANAPOLIS | IN |
| 5/3 BANK MORTGAGE FTEM | Southfield | MI |
| 5/3 BANK MORTGAGE FTEM | Southfield | MI |
| 5/3 BANK MORTGAGE FTEM | Southfield | MI |
| 5/3 MORTGAGE | COLUMBUS | OH |

---

| Customer/Commitment | City | State |
|---|---|---|
| 5/3 MORTGAGE - OH VALLEY | HILLSBORO | OH |
| 5/3 MORTGAGE ATTN: S. BERNARD | COLUMBUS | OH |
| 5/3 MTG APP FEE | Fort Myers | FL |
| 5/3 MTG FEE LOAN 069 | Evansville | IN |
| 5/3 MTG LOAN FEE 016 | GRAND RAPIDS | MI |
| 5/3 MTG LOAN FEE 023 | Oak Lawn | IL |
| 5/3 MTG LOAN FEE 028 | Dublin | OH |
| 5/3 MTG LOAN FEE 034 | Toledo | OH |
| 5/3 MTG LOAN FEE 036 | Franklin | TN |
| 5/3 MTG LOAN FEE 038 | Lexington | KY |
| 5/3 MTG LOAN FEE 044 | Naples | FL |
| 5/3 MTG LOAN FEE 051 | Southfield | MI |
| 5/3 MTG LOAN FEE 052 | Cleveland | OH |
| 5/3 MTG LOAN FEE 053 | MIDLAND | MI |
| 5/3 MTG LOAN FEE 054 | Traverse City | MI |
| 5/3 MTG LOAN FEE 055 | Hillsboro | OH |
| 5/3 MTG LOAN FEE 065 | Indianapolis | IN |
| 5/3 MTG LOAN FEE 070 | Dayton | OH |
| 5/3 RIVER BANK RUN | GRAND RAPIDS | MI |
| 5/3/ MORTGAGE | WESTERVILLE | OH |
| ABSOLUTE STORAGE MGMT | WHITES CREEK | TN |
| CIVITAS BANK 50 & #0002 | EVANSVILLE | IN |
| CLUB 53 | EVANSVILLE | IN |
| FIFTH THIRD BANK OF NW OH | TOLEDO | OH |
| FIFTH THIRD BANK OF NW OH #904 | TOLEDO | OH |
| FIFTH THIRD BANK OF NW OH #924 | TOLEDO | OH |
| FIFTH THIRD BANK OF NW OH #927 | SWANTON | OH |
| FIFTH THIRD BANK OF NW OH #935 | TOLEDO | OH |
| FIFTH THIRD BANK OF NW OH #936 | OREGON | OH |
| FIFTH THIRD BANK OF NW OH #939 | TOLEDO | OH |
| FIFTH THIRD BANK OF NW OH #940 | HOLLAND | OH |
| FIFTH THIRD BANK OF NW OH #942 | PERRYSBURG | OH |
| FIFTH THIRD BANK OF NW OH #950 | TIFFIN | OH |
| FIFTH THIRD BANK OF NW OH #951 | TIFFIN | OH |
| FIFTH THIRD BANK OF NW OH #952 | TIFFIN | OH |
| FIFTH THIRD BANK OF NW OH #952 | TIFFIN | OH |
| FIFTH THIRD BANK OF NW OH #962 | FINDLAY | OH |
| FIFTH THIRD BANK OF NW OH #963 | FINDLAY | OH |
| FIFTH THIRD BANK OF NW OH #964 | FINDLAY | OH |
| FIFTH THIRD BANK OF NW OH #965 | BOWLING GREEN | OH |
| FIFTH THIRD BANK OF NW OH #966 | FOSTORIA | OH |
| FIFTH THIRD BANK OF NW OH #967 | FINDLAY | OH |
| FIFTH THIRD BANK OF NW OH #968 | TIFFIN | OH |
| FIFTH THIRD BANK OF NW OH #970 | GIBSONBURG | OH |
| FIFTH THIRD BANK-CENTRAL KY | LEXINGTON | KY |
| FIFTH THIRD BANK/INC | LOUISVILLE | KY |

| Customer/Commitment | City | State |
|---|---|---|
| FIFTH THIRD MORTGAGE | Franklin | TN |
| FIFTH THIRD MORTGAGE | GRAND RAPIDS | MI |
| FIFTH THIRD MORTGAGE | Oak Lawn | IL |
| FIFTH THIRD MORTGAGE | Dublin | OH |
| FIFTH THIRD MORTGAGE | Franklin | TN |
| FIFTH THIRD MORTGAGE | Lexington | KY |
| FIFTH THIRD MORTGAGE | Hillsboro | OH |
| FIFTH THIRD MORTGAGE | Indianapolis | IN |
| FIFTH THIRD MORTGAGE | Toledo | OH |
| FIFTH THIRD MORTGAGE | Naples | FL |
| FIFTH THIRD MORTGAGE | Southfield | MI |
| FIFTH THIRD MORTGAGE | Cleveland | OH |
| FIFTH THIRD MORTGAGE | Evansville | IN |
| FIFTH THIRD MORTGAGE | Cincinnati | OH |
| FIFTH THIRD MORTGAGE | Traverse City | MI |
| FIFTH THIRD MORTGAGE | MIDLAND | MI |
| FIFTH THIRD MORTGAGE | Fort Myers | FL |
| FIFTH THIRD MORTGAGE | Grand Rapids | MI |
| FIFTH THIRD MORTGAGE | CLEVELAND | OH |
| FIFTH THIRD MORTGAGE | CLEVELAND | OH |
| FIFTH THIRD MORTGAGE | TOLEDO | OH |
| FIFTH THIRD MORTGAGE | COLUMBUS | OH |

| | | |
|---|---|---|
| FIFTH THIRD MTG FTCF | Fort Myers | FL |
| FIFTH THIRD MTG FTFL | Fort Myers | FL |
| FIFTH THIRD MTG FTTF | Fort Myers | FL |
| FIFTH THIRD SPECIAL MERCHANT | TOLEDO | OH |

---

**SCHEDULE 6.14**

Indebtedness

1. 2009 and 2010 earnout payments owed pursuant to the definitive Asset Purchase Agreement, dated December 4, 2008, between Seller and Skipjack Financial Services, Inc./Transactive Ecommerce Solutions, Inc.

2. Indebtedness with respect to Liens listed on Schedule 6.15.

---

**SCHEDULE 6.15**

Liens

| Jurisdiction | Debtor | Secured Party | Filing Info | Collateral |
|---|---|---|---|---|
| **BEST PAYMENT SOLUTIONS, INC.** | | | | |
| None. | | | | |
| **CARD MANAGEMENT COMPANY, LLC** | | | | |
| None. | | | | |
| **FIFTH THIRD PROCESSING SOLUTIONS, LLC** | | | | |
| None. | | | | |

---

| Jurisdiction | Debtor | Secured Party | Filing Info | Collateral |
|---|---|---|---|---|
| **NATIONAL PROCESSING COMPANY** | | | | |
| Nebraska SOS | RPSI, Inc.<br>20405 State Highway 249<br>Houston, TX 77070<br><br>Amends Debtor to:<br>National Processing Company<br>(same address as above)<br><br>Amends Debtor to:<br>National Processing Company<br>5100 Interchange Way<br>Louisville, KY 40229 | MB Financial Bank, N.A.<br>6111 North River Road<br>Rosemont, IL 60018 | 9905409845-0<br>8/29/2005<br><br>Amendment<br>9909613828-0<br>12/9/2009<br><br>Amendment<br>9910617150-0<br>1/19/2010<br><br>Continuation<br>9810513545-0<br>05/16/10 | Equipment |
| Nebraska SOS | National Processing Company | US Bancorp | 9808402118-6<br>06/05/2008 | Equipment. |
| Nebraska SOS | National Processing Company | US Bancorp | 9808402119-8<br>06/05/2008 | Equipment. |
| Jefferson County, Kentucky | National Processing Company | South Dakota Auto Group, Inc. | Judgment<br>Book 00601,<br>Page 0269<br>04/26/00 | Judgment dated March 27, 2000 in the amount of $4,788.91 |
| Jefferson County, Kentucky | National Processing Company | Commonwealth of Kentucky Workforce Development | State Tax Lien<br>Book 00616,<br>Page 0710 | Tax lien for unemployment insurance |

---

| Jurisdiction | Debtor | Secured Party | Filing Info | Collateral |
|---|---|---|---|---|
| **NATIONAL PROCESSING COMPANY GROUP, INC.** | | | | |
| Jefferson County, Kentucky | National Processing Company Group, Inc. | Commonwealth of Kentucky Workforce Development | State Tax Lien Book 00616, Page 0710 10/04/00 | Tax lien for an unspecified amount |
| **NATIONAL PROCESSING MANAGEMENT COMPANY** | | | | |
| None. | | | | |
| **NPC GROUP, INC.** | | | | |
| None. | | | | |

---

**SCHEDULE 6.17**

Investments

None.

---

**SCHEDULE 6.25**

Post-Closing Obligations

As promptly as practicable, and in any event (i) within 10 Business Days after the Closing Date or such later date as the Administrative Agent agrees to in writing, the Borrower shall deliver the certificates of insurance and (ii) within 30 calendar days after the Closing Date or such later date as the Administrative Agent agrees to in writing, the Borrower shall deliver the endorsements, in each case as required to be delivered pursuant to Section 3.2(a)(xii) of this Agreement.

---

**Exhibit 10.3**

EXECUTION COPY

FIRST AMENDMENT

This First Amendment is entered into as of January 19, 2011 (this "Amendment"), by the parties to (a) that certain First Lien Loan Agreement, dated as of November 3, 2010 (the "Credit Agreement"), among **Fifth Third Processing Solutions, LLC**, a Delaware limited liability company (the "Borrower"), the various lenders from time to time party thereto (each a "Lender" and, collectively, the "Lenders"), **Goldman Sachs Lending Partners LLC**, as administrative agent (in such capacity, the "Administrative Agent"), and the other agents party thereto and (b) that certain Security Agreement, dated as of November 3, 2010 (the "Security Agreement"), among the Borrower, the Administrative Agent and the Debtors party thereto.

W I T N E S S E T H:

WHEREAS, certain Lenders have made available certain credit facilities to the Borrower pursuant to the Credit Agreement;

WHEREAS, pursuant to clause (b) of the penultimate paragraph of Section 10.11(a) of the Credit Agreement, the Administrative Agent and the Borrower are willing to agree to the amendments described in this Amendment, subject to the provisions hereof;

NOW, THEREFORE, in consideration of the premises contained herein, the parties hereto hereby agree as follows:

**Section 1. Defined Terms.** Unless otherwise defined herein, capitalized terms are used herein as defined in the Credit Agreement or the Security Agreement, as applicable, each as amended hereby.

**Section 2. Amendments.**

(a) The Credit Agreement is hereby amended in accordance with Exhibit A hereto: (i) by deleting each term thereof which is reflected in strike-through font and (ii) by inserting each term thereof which is reflected in double-underlined font, in each case in the place where such term appears therein. A conformed copy of the Credit Agreement, as amended by this Amendment, is attached hereto as Exhibit A.

(b) The Security Agreement is hereby amended in accordance with Exhibit B hereto: (i) by deleting each term thereof which is reflected in strike-through font and (ii) by inserting each term thereof which is reflected in double-underlined font, in each case in the place where such term appears therein. A conformed copy of the Security Agreement, as amended by this Amendment, is attached hereto as Exhibit B.

**Section 3. Representations and Warranties.** After giving effect to this Amendment, each Loan Party hereby confirms that the representations and warranties set forth in Section 5 of the Credit Agreement are true and correct in all material respects on and as of the First

Amendment Effective Date (as defined below), except to the extent the same expressly relate to an earlier date.

**Section 4. Effectiveness of Amendment.** This Amendment shall become effective upon satisfaction of the following conditions precedent (such date, the "First Amendment Effective Date"):

(a) the Administrative Agent shall have received counterparts of this Amendment, executed by each Loan Party and the Administrative Agent; and

(b) the Administrative Agent shall not have received, within five Business Days of the date hereof, written notice from the Required Lenders objecting to the terms of this Amendment.

**Section 5. Reaffirmation of Guaranty and Security Documents.** The Borrower and each of the other Loan Parties hereby agrees that all of its obligations and liabilities under the Credit Agreement and each Loan Document to which it is a party remain in full force and effect on a continuous basis after giving effect to this Amendment.

**Section 6. Effect on the Loan Documents; No Other Amendments or Consents.** Except as expressly provided herein, all of the terms and provisions of the Credit Agreement and the other Loan Documents are and shall remain in full force and effect. The amendments provided for herein are limited to the specific provisions of the Credit Agreement and Security Agreement specified herein and shall not constitute a consent, waiver or amendment of, or an indication of the Administrative Agent's or the Lenders' willingness to consent to any action requiring consent under any other provisions of the Credit Agreement or Security Agreement or the same provision for any other date or time period.

**Section 7. Expenses.** The Borrower agrees to pay and reimburse the Administrative Agent for all its reasonable and documented out-of-pocket costs, fees and expenses incurred in connection with the preparation and delivery of this Amendment, including, without limitation, the reasonable and documented fees and disbursements of one counsel to the Administrative Agent.

**Section 8. Counterparts.** This 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. Delivery of an executed counterpart of a signature page of this Amendment by telecopy shall be effective as delivery of a manually executed counterpart of this Amendment.

**Section 9. GOVERNING LAW.** THIS AMENDMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK, including section 5.1401 of the general obligations law of the State of New York, but excluding the laws applicable to conflicts or choice of law.

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

**FIFTH THIRD PROCESSING SOLUTIONS, LLC**
**FTPS HOLDING, LLC**
**NPC GROUP, INC.**
**NATIONAL PROCESSING COMPANY GROUP, INC.**
**NATIONAL PROCESSING MANAGEMENT COMPANY**
**CARD MANAGEMENT COMPANY, LLC**
**NATIONAL PROCESSING COMPANY**
**BEST PAYMENT SOLUTIONS, INC.**

By: /s/ Mark Heimbouch

Name: Mark Heimbouch
Title: Chief Financial Officer

Signature Page to First Amendment (First Lien)

**GOLDMAN SACHS LENDING PARTNERS LLC**, as Administrative Agent

By: /s/ Gabe Jacobson

Name: Gabe Jacobson
Title: Authorized Signatory

**Exhibit A**

[BLACKLINE OF CONFORMED CREDIT AGREEMENT]

~~EXECUTION VERSION~~EXHIBIT A
COMPOSITE CREDIT AGREEMENT COPY
INCLUDING THE FIRST AMENDMENT
DATED AS OF JANUARY 19, 2011

---

**FIRST LIEN LOAN AGREEMENT**

**AMONG**

**FIFTH THIRD PROCESSING SOLUTIONS, LLC,**
**a Delaware limited liability company, as Borrower**

**VARIOUS LENDERS**
**FROM TIME TO TIME PARTY HERETO,**

**BANK OF AMERICA, N. A., CREDIT SUISSE SECURITIES (USA) LLC and MORGAN STANLEY SENIOR FUNDING, INC., as Co-Syndication Agents,**

**FIFTH THIRD BANK, MORGAN STANLEY SENIOR FUNDING, INC. and SUNTRUST BANK, as Co-Documentation Agents,**

**and**

**GOLDMAN SACHS LENDING PARTNERS LLC,**
**as Administrative Agent and Collateral Agent,**

**DATED AS OF NOVEMBER 3, 2010**

**as amended by the First Amendment,**

**DATED AS OF JANUARY 19, 2011**

~~**GOLDMAN SACHS LENDING PARTNERS LLC AND J.P. MORGAN SECURITIES LLC, as Joint Lead Arrangers,**~~

**and**

**GOLDMAN SACHS LENDING PARTNERS LLC, J. P. MORGAN SECURITIES LLC, CREDIT SUISSE SECURITIES (USA) LLC, MORGAN STANLEY SENIOR FUNDING, INC. and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (successor-in-interest to Banc of America Securities LLC), as Joint Book Runners.**

---

## TABLE OF CONTENTS


| SECTION | HEADING | PAGE |
|---|---|---|
| SECTION 1. | Definitions; Interpretation | 1 |
| Section 1.1. | Definitions | 1 |
| Section 1.2. | Interpretation | 35 |
| Section 1.3. | Change in Accounting Principles | 36 |
| SECTION 2. | The Loan Facilities | 36 |
| Section 2.1. | The Term B Loans | 36 |
| Section 2.2. | Revolving Credit Commitments | 36 |
| Section 2.3. | Letters of Credit | ~~36~~ 37 |
| Section 2.4. | Applicable Interest Rates | ~~39~~ 40 |
| Section 2.5. | Manner of Borrowing Loans and Designating Applicable Interest Rates | 41 |
| Section 2.6. | Minimum Borrowing Amounts; Maximum Eurodollar Loans | 43 |
| Section 2.7. | Maturity of Loans | 43 |
| Section 2.8. | Prepayments | 43 |
| Section 2.9. | Place and Application of Payments | ~~46~~ 47 |
| Section 2.10. | Commitment Terminations | 48 |
| Section 2.11. | Swing Loans | 48 |
| Section 2.12. | Evidence of Indebtedness | ~~49~~ 50 |
| Section 2.13. | Fees | 50 |
| Section 2.14. | Incremental Credit Extensions | 51 |
| SECTION 3. | Conditions Precedent | 53 |
| Section 3.1. | All Credit Extensions | 53 |
| Section 3.2. | Initial Credit Extension | ~~53~~ 54 |
| SECTION 4. | The Collateral And the Guaranty | 58 |
| Section 4.1. | Collateral | 58 |
| Section 4.2. | Liens on Real Property | 58 |
| Section 4.3. | Guaranty | ~~58~~ 59 |
| Section 4.4. | Further Assurances | 59 |
| Section 4.5. | Limitation on Collateral | 59 |
| SECTION 5. | Representations and Warranties | 59 |
| Section 5.1. | Financial Statements | 59 |
| Section 5.2. | Organization and Qualification | 60 |
| Section 5.3. | Authority and Enforceability | 60 |
| Section 5.4. | No Material Adverse Change | 61 |

| SECTION | HEADING | PAGE |
|---|---|---|
| Section 5.5. | Litigation and Other Controversies | 61 |
| Section 5.6. | True and Complete Disclosure | 61 |
| Section 5.7. | Use of Proceeds; Margin Stock | ~~61~~ 62 |
| Section 5.8. | Taxes | 62 |
| Section 5.9. | ERISA | 62 |
| Section 5.10. | Subsidiaries | ~~62~~ 63 |
| Section 5.11. | Compliance with Laws | 63 |
| Section 5.12. | Environmental Matters | 63 |
| Section 5.13. | Investment Company | 63 |
| Section 5.14. | Intellectual Property | 63 |
| Section 5.15. | Good Title | ~~63~~ 64 |
| Section 5.16. | Labor Relations | 64 |
| Section 5.17. | Capitalization | 64 |
| Section 5.18. | Governmental Authority and Licensing | 64 |
| Section 5.19. | Approvals | 64 |
| Section 5.20. | Solvency | ~~64~~ 65 |
| Section 5.21. | Foreign Assets Control Regulations and Anti-Money Laundering | ~~64~~ 65 |
| Section 5.22. | Senior Indebtedness | 65 |
| SECTION 6. | Covenants | 65 |
| Section 6.1. | Information Covenants | 65 |
| Section 6.2. | Inspections | 68 |
| Section 6.3. | Maintenance of Property, Insurance, Environmental Matters, etc. | 69 |
| Section 6.4. | Books and Records | 69 |
| Section 6.5. | Preservation of Existence | 69 |
| Section 6.6. | Compliance with Laws | 70 |
| Section 6.7. | ERISA | 70 |
| Section 6.8. | Payment of Taxes | 70 |
| Section 6.9. | Designation of Subsidiaries | 70 |
| Section 6.10. | Interest Rate Protection | ~~70~~ 71 |
| Section 6.11. | Contracts with Affiliates | 71 |
| Section 6.12. | No Changes in Fiscal Year | 72 |
| Section 6.13. | Change in the Nature of Business; Limitations on the Activities of Holdco | 72 |
| Section 6.14. | Indebtedness | 73 |
| Section 6.15. | Liens | ~~76~~ 77 |
| Section 6.16. | Consolidation, Merger, Sale of Assets, etc. | ~~79~~ 80 |
| Section 6.17. | Advances, Investments and Loans | 81 |
| Section 6.18. | Restricted Payments | 83 |
| Section 6.19. | Limitation on Restrictions | 85 |
| Section 6.20. | Optional Payments of Certain Indebtedness; Modifications of Certain Indebtedness and Organizational Documents | 86 |
| Section 6.21. | OFAC | ~~86~~ 87 |
| Section 6.22. | Financial Covenants | 87 |
| Section 6.23. | Maintenance of Rating | ~~87~~ 88 |

| SECTION | HEADING | PAGE |
|---|---|---|
| Section 6.24. | Limitation on Non-Material Subsidiaries | 88 |
| Section 6.25. | Post-Closing Obligations | 88 |
| SECTION 7. | Events of Default and Remedies | 88 |
| Section 7.1. | Events of Default | 88 |
| Section 7.2. | Non Bankruptcy Defaults | 90 |
| Section 7.3. | Bankruptcy Defaults | ~~90~~ 91 |
| Section 7.4. | Collateral for Undrawn Letters of Credit | ~~90~~ 91 |
| Section 7.5. | Notice of Default | 91 |
| Section 7.6. | Equity Cure | 91 |
| SECTION 8. | Change in Circumstances and Contingencies | 92 |
| Section 8.1. | Funding Indemnity | 92 |
| Section 8.2. | Illegality | 93 |
| Section 8.3. | Reserved | 93 |
| Section 8.4. | Yield Protection | 93 |
| Section 8.5. | Substitution of Lenders | 94 |
| Section 8.6. | Lending Offices | 95 |
| SECTION 9. | The Administrative Agent | 95 |
| Section 9.1. | Appointment and Authorization of Administrative Agent | 95 |
| Section 9.2. | Administrative Agent and its Affiliates | ~~95~~ 96 |
| Section 9.3. | Action by Administrative Agent | 96 |
| Section 9.4. | Consultation with Experts | 96 |
| Section 9.5. | Liability of Administrative Agent; Credit Decision; Delegation of Duties | ~~96~~ 97 |
| Section 9.6. | Indemnity | ~~98~~ 99 |
| Section 9.7. | Resignation of Administrative Agent and Successor Administrative Agent | 99 |
| Section 9.8. | L/C Issuer | 100 |
| Section 9.9. | Hedging Liability and Funds Transfer Liability and Deposit Account Liability Obligation Arrangements | 100 |
| Section 9.10. | Designation of Additional Administrative Agents | ~~100~~ 101 |
| Section 9.11. | Authorization to Enter into, and Enforcement of, the Collateral Documents | 101 |
| Section 9.12. | Authorization to Release Liens and Limit Amount of Certain Claims | 101 |
| SECTION 10. | Miscellaneous | 102 |
| Section 10.1. | Withholding Taxes | 102 |
| Section 10.2. | No Waiver; Cumulative Remedies; Collective Action | ~~104~~ 105 |
| Section 10.3. | Non-Business Days | 105 |
| Section 10.4. | Documentary Taxes | 105 |

| SECTION | HEADING | PAGE |
|---|---|---|
| Section 10.5. | Survival of Representations | 105 |
| Section 10.6. | Survival of Indemnities | ~~105~~ 106 |
| Section 10.7. | Sharing of Set-Off | 106 |
| Section 10.8. | Notices | 106 |
| Section 10.9. | Counterparts | 107 |
| Section 10.10. | Successors and Assigns; Assignments and Participations | 107 |
| Section 10.11. | Amendments | 112 |
| Section 10.12. | Heading | ~~114~~ 115 |
| Section 10.13. | Costs and Expenses; Indemnification | ~~114~~ 115 |
| Section 10.14. | Set-off | ~~115~~ 116 |
| Section 10.15. | Entire Agreement | 116 |
| Section 10.16. | Governing Law | 116 |
| Section 10.17. | Severability of Provisions | 116 |
| Section 10.18. | Excess Interest | 116 |
| Section 10.19. | Construction | 117 |
| Section 10.20. | Lender's Obligations Several | 117 |
| Section 10.21. | USA Patriot Act | 117 |
| Section 10.22. | Submission to Jurisdiction; Waiver of Jury Trial | 117 |
| Section 10.23. | Treatment of Certain Information; Confidentiality | ~~117~~ 118 |
| Section 10.24. | Conflicts with Intercreditor Agreement | ~~118~~ 119 |

Signature Page S-1

| | | |
|---|---|---|
| EXHIBIT A | — | Notice of Payment Request |
| EXHIBIT B | — | Notice of Borrowing |
| EXHIBIT C | — | Notice of Continuation/Conversion |
| EXHIBIT D-1 | — | Term B Note |
| EXHIBIT D-2 | — | Revolving Note |
| EXHIBIT D-3 | — | Swing Note |
| EXHIBIT E | — | Solvency Certificate |
| EXHIBIT F | — | Compliance Certificate |
| EXHIBIT G | — | Assignment and Assumption |
| EXHIBIT H-1 | — | Form of Trademark Security Agreement |
| EXHIBIT H-2 | — | Form of Patent Security Agreement |
| EXHIBIT H-3 | — | Form of Copyright Security Agreement |
| EXHIBIT I | — | Form of Intercreditor |
| EXHIBIT J | — | Form of Security Agreement |
| EXHIBIT K | — | Form of Guaranty |

| | | |
|---|---|---|
| SCHEDULE 1 | — | Term B Loan Commitments and Revolving Credit Commitments as of the Closing Date |
| SCHEDULE 5.10 | — | Subsidiaries |
| SCHEDULE 5.17 | — | Capitalization |

succeeding Business Day, the Federal Funds Rate for such day shall be the average rate quoted to the Administrative Agent on such day on such transactions as determined by the Administrative Agent.

"*Fifth Third Bank*" means Fifth Third Bank, an Ohio banking corporation.

*"Fifth Third Bancorp"* Fifth Third Bancorp, an Ohio corporation.

"*First-Tier Foreign Subsidiary*" means a Foreign Subsidiary, the Equity Interests of which are directly owned by the Borrower or a Domestic Subsidiary that is not a Subsidiary of a Foreign Subsidiary.

"*Foreign Subsidiary*" means each Subsidiary of the Borrower that is not a Domestic Subsidiary.

"*FTPS Headquarters*" means the property located at 8500-8550 Governor's Hill Drive, Cincinnati, Ohio 45249.

"*Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations*" means the liability of the Borrower or any of its Restricted Subsidiaries owing to ~~and of the Lenders, or any Affilates of such Lenders~~ (i) any entity that was a Lender or an Affiliate of a Lender at the time the relevant transaction was entered into, in the case of clauses (a), (b) or (c) or (ii) Fifth Third Bancorp, in the case of clause (d) below, arising out of (a) the execution or processing of electronic transfers of funds by automatic clearing house transfer, wire transfer or otherwise to or from the deposit accounts of the Borrower and/or any Restricted Subsidiary now or hereafter maintained, ~~with any of the Lenders or their Affiliates~~, (b) the acceptance for deposit or the honoring for payment of any check, draft or other item with respect to any such deposit accounts, (c) any other deposit, disbursement, and Cash Management Services afforded to the Borrower or any such Restricted Subsidiary ~~by any of such Lenders or their Affiliates~~ and (d) the Master Services Agreement between the Borrower and Fifth Third Bancorp ~~an Ohio corporation~~, dated June 30, 2009, as amended, modified, supplemented or restated from time to time.

"*GAAP*" means generally accepted accounting principles in the United States of America, as in effect from time to time.

"*Governmental Authority*" means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to the United States government.

"*Growth Amount*" means, at any time an amount equal to, without duplication:

(a) the sum, without duplication, of

(i) at any time when the pro forma Leverage Ratio is equal to or less than

the then applicable financial covenant level set forth in Section 6.22, an amount, not less than zero, determined on a cumulative basis equal to the amount of Excess Cash Flow for each fiscal year ending after December 31, 2010 that is not required prior to such date to be applied as a mandatory prepayment under Section 2.8(c)(iii) or Section 2.8(b)(iii) of the Second Lien Loan Agreement; plus

(ii) the Available Amount; minus

(b) the sum, without duplication, of:

(i) the aggregate amount of any investments, loans or advances made by the Borrower or any Restricted Subsidiary pursuant to Section 6.17(o) after the Closing Date and prior to such time;

(ii) the aggregate amount of any Distributions made by the Borrower pursuant to Section 6.18(f) after the Closing Date and prior to such time; and

(iii) the aggregate amount of any optional or voluntary payments, prepayments, repurchases, redemptions or defeasances made by the Borrower or any Restricted Subsidiary pursuant to Section 6.20(a) after the Closing Date and prior to such time.

"*GSLP Funds*" means collectively, GSLP I Offshore Holdings Fund A, L.P., GSLP I Offshore Holdings Fund B, L.P., GSLP Holdings Fund C, L.P. and GSLP Onshore Holdings Fund, L.L.C.

"*Guarantor*" is defined in Section 4.3 hereof.

"*Guaranty*" is defined in Section 4.3 hereof.

"*Hazardous Material*" means any (a) asbestos, polychlorinated biphenyls and petroleum (including crude oil or any fraction thereof) and (b) any substance, waste or material classified or regulated as "hazardous," "toxic," "contaminant" or "pollutant" or words of like import pursuant to an applicable Environmental Law.

"*Hedge Agreement*" means any interest rate, currency or commodity swap agreements, cap agreements, collar agreements, floor agreements, exchange agreements, forward contracts, option contracts or similar interest rate or currency or commodity hedging arrangements.

"*Hedging Liability*" means Hedging Obligations owing to any ~~of the Lenders, or and Affiliates of such Lenders~~ entity that was a Lender or an Affiliate of a Lender at the time the relevant Hedging Agreement was entered into.

"*Hedging Obligations*" means, with respect to any Person, the obligations of such Person under Hedge Agreements.

**Exhibit B**

[BLACKLINE OF CONFORMED SECURITY AGREEMENT]

---

~~EXECUTION VERSION~~
**EXHIBIT B**
**COMPOSITE SECURITY AGREEMENT COPY**
**INCLUDING THE FIRST AMENDMENT**
**DATED AS OF January 19, 2011**

# SECURITY AGREEMENT

This Security Agreement (this "*Agreement*") is dated as of November 3, 2010, by and among Fifth Third Processing Solutions, LLC, a Delaware limited liability company (the "*Borrower*") and the other parties who have executed this Security Agreement (the Borrower, such other parties and any other parties who execute and deliver to the Collateral Agent an agreement substantially in the form attached hereto as Schedule F, being hereinafter referred to collectively as the "*Debtors*" and individually as a "*Debtor*"), each with its mailing address as set forth in Section 14(b) below, and Goldman Sachs Lending Partners LLC ("*GS Lending Partners*"), with its mailing address as set forth in Section 14(b) below, acting as collateral agent hereunder for the Secured Parties hereinafter identified and defined (GS Lending Partners acting as such collateral agent and any successor or successors to GS Lending Partners acting in such capacity being hereinafter referred to as the "*Collateral Agent*").

## PRELIMINARY STATEMENTS

A. Reference is made to the First Lien Loan Agreement, dated as of November 3, 2010 (as amended, restated, amended and restated, supplemented, modified, replaced or refinanced from time to time, the "*First Lien Loan Agreement*"), among the Borrower, GS Lending Partners, as Administrative Agent (the "*Administrative Agent*"), Fifth Third Bank as L/C Issuer ("*L/C Issuer*"), the Lenders party thereto and the other banks and financial institutions from time to time party thereto, pursuant to which the Administrative Agent, L/C Issuer and the other banks and financial institutions from time to time party thereto have agreed to provide financial accommodations to the Borrower (GS Lending Partners, in its individual capacity and such other banks, financial institutions and lenders being hereinafter referred to collectively as the "*Lenders*" and individually as a "*Lender").*

B. In addition, one or more of the Debtors may from time to time be liable to ~~the~~ entities that are, or were at the time such obligations were entered into, Lenders and/or ~~their~~ Affiliates of Lenders with respect to Hedging Liability and/or Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations (as such terms are defined in the First Lien Loan Agreement) (the Collateral Agent, the L/C Issuer and ~~the Lenders, together with any Affiliates of the Lenders~~ such entities with respect to the Hedging Liability and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, as such terms are defined in the First Lien Loan Agreement, are referred to collectively as the "*Secured Parties*" and individually as a "*Secured Party*").

C. As a condition to the closing of the transactions contemplated by the First Lien Loan Agreement, the Secured Parties have required, among other things, that each Debtor enter into this Agreement and grant to the Collateral Agent for the benefit of the Secured Parties a lien on and security interest in the personal property and fixtures of such Debtor described herein subject to the terms and conditions hereof.

---

Now, THEREFORE, for good and valuable consideration, receipt whereof is hereby acknowledged, the parties hereto hereby agree as follows:

*Section 1. Terms defined in First Lien Loan Agreement.* Except as otherwise provided in Section 2 below, all capitalized terms used herein without definition shall have the same meanings herein as such terms have in the First Lien Loan Agreement. The term "Debtor" and "Debtors" as used herein shall mean and include the Debtors collectively and also each individually, with all representations, warranties, and covenants of and by the Debtors, or any of them, herein contained to constitute joint and several representations, warranties, and covenants of and by the Debtors; *provided*, *however*, that unless the context in which the same is used shall otherwise require, any grant, representation, warranty or covenant contained herein related to the Collateral shall be made by each Debtor only with respect to the Collateral owned by it or represented by such Debtor as owned by it.

*Section 2. Grant of Security Interest in the Collateral.* As collateral security for the Secured Obligations defined below, each Debtor hereby grants to the Collateral Agent for the benefit of the Secured Parties a lien on and security interest in, and right of set-off against, and acknowledges and agrees that the Collateral Agent has and shall continue to have until the Termination Date (as hereinafter defined) for the benefit of the Secured Parties a continuing lien on and security interest in, and right of set-off against, all right, title, and interest of such Debtor, whether now owned or existing or hereafter created, acquired or arising, in and to all of the following:

(a) Accounts;

(b) Chattel Paper;

(c) Instruments (including Promissory Notes);

(d) Documents;

(e) General Intangibles (including Payment Intangibles and Software, patents, trademarks, copyrights, and all other intellectual property rights, including all applications, registrations, and licenses therefor, and all goodwill of the business connected therewith or represented thereby);

(f) Letter-of-Credit Rights;

(g) Supporting Obligations;

(h) Deposit Accounts;

(i) Investment Property (including certificated and uncertificated Securities, Securities Accounts, Security Entitlements, Commodity Accounts, and Commodity Contracts);

(j) Inventory;

(k) Equipment (including all software, whether or not the same constitutes embedded software, used in the operation thereof);

(1) Fixtures;

(m) Commercial Tort Claims (as described on Schedule E hereto or on one or more supplements to this Agreement);

(n) Rights to merchandise and other Goods (including rights to returned or repossessed Goods and rights of stoppage in transit) which are represented by, arise from, or relate to any of the foregoing;

(o) Monies, personal property, and interests in personal property of such Debtor of any kind or description now held by any Secured Party or at any time hereafter transferred or delivered to, or coming into the possession, custody or control of, any Secured Party, or any agent or affiliate of any Secured Party, whether expressly as collateral security or for any other purpose (whether for safekeeping, custody, collection or otherwise), and all dividends and distributions on or other rights in connection with any such property;

(p) Supporting evidence and documents relating to any of the above-described property, including, without limitation, computer programs, disks, tapes and related electronic data processing media, and all rights of such Debtor to retrieve the same from third parties, written applications, credit information, account cards, payment records, correspondence, delivery and installation certificates, invoice copies, delivery receipts, notes and other evidences of indebtedness, insurance certificates and the like, together with all books of account, ledgers, and cabinets in which the same are reflected or maintained;

(q) Accessions and additions to, and substitutions and replacements of, any and all of the foregoing; and

(r) Proceeds and products of the foregoing, and all insurance of the foregoing and proceeds thereof;

all of the foregoing being herein sometimes referred to as the "*Collateral".* Notwithstanding the foregoing, the security interest shall not extend to, and the term "Collateral" (and any component definition thereof) shall not include, any Excluded Property. All terms which are used in this Agreement which are defined in the Uniform Commercial Code of the State of New York as in effect from time to time (*"UCC")* shall have the same meanings herein as such terms are defined in the UCC, unless this Agreement shall otherwise specifically provide. For purposes of this Agreement, the term *"Receivables"* means all rights to the payment of a monetary obligation,

whether or not earned by performance, and whether evidenced by an Account, Chattel Paper, Instrument, General Intangible, or otherwise.

*Section 3. Secured Obligations.* This Agreement is made and given to secure, and shall secure, the prompt payment and performance of (a) any and all indebtedness, obligations, and liabilities of the Debtors, and of any of them individually, to the Secured Parties, and to any of them individually, under or in connection with or evidenced by the First Lien Loan Agreement or any other Loan Documents, including, without limitation, all obligations evidenced by the Notes (if any) of the Borrower heretofore or hereafter issued under the First Lien Loan Agreement, and all obligations of the Debtors, and of any of them individually, with respect to any Hedging Liability, all obligations of the Debtors, and of any of them individually, with respect to any Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, and all obligations of the Debtors, and of any of them individually, arising under any guaranty issued by it relating to the foregoing or any part thereof, in each case whether now existing or hereafter arising (and whether arising before or after the filing of a petition in bankruptcy and including all interest accrued after the petition date), due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired and (b) any and all reasonable and documented out- of-pocket expenses and charges, including, without limitation, all reasonable attorney's fees and other expenses of litigation or preparation therefor (but under no circumstances shall the Debtors be obligated to pay for more than one firm of outside counsel, and no Debtor shall be obligated to pay for any in-house counsel except, if reasonably necessary, one local counsel and one regulatory counsel in any relevant material jurisdiction, to the Collateral Agent, or the Collateral Agent and the Secured Parties, taken as a whole, as the case may be, and, solely in the case of a conflict of interest, one additional counsel to the affected persons similarly situated, taken as a whole) suffered or incurred by the Secured Parties, and any of them individually, in collecting or enforcing any of such indebtedness, obligations, and liabilities or in realizing on or protecting or preserving any security therefor, including, without limitation, the lien and security interest granted hereby (all of the indebtedness, obligations, liabilities, expenses, and charges described above being hereinafter referred to as the "*Secured Obligations*").

*Section 4. Covenants, Agreements, Representations and Warranties.* (a) Each Debtor hereby represents and warrants to the Secured Parties that:

(i) Each Debtor is duly organized and validly existing in good standing under the laws of the jurisdiction of its organization. Each Debtor is the sole and lawful owner of its Collateral, and has full right, power, and authority to enter into this Agreement and to perform each and all of the matters and things herein provided for. The execution and delivery of this Agreement, and the observance and performance of each of the matters and things herein set forth, will not (i) violate any provision of law or any judgment, injunction, order or decree binding upon such Debtor, (ii) contravene or constitute a default under any provision of the organizational documents (*e. g.,* charter, articles of incorporation or by-laws, articles of association or operating agreement, partnership agreement or other similar document) of such Debtor, (iii) contravene or constitute a default under any covenant, indenture or agreement of or affecting such Debtor or any of its Property, in each case, where such contravention or default, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or (iv) result in

the creation or imposition of any Lien on any Property of such Debtor other than the Liens granted to the Collateral Agent pursuant to this Agreement and Permitted Liens, except with respect to clauses (i), (iii) and (iv), to the extent, individually or in the aggregate, that such violation, contravention, breach, conflict, default or creation or imposition of any Lien could not reasonably be expected to result in a Material Adverse Effect.

(ii) As of the Closing Date, each Debtor's respective chief executive office is at the location listed under Column 2 on Schedule A attached hereto opposite such Debtor's name.

(iii) As of the Closing Date, each Debtor's legal name, jurisdiction of organization and organizational number (if any) are correctly set forth under Column 1 on Schedule A of this Agreement. As of the Closing Date, no Debtor has transacted business at any time during the immediately preceding five-year period, and does not currently transact business, under any other legal names other than the prior legal names set forth on Schedule B attached hereto.

(iv) Schedule C attached hereto contains a true, complete, and current listing of all patents, trademarks, copyrights, and other intellectual property rights owned by each of the Debtors as of the date hereof that are registered or the subject of a pending application with any United States federal governmental authority. Each Debtor owns or possesses rights to use all patents, trademarks, trade names, copyrights, rights with respect to the foregoing, trade secrets, know-how, and other intellectual property rights which are necessary to the present conduct of its business, in each case, without any known conflict with the rights of others which, or the failure to obtain which, as the case may be, could reasonably be expected to result in a Material Adverse Effect. To the knowledge of the Debtors, no event has occurred which permits, or after notice or lapse of time or both would permit, the revocation or termination of any such rights, except to the extent that such revocation or termination could not reasonably be expected to result in a Material Adverse Effect, and, to the knowledge of the Debtors, and except as set forth on Schedule H attached hereto, the Debtors are not liable to any person for infringement, misappropriation or violation under applicable law with respect to any such rights as a result of its business operations, except to the extent that such liability could not reasonably be expect to result in a Material Adverse Effect.

(v) Schedule E attached hereto contains a true, complete and current listing of all Commercial Tort Claims held by the Debtors as of the date hereof, each described by referring to a specific incident giving rise to the claim.

(b) Each Debtor hereby covenants and agrees with the Secured Parties that:

(i) Each Debtor shall provide the Collateral Agent prompt written notice of a change of the location of such Debtor's chief executive office; *provided* that each Debtor shall at all times maintain its chief executive office in the United States of America.

(ii) The applicable Debtor shall provide the Collateral Agent with fifteen (15) days (or such shorter period as to which Collateral Agent may agree) prior written notice of any change to any Debtor's jurisdiction of organization. Upon any change to the legal name of any Debtor the applicable Debtor shall provide written notice thereof to the Collateral Agent within fifteen (15) days (or such longer period as to which Collateral Agent may agree) after the occurrence thereof.

(iii) Each Debtor shall take all commercially reasonably actions necessary to defend the Collateral against any claims and demands of all persons at any time claiming the same or any interest in the Collateral other than a Permitted Lien adverse to any of the Secured Parties.

(iv) Each Debtor will perform in all material respects its obligations under any contract or other agreement constituting part of the Collateral, it being understood and agreed that the Secured Parties have no responsibility to perform such obligations, except to the extent that any nonperformance could not be reasonably expected to result in a Material Adverse Effect.

(v) Each Debtor will insure its Collateral with financially sound and reputable insurance companies insuring against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business of the Borrower and containing loss payable clauses to the Collateral Agent as its interests may appear (and, if the Collateral Agent requests, naming the Collateral Agent as an additional insured therein). Each Debtor shall furnish to the Collateral Agent upon its reasonable request (but not more than twice per fiscal year in the absence of an Event of Default) reasonably detailed information as to the insurance so carried. All premiums on such insurance shall be paid by the Debtors. All insurance required hereby, to the extent available on commercially reasonable terms, shall provide that any loss shall be payable notwithstanding any act or negligence of the relevant Debtor, shall provide that no cancellation thereof shall be effective until at least thirty (30) days (or, in the case of non-payment, ten (10) days) after receipt by the relevant Debtor and the Collateral Agent of written notice thereof, and shall be reasonably satisfactory to the Collateral Agent in all other respects. Each Debtor hereby authorizes the Collateral Agent, at the Collateral Agent's option, to adjust, compromise, and settle any losses in respect of any Collateral under any insurance afforded at any time after the occurrence and during the continuation of any Event of Default, and such Debtor does hereby irrevocably (until the Termination Date) constitute the Collateral Agent, its officers, agents, and attorneys, as such Debtor's attorneys-in-fact, with full power and authority after the occurrence and during the continuation of any Event of Default to effect such adjustment, compromise, and/or settlement and to endorse any drafts drawn by an insurer of the Collateral or any part thereof and to do everything necessary to carry out such purposes and to receive and receipt for any unearned premiums due under policies of such insurance. Notwithstanding the foregoing, unless the Collateral Agent elects to adjust, compromise or settle losses as aforesaid, any adjustment, compromise, and/or settlement of any losses under any insurance shall be made by the relevant Debtor subject to the final approval by the Collateral Agent in the case of losses

exceeding $5,000,000.00. All insurance proceeds shall be subject to the lien and security interest of the Collateral Agent hereunder.

(vi) At any time after and during the continuance of any Event of Default, if any Collateral is in the possession or control of any agents or processors of a Debtor and the Collateral Agent so requests, such Debtor agrees to notify such agents or processors in writing of the Collateral Agent's lien and security interest therein and instruct them to hold all such Collateral for the Collateral Agent's account and subject to the Collateral Agent's instructions.

(vii) At any time after and during the continuation of any Event of Default, each Debtor agrees from time to time to deliver to the Collateral Agent such evidence of the existence, identity, and location of its Collateral and of its availability as collateral security pursuant hereto (including, without limitation, schedules describing all Receivables created or acquired by such Debtor, copies of customer invoices or the equivalent and original receipts for all services rendered by it), in each case as the Collateral Agent may reasonably request. At any time after and during the continuation of any Event of Default, the Collateral Agent shall have the right to verify all or any part of the Collateral in any manner, and through any medium, which the Collateral Agent considers appropriate and reasonable, and each Debtor agrees to furnish all reasonable assistance and information, and perform any reasonable acts, which the Collateral Agent may reasonably require in connection therewith.

(viii) Upon any new registration, or application for registration, for any intellectual property rights constituting Collateral granted to or filed or acquired by any Debtor after the Closing Date, the Debtor shall, on or prior to the later to occur of (i) thirty (30) days following such grant, filing or acquisition and (ii) the date of the next required delivery of the certificate required by Section 6.1 (e) of the First Lien Loan Agreement (the "*Compliance Certificate*") following the date of such grant, filing or acquisition (or such longer period as to which the Collateral Agent may consent), submit to the Collateral Agent a supplement to Schedule C to reflect such additional rights (provided any Debtor's failure to do so shall not impair the Collateral Agent's security interest therein).

(ix) If any Debtor shall at any time hold or acquire a Commercial Tort Claim in excess of $5,000,000.00 individually, the Debtor shall, on or prior to the later to occur of (i) thirty (30) days following such acquisition and (ii) the date of the next required delivery of the Compliance Certificate following the date of such acquisition (or such longer period as to which the Collateral Agent may consent), execute and deliver to the Collateral Agent an agreement in the form attached hereto as Schedule G, or in such other form reasonably acceptable to the Collateral Agent (provided any Debtor's failure to do so shall not impair the Collateral Agent's security interest therein).

(x) Each Debtor agrees to execute and deliver to the Collateral Agent such further agreements, assignments, instruments, and documents, and to do all such other things, as the Collateral Agent may reasonably deem necessary to assure the Collateral

Agent of its lien and security interest hereunder, including, without limitation, such agreements with respect to patents, trademarks, copyrights, and similar intellectual property rights as the Collateral Agent may from time to time reasonably require to comply with the filing requirements of the United States Patent and Trademark Office and the United States Copyright Office; *provided* that (x) the Collateral Agent shall not require the taking of a Lien on, or require the perfection of any Lien granted in, those assets as to which the cost of obtaining or perfecting such Lien (including any mortgage, stamp, intangibles or other tax or expenses relating to such Lien) outweighs the benefit to the Secured Parties of the security afforded thereby as reasonably determined by the Borrower and the Collateral Agent and (y) no control agreements shall be required. The Collateral Agent may order lien searches from time to time against any Debtor and the Collateral, and the Debtors shall promptly reimburse the Collateral Agent for all reasonable costs and expenses incurred in connection with such lien searches (which, in the absence of an Event of Default, shall not be ordered more than once per year). In the event for any reason the law of any jurisdiction other than New York becomes or is applicable to the Collateral or any part thereof, or to any of the Secured Obligations, each Debtor agrees to execute and deliver all such agreements, assignments, instruments, and documents and to do all such other things as the Collateral Agent deems necessary or appropriate to preserve, protect, and enforce the security interest of the Collateral Agent under the law of such other jurisdiction; *provided* that in no event shall any foreign law security or pledge agreements be required. Each Debtor agrees to mark its books and records to reflect the lien and security interest of the Collateral Agent in the Collateral.

(xi) If an Event of Default has occurred and is continuing, the Collateral Agent may, at its option, but only following five (5) Business Days' written notice to each Debtor of its intent to do so, expend such sums as the Collateral Agent reasonably deems advisable to perform the obligations of the Debtors with respect to the Collateral under this Agreement and the other Loan Documents to the extent that any Debtor fails to do so, including, without limitation, the payment of any insurance premiums, the payment of any taxes, Liens and encumbrances that do not constitute Permitted Liens, expenditures made in defending against any adverse claims that do not constitute Permitted Liens, and all other expenditures which the Collateral Agent may be compelled to make by operation of law or which the Collateral Agent may make by agreement or otherwise for the protection of the security hereof that do not constitute Permitted Liens. All such sums and amounts so expended shall be repayable by the Debtors within thirty (30) days after demand, shall constitute additional Secured Obligations secured hereunder, and shall bear interest from the date said amounts are expended at a rate per annum (computed on the basis of a year of 360 days for the actual number of days elapsed) equal to 2% plus the Base Rate from time to time in effect plus the Applicable Margin for Base Rate Loans (such rate per annum as so determined being hereinafter referred to as the *"Default Rate"*). No such performance of any obligation by the Collateral Agent on behalf of a Debtor, and no such advancement or expenditure therefor, shall relieve any Debtor of any default under the terms of this Agreement or in any way obligate any Secured Party to take any further or future action with respect thereto. The Collateral Agent, in making any payment hereby authorized, may do so according to any bill, statement or estimate procured from the appropriate public office or holder of the claim to be discharged without inquiry into the

accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax lien or title or claim. The Collateral Agent, in performing any act hereunder, shall be the sole judge of whether the relevant Debtor is required to perform the same under the terms of this Agreement.

*Section 5. Special Provisions Re: Receivables. (*a) Upon the occurrence and during the continuance of an Event of Default, if any Receivable arises out of a contract with the United States of America, or any state or political subdivision thereof, or any department, agency or instrumentality of any of the foregoing, each Debtor agrees to promptly so notify the Collateral Agent and, at the request of the Collateral Agent or the Secured Parties, execute whatever instruments and documents are required by the Collateral Agent in order that such Receivable shall be assigned to the Collateral Agent and that proper notice of such assignment shall be given under the federal Assignment of Claims Act (or any successor statute) or any similar state or local statute, as the case may be.

(b) If any Debtor shall at any time after the Closing Date hold or acquire any Instrument or Chattel Paper evidencing any Receivable or other item of Collateral, the Debtor shall, on or prior to the later to occur of (i) thirty (30) days following such acquisition and (ii) the date of the next required delivery of the Compliance Certificate following the date of such acquisition (or such longer period as to which the Collateral Agent may consent), cause such Instrument or tangible Chattel Paper to be pledged and delivered to the Collateral Agent; *provided, however,* that, unless an Event of Default has occurred and is continuing, a Debtor shall not be required to deliver any such Instrument or tangible Chattel Paper if and only so long as the aggregate unpaid principal balance of all such Instruments and tangible Chattel Paper held by the Debtors and not delivered to the Collateral Agent hereunder is less than $5,000,000.00 at any one time outstanding.

*Section 6. Collection of Receivables.* (a) Except as otherwise provided in this Agreement, each Debtor shall make collection of its Receivables and may use the same to carry on its business in accordance with customary business practice and otherwise subject to the terms hereof.

(b) Upon the occurrence and during the continuance of any Event of Default, whether or not the Collateral Agent has exercised any of its other rights under other provisions of this Section 6, in the event the Collateral Agent makes a written request for any Debtor to do so:

(i) all Instruments and tangible Chattel Paper at any time constituting part of the Receivables (including any postdated checks) shall, upon receipt by such Debtor, be promptly endorsed to and deposited with Collateral Agent; and/or

(ii) such Debtor shall instruct all customers and account debtors to remit all payments in respect of Receivables or any other Collateral to a lockbox or lockboxes under the sole custody and control of the Collateral Agent and which are maintained at one or more post offices selected by the Collateral Agent.

(c) Upon the occurrence and during the continuation of any Event of Default, whether or not the Collateral Agent has exercised any of its other rights under the other provisions of this Section 6, the Collateral Agent or its designee may notify the relevant Debtor's customers and account debtors at any time that Receivables have been assigned to the Collateral Agent or of the Collateral Agent's security interest therein, and either in its own name, or such Debtor's name, or both, demand, collect (including, without limitation, through a lockbox analogous to that described in Section 6(b)(ii) hereof), receive, receipt for, sue for, compound and give acquittance for any or all amounts due or to become due on Receivables, and in the Collateral Agent's reasonable discretion file any claim or take any other action or proceeding which the Collateral Agent may reasonably deem necessary to protect and realize upon the security interest of the Collateral Agent in the Receivables or any other Collateral.

(d) Any proceeds of Receivables or other Collateral transmitted to or otherwise received by the Collateral Agent pursuant to any of the provisions of Sections 6(b) or 6(c) hereof may be handled and administered by the Collateral Agent in and through a remittance account or accounts maintained at the Collateral Agent or by the Collateral Agent at a commercial bank or banks selected by the Collateral Agent with reasonable care (collectively the *"Depositary Banks"* and individually a *"Depositary Bank"*), and each Debtor acknowledges that the maintenance of such remittance accounts by the Collateral Agent is solely for the Collateral Agent's convenience. The Collateral Agent may, after the occurrence and during the continuation of any Event of Default, apply all or any part of any proceeds of Receivables or other Collateral received by it from any source to the payment of the Secured Obligations (whether or not then due and payable), such applications to be made pursuant to the terms of the First Lien Loan Agreement, and at such intervals as the Collateral Agent may from time to time in its discretion determine. The Collateral Agent need not apply or give credit for any item included in proceeds of Receivables or other Collateral until the Depositary Bank has received final payment therefor at its office in cash or final solvent credits current at the site of deposit reasonably acceptable to the Collateral Agent and the Depositary Bank as such. However, if the Collateral Agent does permit credit to be given for any item prior to a Depositary Bank receiving final payment therefor and such Depositary Bank fails to receive such final payment or an item is charged back to the Collateral Agent or any Depositary Bank for any reason, the Collateral Agent may at its election in either instance charge the amount of such item back against any such remittance accounts. After all Events of Default have been cured or waived, the Collateral Agent shall promptly return to the applicable Debtor all proceeds of Collateral which the Collateral Agent has not applied to the Secured Obligations as provided above from the remittance account, as well as all Instruments and tangible Chattel Paper delivered to the Collateral Agent pursuant to Section 6(b)(i) hereof. Each Debtor hereby indemnifies the Secured Parties from and against all liabilities, damages, losses, actions, claims, judgments, and all reasonable costs, expenses, charges, and attorneys' fees (but limited, in the case of attorney's fees, to one firm of outside counsel, and, if reasonably necessary, one local counsel and one regulatory counsel in any relevant material jurisdiction, to the Collateral Agent, or the Collateral Agent and the Secured Parties, taken as a whole, as the case may be, and, solely in the case of a conflict of interest, one additional counsel to the affected persons similarly situated, taken as a whole) suffered or incurred by any Secured Party because of the maintenance of the foregoing arrangements; *provided, however*, that no Debtor shall be required to indemnify any Secured Party for any of the foregoing to the extent they (i) arise from the gross negligence,

willful misconduct or bad faith of, or a material breach of this Agreement by, the person seeking to be indemnified to the extent determined by a court of competent jurisdiction in a final and non-appealable judgment or (ii) arise out of any dispute solely among Secured Parties (other than in connection with the Collateral Agent acting in its capacity as Collateral Agent, solely to the extent such indemnification would not be denied pursuant to clause (i)) that a court of competent jurisdiction has determined in a final and non-appealable decision did not arise out of any act or omission of any Debtor. Notwithstanding the foregoing, each Secured Party shall be obligated to refund and return any and all amounts paid by any Debtor to such Secured Party for fees, expenses or damages to the extent such Secured Party is not entitled to payment of such amounts in accordance with the terms hereof. The Secured Parties shall have no liability or responsibility to any Debtor for the Collateral Agent or any Depositary Bank accepting any check, draft or other order for payment of money bearing the legend "payment in full" or words of similar import or any other restrictive legend or endorsement whatsoever or be responsible for determining the correctness of any remittance.

*Section 8. Special Provisions Re: Investment Property and Deposits.* (a) Unless and until an Event of Default has occurred and is continuing and the Collateral Agent shall have given the Debtors at least three (3) Business Days' notice of its intent to exercise its rights under this Agreement:

(i) each Debtor shall be entitled to exercise all voting and/or consensual powers pertaining to its Investment Property, or any part thereof, for all purposes not inconsistent with the terms of this Agreement, the First Lien Loan Agreement or any other document evidencing or otherwise relating to any Secured Obligations; and

(ii) each Debtor shall be entitled to receive and retain all cash dividends paid upon or in respect of its Investment Property subject to the lien and security interest of this Agreement.

(b) All Investment Property (including all securities, certificated or uncertificated, securities accounts, and commodity accounts) of the Debtors as of the Closing Date that constitutes Collateral is listed and identified on Schedule D attached hereto and made a part hereof. If any Debtor shall at any time after the Closing Date hold or acquire any other Investment Property constituting Collateral, the Debtor shall, on or prior to the later to occur of (i) thirty (30) days following such acquisition and (ii) the date of the next required delivery of the Compliance Certificate following the date of such acquisition (or such longer period as to which the Collateral Agent may consent), submit to the Collateral Agent a supplement to Schedule D to reflect such additional rights (provided any Debtor's failure to do so shall not impair the Collateral Agent's security interest therein) and deliver to the Collateral Agent certificates for all certificated securities constituting Investment Property and part of the Collateral hereunder, all duly endorsed in blank for transfer or accompanied by an appropriate assignment or assignments or an appropriate undated stock power or powers, in every case sufficient to transfer title thereto, including, without limitation, all stock received in respect of a stock dividend or resulting from a split-up, revision or reclassification of the Investment Property or any part thereof or received in addition to, in substitution of or in exchange for the Investment Property or any part thereof as a result of a merger, consolidation or otherwise. With respect to any uncertificated securities or

any Investment Property held by a securities intermediary, commodity intermediary, or other financial intermediary of any kind, at the Collateral Agent's request after the occurrence and during the continuance of an Event of Default (or at any time with respect to uncertificated securities or Investment Property issued (i) by any Guarantor to Borrower or (ii) by Borrower to FTPS Holding, LLC), the relevant Debtor shall execute and deliver, and shall cause any such issuer or intermediary to execute and deliver, an agreement among such Debtor, the Collateral Agent, and such issuer or intermediary in form and substance satisfactory to the Collateral Agent which provides, among other things, for the issuer's or intermediary's agreement that it will comply with such entitlement orders, and apply any value distributed on account of any Investment Property, as directed by the Collateral Agent without further consent by such Debtor. The Collateral Agent may, upon three (3) Business Days' written notice to the Debtors at any time after the occurrence and during the continuation of any Event of Default, cause to be transferred into its name or the name of its nominee or nominees any and all of the Investment Property hereunder.

(c) Each Debtor represents that on the date of this Agreement none of its Investment Property consists of margin stock (as such term is defined in Regulation U of the Board of Governors of the Federal Reserve System) except to the extent such Debtor has delivered to the Collateral Agent a duly executed and completed Form U-1 with respect to such stock. If at any time the Investment Property or any part thereof consists of margin stock, the relevant Debtor shall promptly so notify the Collateral Agent and deliver to the Collateral Agent a duly executed and completed Form U-1 and such other instruments and documents reasonably requested by the Collateral Agent in form and substance reasonably satisfactory to the Collateral Agent.

(d) All Deposit Accounts of the Debtors as of the Closing Date that constitute Collateral are listed and identified (by account number and depository institution) on Schedule D attached hereto and made a part hereof. If any Debtor shall at any time after the Closing Date acquire any new Deposit Accounts constituting Collateral, the Debtor shall, on or prior to the later to occur of (i) thirty (30) days following such acquisition and (ii) the date of the next required delivery of the Compliance Certificate following the date of such acquisition (or such longer period as to which the Collateral Agent may consent), submit to the Collateral Agent a supplement to Schedule D to reflect such additional accounts (provided any Debtor's failure to do so shall not impair the Collateral Agent's security interest therein).

*Section 9. Power of Attorney.* In addition to any other powers of attorney contained herein, each Debtor hereby appoints the Collateral Agent, its nominee, or any other person whom the Collateral Agent may designate as such Debtor's attorney-in-fact, with full power and authority upon the occurrence and during the continuation of any Event of Default to sign such Debtor's name on verifications of Receivables and other Collateral; to send requests for verification of Collateral to such Debtor's customers, account debtors, and other obligors; to endorse such Debtor's name on any checks, notes, acceptances, money orders, drafts, and any other forms of payment or security that may come into the Collateral Agent's possession; to endorse the Collateral in blank or to the order of the Collateral Agent or its nominee; to sign such Debtor's name on any invoice or bill of lading relating to any Collateral, on claims to enforce collection of any Collateral, on notices to and drafts against customers and account debtors and other obligors, on schedules and assignments of Collateral, on notices of assignment and on public

records; to notify the post office authorities to change the address for delivery of such Debtor's mail to an address designated by the Collateral Agent; to receive, open, and dispose of all mail addressed to such Debtor; and to do all things reasonably necessary to carry out this Agreement. Each Debtor hereby ratifies and approves all acts of any such attorney and agrees that neither the Collateral Agent nor any such attorney will be liable for any acts or omissions or for any error of judgment or mistake of fact or law other than such person's gross negligence or willful misconduct or breach of this Agreement. The foregoing powers of attorney, being coupled with an interest, are irrevocable until the Termination Date.

*Section 10. Defaults and Remedies.* (a) The occurrence of any event or the existence of any condition specified as an "Event of Default" under the First Lien Loan Agreement shall constitute an *"Event of Default"* hereunder.

(b) Upon the occurrence and during the continuation of any Event of Default, the Collateral Agent shall have, in addition to all other rights provided herein or by law, the rights and remedies of a secured party under the UCC (regardless of whether the UCC is the law of the jurisdiction where the rights or remedies are asserted and regardless of whether the UCC applies to the affected Collateral), and further the Collateral Agent may, without demand and, to the extent permitted by applicable law, without advertisement, notice, hearing or process of law, all of which each Debtor hereby waives to the extent permitted by applicable law, at any time or times, sell and deliver any or all Collateral held by or for it at public or private sale, at any securities exchange or broker's board or at the Collateral Agent's office or elsewhere, for cash, upon credit or otherwise, at such prices and upon such terms as the Collateral Agent deems advisable, in its reasonable discretion. In the exercise of any such remedies, the Collateral Agent may sell the Collateral as a unit even though the sales price thereof may be in excess of the amount remaining unpaid on the Secured Obligations. Also, if less than all the Collateral is sold, the Collateral Agent shall have no duty to marshal or apportion the part of the Collateral so sold as between the Debtors, or any of them, but may sell and deliver any or all of the Collateral without regard to which of the Debtors are the owners thereof. In addition to all other sums due any Secured Party hereunder, each Debtor shall pay the Secured Parties all costs and expenses incurred by the Secured Parties, including reasonable attorneys' fees and court costs (but under no circumstances shall the Debtors be obligated to pay for more than one firm of outside counsel, and no Debtor shall be obligated to pay for any in-house counsel), in obtaining, liquidating or enforcing payment of Collateral or the Secured Obligations or in the prosecution or defense of any action or proceeding by or against any Secured Party or any Debtor concerning any matter arising out of or connected with this Agreement or the Collateral or the Secured Obligations, including, without limitation, any of the foregoing arising in, arising under or related to a case under the United States Bankruptcy Code (or any successor statute). Any requirement of reasonable notice shall be met if such notice is personally served on or mailed, postage prepaid, to the Debtors in accordance with Section 14(b) hereof at least ten (10) Business Days before the time of sale or other event giving rise to the requirement of such notice; *provided, however,* no notification need be given to a Debtor if such Debtor has signed, after the Event of Default hereunder that is then continuing has occurred, a statement renouncing any right to notification of sale or other intended disposition. The Collateral Agent shall not be obligated to make any sale or other disposition of the Collateral regardless of notice having been given. Any Secured Party may be the purchaser at any public sale. Each Debtor hereby waives all of its rights of redemption from any such sale.

The Collateral Agent may postpone or cause the postponement of the sale of all or any portion of the Collateral by announcement at the time and place of such sale, and such sale may, without further notice, be made at the time and place to which the sale was postponed or the Collateral Agent may further postpone such sale by announcement made at such time and place. The Collateral Agent has no obligation to prepare the Collateral for sale. The Collateral Agent may sell or otherwise dispose of the Collateral without giving any warranties as to the Collateral or any part thereof, including disclaimers of any warranties of title or the like, and each Debtor acknowledges and agrees that the absence of such warranties shall not render the disposition commercially unreasonable.

(c) Without in any way limiting the foregoing, upon the occurrence and during the continuation of any Event of Default hereunder, in addition to all other rights provided herein or by law, (i) the Collateral Agent shall have the right to take physical possession of any and all of the Collateral, the right for that purpose to enter without legal process any premises where the Collateral may be found (provided such entry be done lawfully), and the right to maintain such possession on the relevant Debtor's premises or to remove the Collateral or any part thereof to such other places as the Collateral Agent may desire, in each case, subject to the terms of any lease covering the relevant premises, (ii) the Collateral Agent shall have the right to direct any intermediary at any time holding any Investment Property or other Collateral, or any issuer thereof, to deliver such Collateral or any part thereof to the Collateral Agent and/or to liquidate such Collateral or any part thereof and deliver the proceeds thereof to the Collateral Agent, and (iii) each Debtor shall, upon the Collateral Agent's demand, promptly assemble the Collateral and make it available to the Collateral Agent at a place reasonably designated by the Collateral Agent. If the Collateral Agent exercises its right to take possession of the Collateral, each Debtor shall also at its expense perform any and all other steps requested by the Collateral Agent to preserve and protect the security interest hereby granted in the Collateral, such as placing and maintaining signs indicating the security interest of the Collateral Agent, appointing overseers for the Collateral and maintaining Collateral records.

(d) Without in any way limiting the foregoing, upon the occurrence and during the continuation of any Event of Default, all rights of the Debtors to exercise the voting and/or consensual powers which they are entitled to exercise pursuant to Section 8(a)(i) hereof and/or to receive and retain the distributions which they are entitled to receive and retain pursuant to Section 8(a)(ii) hereof, shall, at the option of the Collateral Agent upon three (3) Business Days prior written notice to the Debtors, cease and thereupon become vested in the Collateral Agent, which, in addition to all other rights provided herein or by law, shall then be entitled solely and exclusively to exercise all voting and other consensual powers pertaining to the Investment Property and/or to receive and retain the distributions which such Debtor would otherwise have been authorized to retain pursuant to Section 8(a)(ii) hereof and shall then be entitled solely and exclusively to exercise any and all rights of conversion, exchange or subscription or any other rights, privileges or options pertaining to any Investment Property as if the Collateral Agent were the absolute owner thereof including, without limitation, the rights to exchange, at its discretion, all Investment Property or any part thereof upon the merger, consolidation, reorganization, recapitalization or other readjustment of the respective issuer thereof or upon the exercise by or on behalf of any such issuer or the Collateral Agent of any right, privilege or option pertaining to any Investment Property and, in connection therewith, to deposit and deliver the Investment

Property or any part thereof with any committee, depositary, transfer agent, registrar or other designated agency upon such terms and conditions as the Collateral Agent may determine. In the event the Collateral Agent in good faith believes any of the Collateral constitutes restricted securities within the meaning of any applicable securities laws, any disposition thereof in compliance with such laws shall not render the disposition commercially unreasonable. To the extent that the notice referred to in the first sentence of this paragraph (d) has been given, after all Events of Default have been cured or waived, (i) each Debtor shall have the exclusive right to exercise the voting and consensual rights and powers that such Debtor would have otherwise been entitled to exercise pursuant to the terms of Section 8(a)(i) hereof and (ii) the Collateral Agent shall promptly repay to each applicable Debtor (without interest) all dividends, interest, principal or other distributions that such Debtor would otherwise be permitted to retain pursuant to Section 8(a)(ii) hereof and that have not been applied to the repayment of the Secured Obligations.

(e) Without in any way limiting the foregoing, each Debtor hereby grants to the Secured Parties, effective and exercisable solely upon the occurrence and during the continuation of an Event of Default, a royalty-free, irrevocable (solely during the continuation of an Event of Default), non-exclusive, non-transferrable, non-sublicensable license and right to use, in connection with any foreclosure or other realization by the Collateral Agent or the Secured Parties on all or any part of the Collateral to the extent permitted by law and this Agreement, all of such Debtor's patents, patent applications, patent licenses (excluding any such patent license that by its terms is prohibited from being licensed as set forth in this Section 10(e)), trademarks, trademark registrations, trademark licenses (excluding any such trademark license that by its terms is prohibited from being licensed as set forth in this Section 10(e)), trade names and other intellectual property now owned or hereafter acquired by such Debtor, and wherever the same may be located, and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof, the right to prosecute and maintain all intellectual property and the right to sue for past infringement of the intellectual property. The license and right granted to the Secured Parties hereby shall be without any royalty or fee or charge whatsoever with respect to fees payable by the Secured Parties to Debtors.

(f) The powers conferred upon the Secured Parties hereunder are solely to protect their interest in the Collateral and shall not impose on them any duty to exercise such powers. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession or control if such Collateral is accorded treatment substantially equivalent to that which the Collateral Agent accords its own property, consisting of similar type assets, it being understood, however, that the Collateral Agent shall have no responsibility for (i) ascertaining or taking any action with respect to calls, conversions, exchanges, maturities, tenders or other matters relating to any Collateral, whether or not the Collateral Agent has or is deemed to have knowledge of such matters, (ii) taking any necessary steps to preserve rights against any parties with respect to any Collateral, or (iii) initiating any action to protect the Collateral or any part thereof against the possibility of a decline in market value. This Agreement constitutes an assignment of rights only and not an assignment of any duties or obligations of the Debtors in any way related to the Collateral, and the Collateral Agent shall have no duty or obligation to discharge any such duty or obligation. Neither any Secured Party nor any party acting as attorney for any Secured Party shall be liable for any acts or

omissions or for any error of judgment or mistake of fact or law other than such person's gross negligence or willful misconduct or breach of this Agreement.

(g) Failure by the Collateral Agent to exercise any right, remedy or option under this Agreement or any other agreement between any Debtor and the Collateral Agent or provided by law, or delay by the Collateral Agent in exercising the same, shall not operate as a waiver; and no waiver shall be effective unless it is in writing, signed by the party against whom such waiver is sought to be enforced and otherwise complies with the requirements set forth in Section 10.11 of the First Lien Loan Agreement and then only to the extent specifically stated. The rights and remedies of the Secured Parties under this Agreement shall be cumulative and not exclusive of any other right or remedy which any Secured Party may have.

*Section 11. Application of Proceeds.* The proceeds and avails of the Collateral at any time received by the Collateral Agent upon the occurrence and during the continuation of any Event of Default shall, when received by the Collateral Agent in cash or its equivalent, be applied by the Collateral Agent in reduction of, or held as collateral security for, the Secured Obligations in accordance with the terms of the First Lien Loan Agreement. The Debtors shall remain liable to the Secured Parties for any deficiency. Any surplus remaining after the full payment and satisfaction of the non-contingent Secured Obligations shall be returned to the Borrower, as agent for the Debtors, or to whomsoever the Collateral Agent reasonably determines is lawfully entitled thereto.

*Section 12. Continuing Agreement.* This Agreement shall be a continuing agreement in every respect and shall remain in full force and effect until all of the non-contingent Secured Obligations, both for principal and interest, have been fully paid and satisfied and each commitment by the Secured Parties to extend any indebtedness to the Debtors under the First Lien Loan Agreement and other Loan Documents shall have expired or otherwise terminated (such date, the *"Termination Date").* Upon the Termination Date, the pledge of all Collateral hereunder will terminate and all liens and security interests hereunder shall automatically be released. In connection with any termination or release pursuant to this Section 12 or as required by any other provision of this Agreement or the First Lien Loan Agreement, the Collateral Agent shall promptly execute and deliver to any Debtor, at such Debtor's expense, all Uniform Commercial Code termination statements and similar documents that such Debtor shall reasonably request to evidence such termination or release.

*Section 13. The Collateral Agent.* In acting under or by virtue of this Agreement, the Collateral Agent shall be entitled to all the rights, authority, privileges, and immunities provided in the First Lien Loan Agreement, all of which provisions of said First Lien Loan Agreement (including, without limitation, Section 9 thereof) are incorporated by reference herein with the same force and effect as if set forth herein in their entirety. The Collateral Agent hereby disclaims any representation or warranty to the Secured Parties or any other holders of the Secured Obligations concerning the perfection of the liens and security interests granted hereunder or in the value of any of the Collateral.

*Section 14. Miscellaneous.* (a) This Agreement may only be waived or modified in writing in accordance with the requirements of Section 10.11 of the First Lien Loan Agreement.

This Agreement shall create a continuing lien on and security interest in the Collateral and shall be binding upon each Debtor, its successors and assigns and shall inure, together with the rights and remedies of the Secured Parties hereunder, to the benefit of the Secured Parties and their successors and permitted assigns; *provided, however,* that no Debtor may assign its rights or delegate its duties hereunder without the Collateral Agent's prior written consent. Without limiting the generality of the foregoing, and subject to the provisions of the First Lien Loan Agreement, any Lender may assign or otherwise transfer any indebtedness held by it secured by this Agreement to any other person subject to the requirements of Section 10.10 of the First Lien Loan Agreement, and such other person shall thereupon become vested with all the benefits in respect thereof granted to such Lender herein or otherwise.

(b) All notices and other communications hereunder shall comply with Section 10.8 of the First Lien Loan Agreement; *provided* that, the address information for each Debtor shall be that expressed for the Borrower in such Section.

(c) Any provision of this Agreement which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All rights, remedies and powers provided in this Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable mandatory provisions of law, and all the provisions of this Agreement are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Agreement invalid or unenforceable.

(d) The lien and security interest herein created and provided for stand as direct and primary security for the Secured Obligations of the Borrower arising under or otherwise relating to the First Lien Loan Agreement as well as for the other Secured Obligations secured hereby. No application of any sums received by the Secured Parties in respect of the Collateral or any disposition thereof to the reduction of the Secured Obligations or any part thereof shall in any manner entitle any Debtor to any right, title or interest in or to the Secured Obligations or any collateral or security therefor, whether by subrogation or otherwise, unless and until all Secured Obligations have been fully paid and satisfied. Each Debtor acknowledges and agrees that the lien and security interest hereby created and provided are absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of any Secured Party or any other holder of any Secured Obligations, and without limiting the generality of the foregoing, the lien and security interest hereof shall not be impaired by any acceptance by any Secured Party or any other holder of any Secured Obligations of any other security for or guarantors upon any of the Secured Obligations or by any failure, neglect or omission on the part of any Secured Party or any other holder of any of the Secured Obligations to realize upon or protect any of the Secured Obligations or any collateral or security therefor. The lien and security interest hereof shall not in any manner be impaired or affected by (and the Secured Parties, without notice to anyone, are hereby authorized to make from time to time) any sale, pledge, surrender, compromise, settlement, release, renewal, extension, indulgence, alteration, substitution, exchange, change in, modification or disposition of any of the Secured Obligations or of any collateral or security therefor, or of any guaranty thereof, or of any instrument or agreement setting forth the terms and conditions pertaining to any of the foregoing. The Secured Parties

may at their discretion at any time grant credit to the Borrower without notice to the other Debtors in such amounts and on such terms as the Secured Parties may elect without in any manner impairing the lien and security interest created and provided for. In order to realize hereon and to exercise the rights granted the Secured Parties hereunder and under applicable law, there shall be no obligation on the part of any Secured Party or any other holder of any Secured Obligations at any time to first resort for payment to the Borrower or any other Debtor or to any guaranty of the Secured Obligations or any portion thereof or to resort to any other collateral, security, property, liens or any other rights or remedies whatsoever, and the Secured Parties shall have the right to enforce this Agreement against any Debtor or its Collateral irrespective of whether or not other proceedings or steps seeking resort to or realization upon or from any of the foregoing are pending.

(e) In the event the Secured Parties shall at any time in their discretion permit a substitution of Debtors hereunder or a party shall wish to become a Debtor hereunder, such substituted or additional Debtor shall, upon executing an agreement in the form attached hereto as Schedule F, become a party hereto and be bound by all the terms and conditions hereof to the same extent as though such Debtor had originally executed this Agreement and, in the case of a substitution, in lieu of the Debtor being replaced. Any such agreement shall contain information as to such Debtor necessary to update Schedules A, B, C, D, and E hereto with respect to it. No such substitution shall be effective absent the written consent of the Collateral Agent nor shall it in any manner affect the obligations of the other Debtors hereunder.

(f) This Agreement may be executed in counterparts and by different parties hereto on separate counterparts, each of which shall be an original, but all together one and the same instrument. Delivery of executed counterparts of this Agreement by telecopy or by e-mail of an Adobe portable document format file (also known as a "PDF" file) shall be effective as originals. Each Debtor acknowledges that this Agreement is and shall be effective upon its execution and delivery by such Debtor to the Collateral Agent, and it shall not be necessary for the Collateral Agent to execute this Agreement or any other acceptance hereof or otherwise to signify or express its acceptance hereof.

(g) No Secured Party (other than the Collateral Agent) shall have the right to institute any suit, action or proceeding in equity or at law in connection with this Agreement for the enforcement of any remedy under or upon this Agreement; it being understood and intended that no one or more of the Secured Parties (other than the Collateral Agent) shall have any right in any manner whatsoever to enforce any right hereunder, and that all proceedings at law or in equity shall be instituted, had and maintained by the Collateral Agent in the manner herein provided and for the benefit of the Secured Parties.

(h) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED BY AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, INCLUDING SECTION 5 -1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning of any provision hereof.

(i) Each Debtor hereby submits to the non-exclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York state court sitting in New York City in the borough of Manhattan, for purposes of all legal proceedings arising out of or relating to this Agreement or the transactions contemplated hereby. Each Debtor irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient form. EACH DEBTOR AND, BY ACCEPTING THE BENEFITS OF THIS AGREEMENT, EACH SECURED PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, each Debtor has caused this Security Agreement to be duly executed and delivered as of the date first above written.

"*DEBTORS*"
FIFTH THIRD PROCESSING SOLUTIONS, LLC
FTPS HOLDING, LLC
NPC GROUP, INC.
NATIONAL PROCESSING COMPANY GROUP, INC.
NATIONAL PROCESSING MANAGEMENT COMPANY
CARD MANAGEMENT COMPANY, LLC
NATIONAL PROCESSING COMPANY
BEST PAYMENT SOLUTIONS, INC.

By ______________________________

Name:
Title:

[Signature Page to Security Agreement]

Accepted and agreed to as of the date first above written.

GOLDMAN SACHS LENDING PARTNERS LLC, as Collateral Agent

By ______________________________

Name:
Title:

[Signature Page to Security Agreement]

QuickLinks

Exhibit 10.3 EXECUTION COPY

W I T N E S S E T H
Exhibit A
TABLE OF CONTENTS
Exhibit B

EXECUTION VERSION EXHIBIT B COMPOSITE SECURITY AGREEMENT COPY INCLUDING THE FIRST AMENDMENT DATED AS OF January 19, 2011

SECURITY AGREEMENT
PRELIMINARY STATEMENTS

**Exhibit 10.4**

**EXECUTION VERSION**

**SECOND AMENDMENT**

SECOND AMENDMENT, dated as of May 17, 2011 (this "Amendment"), to the First Lien Loan Agreement, dated as of November 3, 2010 (as amended by the First Amendment dated as of January 19, 2011, and as may be further amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among Fifth Third Processing Solutions, LLC, a Delaware limited liability company (the "Borrower"), the several banks and other financial institutions or entities from time to time parties thereto (the "Lenders"), Goldman Sachs Lending Partners LLC, as administrative agent and collateral agent (in such capacity, the "Administrative Agent"), and the other agents parties thereto.

W I T N E S S E T H:

WHEREAS, pursuant to the Credit Agreement, the Lenders have agreed to make, and have made, certain loans and other extensions of credit to the Borrower;

WHEREAS, the Borrower has requested that the Lenders effect certain amendments and modifications to the Credit Agreement as described herein;

WHEREAS, such amendments and modifications shall include the addition of (i) a new term loan facility having the same maturity date as the existing Term B Loans (the "New Term B-1 Loan Facility"; the loans thereunder, the "New Term B-1 Loans") and (ii) a new term loan facility having a maturity date one year after the maturity date applicable to the New Term B-1 Loans (the "New Term B-2 Loan Facility"; the loans thereunder, the "New Term B-2 Loans"; together with the New Term B-1 Loans, the "New Term Loans"), in each case, pursuant to the final paragraph of Section 10.11(a) of the Credit Agreement, the proceeds of which New Term Loans shall be used in part to replace the outstanding Term B Loans;

WHEREAS, the New Term Loans will have the same terms as the Term B Loans currently outstanding under the Credit Agreement except as otherwise set forth herein;

WHEREAS, each existing Term B Lender (each, an "Existing Term B Lender"; the existing Term B Loans held by it, its "Existing Term B Loan") that executes and delivers a signature page to this Amendment in the form of Annex I hereto (a "B-1 Lender Addendum") and in connection therewith agrees to continue all of its outstanding Existing Term B Loans as New Term B-1 Loans (such continued Term B Loans, the "Continued Term B-1 Loans", and such Lenders, collectively, the "Continuing Term B-1 Lenders") will thereby (i) agree to the terms of this Amendment and (ii) agree to continue all of its Existing Term B Loans outstanding on the Term Loan Funding Date (as defined below) as New Term B-1 Loans in a principal amount equal to the aggregate principal amount of such Existing Term B Loans so continued;

WHEREAS, each Person (other than a Continuing Term B-1 Lender in its capacity as such) that agrees to make New Term B-1 Loans (collectively, the "Additional Term B-1 Lenders") will make New Term B-1 Loans to the Borrower on the Term Loan Funding Date (the "Additional Term B-1 Loans") in such amount (not in excess of any such commitment) as is determined by the Administrative Agent and notified to such Additional Term B-1 Lender;

WHEREAS, the Continuing Term B-1 Lenders and the Additional Term B-1 Lenders (collectively, the "New Term B-1 Lenders") are severally willing to continue their Existing Term B Loans as New Term B-1 Loans and/or to make New Term B-1 Loans, as the case may be, subject to the terms and conditions set forth in this Amendment;

---

WHEREAS, each Existing Term B Lender that executes and delivers a signature page to this Amendment in the form provided by the Administrative Agent and in connection therewith agrees to continue all of its outstanding Existing Term B Loans as New Term B-2 Loans (such continued Term B Loans, the "Continued Term B-2 Loans", and such Lenders, collectively, the "Continuing Term B-2 Lenders") will thereby (i) agree to the terms of this Amendment and (ii) agree to continue all of its Existing Term B Loans outstanding on the Term Loan Funding Date as New Term B-2 Loans in a principal amount equal to the aggregate principal amount of such Existing Term B Loans so continued;

WHEREAS, each Person (other than a Continuing Term B-2 Lender in its capacity as such) that agrees to make New Term B-2 Loans (collectively, the "Additional Term B-2 Lenders") will make New Term B-2 Loans to the Borrower on the Term Loan Funding Date (the "Additional Term B-2 Loans", together with the Additional Term B-1 Loans, the "Additional New Term Loans") in such amount (not in excess of any such commitment) as is determined by the Administrative Agent and notified to such Additional Term B-2 Lender;

WHEREAS, the Continuing Term B-2 Lenders and the Additional Term B-2 Lenders (collectively, the "New Term B-2 Lenders") are severally willing to continue their Existing Term B Loans as New Term B-2 Loans and/or to make New Term B-2 Loans, as the case may be, subject to the terms and conditions set forth in this Amendment;

WHEREAS, the proceeds of the Additional New Term Loans will be used by the Borrower to (i) repay in full the outstanding principal amount of (x) the Existing Term B Loans that are not continued as New Term Loans hereunder and (y) the Second Lien Loans issued pursuant to the Second Lien Loan Agreement and (ii) pay accrued interest on any of the foregoing and any related premiums, fees and expenses;

WHEREAS, notwithstanding the foregoing, any Existing Term B Lender that does not become a Continuing Term B-1 Lender as contemplated hereby shall not otherwise be permitted to become an Additional Term B-1 Lender, a Continuing Term B-2 Lender or an Additional Term B-2 Lender, as applicable, unless approved by the Administrative Agent; and

WHEREAS, the Borrower, the Required Lenders, the New Term B-1 Lenders, the New Term B-2 Lenders and the Administrative Agent are willing to agree to this Amendment on the terms set forth herein;

NOW THEREFORE, in consideration of the premises and mutual covenants hereinafter set forth, the parties hereto agree as follows:

**Section 1.** **Definitions**. Unless otherwise defined herein, terms defined in the Credit Agreement (as amended pursuant to Section 2 below) and used herein shall have the meanings given to them in the Credit Agreement.

**Section 2.** **Amendments**. The Credit Agreement is hereby amended, effective as of the Term Loan Funding Date, in accordance with Exhibit A hereto: (a) by deleting each term thereof which is reflected in strike-through font and (b) by inserting each term thereof which is reflected in double underlined font, in each case in the place where such term appears therein. A conformed copy of the Credit Agreement, as amended by this Amendment, is attached hereto as Exhibit A.



**Section 3.** **New Term B-1 Loans.**

(a) Subject to the terms and conditions set forth herein (i) each Continuing Term B-1 Lender agrees to continue all of its Existing Term B Loans as a New Term B-1 Loan on the date requested by the Borrower to be the Term Loan Funding Date in a principal amount equal to such Existing Term B Loans and (ii) each Additional Term B-1 Lender agrees to make a New Term B-1 Loan on such date to the Borrower in a principal amount equal to such Additional Term B-1 Lender's New Term B-1 Loan Commitment (as defined below). For purposes hereof, a Person may become a party to the Credit Agreement as amended hereby and a New Term B-1 Lender as of the Second Amendment Effective Date (as defined below) by executing and delivering to the Administrative Agent, on or prior to the Second Amendment Effective Date, a B-1 Lender Addendum in its capacity as a New Term B-1 Lender. The Borrower shall give notice to the Administrative Agent of the proposed Term Loan Funding Date not later than one Business Day prior thereto, and the Administrative Agent shall notify each New Term B-1 Lender thereof. For the avoidance of doubt, the Existing Term B Loans of a Continuing Term B-1 Lender must be continued in whole and may not be continued in part unless approved by the Administrative Agent.

(b) Each Additional Term B-1 Lender will make its New Term B-1 Loan on the Term Loan Funding Date by making available to the Administrative Agent, in the manner contemplated by Section 2.5 of the Credit Agreement, an amount equal to its New Term B-1 Loan Commitment. The "New Term B-1 Loan Commitment" of any Additional Term B-1 Lender will be such amount (not exceeding any commitment offered by such Additional Term B-1 Lender) allocated to it by the Administrative Agent and notified to it on or prior to the Term Loan Funding Date. The commitments of the Additional Term B-1 Lenders and the continuation undertakings of the Continuing Term B-1 Lenders are several and no such Lender will be responsible for any other such Lender's failure to make or acquire by continuation its New Term B-1 Loan. The New Term B-1 Loans may from time to time be Base Rate Loans or Eurodollar Loans, as determined by the Borrower and notified to the Administrative Agent as contemplated by Section 2.5 of the Credit Agreement. The New Term B-1 Lenders hereby agree to waive the notice requirements of Section 2.8(a) of the Credit Agreement and any indemnity claim for LIBOR breakage costs under Section 8.1(a) of the Credit Agreement in connection with the prepayment or replacement of Existing Term B Loans contemplated hereby.

(c) The obligation of each New Term B-1 Lender to make or acquire by continuation New Term B-1 Loans on the Term Loan Funding Date is subject to the satisfaction of the conditions set forth in Section 5 of this Amendment.

(d) On and after the Term Loan Funding Date, each reference in the Credit Agreement to "Term B Loans" shall be deemed a reference to the New Term Loans contemplated hereby, except as the context may otherwise require. Notwithstanding the foregoing, the provisions of the Credit Agreement with respect to indemnification, reimbursement of costs and expenses, increased costs and break funding payments shall continue in full force and effect with respect to, and for the benefit of, each Existing Term B Loan Lender in respect of such Lender's Existing Term B Loans.

(e) The continuation of Continued Term B-1 Loans may be implemented pursuant to other procedures specified by the Administrative Agent (in consultation with the Borrower), including by repayment of Continued Term B-1 Loans of a Continuing Term B-1 Lender from the proceeds of New Term B-1 Loans followed by a subsequent assignment to it of New Term B-1 Loans in the same amount.

**Section 4.** **New Term B-2 Loans**.

(a) Subject to the terms and conditions set forth herein (i) each Continuing Term B-2 Lender agrees to continue all of its Existing Term B Loans as a New Term B-2 Loan on the date requested by the Borrower to be the Term Loan Funding Date in a principal amount equal to such Existing Term B Loans



and (ii) each Additional Term B-2 Lender agrees to make a New Term B-2 Loan on such date to the Borrower in a principal amount equal to such Additional Term B-2 Lender's New Term B-2 Loan Commitment (as defined below). For purposes hereof, a Person may become a party to the Credit Agreement as amended hereby and a New Term B-2 Lender as of the Second Amendment Effective Date by executing and delivering to the Administrative Agent, on or prior to the Second Amendment Effective Date, a signature page in its capacity as a New Term B-2 Lender. The Borrower shall give notice to the Administrative Agent of the proposed Term Loan Funding Date not later than one Business Day prior thereto, and the Administrative Agent shall notify each New Term B-2 Lender thereof. For the avoidance of doubt, the Existing Term B Loans of a Continuing Term B-2 Lender must be continued in whole and may not be continued in part unless approved by the Administrative Agent.

(b) Each Additional Term B-2 Lender will make its New Term B-2 Loan on the Term Loan Funding Date by making available to the Administrative Agent, in the manner contemplated by Section 2.5 of the Credit Agreement, an amount equal to its New Term B-2 Loan Commitment. The "New Term B-2 Loan Commitment" of any Additional Term B-2 Lender will be such amount (not exceeding any commitment offered by such Additional Term B-2 Lender) allocated to it by the Administrative Agent and notified to it on or prior to the Term Loan Funding Date. The commitments of the Additional Term B-2 Lenders and the continuation undertakings of the Continuing Term B-2 Lenders are several and no such Lender will be responsible for any other such Lender's failure to make or acquire by continuation its New Term B-2 Loan. The New Term B-2 Loans may from time to time be Base Rate Loans or Eurodollar Loans, as determined by the Borrower and notified to the Administrative Agent as contemplated by Section 2.5 of the Credit Agreement. The New Term B-2 Lenders hereby agree to waive the notice requirements of Section 2.8(a) of the Credit Agreement and any indemnity claim for LIBOR breakage costs under Section 8.1(a) of the Credit Agreement in connection with the prepayment or replacement of Existing Term B Loans contemplated hereby.

(c) The obligation of each New Term B-2 Lender to make or acquire by continuation New Term B-2 Loans on the Term Loan Funding Date is subject to the satisfaction of the conditions set forth in Section 5 of this Amendment.

(d) The continuation of Continued Term B-2 Loans may be implemented pursuant to other procedures specified by the Administrative Agent (in consultation with the Borrower), including by repayment of Continued Term B-2 Loans of a Continuing Term B-2 Lender from the proceeds of New Term B-2 Loans followed by a subsequent assignment to it of New Term B-2 Loans in the same amount.

**Section 5. Effectiveness.**

(a) This Amendment (other than as set forth in Section 5(c) below) shall become effective on the date upon which the following conditions shall have been satisfied (the "Second Amendment Effective Date"):

(1) The Administrative Agent (or its counsel) shall have received (i) duly executed and completed counterparts hereof (in the form provided and specified by the Administrative Agent) that, when taken together, bear the signatures of each Loan Party and the Administrative Agent and (ii) the following signature pages, which in the aggregate constitute the Required Lenders: (x) B-1 Lender Addenda, executed and delivered by each Continuing Term B-1 Lender and/or (y) a signature page, executed and delivered by each Continuing Term B-2 Lender.



(b) Each New Term B-1 Lender shall make or acquire by continuation New Term B-1 Loans, and each New Term B-2 Lender shall make or acquire by continuation New Term B-2 Loans, on the date upon which the following conditions shall have been satisfied (the "Term Loan Funding Date"):

(1) The Administrative Agent shall have received all fees required to be paid on or before the Term Loan Funding Date;

(2) The Administrative Agent shall have received such documents and certificates as the Administrative Agent may reasonably request relating to the organization, existence and good standing of each Loan Party, the authorization of the transactions contemplated by this Amendment and any other legal matters relating to the Loan Parties, the Loan Documents or the transactions contemplated by this Amendment, all in form and substance reasonably satisfactory to the Administrative Agent;

(3) To the extent invoiced at least one (1) Business Day prior to the Term Loan Funding Date, the Administrative Agent shall have received payment or reimbursement of its reasonable out-of-pocket expenses in connection with this Amendment and any other out-of-pocket expenses of the Administrative Agent required to be paid or reimbursed pursuant to the Credit Agreement, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent;

(4) No Default or Event of Default shall have occurred and be continuing under the Credit Agreement; and

(5) The Second Amendment Effective Date shall have occurred.

Notwithstanding anything to the contrary herein, the Term Loan Funding Date shall be no earlier than May 16, 2011 and in any event not later than May 20, 2011.

(c) Notwithstanding any other provisions of this Amendment to the contrary, the Administrative Agent may appoint a fronting lender to act as the sole Additional Term B-1 Lender or the sole Additional Term B-2 Lender, as applicable, for purposes of facilitating funding on the Term Loan Funding Date, which, in the case of any such appointment, shall fulfill the obligations of (i) the Additional Term B-1 Lenders set forth in Section 3 hereof and (ii) the Additional Term B-2 Lenders set forth in Section 4 hereof. Accordingly, in such case, any commitments submitted by or on behalf of an Additional Term B-1 Lender or an Additional Term B-2 Lender, as applicable, other than such fronting lender will be deemed ineffective unless accepted by the Administrative Agent in its sole discretion.

**Section 6. Representations and Warranties**. The Borrower represents and warrants to each of the Lenders and the Administrative Agent that as of the Term Loan Funding Date:

(a) This Amendment has been duly authorized, executed and delivered by it and this Amendment and the Credit Agreement, as amended hereby, constitutes its valid and binding obligation, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(b) Each of the representations and warranties set forth in Section 5 of the Credit Agreement are true and correct in all material respects on and as of the Term Loan Funding Date with the same effect as though made on and as of the Term Loan Funding Date; provided that (i) to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all



material respects as of such earlier date, and (ii) any representation and warranty that is qualified as to "Material Adverse Effect" or similar language shall be true and correct in all respects on such respective dates.

**Section 7. Effect of Amendment.**

(a) Except as expressly set forth herein, this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the 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 provision of the Credit Agreement or of 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 consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any other Loan Document in similar or different circumstances.

(b) Each Loan Party agrees that (a) all of its obligations, liabilities and indebtedness under such Loan Document, including guarantee obligations, shall remain in full force and effect on a continuous basis after giving effect to this Amendment; (b) all of the Liens and security interests created and arising under such Loan Documents remain in full force and effect on a continuous basis, and the perfected status and priority of each such Lien and security interest continues in full force and effect on a continuous basis, unimpaired, uninterrupted and undischarged, after giving effect to this Amendment as collateral security for its obligations, liabilities and indebtedness under the Credit Agreement and under its guarantees in the Loan Documents; and (c) all Obligations under the Loan Documents are payable or guaranteed, as applicable, by each of the Loan Parties in accordance with the Credit Agreement and the other Loan Documents, and each Loan Party unconditionally and irrevocably waives any claim or defense in respect of the Obligations existing on, or arising out of facts occurring at any time on or prior, to the Term Loan Funding Date, including, without limitation, any claim or defense based on any right of set off or counterclaim and hereby ratifies and affirms each and every waiver of claims and defenses granted under the Loan Documents.

(c) On and after the Term Loan Funding Date, each reference in the Credit Agreement to “this Agreement”, “hereunder”, “hereof”, “herein”, or words of like import, and each reference to the Credit Agreement in any other Loan Document shall be deemed a reference to the Credit Agreement as amended hereby. This Amendment shall constitute a “Loan Document” for all purposes of the Credit Agreement and the other Loan Documents.

**Section 8. General.**

(a) GOVERNING LAW. THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, INCLUDING SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW.

(b) Costs and Expenses. The Borrower agrees to reimburse the Administrative Agent for its reasonable out-of-pocket expenses in connection with this Amendment, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent.

(c) Counterparts. This Amendment may be executed by one or more of the parties to this Amendment on any number of separate counterparts, and all of said counterparts taken together shall be



deemed to constitute one and the same instrument. Delivery of an executed signature page of this Amendment by email or facsimile transmission shall be effective as delivery of a manually executed counterpart hereof.

(d) Headings. The headings of this Amendment are used for convenience of reference only, are not part of this Amendment and shall not affect the construction of, or be taken into consideration in interpreting, this Amendment.

[remainder of page intentionally left blank]



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

FIFTH THIRD PROCESSING SOLUTIONS, LLC
FTPS HOLDING, LLC
CARD MANAGEMENT COMPANY, LLC
NPC GROUP, INC.
NATIONAL PROCESSING COMPANY GROUP, INC.
NATIONAL PROCESSING MANAGEMENT COMPANY
NATIONAL PROCESSING COMPANY
BEST PAYMENT SOLUTIONS, INC.

By: /s/ Mark Heimbouch
Name: Mark Heimbouch
Title: Executive Officer and Chief Financial Officer



GOLDMAN SACHS LENDING PARTNERS, LLC, as Administrative Agent

By: /s/ Elizabeth Fischer
Name: Elizabeth Fischer
Title: Authorized Signatory

[*Signature Page — Second Amendment to FTPS 2010 Credit Agreement*]

---

GS Loan Partners I, L.P., as a New Term B-2 Lender

By: /s/ Walter A. Jackson
Name: Walter A. Jackson
Title: Managing Director

[*Signature Page — Second Amendment to FTPS 2010 Credit Agreement*]

---

Lender Addenda on file with the Administrative Agent

---

EXHIBIT A

[Blackline of Conformed Credit Agreement]

---

EXHIBIT A
~~COMPOSITE CREDIT AGREEMENT COPYINCLUDING~~ TO THE ~~FIRST~~
SECOND AMENDMENT
~~DATED AS OF JANUARY 19, 2011~~

---

FIRST LIEN LOAN AGREEMENT

AMONG

FIFTH THIRD PROCESSING SOLUTIONS, LLC,
a Delaware limited liability company, as Borrower

VARIOUS LENDERS
FROM TIME TO TIME PARTY HERETO,

BANK OF AMERICA, N.A., CREDIT SUISSE SECURITIES (USA) LLC and MORGAN STANLEY SENIOR FUNDING, INC., as Co-Syndication Agents,

FIFTH THIRD BANK, MORGAN STANLEY SENIOR FUNDING, INC. and SUNTRUST BANK, as Co-Documentation Agents,

and

GOLDMAN SACHS LENDING PARTNERS LLC,
as Administrative Agent and Collateral Agent,

DATED AS OF NOVEMBER 3, 2010

AS AMENDED BY THE FIRST AMENDMENT~~DATED~~ DATED AS OF JANUARY 19, 2011 AND THE SECOND AMENDMENT DATED AS OF MAY 17, 2011

---

GOLDMAN SACHS LENDING PARTNERS LLC and J.P. MORGAN SECURITIES LLC, as Joint Lead Arrangers,

and

GOLDMAN SACHS LENDING PARTNERS LLC, J.P. MORGAN SECURITIES LLC, CREDIT SUISSE SECURITIES (USA) LLC, MORGAN STANLEY SENIOR FUNDING, INC. and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (successor-in-interest to Banc of America Securities LLC), as Joint Book Runners.

---

**TABLE OF CONTENTS**

| SECTION | HEADING | PAGE |
|---|---|---|
| SECTION 1. | Definitions; Interpretation | 1 |
| Section 1.1. | Definitions | 1 |
| Section 1.2. | Interpretation | ~~35~~32 |
| Section 1.3. | Change in Accounting Principles | ~~36~~32 |
| SECTION 2. | The Loan Facilities | ~~36~~33 |
| Section 2.1. | The Term B Loans | ~~36~~33 |
| Section 2.2. | Revolving Credit Commitments | ~~36~~33 |
| Section 2.3. | Letters of Credit | ~~37~~33 |
| Section 2.4. | Applicable Interest Rates | ~~40~~36 |
| Section 2.5. | Manner of Borrowing Loans and Designating Applicable Interest Rates | ~~41~~37 |
| Section 2.6. | Minimum Borrowing Amounts; Maximum Eurodollar Loans | ~~43~~38 |
| Section 2.7. | Maturity of Loans | ~~43~~38 |
| Section 2.8. | Prepayments | ~~43~~39 |
| Section 2.9. | Place and Application of ~~Payments~~ ~~47~~Payment | 42 |
| Section 2.10. | Commitment Terminations | ~~48~~43 |
| Section 2.11. | Swing Loans | ~~48~~44 |
| Section 2.12. | Evidence of Indebtedness | ~~50~~45 |
| Section 2.13. | Fees | ~~50~~45 |
| Section 2.14. | Incremental Credit Extensions | ~~51~~46 |
| SECTION 3. | Conditions Precedent | ~~53~~48 |
| Section 3.1. | All Credit Extensions | ~~53~~48 |
| Section 3.2. | Initial Credit Extension | ~~54~~48 |
| SECTION 4. | The Collateral And the Guaranty | ~~58~~52 |
| Section 4.1. | Collateral | ~~58~~52 |
| Section 4.2. | Liens on Real Property | ~~58~~52 |
| Section 4.3. | Guaranty | ~~59~~53 |
| Section 4.4. | Further Assurances | ~~59~~53 |
| Section 4.5. | Limitation on Collateral | ~~59~~53 |
| SECTION 5. | Representations and Warranties | ~~59~~53 |
| Section 5.1. | Financial Statements | ~~59~~53 |
| Section 5.2. | Organization and Qualification | ~~60~~54 |
| Section 5.3. | Authority and Enforceability | ~~60~~54 |
| Section 5.4. | No Material Adverse Change | ~~61~~55 |
| Section 5.5. | Litigation and Other Controversies | ~~61~~55 |





| SECTION | HEADING | PAGE |
|---|---|---|
| Section 5.6. | True and Complete Disclosure | ~~61~~55 |
| Section 5.7. | Use of Proceeds; Margin Stock | ~~62~~55 |
| Section 5.8. | Taxes | ~~62~~56 |
| Section 5.9. | ERISA | ~~62~~56 |
| Section 5.10. | Subsidiaries | ~~63~~56 |
| Section 5.11. | Compliance with Laws | ~~63~~56 |
| Section 5.12. | Environmental Matters | ~~63~~56 |
| Section 5.13. | Investment Company | ~~63~~57 |
| Section 5.14. | Intellectual Property | ~~63~~57 |
| Section 5.15. | Good Title | ~~64~~57 |
| Section 5.16. | Labor Relations | ~~64~~57 |
| Section 5.17. | Capitalization | ~~64~~57 |
| Section 5.18. | Governmental Authority and Licensing | ~~64~~57 |
| Section 5.19. | Approvals | ~~64~~58 |
| Section 5.20. | Solvency | ~~65~~58 |
| Section 5.21. | Foreign Assets Control Regulations and Anti-Money Laundering | ~~65~~58 |
| ~~Section 5.22.~~ | ~~Senior Indebtedness~~ | ~~65~~ |
| SECTION 6. | Covenants | ~~65~~58 |
| Section 6.1. | Information Covenants | ~~65~~58 |
| Section 6.2. | Inspections | ~~68~~61 |
| Section 6.3. | Maintenance of Property, Insurance, Environmental Matters, etc. | ~~69~~61 |
| Section 6.4. | Books and Records | ~~69~~62 |
| Section 6.5. | Preservation of Existence | ~~69~~62 |
| Section 6.6. | Compliance with Laws | ~~70~~62 |

Section 6.7. ERISA ~~70~~62
Section 6.8. Payment of Taxes ~~70~~62
Section 6.9. Designation of Subsidiaries ~~70~~63
Section 6.10. Interest Rate Protection ~~71~~63
Section 6.11. Contracts with Affiliates ~~71~~63
Section 6.12. No Changes in Fiscal Year ~~72~~64
Section 6.13. Change in the Nature of Business; Limitations on the Activities of Holdco ~~72~~64
Section 6.14. Indebtedness ~~73~~65
Section 6.15. Liens ~~77~~68
Section 6.16. Consolidation, Merger, Sale of Assets, etc. ~~80~~71
Section 6.17. Advances, Investments and Loans ~~81~~72
Section 6.18. Restricted Payments ~~83~~74
Section 6.19. Limitation on Restrictions ~~85~~76
Section 6.20. Optional Payments of Certain Indebtedness; Modifications of Certain Indebtedness and Organizational Documents ~~86~~77
Section 6.21. OFAC ~~87~~77
Section 6.22. Financial Covenants ~~87~~77
Section 6.23. Maintenance of Rating ~~88~~78
Section 6.24. Limitation on Non-Material Subsidiaries ~~88~~78
Section 6.25. Post-Closing Obligations ~~88~~78





SECTION 7. Events of Default and Remedies ~~88~~78

Section 7.1. Events of Default ~~88~~78
Section 7.2. Non Bankruptcy Defaults ~~90~~80
Section 7.3. Bankruptcy Defaults ~~91~~81
Section 7.4. Collateral for Undrawn Letters of Credit ~~91~~81
Section 7.5. Notice of Default ~~91~~81
Section 7.6. Equity Cure ~~91~~81

SECTION 8. Change in Circumstances and Contingencies ~~92~~82

Section 8.1. Funding Indemnity ~~92~~82
Section 8.2. Illegality ~~93~~82
Section 8.3. Reserved ~~93~~83
Section 8.4. Yield Protection ~~93~~83
Section 8.5. Substitution of Lenders ~~94~~84
Section 8.6. Lending Offices ~~95~~84

SECTION 9. The Administrative Agent ~~95~~85

Section 9.1. Appointment and Authorization of Administrative Agent ~~95~~85
Section 9.2. Administrative Agent and its Affiliates ~~96~~85
Section 9.3. Action by Administrative Agent ~~96~~85
Section 9.4. Consultation with Experts ~~96~~86
Section 9.5. Liability of Administrative Agent; Credit Decision; Delegation of Duties ~~97~~86
Section 9.6. Indemnity ~~99~~87
Section 9.7. Resignation of Administrative Agent and Successor Administrative Agent ~~99~~88
Section 9.8. L/C Issuer ~~100~~89
Section 9.9. Hedging Liability and Funds Transfer Liability and Deposit Account Liability Obligation Arrangements ~~100~~89
Section 9.10. Designation of Additional Administrative Agents ~~101~~89
Section 9.11. Authorization to Enter into, and Enforcement of, the Collateral Documents ~~101~~89
Section 9.12. Authorization to Release Liens and Limit Amount of Certain Claims ~~101~~90

SECTION 10. Miscellaneous ~~102~~90

Section 10.1. Withholding Taxes ~~102~~90
Section 10.2. No Waiver; Cumulative Remedies; Collective Action ~~105~~92
Section 10.3. Non-Business Days ~~105~~93
Section 10.4. Documentary Taxes ~~105~~93
Section 10.5. Survival of Representations ~~105~~93
Section 10.6. Survival of Indemnities ~~106~~93
Section 10.7. Sharing of Set-Off ~~106~~93
Section 10.8. Notices ~~106~~94
Section 10.9. Counterparts ~~107~~95





Section 10.10. Successors and Assigns; Assignments and Participations ~~107~~95
Section 10.11. Amendments ~~112~~99

| | | |
|---|---|---|
| Section 10.12. | Heading | ~~115~~101 |
| Section 10.13. | Costs and Expenses; Indemnification | ~~115~~101 |
| Section 10.14. | Set-off | ~~116~~102 |
| Section 10.15. | Entire Agreement | ~~116~~102 |
| Section 10.16. | Governing Law | ~~116~~102 |
| Section 10.17. | Severability of Provisions | ~~116~~102 |
| Section 10.18. | Excess Interest | ~~116~~102 |
| Section 10.19. | Construction | ~~117~~103 |
| Section 10.20. | Lender’s Obligations Several | ~~117~~103 |
| Section 10.21. | USA Patriot Act | ~~117~~103 |
| Section 10.22. | Submission to Jurisdiction; Waiver of Jury Trial | ~~117~~103 |
| Section 10.23. | Treatment of Certain Information; Confidentiality | ~~118~~103 |
| ~~Section 10.24.~~ | ~~Conflicts with Intercreditor Agreement.~~ | ~~119~~ |

Signature Page S-1

| | | |
|---|---|---|
| EXHIBIT A | — | Notice of Payment Request |
| EXHIBIT B | — | Notice of Borrowing |
| EXHIBIT C | — | Notice of Continuation/Conversion |
| EXHIBIT D-1 | — | Term B-1 Note |
| EXHIBIT D-2 | — | Term B-2 Note |
| EXHIBIT D-3 | — | Revolving Note |
| EXHIBIT D-~~3~~4 | — | Swing Note |
| EXHIBIT E | — | Solvency Certificate |
| EXHIBIT F | — | Compliance Certificate |
| EXHIBIT G | — | Assignment and Assumption |
| EXHIBIT H-1 | — | Form of Trademark Security Agreement |
| EXHIBIT H-2 | — | Form of Patent Security Agreement |
| EXHIBIT H-3 | — | Form of Copyright Security Agreement |
| ~~EXHIBIT I~~ | ~~—~~ | ~~Form of Intercreditor~~ |
| EXHIBIT J | — | Form of Security Agreement |
| EXHIBIT K | — | Form of Guaranty |

| | | |
|---|---|---|
| SCHEDULE 1 | — | Term B Loan Commitments and Revolving Credit Commitments as of the Closing Date |
| SCHEDULE 5.10 | — | Subsidiaries |
| SCHEDULE 5.17 | — | Capitalization |
| SCHEDULE 6.11 | — | Contracts with Affiliates |
| SCHEDULE 6.14 | — | Indebtedness |
| SCHEDULE 6.15 | — | Liens |
| SCHEDULE 6.17 | — | Investments |
| SCHEDULE 6.25 | — | Post-Closing Obligations |



---

**FIRST LIEN LOAN AGREEMENT**

This First Lien Loan Agreement is entered into as of November 3, 2010, by and among FIFTH THIRD PROCESSING SOLUTIONS, LLC, a Delaware limited liability company (the *“Borrower”*), the various institutions from time to time party to this Agreement, as Lenders, BANK OF AMERICA, N.A., CREDIT SUISSE SECURITIES (USA) LLC and MORGAN STANLEY SENIOR FUNDING, INC., as Co-Syndication Agents (the *“Co-Syndication Agents”*), FIFTH THIRD BANK, MORGAN STANLEY SENIOR FUNDING, INC. and SUNTRUST BANK, as Co-Documentation Agents (the *“Co-Documentation Agents”*) and GOLDMAN SACHS LENDING PARTNERS LLC, as administrative agent and collateral agent (the *“Administrative Agent”* or *“Collateral Agent”*).

The Borrower, NPC Group, Inc. (the *“Target”*), FTPS-BG Acquisition Corp. (*“Merger Sub”*), and National Processing Holdings, LLC, solely in its capacity as the representative of the Target’s stockholders, have entered into the Agreement and Plan of Merger (the *“Acquisition Agreement”*), dated September 15, 2010, which provides, subject to the terms and conditions set forth therein, that Merger Sub will merge with and into the Target, with the Target as the surviving corporation (the *“NPC Acquisition”*). Immediately following the NPC Acquisition, the Target will be a direct or indirect subsidiary of the Borrower, with 100% of the common stock of the Target owned by the Borrower.

The Borrower has requested, and the Lenders have agreed to extend, certain credit facilities on the terms and conditions of this Agreement. In consideration of the mutual agreements set forth in this Agreement, the parties to this Agreement agree as follows:

SECTION 1. DEFINITIONS; INTERPRETATION.

Section 1.1. *Definitions*. The following terms when used herein shall have the following meanings:

*“Acquisition”* means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in (a) the acquisition of all or substantially all of the assets of a Person, or of any business or division of a Person, (b) the acquisition of in excess of 50% of the capital stock, partnership interests, membership interests or equity of any Person (other than a Person that is a Restricted Subsidiary), or otherwise causing any Person to become a Restricted Subsidiary (other than in connection with the formation or creation of a Restricted Subsidiary), or (c) a merger or consolidation or any other combination with another Person (other than a Person that is already a Restricted Subsidiary), *provided* that the Borrower or a Restricted Subsidiary is the surviving entity.

“*Acquisition Agreement*” as defined in the preamble hereof.

"*Additional Lender*" means any Additional Revolving Lender or any Additional Term Lender, as applicable.

"*Additional Revolving Lender*" means, at any time, any bank or other financial institution that agrees to provide any portion of any Revolving Credit Commitment Increase pursuant to an Incremental Amendment in accordance with Section 2.14; *provided* that the relevant Persons under Section 10.10(b) (including those specified in the definition of "Eligible Assignee") shall have consented to such Additional Revolving Lender's providing such incremental revolving credit commitments, if such consent would be required under Section 10.10(b) for an assignment of Revolving Credit Commitments to such Additional Lender.



"*Additional Term Lender*" means, at any time, any bank or other financial institution that agrees to provide any portion of any Term Commitment Increase pursuant to an Incremental Amendment in accordance with Section 2.14; *provided* that the relevant Persons under Section 10.10(b) (including those specified in the definition of "Eligible Assignee") shall have consented to such Additional Term Lender's making such incremental term loans, if such consent would be required under Section 10.10(b) for an assignment of Loans to such Additional Lender.

"*Adjusted LIBOR*" means, (a) for any Borrowing of Term B-1 Loans that are Eurodollar Loans, a rate per annum equal to the greater of: (i) 1.25% and (ii) the quotient of (A) LIBOR, divided by (B) one minus the Reserve Percentage, (b) for any Borrowing of Term B-2 Loans that are Eurodollar Loans, a rate per annum equal to the greater of (i) 1.50% and (ii) the quotient of (A) LIBOR, divided by (B) one minus the Reserve Percentage and (~~b~~c) for any Borrowing of Revolving Loans that are Eurodollar Loans, a rate per annum equal to the quotient of (x) LIBOR, divided by (y) one minus the Reserve Percentage.

"*Administrative Agent*" means Goldman Sachs Lending Partners LLC, as contractual representative for itself and the other Lenders and any successor pursuant to Section 9.7 hereof.

"*Administrative Questionnaire*" means, with respect to each Lender, an Administrative Questionnaire in a form supplied by the Administrative Agent and duly completed by such Lender.

"*Advent*" means Advent International Corp.

"*Affected Lender*" is defined in Section 8.5 hereof.

"*Affiliate*" means any Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, another Person. A Person shall be deemed to control another Person for the purposes of this definition if such Person (i) possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the other Person, whether through the ownership of voting securities, by contract or otherwise; or (ii) can vote 15% or more of the securities having ordinary voting power for the election of directors of such Person.

"*Affiliated Lender*" is defined in Section 10.10(h) hereof.

"*Agreement*" means this First Lien Loan Agreement, as the same may be amended, modified, restated, amended and restated or supplemented from time to time pursuant to the terms hereof.

"*Applicable Laws*" means, as to any Person, any law (including common law), statute, regulation, ordinance, rule, order, decree, judgment, consent decree, writ, injunction, settlement agreement or governmental requirement enacted, promulgated or imposed or entered into or agreed by any Governmental Authority, in each case applicable to or binding on such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

"*Applicable Margin*" *means* (a) with respect to Term B-1 Loans, (i) for Eurodollar Loans, ~~4.00~~3.25% per annum and (ii) for Base Rate Loans, ~~3.00~~2.25% per annum, (b) with respect to Term B-2 Loans, (i) for Eurodollar Loans, 3.50% per annum and (ii) for Base Rate Loans, 2.50% per annum, (c) with respect to any Swing Loans, the applicable percentage per annum set forth below under the caption "Base Rate Revolving Spread", (~~c~~d) with respect to any Revolving Loan that is a Eurodollar Loan or a Base Rate Loan, the applicable percentage per annum set forth below under the caption "Eurodollar Revolving Spread" or "Base Rate Revolving Spread" and (~~d~~e) with



respect to the Commitment Fee, 0.50% (in the case of clauses (~~b~~c) and (~~c~~d) above, based upon the Leverage Ratio as of the relevant date of determination):

| Leverage Ratio | Eurodollar Revolving Spread | Base Rate Revolving Spread |
|---|---|---|
| Category 1<br>Greater than 3.5 to 1.00 | 3.50% | 2.50% |
| Category 2<br>Less than or equal to 3.5 to 1.00 but greater than 2.5 to 1.00 | 3.25% | 2.25% |
| Category 3<br>Less than or equal to 2.5 to 1.00 | 3.00% | 2.00% |

In respect of clauses (~~b~~c) and (~~c~~d) of this definition, each change in the Applicable Margin resulting from a change in the Leverage Ratio shall be effective on and after the date of delivery to the Administrative Agent of the financial statements required to be delivered pursuant to Section 6.1(a) or (b) and a Compliance Certificate indicating such change until and including the date immediately preceding the next date of delivery of such financial statements and the related Compliance Certificate indicating another such change. Notwithstanding the foregoing, (x) until the

Borrower shall have delivered the financial statements and the related Compliance Certificate covering a period that includes the first full fiscal quarter of the Borrower ended after the Closing Date, the Leverage Ratio shall be deemed to be in Category 1 for purposes of determining the Applicable Margin and (y) during the existence of any Event of Default under Section 7.1(a), (j) or (k), the Leverage Ratio shall be deemed to be in Category 1 for purposes of determining the Applicable Margin. In addition, at the option of the Administrative Agent and the Required Lenders, at any time during which the Borrower has failed to deliver the financial statements or the related Compliance Certificate by the date required thereunder, then the Leverage Ratio shall be deemed to be in the then-existing Category for the purposes of determining the Applicable Margin (but only for so long as such failure continues, after which the Category shall be otherwise as determined as set forth above).

"*Application*" is defined in Section 2.3(b) hereof.

"*Approved Fund*" means any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"*Assignment and Assumption*" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.10), and accepted by the Administrative Agent, in substantially the form of Exhibit G or any other form approved by the Administrative Agent and the Borrower.

"*Audited Financial Statements*" is defined in Section 3.2(j) hereof.



---

"*Authorized Representative*" means those persons shown on the list of officers provided by the Borrower pursuant to Section 3.2(a)(v) hereof or on any update of any such list provided by the Borrower to the Administrative Agent, or any further or different officers of the Borrower so named by any Authorized Representative of the Borrower in a written notice to the Administrative Agent.

"*Available Amount*" means, at any time, an amount equal to, without duplication:

(a) the amount of any capital contributions or other equity issuances (other than any amounts constituting a Cure Amount) received as cash equity by the Borrower or any of its Restricted Subsidiaries, plus the fair market value, as determined in good faith by the Borrower, of marketable securities or other property received by the Borrower or its Restricted Subsidiaries as a capital contribution or in return for issuances of equity, in each case, during the period from and including the Business Day immediately following the Closing Date through and including such time; minus

(b) the aggregate amount of any investments made by the Borrower or any Restricted Subsidiary pursuant to Section 6.17(l) after the Closing Date and prior to such time.

"*Base Rate*" means for any day the greatest of: (i) the Prime Rate in effect on such day, (ii) the sum of (x) the Federal Funds Rate, plus (y) 1/2 of 1% and (iii) the sum of (x) the Adjusted LIBOR that would be applicable to a Eurodollar Loan with a one month Interest Period advanced on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus (y) 1.00%; *provided* that, for the avoidance of doubt, the Adjusted LIBOR for any day shall be based on the rate determined on such day at approximately 11:00 a.m. (London time) by reference to the British Bankers' Association Interest Settlement Rates for deposits in dollars (as set forth by any service selected by the Administrative Agent that has been nominated by the British Bankers' Association as an authorized vendor for the purpose of displaying such rates). Any change in the Base Rate due to a change in the Federal Funds Rate or the Adjusted LIBOR shall be effective on the effective date of such change in the Federal Funds Rate or the Adjusted LIBOR, as the case may be.

"*Base Rate Loan*" means a Term B Loan or Revolving Loan bearing interest at a rate specified in Section 2.4(a) or Section 2.4(c) hereof, as applicable.

"*Borrower*" is defined in the introductory paragraph of this Agreement.

"*Borrowing*" means the total of Loans of a single type advanced, continued for an additional Interest Period, or converted from a different type into such type by the Lenders under the applicable Facility on a single date and, in the case of Eurodollar Loans, for a single Interest Period. Borrowings of Loans are made and maintained ratably from each of the Lenders under the applicable Facility according to their Percentages of such Facility. A Borrowing of Loans is "advanced" on the day Lenders advance funds comprising such Borrowing to the Borrower, is "continued" on the date a new Interest Period for the same type of Loans commences for such Borrowing, and is "converted" when such Borrowing is changed from one type of Loans to the other, all as requested by the Borrower pursuant to Section 2.5(a) hereof. Base Rate Loans and Eurodollar Loans are each a "type" of Loans. Borrowings of Swing Loans are made by the Administrative Agent in accordance with the procedures set forth in Section 2.11 hereof.

"*Business*" means "Business" as defined in the Master Investment Agreement.



---

"*Business Day*" means any day (other than a Saturday or Sunday) on which banks are not authorized or required to close in the State of New York; *provided*, *however*, that when used in connection with a Eurodollar Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in Dollar deposits in the London interbank market.

"*Capital Lease*" means any lease of Property which in accordance with GAAP is required to be capitalized on the balance sheet of the lessee; *provided* that, notwithstanding the foregoing, in no event will any lease that would have been categorized as an operating lease as determined in accordance with GAAP as of November 3, 2010 be considered a Capital Lease.

*"Capitalized Lease Obligation"* means, for any Person, the amount of the liability shown on the balance sheet of such Person in respect of a Capital Lease determined in accordance with GAAP.

*"Cash Equivalents"* means, as to any Person: (a) investments in direct obligations of the United States of America or of any agency or instrumentality thereof whose obligations constitute full faith and credit obligations of the United States of America, *provided* that any such obligations shall mature within one year of the date of issuance thereof; (b) investments in commercial paper rated at least P-1 by Moody's or at least A-1 by S&P (or, if at any time neither Moody's or S&P shall be rating such obligations, an equivalent rating from another nationally recognized rating service) maturing within 90 days from the date of issuance thereof; (c) investments in certificates of deposit or bankers' acceptances issued by any Lender or by any United States commercial bank having capital and surplus of not less than $500,000,000 which have a maturity of one year or less; (d) investments in repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (a) above entered into with any bank meeting the qualifications specified in clause (c) above, *provided* that, all such agreements require physical delivery of the securities securing such repurchase agreement, except those delivered through the Federal Reserve Book Entry System; (e) marketable short-term money market or similar securities having a rating of at least P-1 by Moody's or A-1 by S&P (or, if at any time neither Moody's or S&P shall be rating such obligations, an equivalent rating from another nationally recognized rating service) and (f) investments in money market funds that invest solely, and which are restricted by their respective charters to invest solely, in investments of the type described in the immediately preceding clauses (a), (b), (c), and (d) above.

*"Cash Flow"* means, with reference to any period, the difference (if any) of (a) Consolidated Net Income for such period plus the sum of all amounts deducted in arriving at such Consolidated Net Income amount in respect of all charges for (i) depreciation of fixed assets and amortization of intangible assets for such period and (ii) all other non-cash charges or expenses deducted in computing Consolidated Net Income for such period minus (plus) (b) additions (reductions) to non-cash working capital of the Borrower and its Subsidiaries for such period (i.e., the increase or decrease in consolidated non-cash current assets of the Borrower and its Restricted Subsidiaries minus the consolidated current liabilities (excluding the current maturities of long-term debt) of the Borrower and its Restricted Subsidiaries from the beginning to the end of such period) minus (c) all non-cash gains or benefits added in computing Consolidated Net Income for such period.

*"Cash Management Services"* means treasury, depository, overdraft, credit or debit card, including noncard payables services, purchase card, electronic funds transfer, automated clearing house fund transfer services, other cash management services and all services performed by any of the Lenders or their Affiliates under the Clearing Agreement.



*"Class"* means (i) with respect to Lenders, each of the following classes of Lenders: (a) Lenders having Term B-1 Loan Exposure, (b) Lenders having Term B-2 Loan Exposure or (~~b~~c) Lenders having Revolving Exposure (including the Swing Line Lender) and (ii) with respect to Loans, each of the following classes of Loans: (a) Term B-1 Loans, (b) Term B-2 Loans and (~~b~~c) Revolving Loans.

*"CERCLA"* means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§9601 *et seq.*, and any future amendments.

A *"Change of Control"* shall be deemed to have occurred if (a) the Permitted Investors cease to have the power, directly or indirectly, to vote or direct the voting of the Voting Stock of the Borrower; *provided* that the occurrence of the foregoing event shall not be deemed a Change of Control if,

(i) any time prior to the consummation of a Qualified Public Offering, and for any reason whatsoever, (A) the Permitted Investors otherwise have the right, directly or indirectly, to designate (and do so designate) a majority of the board of directors of the Borrower or (B) the Permitted Investors own, directly or indirectly, of record and beneficially an amount of Voting Stock of the Borrower that is equal to or more than 50% of the amount of Voting Stock of the Borrower owned, directly or indirectly, by the Permitted Investors of record and beneficially as of the Closing Date (determined by taking into account any stock splits, stock dividends or other events subsequent to the Closing Date that changed the amount of Voting Stock, but not the percentage of Voting Stock, held by the Permitted Investors) and such ownership by the Permitted Investors represents the largest single block of Voting Stock of the Borrower held by any person or related group for purposes of Section 13(d) of the Securities Exchange Act of 1934, or

(ii) at any time after the consummation of a Qualified Public Offering, and for any reason whatsoever, (A) no "person" or "group" (as such terms (and each other reference thereto in this clause) are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934 as in effect on the date hereof, but excluding any employee benefit plan of such Person and its subsidiaries, and any Person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), excluding the Permitted Investors and any group of which any Permitted Investor holds 51% or more of the outstanding Voting Stock held by such group, shall become the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under such Act), directly or indirectly, of more than the greater of (x) 35% of outstanding Voting Stock of the Borrower and (y) the percentage of the then outstanding Voting Stock of the Borrower owned, directly or indirectly, beneficially and of record by the Permitted Investors, and (B) during each period of 12 consecutive months, a majority of natural persons who are members of the board of directors (or similar governing body) of the Borrower shall consist of the same persons who are members of the board of directors (or similar governing body) of the Borrower on the Closing Date (together with any new or replacement directors (or similar persons) whose initial nomination for election was approved or recommended by either the Permitted Investors or by a majority of the directors (or similar persons) who were either directors (or similar persons) on the Closing Date or previously so approved or recommended), or

(b) at any time prior to the consummation of a Qualified Public Offering by the Borrower, Holdco shall cease to directly own and control, of record and beneficially, 100% of



Voting Stock of the Borrower free and clear of all Liens (other than Liens permitted or created under the Loan Documents~~ or the Second Lien Loan Documents); or~~).

~~(c) a “Change of Control” (or any other defined term having a similar purpose) as defined in the Second Lien Loan Agreement, has occurred.~~

“*Clearing Agreement*” means Clearing, Settlement and Sponsorship Services Agreement by and between the Borrower and Fifth Third Bank dated as of June 30, 2009, as the same may be amended, modified, supplemented, restated or amended and restated from time to time.

“*Closing Date*” means the date on which the conditions precedent set forth in Section 3.2 shall have been satisfied or waived in accordance with this Agreement.

“*Closing Date Material Adverse Effect*” means (a) any change, effect, event, occurrence, state of facts or development that, individually or in the aggregate, is, or would reasonably be expected to be, materially adverse to the business, properties, assets, financial condition or results of operations of the Target and its Subsidiaries taken as a whole or (b) a material adverse effect on the ability of the Target to consummate the NPC Acquisition; *provided, however*, that, for purposes of clause (a) above, none of the following shall be deemed in themselves, either alone or in combination, to constitute, and none of the following shall be taken into account in determining whether there has been or will be, a Closing Date Material Adverse Effect: any adverse change, effect, event, occurrence, state of facts or development attributable to (i) the announcement or consummation of the transactions contemplated by the Acquisition Agreement, (ii) conditions affecting the Industry, except to the extent that the Target or any of its Subsidiaries is disproportionately affected relative to the other participants in the Industry; (iii) the taking of any action required by the Acquisition Agreement; (iv) conditions affecting the U.S. economy as a whole or the capital markets in general or the markets in which the Target and its Subsidiaries operate; (v) any change in, or proposed or potential change in, applicable laws or card association rules or regulations or the interpretation of any of the foregoing, except to the extent that the Target or any of its Subsidiaries is disproportionately affected relative to the other participants in the Industry; (vi) any change in GAAP or other accounting requirements or principles or any change in applicable laws, rules or regulations or the interpretation thereof; (vii) the failure of the Target or any Subsidiary of the Target to meet or achieve the results set forth in any projection or forecast (*provided* that clause (vii) shall not prevent a determination that any change or effect underlying such failure to meet projections or forecasts has resulted in a Closing Date Material Adverse Effect (to the extent such change or effect is not otherwise excluded from this definition of Closing Date Material Adverse Effect)); (viii) the commencement, continuation or escalation of a war, material armed hostilities or other material international or national calamity or act of terrorism or (ix) any of the matters disclosed on the Taxes Schedule, the Litigation Schedule, the Compliance with Laws Schedule, the Employee Schedule or the Merchants, Merchant Originators and Vendors Schedule (without giving effect to any new or updated matters, facts, circumstances or developments set forth on any Updated Disclosure Schedules) (in each case, as defined in the Acquisition Agreement as of September 15, 2010) as such matters are known to the Joint Lead Arrangers and Joint Book Runners as of September 15, 2010.

“*Code*” means the Internal Revenue Code of 1986, as amended, and any successor statute thereto.

“*Collateral*” means all properties, rights, interests, and privileges of the Loan Parties on which a Lien is required to be granted to the Collateral Agent, or any security trustee therefor, by Section 4.1.



---

“*Collateral Account*” is defined in Section 7.4 hereof.

“*Collateral Agent*” means GS Lending Partners and any successor pursuant to Section 9.7 hereof.

“*Collateral Documents*” means the Security Agreement, the Intellectual Property Security Agreements and all other mortgages, deeds of trust, security agreements, pledge agreements, assignments, financing statements and other documents pursuant to which Liens are granted to the Collateral Agent or such Liens are perfected, and as shall from time to time secure the Obligations, the Hedging Liability, and the Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, or any part thereof pursuant to Section 4.

“*Commitment Fee*” is defined in Section 2.13(a) hereof.

“*Commitment Increase*” is defined in Section 2.14(a) hereof.

“*Compliance Certificate*” means the Compliance Certificate to be delivered pursuant to Section 6.1(e) hereof, substantially in the form of Exhibit F hereof.

“*Consolidated EBITDA*” means, for any period, the Consolidated Net Income for such period, plus:

(a) without duplication and to the extent already deducted (and not added back) in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(i) interest expense and, to the extent not reflected in such interest expense, unused line fees and letter of credit fees payable hereunder,

(ii) provision for taxes based on income, profits or capital, including federal, foreign, state, franchise, excise and similar taxes paid or accrued during such period (including in respect of repatriated funds), including Distributions made to Holdco to permit it to make Quarterly Distributions,

(iii) depreciation and amortization, including amortization of intangible assets established through purchase accounting and amortization of deferred financing fees or costs,

(iv) any expenses or charges (other than depreciation or amortization expense) related to any equity offering, investment, acquisition, disposition, recapitalization or the incurrence or repayment of Indebtedness (including a refinancing or amendment, waiver or other modification thereof), in each case, permitted under this Agreement (whether or not successful),

(v) Non-Cash Charges,

(vi) extraordinary losses in accordance with GAAP,

(vii) (a) all Stand Alone Costs (including those funded by Fifth Third Bank) incurred on or prior to June 30, 2012 and all other fees or expenses incurred or paid by the Borrower or any of its Restricted Subsidiaries in connection with the performance of the Master Investment Agreement and the Ancillary Agreements (as defined in the Master



Investment Agreement); *provided* that, amounts under this clause shall not exceed $60,000,000 for any period ending on or prior to September 30, 2011 and $40,000,000 for any period after September 30, 2011 and ending on or prior to June 30, 2012,

(viii) operating expenses attributable to the implementation of cost savings initiatives, severance, relocation costs, integration and facilities' opening costs, signing costs, retention or completion bonuses, transition costs and costs related to closure/consolidation/separation of facilities and systems and in an aggregate amount not to exceed $25,000,000 for such period,

(ix) the amount of any minority interest expense consisting of subsidiary income attributable to minority Equity Interests of third parties in any non-Wholly-Owned Subsidiary, and

(x) the amount of management, monitoring, consulting, transaction and advisory fees and related expenses paid in such period to the Existing Shareholders to the extent otherwise permitted under Section 6.11(a); *less*

(b) without duplication and to the extent included in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(i) extraordinary gains and unusual or non-recurring gains, and

(ii) non-cash gains (excluding any non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash item that reduced Consolidated EBITDA in any prior period); *provided*, in each case, that if any non-cash gain represents an accrual or asset for future cash items in any future period, the cash payment in respect thereof shall in such future period be added to Consolidated EBITDA for such period to the extent excluded from Consolidated EBITDA in any prior period,

(c) increased or decreased by (without duplication):

(i) any net gain or loss resulting in such period from Hedging Obligations and the application of Statement of Financial Accounting Standards No. 133 and International Accounting Standards No. 39 and their respective related pronouncements and interpretations; plus or minus, as applicable, and

(ii) any net gain or loss resulting in such period from currency translation gains or losses related to currency remeasurements of indebtedness (including any net loss or gain resulting from hedge agreements for currency exchange risk),

in each case, as determined on a consolidated basis for the Borrower and its Restricted Subsidiaries in accordance with GAAP.

*"Consolidated Net Income"* means, for any period, the net income (loss) of the Borrower and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP, excluding, without duplication, (a) the cumulative effect of a change in accounting principles during such period to the extent included in net income (loss), (b) accruals and reserves that are established or adjusted as a result of the transactions contemplated herein in accordance with GAAP or changes as a result of the adoption or modification of accounting policies during such period, (c) the income (or loss) of any Person (other than a Restricted Subsidiary of Holdco) in



which any other Person (other than Holdco or any of its Restricted Subsidiaries) has an ownership interest, except to the extent of the amount of dividends or other distributions actually paid to Holdco or any of its Restricted Subsidiaries by such Person during such period, (d) the income of any Restricted Subsidiary of Holdco (other than the Borrower or any other Loan Party) to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that income is subject to an absolute prohibition during such period by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary, (e) the income (or loss) of any Person accrued prior to the date it becomes a Restricted Subsidiary of Holdco or is merged into or consolidated with Holdco or any of its Restricted Subsidiaries or that Person's assets are acquired by Holdco or any of its Subsidiaries (except as provided in the definition of "Pro Forma Basis"), and (f) non-cash, equity-based award compensation expenses (including with respect to any interest relating to membership interests in any partnership or limited liability company).

*"Contingent Obligation"* means as to any Person, any obligation of such Person guaranteeing or intended to guarantee any Indebtedness (*"primary obligations"*) of any other Person (the *"primary obligor"*) in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent, (i) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (ii) to advance or supply funds (x) for the purchase or payment of any such primary obligation or (y) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the holder of such primary obligation against loss in respect thereof; *provided, however,* that the term Contingent Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary

obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

"*Controlled Group*" means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) or of an affiliated service group under common control which, together with the Borrower, are treated as a single employer under Section 414 of the Code.

"*Co-Documentation Agents*" as defined in the preamble hereto.

"*Co-Syndication Agents*" as defined in the preamble hereto.

"*Credit Extension*" means the advancing of any Loan or the issuance of, or increase in the amount of, any Letter of Credit.

"*Cure Amount*" is defined in Section 7.6 hereof.

"*Cure Right*" is defined in Section 7.6 hereof.

"*Damages*" means all damages including, without limitation, punitive damages, liabilities, costs, expenses, losses, judgments, diminutions in value, fines, penalties, demands, claims, cost recovery actions, lawsuits, administrative proceedings, orders, response action, removal and



remedial costs, compliance costs, investigation expenses, consultant fees, attorneys' and paralegals' fees and litigation expenses.

"*Debt Fund Affiliate*" means (a) any fund managed by, or under common management with, Advent, and (b) any other affiliate of Holdco that is a bona fide diversified debt fund, in each case with fiduciary obligations with respect to investment decisions independent from any equity fund managed by, or under common management with, Advent or any other Permitted Investor which has a direct or indirect equity investment in Holdco, the Borrower or its Subsidiaries.

"*Default*" means any event or condition the occurrence of which would, with the passage of time or the giving of notice, or both, constitute an Event of Default.

"*Default Excess*" has the meaning provided in Section 2.8(d) hereof.

"*Defaulting Lender*" means any Lender that (a) has failed to fund any portion of the Loans, participations in Reimbursement Obligations or participations in Swing Loans required to be funded by it hereunder within three Business Days of the date required to be funded by it hereunder unless such failure has been cured, (b) has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within three Business Days of the date when due, unless the subject of a good faith dispute or unless such failure has been cured, or (c) has been deemed insolvent by any Governmental Authority or become the subject of a receivership, bankruptcy or insolvency proceeding.

"*Departing Administrative Agent*" is defined in Section 9.7 hereof.

"*Disposition*" means the sale, lease, conveyance or other disposition of Property pursuant to Section 6.16(g) or Section 6.16(o).

"*Disqualified Equity Interests*" means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (i) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (other than solely for Equity Interests which are not otherwise Disqualified Equity Interests or as a result of a Change of Control, Qualified Public Offering or asset sale so long as any rights of the holders thereof upon the occurrence of a Change of Control, Qualified Public Offering or asset sale shall be subject to the termination of the Facilities), pursuant to a sinking fund obligation or otherwise, (ii) is redeemable at the option of the holder thereof (other than solely for Equity Interests which are not otherwise Disqualified Equity Interests), in whole or in part, (iii) provides for scheduled payments or dividends in cash, or (iv) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 91 days after the ~~Term B Termination~~Final Maturity Date.

"*Distribution*" has the meaning provided in Section 6.18 hereof.

"*Dollars*" and "*$*" each means the lawful currency of the United States of America.

"*Domestic Holding Company*" means any Domestic Subsidiary of Borrower that is treated as a disregarded entity for U.S. federal income tax purposes and all of its assets (other than immaterial assets) consist of the Equity Interests of one or more Foreign Subsidiaries that are controlled foreign corporations within the meaning of Section 957 of the Code.



"*Domestic Subsidiary*" means each Subsidiary of the Borrower that is organized under the Applicable Laws of the United States, any state thereof, or the District of Columbia.

"*Dutch Auction*" means an auction (an "*Auction*") conducted by Holdco or one of its Subsidiaries in order to purchase one or more Classes of Term B Loans (or any loans funded under a Term Commitment Increase, which for purposes of this definition, shall be deemed to be Term B Loans of the applicable Class (and the holders thereof, Term B Lenders)) in accordance with the following procedures:

(a) Notice Procedures. In connection with an Auction, the Borrower will provide notification to the Administrative Agent (for distribution to the Term B Lenders) of the Term B Loans that will be the subject of the Auction (an *"Auction Notice"*). Each Auction Notice shall be in a form reasonably acceptable to the Administrative Agent and shall contain (i) the total cash value of the bid, in a minimum amount of $10,000,000 with minimum increments of $1,000,000 (the *"Auction Amount"*), and (ii) the discount to par, which shall be a range (the *"Discount Range"*) of percentages of the par principal amount of the Term B Loans at issue that represents the range of purchase prices that could be paid in the Auction.

(b) Reply Procedures. In connection with any Auction, each Term B Lender may, in its sole discretion, participate in such Auction and may provide the Administrative Agent with a notice of participation (the *"Return Bid"*) which shall be in a form reasonably acceptable to the Administrative Agent and shall specify (i) a discount to par that must be expressed as a price (the *"Reply Discount"*), which must be within the Discount Range, and (ii) a principal amount of Term B Loans which must be in increments of $1,000,000 (the *"Reply Amount"*). A Term B Lender may avoid the minimum amount condition solely when submitting a Reply Amount equal to the Term B Lender's entire remaining amount of such Term B Loans. Term B Lenders may only submit one Return Bid per Auction but each Return Bid may contain up to three bids only one of which can result in a Qualifying Bid (as defined below). In addition to the Return Bid, the participating Term B Lender must execute and deliver, to be held in escrow by the Administrative Agent, an Assignment and Assumption with the dollar amount of the Term B Loan to be left in blank, which amount shall be completed by the Administrative Agent in accordance with the final determination of such Term B Lender's Qualifying Bid pursuant to subclause (C) below.

(c) Acceptance Procedures. Based on the Reply Discounts and Reply Amounts received by the Administrative Agent, the Administrative Agent, in consultation with the Borrower, will determine the applicable discount (the *"Applicable Discount"*) for the Auction, which will be the lowest Reply Discount for which Holdco or its Subsidiary, as applicable, can complete the Auction at the Auction Amount; *provided* that, in the event that the Reply Amounts are insufficient to allow Holdco or its Subsidiary, as applicable, to complete a purchase of the entire Auction Amount (any such Auction, a *"Failed Auction"*), Holdco or its Subsidiary shall either, at its election, (i) withdraw the Auction or (ii) complete the Auction at an Applicable Discount equal to the highest Reply Discount. Holdco or its Subsidiary, as applicable, shall purchase Term B Loans (or the respective portions thereof) from each Term B Lender with a Reply Discount that is equal to or greater than the Applicable Discount (*"Qualifying Bids"*) at the Applicable Discount; *provided* that if the aggregate proceeds required to purchase all Term B Loans subject to Qualifying Bids would exceed the Auction Amount for such Auction, Holdco or its Subsidiary, as applicable, shall purchase such Term B Loans at the Applicable Discount ratably based on the principal amounts of such Qualifying Bids (subject to rounding requirements specified by the Administrative Agent). If a Term B Lender has submitted a Return Bid containing multiple bids at different Reply Discounts, only the bid with the highest Reply Discount that is equal to or greater than the Applicable Discount will be deemed the Qualifying Bid of such Term B Lender. Each participating Term B Lender will receive notice of a Qualifying Bid as soon as reasonably practicable but in no case later than



five Business Days from the date the Return Bid was due.

(d) Additional Procedures. Once initiated by an Auction Notice, Holdco or its Subsidiary, as applicable, may not withdraw an Auction other than a Failed Auction. Furthermore, in connection with any Auction, upon submission by a Term B Lender of a Qualifying Bid, such Term B Lender (each, a *"Qualifying Lender"*) will be obligated to sell the entirety or its allocable portion of the Reply Amount, as the case may be, at the Applicable Discount.

"*EFT Business*" means "EFT Business" as defined in the Master Investment Agreement.

"*Eligible Assignee*" means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, and (d) any other Person (other than a natural person) approved by (i) the Administrative Agent, (ii) in the case of any assignment of a Revolving Credit Commitment, the L/C Issuer, and (iii) unless (x) an Event of Default has occurred and is continuing under Section 7.1(a), (j) or (k) hereof, or (y) such assignment occurs during the Syndication Period, the Borrower (each such approval not to be unreasonably withheld); *provided* that, notwithstanding the foregoing, "Eligible Assignee" shall not include (A) any Prohibited Lenders or (B) except to the extent provided in Section 10.10(h), any Affiliated Lender.

"*Environmental Claim*" means any investigation, written notice, violation, written demand, written allegation, action, suit, injunction, judgment, order, consent decree, penalty, fine, lien, proceeding or claim (whether administrative, judicial or private in nature) arising (a) pursuant to, or in connection with an actual or alleged violation of, any Environmental Law, (b) from any actual or threatened abatement, removal, remedial, corrective or response action in connection with the Release of Hazardous Material, Environmental Law or order of a Governmental Authority under Environmental Law or (c) from any actual or alleged damage, injury, threat or harm to human health or safety as it relates to exposure to Hazardous Materials, natural resources or the environment.

"*Environmental Law*" means any current or future Applicable Law pertaining to (a) the protection of the environment, or health and safety as it relates to exposure to Hazardous Materials, (b) the protection of natural resources and wildlife, (c) the protection of surface water or groundwater quality, (d) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, Release, threatened Release, abatement, removal, remediation or handling of, or exposure to, any Hazardous Material or (e) any Release of Hazardous Materials to air, land, surface water or groundwater, and any amendment, rule, regulation, order or directive issued thereunder.

"*ERISA*" means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute thereto.

"*Equity Interests*" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire any of the foregoing.

"*Eurodollar Loan*" means a Term B Loan or Revolving Loan bearing interest at the rate specified in Section 2.4(b) or Section 2.4(d) hereof, as applicable.

*"Event of Default"* means any event or condition identified as such in Section 7.1 hereof.

*"Event of Loss"* means, with respect to any Property, any of the following: (a) any loss, destruction or damage of such Property or (b) any condemnation, seizure, or taking, by exercise of the power of eminent domain or otherwise, of such Property, or confiscation of such Property.

*"Excess Cash Flow"* means, with respect to any period, the amount (if any) by which (a) Cash Flow during such period exceeds (b) the sum of (i) the aggregate amount of payments required to be (and actually) made or otherwise paid by the Borrower and its Restricted Subsidiaries during such period in respect of all principal on all Indebtedness (whether at maturity, as a result of mandatory prepayment, acceleration or otherwise, but excluding (x) voluntary prepayments of the Loans and (y) prepayments of the Loans made out of Excess Cash Flow~~, and including any voluntary prepayments of Second Lien Loans pursuant to Section 6.20(a)(x)~~), plus, (ii) to the extent each of the following is not deducted in computing Consolidated Net Income,

(A) without duplication of amounts deducted pursuant to subclause (D) below in a prior period, capital expenditures of the Borrower and its Restricted Subsidiaries made in cash (except to the extent financed with long-term Indebtedness (other than revolving Indebtedness) or equity contributed for such purpose),

(B) without duplication of amounts deducted pursuant to subclause (D) below in a prior period, the amount of investments made by the Borrower and its Restricted Subsidiaries pursuant to Section 6.17(f), (l) or (o) (except to the extent financed with long-term Indebtedness (other than revolving Indebtedness) or equity contributed for such purpose),

(C) cash losses from any sale or disposition outside the ordinary course of business,

(D) without duplication of amounts deducted from Excess Cash Flow in a prior period, the aggregate consideration required to be paid in cash by the Borrower and its Restricted Subsidiaries pursuant to binding contracts (the *"Contract Consideration"*) entered into prior to or during such period relating to investments permitted pursuant to Section 6.17(f), (l) or (o) or capital expenditures to be consummated or made during the period of four consecutive fiscal quarters of the Borrower following the end of such period (except, in each case, to the extent financed with long-term Indebtedness (other than revolving Indebtedness) or equity contributed for such purpose), and

(E) the sum of all Distributions made to Holdco for the sole purpose of permitting Holdco to make Quarterly Distributions required to be made by it during such period.

*"Excess Interest"* is defined in Section 10.18 hereof.

*"Excluded Equity Interests"* means (a) any capital stock or other Equity Interests of any Person with respect to which the cost or other consequences (including any adverse tax consequences) of pledging such Equity Interests shall be excessive in view of the benefits to be obtained by the Lenders therefrom as reasonably determined by the Administrative Agent and the Borrower, (b) solely in the case of any pledge of Equity Interests of any First-Tier Foreign Subsidiary or Domestic Holding Company to secure the Obligations, any Equity Interests in excess



of 65% of the outstanding Equity Interests of such First-Tier Foreign Subsidiary or Domestic Holding Company, (c) any Equity Interests to the extent the pledge thereof would be prohibited by any applicable law or contractual obligation (only to the extent such prohibition is applicable and not rendered ineffective) and (d) the capital stock of any Unrestricted Subsidiary if in connection with any financing to be obtained by such Unrestricted Subsidiary, such capital stock (i) is required to be pledged to the providers of such financing (or any agent or trustee therefor) or (ii) would be subject to a negative pledge in favor of such financing providers (or any agent or trustee therefor).

*"Excluded Property"* means (a) any Excluded Equity Interests, (b) any property to the extent that the grant of a Lien thereon (i) is prohibited by applicable law or contractual obligation, (ii) requires a consent not obtained of any governmental authority pursuant to such applicable law or any third party pursuant to any contract between the Borrower or any Subsidiary and such third party or (iii) would trigger a termination event pursuant to any "change of control" or similar provision, (c) United States intent-to-use trademark applications to the extent that, and solely during the period in which, the grant of a Lien thereon would impair the validity or enforceability of such intent-to-use trademark applications under applicable United States federal law, (d) local petty cash deposit accounts maintained by the Borrower and its Subsidiaries in proximity to their operations; *provided* that the total amount on deposit at any one time shall not exceed $10,000,000 in the aggregate, (e) payroll accounts maintained by the Borrower and its Subsidiaries; *provided* that the total amount on deposit at any time does not exceed the current amount of the Borrower or any Subsidiary's payroll obligation, as applicable, (f) all vehicles and other assets subject to certificates of title, (g) Property that is subject to a Lien securing a purchase money obligation or Capitalized Lease Obligation permitted to be incurred pursuant to this Agreement, if the contract or other agreement in which such Lien is granted (or the documentation providing for such purchase money obligation or Capitalized Lease Obligation) validly prohibits the creation of any other Lien on such Property, (h) any interest in partnerships, joint ventures and non-Wholly owned Subsidiaries which cannot be pledged without the consent of one or more third parties, (i)(x) any leasehold real property and (y) any fee-owned real property having an individual fair market value not exceeding $2,500,000; *provided* that the aggregate fair market value of all such fee-owned real property shall not exceed $5,000,000, (j) the Settlement Account, as such term is defined in the Clearing Agreement, and similar accounts pursuant to similar sponsorship, clearinghouse and/or settlement arrangements and all cash in such accounts, (k) any Letter-of-Credit Rights that are not Supporting Obligations (each as defined in the UCC) and (l) any direct proceeds, substitutions or replacements of any of the foregoing, but only to the extent such proceeds, substitutions or replacements would otherwise constitute Excluded Property.

*"Excluded Subsidiary"* means (a) any Subsidiary that is prohibited by any applicable law, regulation or contractual obligation from guaranteeing or providing collateral for the Obligations (only to the extent such prohibition is applicable and not rendered ineffective) or would require a governmental (including regulatory) consent, approval, license or authorization in order to provide such guarantee, (b) any Domestic Holding Company, (c) any Foreign Subsidiary and any direct or indirect Domestic Subsidiary of such Foreign Subsidiary, (d) any Subsidiary that is not a Material Subsidiary, (e) any special purpose entity used for securitization vehicles, (f) any captive insurance subsidiary, (g) any Subsidiary that is not a Wholly-owned Subsidiary, and (h) any other Subsidiary with respect to which the cost or other consequences (including any adverse tax consequences) of providing Collateral or guaranteeing the Obligations shall be excessive in view of the benefits to be obtained by the Lenders therefrom as reasonably determined by the Administrative Agent and the Borrower.

"*Existing Loan Agreement*" shall mean that certain Loan Agreement, among Fifth Third Processing Solutions, LLC, as borrower, the various lenders from time to time party thereto and



Fifth Third Bank as administrative agent, dated as of May 29, 2009 (as amended and restated by an Assignment, Assumption, Amendment and Restatement Agreement dated as of June 1, 2009, as further amended and restated by an Amendment and Restatement Agreement and Reaffirmation dated as of June 30, 2009, and as may have been further amended, restated, amended and restated or otherwise modified prior to the date hereof).

"*Existing NPC Credit Agreements*" shall mean the (i) Amended and Restated Credit Agreement, dated as of October 31, 2006 among National Processing Company Group, Inc., as a borrower, the financial institutions from time to time party thereto as lenders, Merrill Lynch Capital, a division of Merrill Lynch Business Financial Services Inc., as agent and first lien collateral agent and the other parties thereto and (ii) Amended and Restated Second Lien Credit Agreement, dated as of October 31, 2006 among National Processing Company Group, Inc., as a borrower, the financial institutions from time to time party thereto as lenders, Merrill Lynch Capital, a division of Merrill Lynch Business Financial Services Inc., as agent and second lien collateral agent and the other parties thereto (in each case, as amended, restated, amended and restated, or otherwise modified prior to the date hereof).

"*Existing Shareholders*" means Advent and its Affiliates and Fifth Third Bank and its Affiliates.

"*Facility*" means any of the Revolving Facility, the Term B-1 Facility and the Term B-2 Facility.

"*Federal Funds Rate*" means for any day, the rate per annum (expressed, as a decimal, rounded upwards, if necessary, to the next higher 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; *provided*, (i) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate quoted to the Administrative Agent on such day on such transactions as determined by the Administrative Agent.

"*Fifth Third Bank*" means Fifth Third Bank, an Ohio banking corporation.

"*Fifth Third Bancorp*" means Fifth Third Bancorp, an Ohio corporation.

"*Final Maturity Date*" means, at the time of the issuance of any Disqualified Equity Issuance, the latest maturity date then applicable to any Loan.

"*First-Tier Foreign Subsidiary*" means a Foreign Subsidiary, the Equity Interests of which are directly owned by the Borrower or a Domestic Subsidiary that is not a Subsidiary of a Foreign Subsidiary.

"*Foreign Subsidiary*" means each Subsidiary of the Borrower that is not a Domestic Subsidiary.

"*FTPS Headquarters*" means the property located at 8500-8550 Governor's Hill Drive, Cincinnati, Ohio 45249.



"*Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations*" means the liability of the Borrower or any of its Restricted Subsidiaries owing to (i) any entity that was a Lender or an Affiliate of a Lender at the time the relevant transaction was entered into, in the case of clauses (a), (b) or (c) or (ii) Fifth Third Bancorp, in the case of clause (d) below, arising out of (a) the execution or processing of electronic transfers of funds by automatic clearing house transfer, wire transfer or otherwise to or from the deposit accounts of the Borrower and/or any Restricted Subsidiary now or hereafter maintained, (b) the acceptance for deposit or the honoring for payment of any check, draft or other item with respect to any such deposit accounts, (c) any other deposit, disbursement, and Cash Management Services afforded to the Borrower or any such Restricted Subsidiary and (d) the Master Services Agreement between the Borrower and Fifth Third Bancorp, dated June 30, 2009, as amended, modified, supplemented or restated from time to time.

"*GAAP*" means generally accepted accounting principles in the United States of America, as in effect from time to time.

"*Governmental Authority*" means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to the United States government.

"*Growth Amount*" means, at any time an amount equal to, without duplication:

(a) the sum, without duplication, of:

(i) at any time when the pro forma Leverage Ratio is equal to or less than the then applicable financial covenant level set forth in Section 6.22, an amount, not less than zero, determined on a cumulative basis equal to the amount of Excess Cash Flow for each fiscal year ending after December 31, 2010 that is not required prior to such date to be applied as a mandatory prepayment under Section 2.8(c)(iii) ~~or Section 2.8(b)(iii) of the Second Lien Loan Agreement~~; plus

(ii) the Available Amount; minus

(b) the sum, without duplication, of:

(i) the aggregate amount of any investments, loans or advances made by the Borrower or any Restricted Subsidiary pursuant to Section 6.17(o) after the Closing Date and prior to such time;

(ii) the aggregate amount of any Distributions made by the Borrower pursuant to Section 6.18(f) after the Closing Date and prior to such time; and

(iii) the aggregate amount of any optional or voluntary payments, prepayments, repurchases, redemptions or defeasances made by the Borrower or any Restricted Subsidiary pursuant to Section 6.20(a) after the Closing Date and prior to such time.

"*GSLP Funds*" means collectively, GSLP I Offshore Holdings Fund A, L.P., GSLP I Offshore Holdings Fund B, L.P., GSLP Holdings Fund C, L.P. and GSLP Onshore Holdings Fund, L.L.C.



"*Guarantor*" is defined in Section 4.3 hereof.

"*Guaranty*" is defined in Section 4.3 hereof.

"*Hazardous Material*" means any (a) asbestos, polychlorinated biphenyls and petroleum (including crude oil or any fraction thereof) and (b) any substance, waste or material classified or regulated as "hazardous," "toxic," "contaminant" or "pollutant" or words of like import pursuant to an applicable Environmental Law.

"*Hedge Agreement*" means any interest rate, currency or commodity swap agreements, cap agreements, collar agreements, floor agreements, exchange agreements, forward contracts, option contracts or similar interest rate or currency or commodity hedging arrangements.

"*Hedging Liability*" means Hedging Obligations owing to any entity that was a Lender or an Affiliate of a Lender at the time the relevant Hedging Agreement was entered into.

"*Hedging Obligations*" means, with respect to any Person, the obligations of such Person under Hedge Agreements.

"*Holdco*" means FTPS Holding, LLC, a Delaware limited liability company.

"*Holdco LLC Agreement*" means the Limited Liability Company Agreement of Holdco, dated as of February 24, 2009, created by Fifth Third Bank, as amended and restated pursuant to that certain Amended and Restated Limited Liability Company Agreement by and among Advent - Kong Blocker Corp., a Delaware corporation, Fifth Third Bank, FTPS Partners, LLC, a Delaware limited liability company, Holdco and each other member of Holdco pursuant to the terms of such agreement, dated as of June 30, 2009.

"*Hostile Acquisition*" means the acquisition of the capital stock or other Equity Interests of a Person through a tender offer or similar solicitation of the owners of such capital stock or other Equity Interests which has not been approved (prior to such acquisition) by resolutions of the board of directors of such Person or by similar action if such Person is not a corporation, and, if such acquisition has been so approved, as to which such approval has been withdrawn.

"*Incremental Amendment*" is defined in Section 2.14(a) herein.

"*Incremental Facility*" is defined in Section 2.14(a) herein.

"*Indebtedness*" means for any Person (without duplication):

(a) all indebtedness of such Person for borrowed money, whether current or funded, or secured or unsecured,

(b) all indebtedness for the deferred purchase price of Property,

(c) all indebtedness secured by a purchase money mortgage or other Lien to secure all or part of the purchase price of Property subject to such mortgage or Lien,

(d) all obligations under leases which shall have been or must be, in accordance with GAAP, recorded as Capital Leases in respect of which such Person is liable as lessee,

(e) any liability in respect of banker's acceptances or letters of credit,



(f) any indebtedness, whether or not assumed, of the types described in clauses (a) through (c) above or clauses (g) and (h) below, secured by Liens on Property acquired by such Person at the time of acquisition thereof,

(g) all obligations under any so-called "synthetic lease" transaction entered into by such Person, and

(h) all Contingent Obligations in respect of indebtedness of the types described in clauses (a) through (g) hereof,

*provided*, that the term "Indebtedness" shall not include (i) trade payables arising in the ordinary course of business, (ii) any earn-out obligation until such obligations become a liability on the balance sheet of such Person in accordance with GAAP, (iii) prepaid or deferred revenue arising in the ordinary course of business, and (iv) purchase price holdbacks arising in the ordinary course of business in respect of a portion of the purchase price of an asset to satisfy warrants or other unperformed obligations of the seller of such asset.

"*Industry*" means the merchant acquirer and payment card processing industry in which the Target or any Subsidiary of the Target operates its business, including (1) electronic card and check processing and settlement, (2) merchant underwriting, boarding, setup and training, (3) bankcard association and industry data security standard validation and compliance, (4) point-of-sale equipment sale, leasing, deployment, software and support, (5) risk management, chargeback and dispute resolution services, (6) customer service and technical support and management, (7) delivery of ancillary payment products and solutions, (8) Independent Sales Organizations ("ISOs"), direct sale, alliance partners sales support and residual payment platforms, (9) related support and assistance (e.g., reporting, etc.).

"*Information*" has the meaning provided in Section 10.23.

"*Intellectual Property Security Agreements*" means any of the following agreements executed on the Closing Date: (a) a Trademark Security Agreement substantially in the form of Exhibit H-1, (b) a Patent Security Agreement substantially in the form of Exhibit H-2 or (c) a Copyright Security Agreement substantially in the form of Exhibit H-3.

~~"*Intercreditor Agreement*" means that Intercreditor Agreement, dated the date hereof, as the same may be amended, modified, restated, amended and restated or supplemented from time to time, among the Borrower, the Administrative Agent and Credit Suisse AG, Cayman Islands Branch as administrative agent under the Second Lien Loan Agreement, substantially in the form of Exhibit I.~~

"*Interest Expense*" means, with reference to any period, (a) the sum of all interest charges (including imputed interest charges with respect to Capitalized Lease Obligations) of the Borrower and its Restricted Subsidiaries payable in cash for such period determined on a consolidated basis in accordance with GAAP but excluding (i) any non-cash interest expense attributable to the movement in the mark to market valuation of Hedging Obligations or other derivative instruments pursuant to GAAP, amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses, and (ii) any expensing of bridge, commitment and other financing fees minus (b) interest income of the Borrower and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.



"*Interest Period*" means, with respect to Eurodollar Loans, the period commencing on the date a Borrowing of Eurodollar Loans is advanced, continued or created by conversion and ending 1, 2, 3, 6, or if available to all affected Lenders, 9 or 12 months thereafter; *provided*, *however,* that:

(i) whenever the last day of any Interest Period would otherwise be a day that is not a Business Day, the last day of such Interest Period shall be extended to the next succeeding Business Day, *provided* that, if such extension would cause the last day of an Interest Period for a Borrowing of Eurodollar Loans to occur in the following calendar month, the last day of such Interest Period shall be the immediately preceding Business Day; and

(ii) for purposes of determining an Interest Period for a Borrowing of Eurodollar Loans, a month means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month; *provided*, *however,* that if there is no numerically corresponding day in the month in which such an Interest Period is to end or if such an Interest Period begins on the last Business Day of a calendar month, then such Interest Period shall end on the last Business Day of the calendar month in which such Interest Period is to end.

"*Joint Lead Arrangers*" means Goldman Sachs Lending Partners LLC and J.P. Morgan Securities LLC.

"*L/C Backstop*" means, in respect of any Letter of Credit, (a) a letter of credit delivered to the L/C Issuer which may be drawn by the L/C Issuer to satisfy any obligations of the Borrower in respect of such Letter of Credit or (b) cash or Cash Equivalents deposited with the L/C Issuer to satisfy any obligation of the Borrower in respect of such Letter of Credit, in each case, in an amount not to exceed 100% of the undrawn face amount and any unpaid Reimbursement Obligations with respect to such Letter of Credit and on terms and pursuant to arrangements (including, if applicable, any appropriate reimbursement agreement) reasonably satisfactory to the respective L/C Issuer.

"*L/C Issuer*" means Fifth Third Bank.

"*L/C Obligations*" means the aggregate undrawn face amounts of all outstanding Letters of Credit and all unpaid Reimbursement Obligations.

"*L/C Sublimit*" means $40,000,000, as reduced pursuant to the terms hereof.

"*Lenders*" means the several banks and other financial institutions and other lenders from time to time party to this Agreement (excluding Prohibited Lenders), including each assignee Lender pursuant to Section 10.10 hereof.

"*Lending Office*" is defined in Section 8.6 hereof.

"*Letter of Credit*" is defined in Section 2.3(a) hereof.

"*Letter of Credit Usage*" means, as at any date of determination, the sum of (i) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding, and (ii) the aggregate amount of all drawings under Letters of Credit honored by the L/C Issuer and not theretofore reimbursed by or on behalf of Borrower.

"*Leverage Ratio*" means, as of the date of determination thereof, the ratio of Total Funded Debt of the Borrower and its Restricted Subsidiaries as of such date to Consolidated EBITDA for the period of four fiscal quarters then ended.

"*LIBOR*" shall mean, with respect to any Eurodollar Borrowing, the rate per annum determined by the Administrative Agent, at approximately 11:00 a.m. (London time) on the date which is two Business Days prior to the beginning of the relevant Interest Period (as specified in the applicable Borrowing Request) by reference to the British Bankers' Association Interest Settlement Rates for deposits in Dollars (as set forth by any service which has been nominated by the British Bankers' Association as an authorized information vendor for the purpose of displaying such rates) for a period equal to such Interest Period, *provided* that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provision of this definition, the "LIBOR" shall be the interest rate per annum, determined by the Administrative Agent to be the average of the rates per annum at which deposits in Dollars are offered for such relevant Interest Period to major banks in the London interbank market in London, England by the Administrative Agent at approximately 11:00 a.m. (London time) on the date which is two Business Days prior to the beginning of such Interest Period.

"*Lien*" means any deed of trust, mortgage, lien, security interest, pledge, charge or encumbrance in the nature of security in respect of any Property, including the interests of a vendor or lessor under any conditional sale, Capital Lease or other title retention arrangement.

"*Loan*" means any Revolving Loan, Term B Loan~~ or Swing Loan~~, Swing Loan, any loan issued under any Incremental Facility, or any loan issued pursuant to the final paragraph of Section 10.11(a) hereof.

"*Loan Documents*" means this Agreement, the Notes (if any), ~~the Intercreditor Agreement, ~~the Guaranty, and the Collateral Documents.

"*Loan Parties*" means the Borrower and each Guarantor.

"*Master Investment Agreement*" means the Master Investment Agreement dated March 27, 2009, among Fifth Third Bank, the Borrower, Holdco and Advent-Kong Blocker Corp., a Delaware corporation.

"*Material Adverse Effect*" means (a) a material adverse effect upon the business, assets, financial condition or results of operations of the Borrower and its Restricted Subsidiaries taken as a whole, or (b) a material adverse effect upon (i) the rights and remedies of the Administrative Agent and the Lenders under any Loan Document or (ii) the ability of the Borrower or any Guarantor to perform its payment obligations under any Loan Document.

"*Material Plan*" is defined in Section 7.1(h) hereof.

"*Material Indebtedness*" means Indebtedness (other than the Obligations), of any one or more of Holdco, the Borrower and the Restricted Subsidiaries in an aggregate principal amount exceeding $25,000,000.

"*Material Subsidiary*" shall mean and include (i) each Subsidiary that is a Domestic Subsidiary, except any Subsidiary that is a Domestic Subsidiary and does not have (together with its Subsidiaries) (a) at any time, consolidated total assets the book value of which constitutes more than 5% of the book value of the consolidated total assets of the Borrower and its Restricted



Subsidiaries at such time or (b) net income in accordance with GAAP for any four consecutive fiscal quarters of the Borrower ending on or after December 31, 2010, that constitute more than 5% of the consolidated net income in accordance with GAAP of the Borrower and its Restricted Subsidiaries during such period and (ii) each Domestic Subsidiary that the Borrower has designated to the Administrative Agent in writing as a Material Subsidiary.

"*Maximum Rate*" is defined in Section 10.18 hereof.

"*Merger Sub*" as defined in the preamble hereof.

"*MNPI*" is defined in Section 10.10(h).

"*Moody's*" means Moody's Investors Service, Inc.

"*Net Cash Proceeds*" means, with respect to any mandatory prepayment event pursuant to Section 2.8(c), (a) the gross cash and cash equivalent proceeds (including payments from time to time in respect of installment obligations, if applicable) received by or on behalf of the Borrower or any of its Restricted Subsidiaries in respect of such prepayment event or issuance, as the case may be, less (b) the sum of:

(i) the Borrower's good faith estimate of taxes paid or payable in connection with any such prepayment event,

(ii) the amount of any reasonable reserve established in accordance with GAAP against any liabilities (other than any taxes deducted pursuant to clause (i) above) (x) associated with the assets that are the subject of such prepayment event and (y) retained by the Borrower (or any of its members or direct or indirect parents) or any of the Restricted Subsidiaries, including, with respect to Net Cash Proceeds from a Disposition, liabilities under any indemnification obligations or purchase price adjustment associated with such Disposition and other liabilities associated with the asset disposed of and retained by the Borrower or any of its Restricted Subsidiaries after such Disposition, including pension and other post-employment benefit liabilities and liabilities related to environmental matters; *provided* that the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such a prepayment event occurring on the date of such reduction,

(iii) the amount of any Indebtedness secured by a Lien permitted hereunder on the assets that are the subject of such prepayment event that is repaid upon consummation of such prepayment event, and

(iv) reasonable and customary costs and fees payable in connection therewith.

"*Non-Cash Charges*" means (a) any impairment charge or asset write-off or write-down related to intangible assets (including goodwill), long-lived assets, and investments in debt and equity securities pursuant to GAAP, (b) all non-cash losses from investments recorded using the equity method, (c) all Non-Cash Compensation Expenses, (d) the non-cash impact of purchase accounting, and (e) all other non-cash charges (*provided*, in each case, that if any non-cash charges represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period).



"*Non-Cash Compensation Expense*" means any non-cash expenses and costs that result from the issuance of stock-based awards, limited liability company or partnership interest-based awards and similar incentive-based compensation awards or arrangements.

"*Non-Consenting Lender*" as defined in Section 10.11(b).

"*Non-Debt Fund Affiliate*" means any Affiliate of Holdco (including without limitation, Fifth Third Bank) other than (a) any Subsidiary of Holdco, (b) any Debt Fund Affiliate and (c) any natural person.

"*Note*" and "*Notes*" means and includes the Revolving Notes, the Term B-1 Notes ~~and~~, the Term B-2 Notes, the Swing Note and any other promissory note evidencing the Loans.

"*Notice of Intent to Cure*" is defined in Section 7.6 hereof.

"*NPC Acquisition*" as defined in the preamble hereto.

"*Obligations*" means all obligations of the Borrower to pay principal and interest on the Loans, all Reimbursement Obligations owing under the Applications, all fees and charges payable hereunder, and all other payment obligations of the Borrower or any of its Restricted Subsidiaries arising under or in relation to any Loan Document, in each case whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired.

"*OID*" is defined in Section 2.14(a) hereof.

"*Participant*" is defined in Section 10.10(d) hereof.

"*Participating Interest*" is defined in Section 2.3(d) hereof.

"*Participating Lender*" is defined in Section 2.3(d) hereof.

"*Patriot Act*" is defined in Section 5.21(b) hereof.

"*PBGC*" means the Pension Benefit Guaranty Corporation or any Person succeeding to any or all of its functions under ERISA.

"*Percentage*" means for any Lender its Revolver Percentage, Term B-1 Loan Percentage or Term B-2 Loan Percentage, as applicable; and where the term "Percentage" is applied on an aggregate basis, such aggregate percentage shall be calculated by aggregating the separate components of the Revolver Percentage, Term B-1 Loan Percentage and Term B-2 Loan Percentage, and expressing such components on a single percentage basis.

"*Permitted Acquisition*" means any Acquisition with respect to which all of the following conditions shall have been satisfied:

(a) after giving effect to the Acquisition, the Borrower is in compliance with Section 6.13 hereof;

(b) the Acquisition is not a Hostile Acquisition;



(c) the Total Consideration for any acquired business that does not become a Guarantor (or the assets of which are not acquired by the Borrower or a Guarantor), when taken together with the Total Consideration for all such acquired businesses acquired after the Closing Date, does not exceed (i) $100,000,000 plus (ii) the Available Amount at such time;

(d) if a new Subsidiary (other than an Excluded Subsidiary) is formed or acquired as a result of or in connection with the Acquisition, the Borrower shall have complied with the requirements of Section 4 hereof in connection therewith; and

(e) immediately prior to, and after giving effect to the Acquisition, (i) no Default or Event of Default shall exist and (ii) the Borrower and its Restricted Subsidiaries shall be in compliance, on a Pro Forma Basis, with the covenants set forth in Section 6.22 recomputed as of the last day of the most recently completed period.

"*Permitted Investors*" shall mean (a) the Existing Shareholders, their respective limited partners and any Person making an investment in any direct or indirect parent of the Borrower or its Subsidiaries concurrently with the Existing Shareholders and (b) the members of management of any direct or indirect parent of the Borrower and its Subsidiaries who are investors, directly or indirectly, in the Borrower (collectively, the "*Management Investors*").

"*Permitted Lien*" is defined in Section 6.15 hereof.

"*Person*" means any natural person, partnership, corporation, limited liability company, association, trust, unincorporated organization or any other entity or organization, including a government or agency or political subdivision thereof.

"*Plan*" means any "employee pension benefit plan covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code that either (a) is maintained by a member of the Controlled Group (including the Borrower) for current or former employees of a member of the Controlled Group (including the Borrower) or (b) is maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group (including the Borrower) is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions or under which a member of the Controlled Group (including the Borrower) is reasonably expected to incur liability.

"*Post-Acquisition Period*" means, with respect to any Specified Transaction, the period beginning on the date such Specified Transaction is consummated and ending on the last day of the fourth full consecutive fiscal quarter immediately following the date on which such Specified Transaction is consummated.

"*Prime Rate*" means the rate of interest quoted in the print edition of *The Wall Street Journal*, Money Rates Section as the Prime Rate (currently defined as the base rate on corporate loans posted by at least 75% of the nation's thirty (30) largest banks), as in effect from time to time. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. The Administrative Agent or any other Lender may make commercial loans or other loans at rates of interest at, above or below the Prime Rate.

"*Pro Forma Adjustment*" means, for any period that includes all or any part of a fiscal quarter included in any Post-Acquisition Period, the pro forma increase or decrease in Consolidated EBITDA pursuant to a Pro Forma Adjustment Certificate of the Borrower, which pro forma



increase or decrease shall be based on the Borrower's good faith projections and reasonable assumptions as a result of (a) actions taken, prior to or during such Post-Acquisition Period, for the purposes of realizing reasonably identifiable and factually supportable cost savings, or (b) any additional costs incurred prior to or during such Post-Acquisition Period to effect operating expense reductions and other operating improvements or synergies reasonably expected to result from a Specified Transaction; *provided* that (A) so long as such actions are taken prior to or during such Post-Acquisition Period or such costs are incurred prior to or during such Post-Acquisition Period it may be assumed, for purposes of projecting such pro forma increase or decrease to Consolidated EBITDA, that such cost savings will be realizable during the entirety of such period, or such additional costs will be incurred during the entirety of such period, and (B) any such pro forma increase or decrease to Consolidated EBITDA shall be without duplication for cost savings or additional costs already included in Consolidated EBITDA for such period. Notwithstanding the foregoing, any Pro Forma Adjustment shall not exceed 7.5% of Consolidated EBITDA for any period.

"*Pro Forma Adjustment Certificate*" means any certificate by the chief financial officer of the Borrower or any other officer of the Borrower reasonably acceptable to the Administrative Agent delivered pursuant to Section 6.1(h).

"*Pro Forma Basis,*" "*Pro Forma Compliance*" and "*Pro Forma Effect*" means, with respect to compliance with any test or covenant hereunder, that (A) to the extent applicable, the Pro Forma Adjustment shall have been made and (B) all Specified Transactions and the following transactions in connection therewith shall be deemed to have occurred as of the first day of the applicable period of measurement in such test or covenant: (a) income statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction, (i) in the case of a sale, transfer or other disposition of all or substantially all capital stock in any Subsidiary of the Borrower or any division or product line of the Borrower or any of its Subsidiaries, shall be excluded, and (ii) in the case of a Permitted Acquisition or investment described in the definition of the term "Specified Transaction", shall be included, (b) any retirement or repayment of Indebtedness and (c) any Indebtedness incurred by the Borrower or any of its Subsidiaries in connection therewith and if such indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness at the relevant date of determination; *provided* that, without limiting the application of the Pro Forma Adjustment pursuant to (A) above (but without duplication thereof or in addition thereto), the foregoing pro forma adjustments may be applied to any such test or covenant solely to the extent that such adjustments are consistent with the definition of Consolidated EBITDA and give effect to events (including operating expense reductions) that are (i) (x) directly attributable to such transaction, (y) expected to have a continuing impact on the Borrower and its Subsidiaries and (z) factually supportable or (ii) otherwise consistent with the definition of the term "Pro Forma Adjustment".

"*Pro Forma Financial Statements*" is defined in Section 5.1(c) hereof.

"*Prohibited Lender*" means any natural person or any Person identified as a "disqualified institution" by the Borrower to the Joint Lead Arrangers on or prior to September 15, 2010.

"*Property*" means, as to any Person, all types of real, personal, tangible, intangible or mixed property owned by such Person whether or not included in the most recent balance sheet of such Person and its Subsidiaries under GAAP.



"*Qualified Public Offering*" shall mean the issuance by the Borrower or any direct or indirect parent of the Borrower of its common Equity Interests in an underwritten primary public offering (other than a public offering pursuant to a registration statement on Form S-8) pursuant to an effective registration statement filed with the U.S. Securities and Exchange Commission in accordance with the Securities Act of 1933, as amended.

"*Quarterly Distributions*" has the meaning assigned to such term in the Holdco LLC Agreement.

"*RCRA*" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§6901 *et seq.*, and any future amendments.

“*Refinancing*” shall mean the refinancing of that certain Existing Loan Agreement and the Existing NPC Credit Agreements.

“*Refinancing Indebtedness*” shall have the meaning assigned to such term under Section 6.14(~~t~~s) hereof.

“*Register*” is defined in Section 10.10(c) hereof.

“*Regulatory Event*” means, with respect to any Lender, that (i) the Federal Deposit Insurance Corporation or any other Governmental Authority is appointed as conservator or Receiver for such Lender; (ii) such Lender is considered in “troubled condition” for the purposes of 12 U.S.C. § 1831i or any regulation promulgated thereunder; (iii) such Lender qualifies as “Undercapitalized,” “Significantly Undercapitalized,” or “Critically Undercapitalized” as those terms are defined in 12 C.F.R. § 208.43; or (iv) such Lender becomes subject to any formal or informal regulatory action requiring the Lender to materially improve its capital, liquidity or safety and soundness.

“*Reimbursement Obligations*” is defined in Section 2.3(c) hereof.

“*Rejecting Lender*” as defined in Section 2.8(c)(v) hereof.

“*Related Parties*” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees and agents of such Person and of such Person’s Affiliates.

“*Release*” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or migration into the environment.

“*Reportable Event*” means any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty day notice period is waived under subsections .27, .28, .29, .30, .31, .32, .34 or .35 of PBGC Regulation Section 4043.

“*Repricing Transaction*” shall mean the prepayment, refinancing, substitution or replacement of all or a portion of the Term B-1 Loans or Term B-2 Loans with the incurrence by the Borrower or any Subsidiary of any debt financing having an effective interest cost or weighted average yield (with the comparative determinations to be made by the Administrative Agent consistent with generally accepted financial practices, after giving effect to, among other factors, margin, interest rate floors, upfront or similar fees or original issue discount shared with all providers of such financing, but excluding the effect of any arrangement, structuring, syndication



or other fees payable in connection therewith that are not shared with all providers of such financing, and without taking into account any fluctuations in LIBOR) that is less than the effective interest cost or weighted average yield (as determined by the Administrative Agent on the same basis) of such Term B-1 Loans or Term B-2 Loans, respectively, including without limitation, as may be effected through any amendment to this Agreement relating to the interest rate for, or weighted average yield of, such Term B-1 Loans or Term B-2 Loans, respectively, but excluding any Indebtedness incurred in connection with a Change of Control.

“*Required Lenders*” means, as of the date of determination thereof, Lenders whose outstanding Loans and interests in Letters of Credit and Unused Revolving Credit Commitments constitute more than 50% of the sum of the total outstanding Loans, interests in Letters of Credit and Unused Revolving Credit Commitments; *provided* that, the Revolving Credit Commitment of, and the portion of the outstanding Loans, interests in Letters of Credit and Unused Revolving Credit Commitments held or deemed held by, any Defaulting Lender shall, so long as such Lender is a Defaulting Lender, be excluded for purposes of making a determination of Required Lenders.

“*Reserve Percentage*” means, for any Borrowing of Eurodollar Loans, the daily average for the applicable Interest Period of the maximum rate, expressed as a decimal, at which reserves (including, without limitation, any supplemental, marginal, and emergency reserves) are imposed during such Interest Period by the Board of Governors of the Federal Reserve System (or any successor) on “eurocurrency liabilities,” as defined in such Board’s Regulation D (or in respect of any other category of liabilities that includes deposits by reference to which the interest rate on Eurodollar Loans is determined or any category of extensions of credit or other assets that include loans by non-United States offices of any Lender to United States residents), subject to any amendments of such reserve requirement by such Board or its successor, taking into account any transitional adjustments thereto. For purposes of this definition, the Eurodollar Loans shall be deemed to be “eurocurrency liabilities” as defined in Regulation D without benefit or credit for any prorations, exemptions or offsets under Regulation D.

“*Restricted Subsidiary*” means any Subsidiary other than an Unrestricted Subsidiary.

“*Revolver Percentage*” means, for each Lender, the percentage of the aggregate Revolving Credit Commitments represented by such Lender’s Revolving Credit Commitment or, if the Revolving Credit Commitments have been terminated, the percentage held by such Lender (including through participation interests in Reimbursement Obligations) of the aggregate principal amount of all Revolving Loans and L/C Obligations then outstanding.

“*Revolving Credit Commitment*” means, as to any Lender, the obligation of such Lender to make Revolving Loans and to participate in Swing Loans and Letters of Credit issued for the account of the Borrower hereunder in an aggregate principal or face amount at any one time outstanding not to exceed the amount set forth opposite such Lender’s name on Schedule 1 attached hereto and made a part hereof, as the same may be reduced, increased or otherwise modified at any time or from time to time pursuant to the terms hereof. The Borrower and the Lenders acknowledge and agree that the Revolving Credit Commitments of the Lenders aggregate $150,000,000 on the date hereof.

“*Revolving Credit Commitment Increase*” is defined in Section 2.14(a) hereof.

“*Revolving Credit Termination Date*” means November 3, 2015 or such earlier date on which the Revolving Credit Commitments are terminated in whole pursuant to Sections 2.10, 7.2 or 7.3 hereof.

"*Revolving Exposure*" means, with respect to any Lender as of any date of determination, (i) prior to the termination of the Revolving Credit Commitments, that Lender's Revolving Credit Commitment; and (ii) after the termination of the Revolving Credit Commitments, the sum of (a) the aggregate outstanding principal amount of the Revolving Loans of that Lender, (b) in the case of L/C Issuer, the aggregate Letter of Credit Usage in respect of all Letters of Credit issued by that Lender (net of any participations by Lenders in such Letters of Credit), (c) the aggregate amount of all participations by that Lender in any outstanding Letters of Credit or any unreimbursed drawing under any Letter of Credit, (d) in the case of the Swing Line Lender, the aggregate outstanding principal amount of all Swing Loans (net of any participations therein by other Lenders), and (e) the aggregate amount of all participations therein by that Lender in any outstanding Swing Loans.

"*Revolving Facility*" means the credit facility for making Revolving Loans and Swing Loans and issuing Letters of Credit described in Sections 2.2, 2.3 and 2.11 hereof.

"*Revolving Loan*" is defined in Section 2.2 hereof and, as so defined, includes a Base Rate Loan or a Eurodollar Loan, each of which is a "type" of Revolving Loan hereunder.

"*Revolving Note*" is defined in Section 2.12(d) hereof.

"*S&P*" means Standard & Poor's Financial Services LLC.

"*Second ~~Lien Loan~~Amendment*" means the Second Amendment to the Agreement~~" shall mean that Second Lien Loan Agreement, dated the date hereof,~~, dated as of May 17, 2011, among the Borrower, the Lenders, and the Administrative Agent.

"*Second Amendment Effective Date*" means the date on which the conditions precedent set forth in Section 5(a) of the Second Amendment shall have been satisfied or waived.

"*Second Lien Loan Agreement*" means the Second Lien Loan Agreement, dated as of November 3, 2010, as the same may be amended, restated, amended and restated or supplemented from time to time~~ in accordance with this Agreement and the Intercreditor Agreement~~, among the Borrower, Credit Suisse AG, Cayman Islands Branch as administrative agent and the other parties thereto.

~~"*Second Lien Loan Documents*" means the "Loan Documents" as defined in the Second Lien Loan Agreement.~~

~~"*Second Lien Loans*" means the "Term Loans" as defined in the Second Lien Loan Agreement.~~

"*Secured Parties*" has the meaning assigned to that term in the Security Agreement.

"*Security Agreement*" means that certain Security Agreement, substantially in the form of Exhibit J, dated the date hereof by and between the Loan Parties party thereto and the Collateral Agent, as the same may be amended, modified, supplemented, restated or amended and restated from time to time.

"*Solvency Certificate*" means the Solvency Certificate delivered pursuant to Section 3.2(a)(vii) hereof, substantially in the form of Exhibit E to this Agreement.



"*Specified Transaction*" means, with respect to any period, (a) the Transactions, (b) any incurrence or repayment of Indebtedness, (c) any Permitted Acquisition or the making of other investment pursuant to which all or substantially all of the assets or stock of a Person (or any line of business or division thereof) are acquired, (d) the disposition of all or substantially all of the assets or stock of a Subsidiary (or any line of business or division thereof) or (e) other event that by the terms of the Loan Documents requires Pro Forma Compliance with a test or covenant hereunder or requires such test or covenant to be calculated on a Pro Forma Basis.

"*Stand Alone Costs*" means all costs and expenses incurred by the Borrower or any of its Restricted Subsidiaries (except to the extent not reflected as a deduction in arriving at Consolidated Net Income) related to the transition of the Business to a stand alone company, including the cost of establishing separate systems and infrastructure and other carve-out related costs.

"*Subsidiary*" means, as to any particular parent corporation or organization, any other corporation or organization more than 50% of the outstanding Voting Stock of which is at the time directly or indirectly owned by such parent corporation or organization or by any one or more other entities which are themselves subsidiaries of such parent corporation or organization. Unless otherwise expressly noted herein, the term "Subsidiary" means a Subsidiary of the Borrower or of any of its direct or indirect Subsidiaries.

"*Swing Line*" means the credit facility for making one or more Swing Loans described in Section 2.11 hereof.

"*Swing Line Lender*" means Fifth Third Bank.

"*Swing Line Sublimit*" means $50,000,000, as reduced pursuant to the terms hereof.

"*Swing Loan*" and "*Swing Loans*" each is defined in Section 2.11(a) hereof.

"*Swing Note*" is defined in Section 2.12(d) hereof.

"*Syndication Period*" shall mean the period from September 15, 2010 until the earlier to occur of (a) the date that is 60 days after the Closing Date or (b) the date that a successful syndication has been completed.

"*Target*" as defined in the preamble hereof.

"*Term B Facility*" means the credit facility for the Term B Loans described in Section 2.1 hereof.

"*Term B Lender*" means, collectively, the Term B-1 Lenders and the Term B-2 Lenders.

"*Term B Loans*" means, the collective reference to the Term B-1 Loans and the Term B-2 Loans, unless the context otherwise requires.

"*Term B-1 Facility*" means the credit facility for the Term B-1 Loans described in Section 2.1 hereof.

"*Term B-1 Lender*" means any Lender holding all or a portion of the Term B-1 Facility.

"*Term B-1 Loan*" *is defined in Section 2.1 hereof.*



"*Term B-1 Loan Commitment*" means, as to any Lender, the obligation of such Lender to make Term B Loans hereunder -1 Loans hereunder (or its obligation under the Second Amendment to continue its outstanding "Existing Term B Loans" as "Continued Term B-1 Loans" (as such terms are defined in the Second Amendment)) in an aggregate principal amount not to exceed the amount set forth opposite such Lender's name on Schedule 1 attached hereto and made a part hereof, as the same may be reduced pursuant to Section 2.10. The Borrower and the Lenders acknowledge and agree that the Term B-1 Loan Commitments of the Lenders aggregate $1,575,000,000.1,621,062,500.

"*Term B-1 Loan Exposure*" means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Term B-1 Loans of such Lender; *provided*, at any time prior to the making of the Term B-1 Loans, the Term B-1 Loan Exposure of any Lender shall be equal to such Lender's Term B-1 Loan Commitment.

"*Term B-1 Loan Percentage*" means, for any Lender, the percentage held by such Lender of the aggregate principal amount of all Term B-1 Loans then outstanding.

"*Term B-1 Note*" is defined in Section 2.12(d) hereof.

"*Term B-1 Termination Date*" is defined in Section 2.7(a) hereof.

"*Term B-2 Facility*" means the credit facility for the Term B-2 Loans described in Section 2.1 hereof.

"*Term B-2 Lender*" means any Lender holding all or a portion of the Term B-2 Facility.

"*Term B-2 Loan*" is defined in Section 2.1 hereof.

"*Term B-2 Loan Commitment*" means, as to any Lender, the obligation of such Lender to make Term B-2 Loans hereunder (or its obligation under the Second Amendment to continue its outstanding "Existing Term B Loans" as "Continued Term B-2 Loans" (as such terms are defined in the Second Amendment)) in an aggregate principal amount not to exceed the amount set forth opposite such Lender's name on Schedule 1 attached hereto and made a part hereof, as the same may be reduced pursuant to Section 2.10. The Borrower and the Lenders acknowledge and agree that the Term B-2 Loan Commitments of the Lenders aggregate $150,000,000.

"*Term B-2 Loan Exposure*" means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Term B-2 Loans of such Lender; *provided*, at any time prior to the making of the Term B-2 Loans, the Term B-2 Loan Exposure of any Lender shall be equal to such Lender's Term B-2 Loan Commitment.

"*Term B-2 Loan Percentage*" means, for any Lender, the percentage held by such Lender of the aggregate principal amount of all Term B-2 Loans then outstanding.

"*Term B-2 Note*" is defined in Section 2.12(d) hereof.

"*Term B-2 Termination Date*" is defined in Section 2.7(b) hereof.

"*Term Commitment Increase*" is defined in Section 2.14(a) hereof,.



"*Term Loan Funding Date*" means the date on which the conditions precedent set forth in Section 5(b) of the Second Amendment shall have been satisfied or waived.

"*Total Consideration*" means the total amount (but without duplication) of (a) cash paid in connection with any Acquisition, plus (b) Indebtedness for borrowed money payable to the seller in connection with such Acquisition, plus (c) the fair market value of any equity securities, including any warrants or options therefor, delivered to the seller in connection with any Acquisition, plus (d) the amount of Indebtedness assumed in connection with any Acquisition.

"*Total Funded Debt*" means, at any time the same is to be determined, (a) the aggregate of all Indebtedness under clauses (a), (c), (d) and (e) (to the extent, in the case of clause (e), that such obligations are funded obligations) of such definition of the Borrower and its Restricted Subsidiaries as determined on a consolidated basis in accordance with GAAP, minus (b) the amount of unrestricted cash and Cash Equivalents held by the Borrower and its Restricted Subsidiaries and cash and Cash Equivalents restricted in favor of the Administrative Agent, or the Collateral

Agent~~ or the Administrative Agent or Collateral Agent under the Second Lien Loan Agreement~~; *provided* that in making a calculation of Total Funded Debt, the amount of Revolving Loans and/or Swing Loans included therein shall be deemed to be the sum of the outstanding balance of Revolving Loans and Swing Loans outstanding on each day of the period ending on the date of determination divided by the number of days in such period; *provided further* that, to the extent any Cure Amount is included in the calculation of Consolidated EBITDA for any period, then such Cure Amount shall be excluded from clause (b) above.

"*Transaction Expenses*" means any fees, costs or expenses incurred or paid by the Borrower or any of its Restricted Subsidiaries in connection with the Transactions.

"*Transactions*" means, collectively, (a) the transactions contemplated by this Agreement and the other Loan Documents, (b) the ~~funding of the Second Lien Loans and the other transactions contemplated by the Second Lien Loan Agreement and the other Second Lien Loan Documents, (c) the~~ consummation of the NPC Acquisition, (~~d~~c) the Refinancing and (~~e~~d) the payment of the Transaction Expenses.

"*UCC*" means the Uniform Commercial Code as in effect from time to time (except as otherwise specified) in any applicable state or jurisdiction.

"*Unfunded Vested Liabilities*" means, for any Plan at any time, the amount (if any) by which the present value of all vested nonforfeitable accrued benefits under such Plan exceeds the fair market value of all Plan assets allocable to such benefits, all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of a member of the Controlled Group to the PBGC or the Plan under Title IV of ERISA.

"*Unrestricted Subsidiary*" means (a) any Subsidiary designated by the Borrower as an Unrestricted Subsidiary pursuant to Section 6.9 subsequent to the Closing Date and (b) any Subsidiary of an Unrestricted Subsidiary.

"*Unused Revolving Credit Commitments*" means, at any time, the difference between the Revolving Credit Commitments then in effect and the aggregate outstanding principal amount of Revolving Loans and L/C Obligations; *provided* that Swing Loans outstanding from time to time shall not be deemed to reduce the Unused Revolving Credit Commitment of the Lenders for purposes of computing the Commitment Fee under Section 2.13(a) hereof.



"*Voting Stock*" of any Person means capital stock or other Equity Interests of any class or classes (however designated) having ordinary power for the election of directors or other similar governing body of such Person (including, without limitation, general partners of a partnership), other than stock or other Equity Interests having such power only by reason of the happening of a contingency.

"*Weighted Average Life to Maturity*" means, when applied to any Indebtedness at any date, the quotient obtained by dividing:

(a) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Indebtedness multiplied by the amount of such payment; by

(b) the sum of all such payments.

"*Welfare Plan*" means a "welfare plan" as defined in Section 3(1) of ERISA.

"*Wholly-owned Subsidiary*" means, at any time, any Subsidiary of which all of the issued and outstanding shares of capital stock (other than directors' qualifying shares and shares held by a resident of the jurisdiction, in each case, as required by law) or other Equity Interests are owned by any one or more of the Borrower and the Borrower's other Wholly-owned Subsidiaries at such time.

Section 1.2. *Interpretation*. The foregoing definitions are equally applicable to both the singular and plural forms of the terms defined. The words "hereof," "herein," and "hereunder" and words of like import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All references to time of day herein are references to New York City, New York time unless otherwise specifically provided. Where the character or amount of any asset or liability or item of income or expense is required to be determined or any consolidation or other accounting computation is required to be made for the purposes of this Agreement, it shall be done in accordance with GAAP, except as otherwise provided herein in the definition of "Capital Lease". All terms that are used in this Agreement which are defined in the UCC of the State of New York shall have the same meanings herein as such terms are defined in the New York UCC, unless this Agreement shall otherwise specifically provide.

Section 1.3. *Change in Accounting Principles*. If, after the date of this Agreement, there shall occur any change in GAAP from those used in the preparation of the financial statements referred to in Section 6.1 hereof and such change shall result in a change in the method of calculation of any financial covenant, standard or term found in this Agreement, either the Borrower or the Required Lenders may by notice to the Lenders and the Borrower, respectively, require that the Lenders and the Borrower negotiate in good faith to amend such covenants, standards, and term so as equitably to reflect such change in accounting principles, with the desired result being that the criteria for evaluating the financial condition of the Borrower and its Restricted Subsidiaries shall be the same as if such change had not been made. No delay by the Borrower or the Required Lenders in requiring such negotiation shall limit their right to so require such a negotiation at any time after such a change in accounting principles. Until any such covenant, standard, or term is amended in accordance with this Section 1.3, financial covenants (and all related defined terms) shall be computed and determined in accordance with GAAP in effect prior to such change in accounting principles. Without limiting the generality of the foregoing, the Borrower shall neither be deemed to be in compliance with any covenant hereunder nor out of compliance with any covenant hereunder if such state of compliance or noncompliance, as the case may be, would not exist but for the occurrence of a change in accounting principles after the date hereof.



SECTION 2. THE LOAN FACILITIES.

Section 2.1. *The Term B Loans.*

(a) ~~.~~Subject to the terms and conditions set forth ~~herein~~in the Second Amendment, each Term B-1 Lender agrees, severally and not jointly, to make, continue or convert a term loan (each individually a *"Term B-1 Loan"* and, collectively, the *"Term B-1 Loans"*) in Dollars to the Borrower on the ~~Closing~~Term Loan Funding Date in a principal amount not to exceed such Term B-1 Lender's Term B-1 Loan Commitment.

(b) Subject to the terms and conditions set forth in the Second Amendment, each Term B-2 Lender agrees, severally and not jointly, to make, continue or convert a term loan (each individually a *"Term B-2 Loan"* and, collectively, the *"Term B-2 Loans"*) in Dollars to the Borrower on the Term Loan Funding Date in a principal amount not to exceed such Term B-2 Lender's Term B-2 Loan Commitment.

Section 2.2. *Revolving Credit Commitments.* Prior to the Revolving Credit Termination Date, each Lender severally and not jointly agrees, subject to the terms and conditions hereof, to make revolving loans (each individually a "*Revolving Loan*" and, collectively, the *"Revolving Loans"*) in Dollars to the Borrower from time to time up to the amount of such Lender's Revolving Credit Commitment in effect at such time; *provided, however,* the sum of the aggregate principal amount of Revolving Loans, Swing Loans and L/C Obligations at any time outstanding shall not exceed the sum of the total Revolving Credit Commitments in effect at such time. Each Borrowing of Revolving Loans shall be made ratably by the Lenders in proportion to their respective Revolver Percentages. As provided in Section 2.5(a), and subject to the terms hereof, the Borrower may elect that each Borrowing of Revolving Loans be either Base Rate Loans or Eurodollar Loans. Revolving Loans may be repaid and reborrowed before the Revolving Credit Termination Date, subject to the terms and conditions hereof. Subject to Section 5.7, no more than $50,000,000 of the Revolving Credit Commitments shall be available for borrowings on the Closing Date.

Section 2.3. *Letters of Credit.*

(a) *General Terms.* Subject to the terms and conditions hereof, as part of the Revolving Facility, the L/C Issuer shall issue standby letters of credit (each a *"Letter of Credit"*) for the Borrower's and its Subsidiaries' account in an aggregate undrawn face amount up to the L/C Sublimit; *provided, however,* the sum of the Revolving Loans, Swing Loans and L/C Obligations at any time outstanding shall not exceed the sum of all Revolving Credit Commitments in effect at such time. Each Lender shall be obligated to reimburse the L/C Issuer for such Lender's Revolver Percentage of the amount of each drawing under a Letter of Credit and, accordingly, each Letter of Credit shall constitute usage of the Revolving Credit Commitment of each Lender pro rata in an amount equal to its Revolver Percentage of the L/C Obligations then outstanding.

(b) *Applications.* At any time before the Revolving Credit Termination Date, the L/C Issuer shall, at the request of the Borrower, issue one or more Letters of Credit in Dollars, in form and substance acceptable to the L/C Issuer, with expiration dates no later than the earlier of (i) 12 months from the date of issuance (or which are cancelable not later than 12 months from the date of issuance and each renewal) or (ii) five days prior to the Revolving Credit Termination Date, in an aggregate face amount as requested by the Borrower subject to the limitations set forth in paragraph (a) of this Section 2.3, upon the receipt of a duly executed application for the relevant Letter of Credit in the form then customarily prescribed by the L/C Issuer for the Letter of Credit requested (each an *"Application"*); *provided* that any Letter of Credit with a 12-month tenor may provide for the renewal thereof for additional 12-month periods (which shall in no event extend beyond the date referred to in clause (ii) above). Notwithstanding anything contained in any Application to the contrary: (i) the Borrower shall pay fees in connection with each Letter of Credit as



set forth in Section 2.13(b) hereof, and (ii) if the L/C Issuer is not timely reimbursed for the amount of any drawing under a Letter of Credit as required pursuant to paragraph (c) of this Section 2.3, the Borrower's obligation to reimburse the L/C Issuer for the amount of such drawing shall bear interest (which the Borrower hereby promises to pay) from and after the date such drawing is paid to but excluding the date of reimbursement by the Borrower at a rate per annum equal to the sum of 2.0% plus the Applicable Margin plus the Base Rate from time to time in effect (computed on the basis of a year of 365 or 366 days, as the case may be, and the actual number of days elapsed). Without limiting the foregoing, the L/C Issuer's obligation to issue a Letter of Credit or increase the amount of a Letter of Credit is subject to the terms or conditions of this Agreement (including the conditions set forth in Section 3.1 and the other terms of this Section 2.3).

(c) *The Reimbursement Obligations.* Subject to Section 2.3(b) hereof, the obligation of the Borrower to reimburse the L/C Issuer for all drawings under a Letter of Credit (a *"Reimbursement Obligation"*) shall be governed by the Application related to such Letter of Credit and this Agreement, except that reimbursement shall be paid by no later than 2:00 p.m. (New York City time) on the date which each drawing is to be paid if the Borrower has been informed of such drawing by the L/C Issuer on or before 11:30 a.m. (New York City time) on the date when such drawing is to be paid or, if notice of such drawing is given to the Borrower after 11:30 a.m. (New York City time) reimbursement shall be made on the next Business Day following the date when such drawing is to be paid, by the end of such day, in all instances in immediately available funds at the Administrative Agent's principal office in New York, New York or such other office as the Administrative Agent may designate in writing to the Borrower, and the Administrative Agent shall thereafter cause to be distributed to the L/C Issuer such amount(s) in like funds. If the Borrower does not make any such reimbursement payment on the date due and the Participating Lenders fund their participations in the manner set forth in Section 2.3(d) below, then all payments thereafter received by the Administrative Agent in discharge of any of the relevant Reimbursement Obligations shall be distributed in accordance with Section 2.3(d) below. In addition, for the benefit of the Administrative Agent, the L/C Issuer and each Lender, the Borrower agrees that, notwithstanding any provision of any Application, its obligations under this Section 2.3(c) and each Application shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement and the Applications, under all circumstances whatsoever, and irrespective of any claim or defense that the Borrower may otherwise have against the Administrative Agent, the L/C Issuer or any Lender, including without limitation (i) any lack of validity or enforceability of any Loan Document; (ii) any amendment or waiver of or any consent to departure from all or any of the provisions of any Loan Document; (iii) the existence of any claim of set-off the Borrower may have at any time against a beneficiary of a Letter of Credit (or any Person for whom a beneficiary may be acting), the Administrative Agent, the L/C Issuer, any Lender or any other Person, whether in connection with this Agreement, another Loan Document, the transaction related to the Loan Document or any unrelated transaction; (iv) any statement or any other document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; (v) payment by the Administrative Agent or a L/C Issuer under a Letter of Credit against presentation to the Administrative Agent or a L/C Issuer of a draft or certificate that does not comply with the terms of the Letter of Credit, *provided* that the Administrative Agent's or L/C Issuer's determination that documents presented under the Letter of Credit complied with the terms thereof did not constitute gross negligence, bad faith or willful misconduct of the Administrative Agent or L/C Issuer; or (vi) any other act or omission to act or delay of any kind by the Administrative Agent or a L/C Issuer, any Lender or any other Person or any other event or circumstance whatsoever that might, but for the provisions of this Section 2.3(c), constitute a legal or equitable discharge of the Borrower's obligations hereunder or under an Application.

(d) *The Participating Interests*. Each Lender (other than the Lender acting as L/C Issuer) severally and not jointly agrees to purchase from the L/C Issuer, and the L/C Issuer hereby agrees to sell to each such Lender (a *"Participating Lender"*), an undivided participating interest (a *"Participating*



*Interest"*) to the extent of its Revolver Percentage in each Letter of Credit issued by, and each Reimbursement Obligation owed to, the L/C Issuer. Upon Borrower's failure to pay any Reimbursement Obligation on the date and at the time required, or if the L/C Issuer is required at any time to return to the Borrower or to a trustee, receiver, liquidator, custodian or other Person any portion of any payment of any Reimbursement Obligation, each Participating Lender shall, not later than the Business Day it receives a certificate in the form of Exhibit A hereto from the L/C Issuer (with a copy to the Administrative Agent) to such effect, if such certificate is received before 12:00 noon (New York City time), or not later than 12:00 noon (New York City time) the following Business Day, if such certificate is received after such time, pay to the Administrative Agent for the account of the L/C Issuer an amount equal to such Participating Lender's Revolver Percentage of such unpaid Reimbursement Obligation together with interest on such amount accrued from the date the L/C Issuer made the related payment to the date of such payment by such Participating Lender at a rate per annum equal to: (i) from the date the L/C Issuer made the related payment to the date two Business Days after payment by such Participating Lender is due hereunder, the Federal Funds Rate for each such day and (ii) from the date two Business Days after the date such payment is due from such Participating Lender to the date such payment is made by such Participating Lender, the Base Rate in effect for each such day. Each such Participating Lender shall, after making its appropriate payment, be entitled to receive its Revolver Percentage of each payment received in respect of the relevant Reimbursement Obligation and of interest paid thereon, with the L/C Issuer retaining its Revolver Percentage thereof as a Lender hereunder.

The several obligations of the Participating Lenders to the L/C Issuer under this Section 2.3 shall be absolute, irrevocable and unconditional under any and all circumstances and shall not be subject to any set-off, counterclaim or defense to payment which any Participating Lender may have or has had against the Borrower, the L/C Issuer, the Administrative Agent, any Lender or any other Person. Without limiting the generality of the foregoing, such obligations shall not be affected by any Default or Event of Default or by any reduction or termination of the Revolving Credit Commitment of any Lender, and each payment by a Participating Lender under this Section 2.3 shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) *Indemnification*. The Participating Lenders shall, to the extent of their respective Revolver Percentages, indemnify the L/C Issuer (to the extent not reimbursed by the Borrower) against any cost, expense (including reasonable counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from the L/C Issuer's gross negligence or willful misconduct) that the L/C Issuer may suffer or incur in connection with any Letter of Credit issued by it. The obligations of the Participating Lenders under this Section 2.3(e) and all other parts of this Section 2.3 shall survive termination of this Agreement and of all Applications, Letters of Credit, and all drafts and other documents presented in connection with drawings thereunder.

(f) *Manner of Requesting a Letter of Credit*. The Borrower shall provide at least three Business Days' advance written notice to the Administrative Agent (or such lesser notice as the Administrative Agent and the L/C Issuer may agree in their sole discretion) of each request for the issuance of a Letter of Credit, each such notice to be accompanied by a properly completed and executed Application for the requested Letter of Credit and, in the case of an extension or amendment or an increase in the amount of a Letter of Credit, a written request therefor, in a form acceptable to the Administrative Agent and the L/C Issuer, in each case, together with the fees called for by this Agreement. The Administrative Agent shall promptly notify the L/C Issuer of the Administrative Agent's receipt of each such notice and the L/C Issuer shall promptly notify the Administrative Agent and the Lenders of the issuance of a Letter of Credit.

(g) *Conflict with Application*. In the event of any conflict or inconsistency between this Agreement and the terms of any Application, the terms of the Agreement shall control.



(h) Letters of credit outstanding under the Existing Loan Agreement or the Existing NPC Credit Agreements on the Closing Date shall be deemed issued under the Revolving Facility to the extent the applicable letter of credit issuer under such facility is an L/C Issuer under the Revolving Facility.

Section 2.4. *Applicable Interest Rates*.

(a) *Term ~~B~~ Base Rate Loans*. Each Term B Loan that is a Base Rate Loan made or maintained by a Lender shall bear interest (computed on the basis of a year of 365 or 366 days, as the case may be, and the actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced or created by conversion from a Eurodollar Loan until, but excluding, the date of repayment thereof at a rate per annum equal to the sum of the Applicable Margin plus the Base Rate from time to time in effect, payable in arrears on the last Business Day of each March, June, September and December and at maturity (whether by acceleration or otherwise).

(b) *Term ~~B~~ Eurodollar Loans*. Each Term B Loan that is a Eurodollar Loan made or maintained by a Lender shall bear interest during each Interest Period it is outstanding (computed on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced, continued or created by conversion from a Base Rate Loan until, but excluding, the date of repayment thereof at a rate per annum equal to the sum of the Applicable Margin plus the Adjusted LIBOR applicable for such Interest Period, payable in arrears on the last day of the Interest Period and at maturity (whether by acceleration or otherwise), and, if the applicable Interest Period is longer than three months, on each day occurring every three months after the commencement of such Interest Period.

(c) *Revolving Base Rate Loans*. Each Revolving Loan that is a Base Rate Loan made or maintained by a Lender shall bear interest (computed on the basis of a year of 365 or 366 days, as the case may be, and the actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced or created by conversion from a Eurodollar Loan until, but excluding, the date of repayment thereof at a rate per annum equal to the sum of the Applicable Margin plus the Base Rate from time to time in effect, payable in arrears on the last Business Day of each March, June, September and December and at maturity (whether by acceleration or otherwise).

(d) *Revolving Eurodollar Loans*. Each Revolving Loan that is a Eurodollar Loan made or maintained by a Lender shall bear interest during each Interest Period it is outstanding (computed on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced, continued or created by conversion from a Base Rate Loan until, but excluding, the date of repayment thereof at a rate per annum equal to the sum of the Applicable Margin plus the Adjusted LIBOR applicable for such Interest Period, payable in arrears on the last day of the Interest

Period and at maturity (whether by acceleration or otherwise), and, if the applicable Interest Period is longer than three months, on each day occurring every three months after the commencement of such Interest Period.

(e) *Default Rate*. While any Event of Default under Section 7.1(a) with respect to the late payment of principal or interest or Section 7.1(j) or (k) exists or after acceleration, the Borrower shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the overdue amounts of all Loans, Reimbursement Obligations, interest or other amounts owing hereunder by it at a rate per annum equal to 2.0% per annum plus (i) in the case of Loans, the interest rate otherwise applicable thereto and (ii) otherwise, the Base Rate then in effect. While any Event of Default exists or after acceleration, interest shall be paid on demand of the Administrative Agent at the request or with the consent of the Required Lenders.



(f) *Rate Determinations*. The Administrative Agent shall determine each interest rate applicable to the Revolving Loans and the Reimbursement Obligations hereunder, and its determination thereof shall be conclusive and binding except in the case of manifest error.

Section 2.5. *Manner of Borrowing Loans and Designating Applicable Interest Rates*.

(a) *Notice to the Administrative Agent*. The Borrower shall give notice to the Administrative Agent by no later than 12:00 noon (New York City time): (i) at least three Business Days before the date on which the Borrower requests the Lenders to advance a Borrowing of Loans that are Eurodollar Loans and (ii) on the date the Borrower requests the Lenders to advance a Borrowing of Loans that are Base Rate Loans. The Loans included in each Borrowing of Loans shall bear interest initially at the type of rate specified in such notice. Thereafter, the Borrower may from time to time elect to change or continue the type of interest rate borne by each Borrowing of Loans or, subject to Section 2.6 hereof, a portion thereof, as follows: (i) if such Borrowing of Loans is of Eurodollar Loans, on the last day of the Interest Period applicable thereto, the Borrower may continue part or all of such Borrowing as Eurodollar Loans or convert part or all of such Borrowing into Base Rate Loans or (ii) if such Borrowing of Loans is of Base Rate Loans, on any Business Day, the Borrower may convert all or part of such Borrowing into Eurodollar Loans for an Interest Period or Interest Periods specified by the Borrower. The Borrower shall give all such notices requesting the advance, continuation or conversion of a Borrowing of Loans to the Administrative Agent by telephone or telecopy (which notice shall be irrevocable once given and, if by telephone, shall be promptly confirmed in writing), substantially in the form attached hereto as Exhibit B (Notice of Borrowing) or Exhibit C (Notice of Continuation/Conversion), as applicable, or in such other form acceptable to the Administrative Agent. Notice of the continuation of a Borrowing of Loans that are Eurodollar Loans for an additional Interest Period or of the conversion of part or all of a Borrowing of Loans that are Base Rate Loans into Eurodollar Loans must be given by no later than 12:00 noon (New York City time) at least three Business Days before the date of the requested continuation or conversion. All notices concerning the advance, continuation or conversion of a Borrowing of Loans shall specify the date of the requested advance, continuation or conversion of a Borrowing of Loans (which shall be a Business Day), the amount of the requested Borrowing to be advanced, continued or converted, the type of Loans (Base Rate Loans or Eurodollar Loans) to comprise such new, continued or converted Borrowing and, if such Borrowing is to be comprised of Eurodollar Loans, the Interest Period applicable thereto. If no Interest Period is specified in any such notice with respect to any conversion to or continuation as a Eurodollar Borrowing, the Borrower shall be deemed to have selected an Interest Period of one month's duration. The Borrower agrees that the Administrative Agent may rely on any such telephonic or telecopy notice given by any person the Administrative Agent in good faith believes is an Authorized Representative without the necessity of independent investigation (the Borrower hereby indemnifies the Administrative Agent from any liability or loss ensuing from such reliance) and, in the event any such notice by telephone conflicts with any written confirmation, such telephonic notice shall govern if the Administrative Agent has acted in reliance thereon.

(b) *Notice to the Lenders*. The Administrative Agent shall give prompt telephonic or telecopy notice to each Lender of any notice from the Borrower received pursuant to Section 2.5(a) above and, if such notice requests the Lenders to make Eurodollar Loans, the Administrative Agent shall give notice to the Borrower and each Lender of the interest rate applicable thereto promptly after the Administrative Agent has made such determination.

(c) *Borrower's Failure to Notify; Automatic Continuations and Conversions*. If the Borrower fails to give proper notice of the continuation or conversion of any outstanding Borrowing of Loans that are Eurodollar Loans before the last day of its then current Interest Period within the period required by Section 2.5(a) and such Borrowing is not prepaid in accordance with Section 2.8(b), such Borrowing shall, at the end of the Interest Period applicable thereto, automatically be converted into a Base Rate Borrowing. In the event the Borrower fails to give notice pursuant to Section 2.5(a) of a Borrowing of Loans equal to the



amount of a Reimbursement Obligation and has not notified the Administrative Agent by 1:00 p.m. (New York City time) on the day such Reimbursement Obligation becomes due that it intends to repay such Reimbursement Obligation through funds not borrowed under this Agreement, the Borrower shall be deemed to have requested a Borrowing of Loans that are Base Rate Loans (or, at the option of the Administrative Agent, under the Swing Line) on such day in the amount of the Reimbursement Obligation then due, which Borrowing, if otherwise available hereunder, shall be applied to pay the Reimbursement Obligation then due.

(d) *Disbursement of Loans*. Not later than 2:00 p.m. (New York City time) on the date of any requested advance of a new Borrowing of Loans, subject to Section 3 hereof, each Lender shall make available its Loan comprising part of such Borrowing in funds immediately available at the principal office of the Administrative Agent in New York, New York. The Administrative Agent shall promptly wire transfer the proceeds of each new Borrowing of Loans to an account designated by the Borrower in the applicable notice of borrowing.

(e) *Administrative Agent Reliance on Lender Funding*. Unless the Administrative Agent shall have been notified by a Lender prior to (or, in the case of a Borrowing of Base Rate Loans, by 1:00 p.m. (New York City time) on such date) the date on which such Lender is scheduled to make payment to the Administrative Agent of the proceeds of a Loan (which notice shall be effective upon receipt) that such Lender does not intend to make such payment, the Administrative Agent may assume that such Lender has made such payment when due and the Administrative Agent, in reliance upon such assumption may (but shall not be required to) make available to the Borrower the proceeds of the Loan to be made by such Lender and, if any Lender has not in fact made such payment to the Administrative Agent, such Lender shall, on demand, pay to the Administrative Agent the amount made available to the Borrower attributable to such Lender together with interest thereon in respect of each day during the period commencing on the date such amount was made available to the Borrower and ending on (but excluding) the date such Lender pays such amount to the Administrative Agent at a rate per annum equal to: (i) from the date the related advance was made by the Administrative Agent to the date two Business Days after payment by such Lender is due hereunder, the greater of, for each such day, (x) the Federal Funds Rate and (y) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on

interbank compensation, plus any standard administrative or processing fees charged by the Administrative Agent in connection with such Lender's non-payment and (ii) from the date two Business Days after the date such payment is due from such Lender to the date such payment is made by such Lender, the Base Rate in effect for each such day. If such amount is not received from such Lender by the Administrative Agent immediately upon demand, the Borrower will, on demand, repay to the Administrative Agent the proceeds of the Loan attributable to such Lender with interest thereon at a rate per annum equal to the interest rate applicable to the relevant Loan, but without such payment being considered a payment or prepayment of a Loan under Section 8.1 hereof so that the Borrower will have no liability under such Section with respect to such payment.

Section 2.6. *Minimum Borrowing Amounts; Maximum Eurodollar Loans*. Each Borrowing of Base Rate Loans advanced under the applicable Facility shall be in an amount not less than $1,000,000 or such greater amount that is an integral multiple of $1,000,000. Each Borrowing of Eurodollar Loans advanced, continued or converted under the applicable Facility shall be in an amount equal to $1,000,000 or such greater amount that is an integral multiple of $1,000,000. Without the Administrative Agent's consent, there shall not be more than five Borrowings of Eurodollar Loans outstanding at any one time.

Section 2.7. *Maturity of Loans*.

(a) *Scheduled Payments of Term B-1 Loans*. The Borrower shall make principal payments on the Term B-1 Loans in installments on the last Business Day of each March, June, September and



December in each year, commencing with the calendar quarter ending ~~March 31,~~ June 30, 2011, in an aggregate amount equal to 0.25% of the aggregate principal amount of the Term B-1 Loans advanced, continued or converted on the ~~Closing~~Term Loan Funding Date (which payments in each case shall be reduced as a result of the application of prepayments in accordance with the order of priority set forth in Section 2.8(a), Section 2.8(c) and Section 2.8(e), as applicable); it being further agreed that a final payment comprised of all principal and interest not sooner paid on the Term B-1 Loans, shall be due and payable on November 3, 2016, the final maturity thereof (the *"Term B-1 Termination Date"*).

(b) *Term B-2 Loans*. The Term B-2 Loans, for both principal and accrued but unpaid interest thereon, shall mature and become due and payable by the Borrower on November 3, 2017 (the "*Term B-2 Termination Date*").

(c) ~~(b)~~ *Revolving Loans*. Each Revolving Loan, both for principal and interest, shall mature and become due and payable by the Borrower on the Revolving Credit Termination Date.

Section 2.8. *Prepayments*.

(a) *Voluntary Prepayments of Term B Loans*. (i) The Borrower may, at its option, upon notice as herein provided, prepay without premium or penalty (subject to the requirements of Section 2.8(a)(ii) below and except as set forth in Section 8.1 below) at any time all, or from time to time any part of, the Term B-1 Loans and the Term B-2 Loans, in each case, in a minimum aggregate amount of $5,000,000 or such greater amount that is an integral multiple of $1,000,000 or, if less, the entire principal amount thereof then outstanding. The amount of each such optional prepayment shall be applied to the outstanding Term B-1 Loans and Term B-2 Loans, *pro rata*; *provided*, *however*, that the Borrower shall have the ability to prepay the Term B-2 Loans prior to prepaying the Term B-1 Loans in an aggregate amount up to (x) $50,000,000 minus any amount paid pursuant to Section 6.18(f) plus (y) the Growth Amount. The Borrower will give the Administrative Agent written notice (or telephone notice promptly confirmed by written notice) of each optional prepayment under this Section 2.8(a) prior to 12:00 noon (New York time) at least one Business Day in the case of Base Rate Loans and three Business Days in the case of Eurodollar Loans prior to the date fixed for such prepayment (which notice may be revoked at the Borrower's option). Each such notice shall specify the date of such prepayment (which shall be a Business Day), the principal amount of ~~the~~such Term B Loans to be prepaid and the interest to be paid on the prepayment date with respect to such principal amount being repaid. Any prepayments made pursuant to this Section 2.8(a) shall be applied against the remaining scheduled installments of principal due in respect of such Term B Loans in the manner specified by the Borrower or, if not so specified on or prior to the date of such optional prepayment, in direct order of maturity and may not be reborrowed.

(ii) Notwithstanding anything to the contrary in this Section 2.8, in the event that, on or prior to the first anniversary of the Second Amendment Effective Date, the Borrower (A) prepays, refinances, substitutes or replaces any Term B Loans in connection with a Repricing Transaction (including, for avoidance of doubt, any prepayment made pursuant to Section 2.8(a)(i) that constitutes a Repricing Transaction), or (B) effects any amendment of this Agreement resulting in a Repricing Transaction, the Borrower shall pay to the Administrative Agent, for the ratable account of each of the applicable Lenders, (x) in the case of clause (A), a prepayment premium of 1.00% of the aggregate principal amount of the Term B Loans so prepaid, refinanced, substituted or replaced and (y) in the case of clause (B), a fee equal to 1.00% of the aggregate principal amount of the applicable Term B Loans outstanding immediately prior to such amendment. Such amounts shall be due and payable on the date of effectiveness of such Repricing Transaction. If in connection with a Repricing Transaction on or prior to such first anniversary of the Second Amendment Effective Date any Lender is replaced as a result of its being a



Non-Consenting Lender in respect of such Repricing Transaction pursuant to Section 10.11(b), such Lender shall be entitled to the fee provided under this Section 2.8(a)(ii).

(b) *Voluntary Prepayments of Revolving Loans and Swing Loans*. The Borrower may prepay without premium or penalty (except as set forth in Section 8.1 below) and in whole or in part any Borrowing of (i) Revolving Loans that are Eurodollar Loans at any time upon at least three Business Days prior notice by the Borrower to the Administrative Agent, (ii) Revolving Loans that are Base Rate Loans at any time upon at least one Business Day's prior notice by the Borrower to the Administrative Agent (in the case of each of clauses (i) and (ii), such notice must be in writing (or telephone notice promptly confirmed by written notice) and received by the Administrative Agent prior to 2:00 p.m. (New York time) on such date) or (iii) Swing Loans at any time without prior notice, in each case, such prepayment to be made by the payment of the principal amount to be prepaid and, in the case of any Eurodollar Loans, accrued interest thereon to the date fixed for prepayment plus any amounts due the Lenders under Section 8.1; *provided, however,* the Borrower may not partially repay a Borrowing (other than a Borrowing of Swing Loans) (i) if such Borrowing is of Base Rate Loans, in a principal amount less than $500,000,

and (ii) if such Borrowing is of Eurodollar Loans, in a principal amount less than $1,000,000, except, in each case, in such lesser amount of the entire principal amount thereof then outstanding.

(c) *Mandatory Prepayments.* ~~(i)~~

(i) If the Borrower or any Restricted Subsidiary shall at any time or from time to time incur any Indebtedness (other than with respect to any Indebtedness permitted to be incurred pursuant to Section 6.14), then (x) the Borrower shall promptly notify the Administrative Agent of such Indebtedness (including the amount of the estimated Net Cash Proceeds to be received by the Borrower or such Restricted Subsidiary in respect thereof) and (y) promptly upon receipt by the Borrower or the Restricted Subsidiary of the Net Cash Proceeds from the incurrence of such Indebtedness, the Borrower shall prepay the Obligations in an aggregate amount equal to 100% of the amount of all such Net Cash Proceeds, net of underwriting discounts and commissions and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses. The amount of each such prepayment shall be applied first to the outstanding Term B-1 Loans until paid in full and then to the Revolving Loans until paid in full and then to the Swing Loans; *provided, however*, subject to Section 2.9, after the occurrence and during the continuation of an Event of Default, the amount of each such prepayment shall be applied first to the outstanding Term B-1 Loans and Term B-2 Loans, *pro rata*, until paid in full, and then to the Revolving Loans until paid in full and then to the Swing Loans.

(ii) If the Borrower or any Restricted Subsidiary shall at any time or from time to time make a Disposition or shall suffer an Event of Loss resulting in Net Cash Proceeds in excess of $5,000,000 in a single transaction or in a series of related transactions or $10,000,000 in the aggregate for all such Dispositions or Events of Loss during such fiscal year, then (x) the Borrower shall promptly notify the Administrative Agent of such Disposition or Event of Loss (including the amount of the estimated Net Cash Proceeds to be received by the Borrower or such Restricted Subsidiary in respect thereof) and (y) promptly upon receipt by the Borrower or the Restricted Subsidiary of the Net Cash Proceeds of such Disposition or such Event of Loss, the Borrower shall prepay the Obligations in an aggregate amount equal to 100% of the amount of all such Net Cash Proceeds in excess of the amount specified above; *provided* that in the case of each Disposition and Event of Loss, if the Borrower states in its notice of such event that the Borrower or the applicable Restricted Subsidiary intends to invest or reinvest, as applicable, within one year of the applicable Disposition or receipt of Net Cash Proceeds



from an Event of Loss, the Net Cash Proceeds thereof (A) in fixed or capital assets used or useful in the business of the Borrower or its Restricted Subsidiaries or (B) to finance Permitted Acquisitions and investments in third party companies or businesses permitted pursuant to Section 6.17, then so long as no Event of Default then exists, the Borrower shall not be required to make a mandatory prepayment under this Section in respect of such Net Cash Proceeds to the extent such Net Cash Proceeds are actually invested or reinvested within such one-year period, or the Borrower or a Restricted Subsidiary has entered into a binding contract to so invest or reinvest such Net Cash Proceeds during such one-year period and such Net Cash Proceeds are so reinvested within 180 days after the expiration of such one-year period; *provided, however,* that if any Net Cash Proceeds have not been so invested or reinvested prior to the expiration of the applicable period, the Borrower shall promptly prepay the Obligations in the amount of such Net Cash Proceeds in excess of the amount specified above not so invested or reinvested. The amount of each such prepayment shall be applied first to the outstanding Term B-1 Loans and Term B-2 Loans, *pro rata*, until paid in full and then to the Revolving Loans until paid in full and then to the Swing Loans.

(iii) On or before April 10th of each year (beginning with April 10th, 2012), the Borrower shall prepay the then-outstanding Loans by an amount equal to (A) 50% of Excess Cash Flow of Borrower and its Restricted Subsidiaries for the most recently completed fiscal year of the Borrower; *provided* that the foregoing percentage shall be reduced to 25% when the Leverage Ratio is equal to or less than 3.75:~~1.0~~1.0, and 0% when the Leverage Ratio is equal to or less than 3.25:1.00 minus (B) the principal amount of any Term B Loans and Revolving Loans (to the extent accompanied by a permanent reduction of the Revolving Credit Commitment) voluntarily prepaid pursuant to paragraphs (a) and (b) above made during such fiscal year on or prior to April 10th of the current year; *provided* that, the amount required to be paid under this Section 2.8(c)(iii) shall not in any event be reduced to less than zero, and no such voluntary prepayments shall reduce the payments required to be made under this Section 2.8(c)(iii) for more than one fiscal year. The amount of each such prepayment shall be applied first to the outstanding Term B-1 Loans until paid in full and then to the Revolving Loans until paid in full and then to the Swing Loans; *provided, however*, subject to Section 2.9, after the occurrence and during the continuation of an Event of Default, the amount of each such prepayment shall be applied first to the outstanding Term B-1 Loans and Term B-2 Loans, *pro rata*, until paid in full, and then to the Revolving Loans until paid in full and then to the Swing Loans.

(iv) The Borrower shall, on each date the Revolving Credit Commitments are reduced pursuant to Section 2.10, prepay the Revolving Loans and Swing Loans and, if necessary after such Revolving Loans and Swing Loans have been repaid in full, replace or cause to be canceled (or provide an L/C Backstop or make other arrangements reasonably satisfactory to the L/C Issuer) outstanding Letters of Credit by the amount, if any, necessary to reduce the sum of the aggregate principal amount of Revolving Loans, Swing Loans and L/C Obligations then outstanding to the amount to which the Revolving Credit Commitments have been so reduced.

(v) Notwithstanding the foregoing, each Term B-1 Lender and Term B-2 Lender shall have the right to reject its Term B-1 Loan Percentage or Term B-2 Loan Percentage, as applicable, of any mandatory prepayment of the Term B-1 Loans and Term B-2 Loans pursuant to Section 2.8(c)(i), (ii) and (iii) above (each such Lender, a *"Rejecting Lender"*), in which case the amounts so rejected may be retained by the Borrower.



(vi) Unless the Borrower otherwise directs, prepayments of Revolving Loans under this Section 2.8(c) shall be applied first to Borrowings of Base Rate Loans until payment in full thereof with any balance applied to Borrowings of Eurodollar Loans in the order in which their Interest Periods expire. Each prepayment of Loans under this Section 2.8(c) shall be made by the payment of the principal amount to be prepaid and, in the case of any Term B Loans, Swing Loans or Eurodollar Loans, accrued interest thereon to the date of prepayment together with any amounts due the Lenders under Section 8.1. Mandatory prepayments of the Term B Loans shall be applied to the installments thereof in the direct order of maturity other than with respect to that portion of any installment held by a Rejecting Lender.

Each prefunding of L/C Obligations that the Borrower chooses to make to the Administrative Agent as a result of the application of Section 2.8(c)(iv) above by the deposit of cash or Cash Equivalents with the Administrative Agent shall be made in accordance with Section 7.4.

(d) *Defaulting Lenders*. Until such time as the Default Excess (as defined below) with respect to any Defaulting Lender has been reduced to zero, (i) any voluntary prepayment of the Revolving Loans pursuant to Section 2.8(b) shall, if the Borrower so directs at the time of making such voluntary prepayment, be applied to the Revolving Loans of other Lenders as if such Defaulting Lender had no loans outstanding and the Revolving Credit Commitments of such Defaulting Lender were zero and (ii) any mandatory prepayment of the Loans pursuant to Section 2.8(c) shall, if the Borrower so directs at the time of making such mandatory prepayment, be applied to the Loans of other Lenders (but not to the Loans of such Defaulting Lender) as if such Defaulting Lender has funded all defaulted Loans of such Defaulting Lender, it being understood and agreed that the Borrower shall be entitled to retain any portion of any mandatory prepayment of the Loans that is not paid to such Defaulting Lender solely as a result of the operation of the provisions of this paragraph (d). "*Default Excess*" means, with respect to any Defaulting Lender, the excess, if any, of such Defaulting Lender's Percentage of the aggregate outstanding principal amount of the applicable Loans of all the applicable Lenders (calculated as if all Defaulting Lenders (including such Defaulting Lender) had funded all of their respective defaulted Loans) over the aggregate outstanding principal amount of the applicable Loans of such Defaulting Lender.

(e) The Administrative Agent will promptly advise each Lender of any notice of prepayment it receives from the Borrower, and in the case of any partial prepayment under Section 2.8(a) hereof, such prepayment shall be applied to the remaining amortization payments on the Term B-1 Loans in the manner specified by the Borrower or, if not so specified on or prior to the date of such optional prepayment, in the direct order of maturity.

Section 2.9. *Place and Application of Payment*. All payments of principal of and interest on the Loans and the Reimbursement Obligations, and of all other Obligations payable by the Borrower under this Agreement and the other Loan Documents, shall be made by the Borrower to the Administrative Agent by no later than 2:00 p.m. (New York City time) on the due date thereof at the office of the Administrative Agent in New York, New York (or such other location as the Administrative Agent may designate to the Borrower in writing) for the benefit of the Lender or Lenders entitled thereto. Any payments received after such time shall be deemed to have been received by the Administrative Agent on the next Business Day. All such payments shall be made in Dollars, in immediately available funds at the place of payment, in each case without set-off or counterclaim, except as provided in Section 10.1. The Administrative Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal or interest on Loans and on Reimbursement Obligations in which the Lenders have purchased Participating Interests ratably to the Lenders and like funds relating to the payment of any other amount payable to any Lender to such Lender, in each case to be applied in accordance with the terms of this Agreement.



Anything contained herein to the contrary notwithstanding, (x) pursuant to the exercise of remedies under Sections 7.2 and 7.3 hereof or (y) after written instruction by the Required Lenders after the occurrence and during the continuation of an Event of Default, all payments and collections received in respect of the Obligations and all proceeds of the Collateral received, in each instance, by the Administrative Agent or any of the Lenders, shall be remitted to the Administrative Agent and distributed as follows:

(a) *first*, to the payment of any outstanding costs and expenses incurred by the Administrative Agent, and any security trustee therefor, in monitoring, verifying, protecting, preserving or enforcing the Liens on the Collateral, in protecting, preserving or enforcing rights under the Loan Documents, and in any event all costs and expenses of a character which the Borrower has agreed to pay the Administrative Agent under Section 10.13 hereof (such funds to be retained by the Administrative Agent for its own account unless it has previously been reimbursed for such costs and expenses by the Lenders, in which event such amounts shall be remitted to the Lenders to reimburse them for payments theretofore made to the Administrative Agent);

(b) *second*, to the payment of principal and interest on the Swing Loans until paid in full;

(c) *third*, to the payment of any outstanding interest and fees due under the Loan Documents to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof;

(d) *fourth*, to the payment of principal on the Term B Loans, Revolving Loans, unpaid Reimbursement Obligations, together with amounts to be held by the Administrative Agent as collateral security for any outstanding L/C Obligations pursuant to Section 7.4 hereof (until the Administrative Agent is holding an amount of cash equal to the then outstanding amount of all Letters of Credit, to the extent the same have not been replaced or cancelled or otherwise provided for to the reasonable satisfaction of the L/C Issuer), and Hedging Liability, the aggregate amount paid to, or held as collateral security for, the Lenders and, in the case of Hedging Liability, their Affiliates, to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof;

(e) *fifth*, to the payment of all other unpaid Obligations and all other indebtedness, obligations, and liabilities of the Borrower and its Subsidiaries secured by the Collateral Documents (including, without limitation, Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations) to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof; and

(f) *sixth*, to the Borrower or whoever else may be lawfully entitled thereto.

Section 2.10. *Commitment Terminations*. The Term B-1 Loan Commitments and the Term B-2 Loan Commitments shall automatically terminate upon the making, continuing or converting of the Term B-1 Loans and the Term B-2 Loans on the ~~Closing~~Term Loan Funding Date. The Borrower shall have the right at any time and from time to time, upon three Business Days prior written notice to the Administrative Agent, to terminate the Revolving Credit Commitments in whole or in part, any partial termination to be (i) in an amount not less than $1,000,000 or any greater amount that is an integral multiple of $100,000 and (ii) allocated ratably among the Lenders in proportion to their respective Revolver Percentages, *provided* that the Revolving Credit Commitments may not be reduced to an amount less than the sum of the aggregate principal amount of Revolving Loans, Swing Loans and of L/C Obligations then

outstanding. Any termination of the Revolving Credit Commitments below the L/C Sublimit then in effect shall reduce the L/C Sublimit by a like amount. Any termination of the Revolving Credit Commitments below the Swing Line Sublimit then in effect shall reduce the Swing Line Sublimit by a like amount. The Administrative Agent shall give prompt notice to each Lender of any such termination of the Revolving Credit Commitments. Any termination of the Revolving Credit Commitments pursuant to this Section 2.10 may not be reinstated.

Section 2.11. *Swing Loans*.

(a) *Generally*. Subject to the terms and conditions hereof, as part of the Revolving Facility, the Swing Line Lender agrees to make loans in Dollars to the Borrower under the Swing Line (individually a *"Swing Loan"* and collectively the *"Swing Loans"*) which shall not in the aggregate at any time outstanding exceed the Swing Line Sublimit; *provided, however,* the sum of the Revolving Loans, Swing Loans and L/C Obligations at any time outstanding shall not exceed the sum of all Revolving Credit Commitments in effect at such time. The Swing Loans may be availed of by the Borrower from time to time and borrowings thereunder may be repaid and used again during the period ending on the Revolving Credit Termination Date and each Swing Loan not sooner repaid shall mature and be due and payable by the Borrower on such date. Each Swing Loan shall be in a minimum amount of $250,000 or such greater amount which is an integral multiple of $100,000.

(b) *Interest on Swing Loans*. Each Swing Loan shall bear interest until repaid (whether by acceleration or otherwise) at a rate per annum equal to the sum of the Base Rate plus the Applicable Margin (computed on the basis of a year of 365 or 366 days, as the case may be, for the actual number of days elapsed). Interest on each Swing Loan shall be due and payable in arrears on the last Business Day of each of March, June, September and December and on the Revolving Credit Termination Date.

(c) *Requests for Swing Loans*. The Borrower shall give the Swing Line Lender prior notice (which may be written or oral), no later than 12:00 p.m. (New York City time) on the date upon which the Borrower requests that any Swing Loan be made or such later time as may be acceptable to the Swing Line Lender, in its reasonable discretion, of the amount and date of such Swing Loan, and the Interest Period requested therefor. Subject to the terms and conditions hereof, the proceeds of such Swing Loan shall be made available to the Borrower by wire transfer to an account designated by the Borrower.

(d) *Refunding of Swing Loans*. In its sole and absolute discretion, the Swing Line Lender may at any time, on behalf of the Borrower (which the Borrower hereby irrevocably authorizes the Swing Line Lender to act on its behalf for such purpose) and with notice to the Borrower, request each Lender to make a Revolving Loan in the form of a Base Rate Loan in an amount equal to such Lender's Revolver Percentage of the amount of the Swing Loans outstanding on the date such notice is given. Unless an Event of Default described in Section 7.1(j) or 7.1(k) exists with respect to the Borrower, regardless of the existence of any other Event of Default, each Lender shall make the proceeds of its requested Revolving Loan available to the Swing Line Lender, in immediately available funds, at the Swing Line Lender's principal office in New York, New York, before 1:00 p.m. (New York City time) on the Business Day following the day such notice is given. The proceeds of such Borrowing of Revolving Loans shall be immediately applied to repay the outstanding Swing Loans.

(e) *Participations*. If any Lender refuses or otherwise fails to make a Revolving Loan when requested by the Swing Line Lender pursuant to Section 2.11(d) above (because an Event of Default described in Section 7.1(j) or (k) exists with respect to the Borrower or otherwise), such Lender will, by the time and in the manner such Revolving Loan was to have been funded to the Swing Line Lender, purchase from the Swing Line Lender an undivided participating interest in the outstanding Swing Loans in an amount equal to its Revolver Percentage of the aggregate principal amount of Swing Loans that were to



have been repaid with such Revolving Loans; *provided* that the foregoing purchases shall be deemed made hereunder without any further action by such Lender or the Swing Line Lender. Each Lender that so purchases a participation in a Swing Loan shall thereafter be entitled to receive its Revolver Percentage of each payment of principal received on the Swing Loan and of interest received thereon accruing from the date such Lender funded to the Swing Line Lender its participation in such Loan. The several obligations of the Lenders under this Section shall be absolute, irrevocable and unconditional under any and all circumstances whatsoever and shall not be subject to any set-off, counterclaim or defense to payment which any Lender may have or have had against the Borrower, any other Lender or any other Person whatever. Without limiting the generality of the foregoing, such obligations shall not be affected by any Default or Event of Default or by any reduction or termination of the Revolving Credit Commitments of any Lender, and each payment made by a Lender under this Section shall be made without any offset, abatement, withholding or reduction whatsoever.

Section 2.12. *Evidence of Indebtedness*. (a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(b) The Administrative Agent shall also maintain accounts in which it will record (i) the amount of each Loan made hereunder, with respect to Revolving Loans, the type thereof and, with respect to Eurodollar Loans and Swing Loans, the Interest Period with respect thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender's share thereof.

(c) The entries maintained in the accounts maintained pursuant to paragraphs (a) and (b) above shall be prima facie evidence of the existence and amounts of the Obligations therein recorded; *provided, however,* that the failure of the Administrative Agent or any Lender to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Obligations in accordance with their terms.

(d) Any Lender may request that its Loans be evidenced by a promissory note or notes in the forms of Exhibit D-1 (in the case of its Term B-1 Loan and referred to herein as a *"Term B-1 Note"*), D-2 (in the case of its ~~Revolving Loans~~Term B-2 Loan and referred to herein as a *"~~Revolving Note") or~~* ~~D-3~~*Term B-2 Note"*), D-3 (in the case of its Revolving Loans and referred to herein as a *"Revolving Note"*), D-4 (in the case of its Swing Loans and referred to herein as a *"Swing Note"*), as applicable (the Term B-1 Notes, Term B-2 Notes, Revolving Notes and Swing Note being hereinafter referred to collectively as the "Notes" and individually as a *"Note"*). In such event, the Borrower shall prepare, execute and deliver to such Lender a Note payable to the order of such Lender in the amount of such Lender's Percentage of the Term B-1 Loan, Term B-2 Loan, Revolving Credit Commitment, or Swing Line Sublimit, as applicable. Thereafter, the Loans evidenced by such Note or Notes and interest thereon shall at all times (including after any assignment pursuant to Section 10.10) be represented by one or more Notes payable to the order of the payee named therein or any assignee pursuant to Section 10.10, except to the extent that any such Lender or assignee subsequently returns any such Note for cancellation and requests that such Loans once again be evidenced as described in subsections (a) and (b) above.

Section 2.13. *Fees*.

(a) *Revolving Credit Commitment Fee*. The Borrower shall pay to the Administrative Agent for the ratable account of the Lenders according to their Revolver Percentages a commitment fee at the rate per annum equal to the Applicable Margin (computed on the basis of a year of 360 days and the actual



number of days elapsed) on the average daily Unused Revolving Credit Commitments (the *"Commitment Fee"*); *provided, however,* that no Commitment Fee shall accrue to the Unused Revolving Credit Commitment of a Defaulting Lender, or be payable for the benefit of such Lender, so long as such Lender shall be a Defaulting Lender. Such Commitment Fee shall be payable quarterly in arrears on the last day of each March, June, September, and December in each year (commencing on the first such date occurring after the date hereof) and on the Revolving Credit Termination Date, unless the Revolving Credit Commitments are terminated in whole on an earlier date, in which event the Commitment Fee for the period to the date of such termination in whole shall be paid on the date of such termination.

(b) *Letter of Credit Fees*. Quarterly in arrears, on the last day of each March, June, September, and December, commencing on the first such date occurring after the date hereof, and on the Revolving Credit Termination Date, the Borrower shall pay to the L/C Issuer for its own account a fronting fee equal to 0.125% of the face amount of (or of the increase in the face amount of) each outstanding Letter of Credit. Quarterly in arrears, on the last day of each March, June, September, and December, commencing on the first such date occurring after the date hereof, and on the Revolving Credit Termination Date, the Borrower shall pay to the Administrative Agent, for the ratable benefit of the Lenders according to their Revolver Percentages, a letter of credit fee at a rate per annum equal to the Applicable Margin then in effect with respect to Eurodollar Loans under the Revolving Facility (computed on the basis of a year of 360 days and the actual number of days elapsed) during each day of such quarter applied to the daily average face amount of Letters of Credit outstanding during such quarter; *provided* that, while any Event of Default under Section 7.1(a) with respect to the late payment of principal or interest or Section 7.1(j) or Section 7.1(k) exists or after acceleration, such rate with respect to overdue fees shall increase by 2% over the rate otherwise payable and such fee shall be paid on demand of the Administrative Agent at the request or with the consent of the Required Lenders; *provided further* that, no letter of credit fee shall accrue to the Revolver Percentage of a Defaulting Lender, or be payable for the benefit of such Lender, so long as such Lender shall be a Defaulting Lender. In addition, the Borrower shall pay to the L/C Issuer for its own account the L/C Issuer's standard drawing, negotiation, amendment, transfer and other administrative fees for each Letter of Credit. Such standard fees referred to in the preceding sentence may be established by the L/C Issuer from time to time.

Section 2.14. *Incremental Credit Extensions*.

(a) At any time and from time to time after the Closing Date, subject to the terms and conditions set forth herein, the Borrower may, by notice to the Administrative Agent (whereupon the Administrative Agent shall promptly make such notice available to each of the Lenders), pursuant to an Incremental Amendment (*"Incremental Amendment"*) request to effect (i) one or more additional tranches of term loans hereunder or increases in the aggregate amount of the Term B-1 Loans and/or Term B-2 Loans, as applicable, (each such increase, a *"Term Commitment Increase"*) from one or more Additional Term Lenders or (ii) increases in the aggregate amount of the Revolving Credit Commitments (each such increase, a *"Revolving Credit Commitment Increase"* and together with the Term Commitment Increase, a *"Commitment Increase"*) from Additional Revolving Lenders; *provided* that at the time of each such request and upon the effectiveness of each Incremental Amendment, (A) no Default or Event Default shall have occurred and be continuing or shall result therefrom, (B) the maturity date of any term loans or revolving loans incurred pursuant to such Term Commitment Increase or Revolving Credit Commitment Increase, as applicable, shall not be earlier than the Term B-1 Termination Date or the Revolving Credit Termination Date, as applicable, (C) the Weighted Average Life to Maturity of any term loans pursuant to such Term Commitment Increase shall not be less than the remaining Weighted Average Life to Maturity of the Term B-1 Loans; (D) the Borrower shall be in compliance on a Pro Forma Basis with the covenants contained in Section 6.22 recomputed as of the last day of the most recently ended fiscal quarter of the Borrower (and assuming full utilization of the Revolving Credit Commitment), (E) the Borrower shall have delivered to the Administrative Agent a certificate of a financial officer certifying to the effect set forth in



subclauses (A), (C) and (D) above, together with reasonably detailed calculations demonstrating compliance with subclause (C) above (which calculations shall, if made as of the last day of any fiscal quarter of the Borrower for which the Borrower has not delivered to the Administrative Agent the financial statements and Compliance Certificate required to be delivered by Section 6.1(e), be accompanied by a reasonably detailed calculation of Consolidated EBITDA and Interest Expense for the relevant period), (F) the applicable yield relating to any term loans or revolving loans incurred pursuant to such Term Commitment Increase or Revolving Credit Commitment Increase (each facility thereunder, the *"Incremental Facility"*), as applicable, shall not be greater than that with respect to the existing Term B-1 Facility, Term B-2 Facility or existing Revolving Facility, as applicable, plus 0.50% per annum unless the yield applicable to the existing Term B-1 Facility, Term B-2 Facility or existing Revolving Facility, as applicable, is increased so that the yield applicable to the applicable Incremental Facility does not exceed the yield applicable to the existing Term B-1 Facility, Term B-2 Facility or existing Revolving Facility, as applicable, by more than 0.50% per annum; *provided* that in determining the yield applicable to the existing Term B-1 Facility, Term B-2 Facility or existing Revolving Facility, as applicable, and the applicable Incremental Facility, (x) original issue discount (*"OID"*) or upfront fees or other payments or any duration, ticking or similar fee (which shall be deemed to constitute like amounts of OID) payable by the Borrower to the Term B-1 Lenders, Term B-2 Lenders or Revolving Lenders, as applicable, or the applicable Incremental Facility in the primary syndication thereof shall be included (with OID being equated to interest based on an assumed four-year life to maturity or, if less, the remaining life to maturity of the applicable Incremental Facility), (y) customary arrangement or commitment fees payable to the Joint Lead Arrangers (or its affiliates in connection with the existing Term B-1 Facility, Term B-2 Facility or existing Revolving Facility, as applicable, or to one or more arrangers (or their affiliates) of the applicable Incremental Facility shall be excluded and (z) if the eurodollar rate in respect of such Incremental Facility includes a floor greater than any floor applicable to the analogous existing Facility under the definition of "Adjusted LIBOR," such increased amount shall be equated to interest margin for purposes of determining any increase to the applicable yield under the analogous Facility, (G) the revolving loans incurred pursuant to such Revolving Credit Commitment Increase will mature no earlier than, and will require no scheduled amortization or mandatory commitment reduction prior to, the Revolving Credit Termination Date and all other terms of any such Incremental Facility (except as set forth in the foregoing clauses) shall be substantially identical to the Revolving Facility or otherwise reasonably acceptable to the Administrative Agent, (H) to the extent the terms of any term loans incurred pursuant to a Term Commitment Increase are different from the terms applicable to the Term B-1 Facility or the Term B-2 Facility (except to the extent permitted by the foregoing clauses), such terms shall be reasonably satisfactory to the Administrative Agent, (I) all fees or other payments owing pursuant to Section 10.13 in respect of such increase to the Administrative Agent and the Lenders shall have been paid, and (J) each of the representations and warranties set forth herein and in the other Loan Documents shall be true

and correct in all material respects (or all respects to the extent otherwise qualified by a materiality threshold) as of such date, except to the extent the same expressly relate to an earlier date. Notwithstanding anything to contrary herein, the ~~sum of (i) the~~ aggregate principal amount of all Commitment Increases ~~and (ii) the aggregate principal amount of all Commitment Increases (as defined under the Second Lien Loan Agreement) under the Second Lien Loan Agreement~~ shall not exceed $350,000,000 (plus, in the case of a Revolving Credit Commitment Increase that serves to effectively extend the maturity of the Revolving Facility, an amount equal to the reduction in the Revolving Facility to be replaced by a Revolving Credit Commitment Increase). Each Term Commitment Increase shall be in a minimum principal amount of $50,000,000 and integral multiples of $1,000,000 in excess thereof; *provided* that such amount may be less than $50,000,000 if such amount represents all the remaining availability under the aggregate principal amount of Commitment Increases set forth above.

(b) Each notice from the Borrower pursuant to this Section shall set forth the requested amount of the relevant Revolving Credit Commitment Increase or Term Commitment Increase.



SECTION 3. CONDITIONS PRECEDENT.

Section 3.1. *All Credit Extensions*. At the time of each Credit Extension (other than the initial Credit Extension on the Closing Date) under the Revolving Facility hereunder:

(a) each of the representations and warranties set forth herein and in the other Loan Documents shall be and remain true and correct in all material respects (or in all respects, if qualified by a materiality threshold) as of said time, except to the extent the same expressly relate to an earlier date;

(b) no Default or Event of Default shall have occurred and be continuing or would occur as a result of such Credit Extension;

(c) after giving effect to any requested extension of credit, the aggregate principal amount of all Revolving Loans, Swing Loans and L/C Obligations under this Agreement shall not exceed the aggregate Revolving Credit Commitments;

(d) in the case of a Borrowing, the Administrative Agent shall have received the notice required by Section 2.5 hereof, in the case of the issuance of any Letter of Credit the L/C Issuer shall have received a duly completed Application, and, in the case of an extension or increase in the amount of a Letter of Credit, a written request therefor in a form reasonably acceptable to the L/C Issuer; and

(e) such Credit Extension shall not violate any Applicable Law with respect to the Administrative Agent or any Lender (including, without limitation, Regulation U of the Board of Governors of the Federal Reserve System) as then in effect; *provided* that, any such Applicable Law shall not entitle any Lender that is not affected thereby to not honor its obligation hereunder to advance, continue or convert any Loan or, in the case of the L/C Issuer, to extend the expiration date of or increase the amount of any Letter of Credit hereunder.

Each request for a Borrowing hereunder and each request for the issuance of, increase in the amount of, or extension of the expiration date of, a Letter of Credit shall be deemed to be a representation and warranty by the Borrower on the date of such Credit Extension as to the facts specified in subsections (a) through (d), both inclusive, of this Section.

Section 3.2. *Initial Credit Extension*. The obligations of the L/C Issuer and each Lender to make their respective initial Credit Extensions hereunder are subject solely to the satisfaction or waiver of the following conditions precedent:

(a) subject in all respects to the final paragraph of this Section 3.2, the Administrative Agent shall have received each of the following, each of which shall be originals or facsimiles (or delivered by other electronic transmission, including .pdf) unless otherwise specified:

(i) a counterpart of this Agreement signed on behalf of the Borrower;

(ii) copies of the certificate of formation, certificate of organization, operating agreement, articles of incorporation and bylaws, as applicable (or comparable organizational documents) of each Loan Party and any amendments thereto, certified in each instance by its Secretary, Assistant Secretary or Chief Financial Officer and, with



respect to organizational documents filed with a Governmental Authority, by the applicable Governmental Authority;

(iii) copies of resolutions of the board of directors (or similar governing body) of each Loan Party approving and authorizing the execution, delivery and performance of the Loan Documents to which it is a party, together with specimen signatures of the persons authorized to execute such documents on each Loan Party's behalf, all certified as of the Closing Date in each instance by its Secretary, Assistant Secretary or Chief Financial Officer as being in full force and effect without modification or amendment;

(iv) copies of the certificates of good standing (if available) for each Loan Party from the office of the secretary of state or other appropriate governmental department or agency of the state of its formation, incorporation or organization, as applicable;

(v) a list of the Borrower's Authorized Representatives;

(vi) (A) a favorable written opinion (addressed to the Administrative Agent and the Lenders) of Weil, Gotshal & Manges LLP, special counsel to the Loan Parties and (B) a favorable written opinion (addressed to the Administrative Agent and the Lenders) of Cunningham, Blackburn, Francis, Brock & Cunningham, local counsel to National Processing Company in the state of Nebraska in each case in form and substance reasonably satisfactory to the Administrative Agent;

(vii) an executed Solvency Certificate signed on behalf of the Borrower, dated the date hereof;

~~(viii) the Intercreditor Agreement, executed and delivered by the Borrower and Credit Suisse, AG, Cayman Islands Branch;~~

(viii) ~~(ix)~~ the Guaranty, duly executed by the Loan Parties;

(ix) ~~(x)~~ the Security Agreement, duly executed by each Loan Party, together with:

(A) the certificates representing the shares of Equity Interests required to be pledged by any Loan Party pursuant to the Security Agreement, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof,

(B) each promissory note (if any) required to be pledged to the Collateral Agent by any Loan Party pursuant to the Security Agreement, endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof; and

(C) proper financing statements in form appropriate for filing under the UCC of all jurisdictions that the Administrative Agent may deem reasonably necessary in order to perfect the Liens created under the Security Agreement, covering the Collateral of the Loan Parties;

(x) ~~(xi)~~ the Intellectual Property Security Agreements, duly executed by each Loan Party party thereto;



(xi) ~~(xii)~~ evidence of the existence of insurance required to be maintained by the Borrower and its Restricted Subsidiaries pursuant to Section 6.3(a), together with certificates of insurance and endorsements naming the Administrative Agent, on behalf of the Lenders, as an additional insured or loss payee, as the case may be, under all such insurance policies maintained with respect to the assets and properties of the Loan Parties that constitute Collateral; provided that with respect to any insurance certificate or endorsement that may not be provided prior to the Closing Date after use of commercially reasonable efforts to do so, then delivery of such certificate or endorsement shall not constitute a condition precedent to the initial Loans on the Closing Date (but shall be required to be delivered as promptly as practicable after the Closing Date and in any event within the period specified therefor in Schedule 6.25 or such later date as the Administrative Agent may reasonably agree); and

(xii) ~~(xiii)~~ a true and complete copy of the Acquisition Agreement as in effect on the Closing Date;

(b) The condition in Section 3.01(a) of the Acquisition Agreement (but only with respect to representations and warranties that are material to the interests of the Lenders, and only to the extent that the accuracy of such representation or warranty is a condition of the Borrower's obligation to close under the Acquisition Agreement or the Borrower has (or the Borrower's Affiliates have) the right to terminate the Borrower's (or its Affiliate's) obligations under the Acquisition Agreement as a result of a breach of such representations and warranties in the Acquisition Agreement) shall be satisfied;

(c) the representations and warranties of the Borrower set forth in Sections 5.1(a) and (b), Section 5.2(i), Section 5.3, Section 5.7(b), Section 5.13, Section 5.20, and Section 5.21(b) ~~and Section 5.22~~ shall be true and correct in all material respects on and as of the Closing Date (except for any such representations and warranties expressly relating to an earlier date, which representations and warranties shall be true and correct in all material respects as of such earlier date);

(d) the NPC Acquisition shall have been or, substantially concurrently with the making of the Borrowings hereunder on the Closing Date shall be, consummated, in accordance with the terms of the Acquisition Agreement (but without giving effect to any alterations, amendments, modifications, supplements, waivers or consents by the Borrower, or updated disclosure schedules delivered to the Borrower, that are, individually or in the aggregate, materially adverse to the Joint Lead Arrangers without their reasonable consent); *provided* that any updated disclosure schedules delivered to the Borrower shall not be deemed to be materially adverse to the Joint Lead Arrangers unless such updated disclosure schedules, together with all previous alterations, modifications, amendments, supplements, waivers and consents (whether or not consented to by the Joint Lead Arrangers), would result in a termination right under Section 6.06 of the Acquisition Agreement; *provided further* that (x) any reduction in the acquisition consideration by more than 10% shall be deemed to be materially adverse and (y) any reduction in the acquisition consideration of less than or equal to 10% shall reduce, on a dollar for dollar basis, the aggregate amount of the Facilities under this Agreement ~~and Second Lien Loan Agreement~~ (with allocations across the facilities as agreed by the Joint Lead Arrangers and the Borrower);

(e) the Borrower shall have repaid, or substantially concurrently with the making of the Borrowings hereunder on the Closing Date shall repay, all amounts outstanding under the Existing Loan Agreement, all commitments thereunder shall have been, or substantially



concurrently with the making of the Borrowings hereunder on the Closing Date shall be, terminated and all guarantees thereof and security therefor discharged and released;

(f) Target shall have repaid, or substantially concurrently with the making of the Borrowings hereunder on the Closing Date shall repay, all amounts outstanding under the Existing NPC Credit Agreements, all commitments thereunder shall have been, or substantially concurrently with the making of the Borrowings hereunder on the Closing Date shall be, terminated and all guarantees thereof and security therefor discharged and released;

(g) after giving effect to the NPC Acquisition and the financing contemplated hereby, the Borrower and its Subsidiaries shall have no material Indebtedness for borrowed money other than (a) pursuant to this Agreement and ~~the Second Lien Loan Agreement and~~ (b) Indebtedness

listed on Schedule 6.14;

(h) since June 30, 2010, a Closing Date Material Adverse Effect shall not have occurred;

(i) the Administrative Agent shall have received all documentation and other information about the Loan Parties as shall have been reasonably requested in writing at least five Business Days prior to the Closing Date by the Administrative Agent that the Administrative Agent shall have reasonably determined is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the Patriot Act;

(j) the Administrative Agent shall have received (a)(i) audited consolidated balance sheets of the Borrower for the two most recently completed fiscal years of the Borrower, (ii) audited consolidated statements of income and cash flows of the Borrower for the three most recently completed fiscal years of the Borrower, (iii) audited consolidated statements of stockholders' equity of the Borrower for the six months ended December 31, 2009 and the one month ended June 30, 2009 and (iv) audited consolidated balance sheets and related statements of income, stockholders' equity and cash flows of the Target for the three most recently completed fiscal years of the Target, in each case, ended at least 90 days before the Closing Date (together, the *"Audited Financial Statements"*), (b) unaudited consolidated balance sheets and related statements of income and cash flows of the Borrower and the Target for each subsequent fiscal quarter ended at least 45 days before the Closing Date and (c) a pro forma consolidated balance sheet and related pro forma consolidated statement of income of the Borrower as of and for the four-fiscal quarter period most recently ended pursuant to paragraph (a) or (b) above, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of such other financial statements);

(k) the Administrative Agent shall have received all fees, other payments and expenses previously agreed in writing by the Borrower to be due and payable on or prior to the Closing Date, including, to the extent invoiced at least two Business Days prior to the Closing Date (or such later date as the Borrower may reasonably agree), reimbursement or payment of all out-of-pocket expenses (including reasonable fees, charges and disbursements of counsel) required to be reimbursed or paid by any Loan Party under any Loan Document;

(l) subject in all respects to the final paragraph of this Section 3.2, all other actions not identified in paragraph (a) above that are necessary to establish that the Collateral Agent (for the benefit of the Secured Parties) will have a perfected Lien (subject to Permitted Liens~~ and~~



~~Liens (as defined in the Second Lien Loan Agreement) permitted under the Second Lien Loan Agreement, respectively~~) on the Collateral shall have been taken; and

(m) the Administrative Agent shall have received the results of a recent Lien search in each of the jurisdictions of organization of each Loan Party and each jurisdiction where material assets of the Loan Parties are located; *provided* that with respect to any searches that may not be completed prior to the Closing Date after use of commercially reasonable efforts to do so, then delivery of such search results shall not constitute a condition precedent to the availability of the initial Loans on the Closing Date (but shall be required to be delivered as promptly as practicable after the Closing Date and in any event within the period specified therefor in Schedule 6.25 or such later date as the Administrative Agent may reasonably agree)~~; and~~

~~(n) the Second Lien Loan Documents shall have been executed or, substantially concurrently with the making of the Borrowings hereunder on the Closing Date shall be consummated, in accordance with the terms and conditions thereof~~.

For purposes of determining compliance with the conditions specified in this Section 3.2, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

Notwithstanding anything to the contrary in this Section 3.2, to the extent that any Collateral required to be provided or perfected hereunder is not provided or perfected on the Closing Date after the Borrower's use of commercially reasonable efforts to do so, then the satisfaction of such requirements (other than the granting of any Lien on Collateral which may be perfected solely by the filing of a UCC financing statement or the pledge of the capital stock of the Borrower and the Guarantors) shall not be a condition precedent to the availability of the initial Loans on the Closing Date (but shall be required to be satisfied as promptly as practicable after the Closing Date and in any event within the period specified therefor in Schedule 6.25 or such later date as the Administrative Agent may reasonably agree).

SECTION 4. THE COLLATERAL AND THE GUARANTY.

Section 4.1. *Collateral*. The Obligations, Hedging Liability, and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations shall be secured by (a) valid, perfected, and enforceable Liens on all right, title, and interest of Holdco, the Borrower and each Restricted Subsidiary (other than an Excluded Subsidiary) in all capital stock and other Equity Interests (other than Excluded Equity Interests) held by such Person in each of its Subsidiaries, whether now owned or hereafter formed or acquired, and all proceeds thereof, and (b) valid, perfected, and enforceable Liens on all right, title, and interest of Holdco, the Borrower and each Restricted Subsidiary (other than an Excluded Subsidiary) in all personal property and fixtures, whether now owned or hereafter acquired or arising, and all proceeds thereof (other than Excluded Property).

Section 4.2. *Liens on Real Property*. In the event that the Borrower or any Restricted Subsidiary (other than an Excluded Subsidiary) owns or hereafter acquires real property having a fair market value in excess of $5,000,000 in the aggregate (other than any Excluded Property), within 90 days of the Closing Date or the acquisition thereof (or such longer period as to which the Administrative Agent may consent), the Borrower shall, or shall cause such Restricted Subsidiary to, execute and deliver to the Administrative Agent (or a security trustee therefor) a mortgage or deed of trust reasonably acceptable in

form and substance to the Administrative Agent for the purpose of granting to the Administrative Agent a Lien on such real property to secure the Obligations, Hedging Liability, and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations and shall pay all taxes and reasonable costs and expenses incurred by the Administrative Agent in recording such mortgage or deed of trust.

Section 4.3. *Guaranty*. The payment and performance of the Obligations, Hedging Liability, and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations shall at all times be guaranteed by Holdco and each Restricted Subsidiary (other than an Excluded Subsidiary) (each, a *"Guarantor"* and, collectively, the *"Guarantors"*) pursuant to a guaranty agreement in substantially the form attached as Exhibit K, as the same may be amended, restated, amended and restated, modified or supplemented from time to time (the *"Guaranty"*). If all of the Equity Interests of any Guarantor or any of its successors in interest hereunder shall be sold or otherwise disposed of (including by merger or consolidation) in accordance with the terms and conditions hereof, the Guaranty of such Guarantor or such successor in interest, as the case may be, hereunder shall automatically be discharged and released without any further action by any Person effective as of the time of such sale or disposal.

Section 4.4. *Further Assurances*. The Borrower agrees that it shall, and shall cause each Restricted Subsidiary (other than any Excluded Subsidiary) to, from time to time at the request of the Administrative Agent or the Required Lenders, execute and deliver such documents and do such acts and things as the Administrative Agent or the Required Lenders may reasonably request in order to provide for or perfect or protect such Liens on the Collateral. In the event the Borrower or any Restricted Subsidiary forms or acquires any other Restricted Subsidiary (other than an Excluded Subsidiary) after the date hereof, on or prior to the later to occur of (a) 30 days following the date of such acquisition or formation and (ii) the date of the required delivery of the Compliance Certificate following the date of such acquisition or formation (or such longer period as to which the Administrative Agent may consent), the Borrower shall cause such newly formed or acquired Restricted Subsidiary to execute such Collateral Documents (or supplements, assumptions or amendments to existing Collateral Documents) as the Administrative Agent may then require, and the Borrower shall also deliver to the Administrative Agent, or cause such Restricted Subsidiary to deliver to the Administrative Agent, at the Borrower's cost and expense, such other instruments, documents, certificates, and opinions reasonably required by the Administrative Agent in connection therewith; *provided* that no foreign law security or pledge agreements and no control agreements shall be required.

Section 4.5. *Limitation on Collateral*. Notwithstanding anything to the contrary in Sections 4.1 through 4.4 or any other Collateral Document (a) the Administrative Agent shall not require the taking of a Lien on, or require the perfection of any Lien granted in, those assets as to which the cost of obtaining or perfecting such Lien (including any mortgage, stamp, intangibles or other tax or expenses relating to such Lien) is excessive in relation to the benefit to the Lenders of the security afforded thereby as reasonably determined by the Borrower and the Administrative Agent and (b) Liens required to be granted pursuant to Section 4.4 shall be subject to exceptions and limitations consistent with those set forth in the Collateral Documents as in effect on the Closing Date (to the extent appropriate in the applicable jurisdiction).

SECTION 5. REPRESENTATIONS AND WARRANTIES.

The Borrower represents and warrants to each Lender and the Administrative Agent that:

Section 5.1. *Financial Statements*. (a) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein and (ii) fairly present in all material respects in accordance with GAAP



the financial condition of the Borrower and its Restricted Subsidiaries as of such dates and for such periods and their results of operations for the period covered thereby.

(b) The unaudited consolidated balance sheet and related statements of income and cash flows of the Borrower and the Target (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present in all material respects in accordance with GAAP the financial condition of the Borrower and its Restricted Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.

(c) The Lenders have been furnished the consolidated pro forma balance sheet of the Borrower and its Restricted Subsidiaries as at June 30, 2010, and the related consolidated pro forma statement of income of the Borrower as of and for the twelve-month period then ended (such pro forma balance sheet and statement of income, the "*Pro Forma Financial Statements*"), which have been prepared giving effect to the Transactions (excluding the impact of purchase accounting effects required by GAAP) as if such transactions had occurred on such date or at the beginning of such period, as the case may be. The Pro Forma Financial Statements have been prepared in good faith, based on assumptions believed by the Borrower to be reasonable as of the date of delivery thereof, and present fairly in all material respects on a pro forma basis and in accordance with GAAP the estimated financial position of the Borrower and its Restricted Subsidiaries as at June 30, 2010, and their estimated results of operations for the periods covered thereby, assuming that the Transactions had actually occurred at such date or at the beginning of such period (excluding the impact of purchase accounting effects required by GAAP), it being understood that the projections and estimates contained in such Pro Forma Financial Statements are subject to uncertainties and contingencies, many of which are beyond the control of the Borrower, that actual results may vary from projected results and such variances may be material and that the Borrower makes no representation as to the attainability of such projections or as to whether such projections will be achieved or will materialize.

Section 5.2. *Organization and Qualification*. The Borrower and each of its Restricted Subsidiaries (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (ii) has the power and authority to own its property and to transact the business in which it is engaged and proposes to engage, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, and (iii) is duly qualified and in good standing in each jurisdiction where the ownership, leasing or operation of property or the conduct of its business requires such qualification, except, in each case, under this clause (iii) where the same could not be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect.

Section 5.3. *Authority and Enforceability*. The Borrower has the power and authority to enter into this Agreement and the other Loan Documents executed by it, to make the borrowings herein provided for, to issue its Notes (if any), to grant to the Administrative Agent the Liens described in the Collateral Documents executed by the Borrower, and to perform all of its obligations hereunder and under the other Loan Documents executed by it. Each other Loan Party has the power and authority to enter into the Loan Documents executed by it, to grant to the Administrative Agent the Liens described in the Collateral Documents executed by such Person, and to perform all of its obligations under the Loan Documents executed by it. The Loan Documents delivered by the Loan Parties have been duly authorized by proper corporate and/or other organizational proceedings, executed, and delivered by such Person and constitute valid and binding obligations of such Person enforceable against it in accordance with their terms, except as enforceability may be limited by

bankruptcy, insolvency, fraudulent conveyance or similar laws affecting creditors' rights generally and general principles of equity (regardless of whether the application of such principles is considered in a proceeding in equity or at law); and this Agreement and the other Loan Documents do not, nor does the performance or observance by any Loan Party, if any, of any of the matters and things herein or therein provided for, (a) violate any provision of law or any judgment,



injunction, order or decree binding upon any Loan Party, (b) contravene or constitute a default under any provision of the organizational documents (e.g., charter, articles of incorporation, by-laws, articles of association, operating agreement, partnership agreement or other similar document) of any Loan Party, (c) contravene or constitute a default under any covenant, indenture or agreement of or affecting any Loan Party or any of its Property, or (d) result in the creation or imposition of any Lien on any Property of any Loan Party other than the Liens granted in favor of the Administrative Agent pursuant to the Collateral Documents and Permitted Liens, except with respect to paragraphs (a), (c) or (d), to the extent, individually or in the aggregate, that such violation, contravention, breach, conflict, default or creation or imposition of any Lien could not reasonably be expected to result in a Material Adverse Effect.

Section 5.4. *No Material Adverse Change*. Since the Closing Date, there has been no event or circumstance which individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

Section 5.5. *Litigation and Other Controversies*. There is no litigation, arbitration or governmental proceeding pending or, to the knowledge of the Borrower and its Subsidiaries, threatened against the Borrower or any of its Subsidiaries that could reasonably be expected to have a Material Adverse Effect.

Section 5.6. *True and Complete Disclosure*. As of the Closing Date, all information (other than projections or any other forward-looking information and any information of a general economic or industry-specific nature) furnished by or on behalf of the Borrower or any of its Restricted Subsidiaries in writing to the Administrative Agent, the L/C Issuer or any Lender for purposes of or in connection with this Agreement, or any transaction contemplated herein, is true and accurate in all material respects and not incomplete by omitting to state any fact necessary to make such information (taken as a whole) not misleading in light of the circumstances under which such information was provided; *provided* that, with respect to projected financial information furnished by or on behalf of the Borrower or any of its Restricted Subsidiaries, the Borrower only represents and warrants that such information is prepared in good faith based upon assumptions believed to be reasonable at the time (it being understood that such projections are subject to uncertainties and contingencies, many of which are beyond the control of the Borrower, that actual results may vary from projected results and such variances may be material and that the Borrower makes no representation as to the attainability of such projections or as to whether such projections will be achieved or will materialize).

Section 5.7. *Use of Proceeds; Margin Stock*. (a) No proceeds of the Term B Loans have been used for any purpose other than ~~to finance a portion of the NPC Acquisition, to consummate the Refinancing, to refinance certain indebtedness and hedging obligations of the Target and its subsidiaries or to pay fees, other payments and expenses related to the Transactions and related transactions (including any funding of discount and upfront fees and other payments)~~(i) to make, continue, convert or replace the outstanding principal amount of the existing term loans outstanding immediately prior to the Second Amendment Effective Date, (ii) to repay the existing term loans under the Second Lien Loan Agreement and (iii) to pay accrued interest on any of the foregoing and any related premiums, fees and expenses. No proceeds of the Revolving Loans and Swing Loans have been used for any purpose other than (~~i~~x) on the Closing Date, in an aggregate principal amount of up to $50 million, to consummate the Refinancing, to refinance certain indebtedness and hedging obligations of the Target and its subsidiaries, to pay fees, other payments and expenses related to the Transactions and related transactions (including any funding of discount and upfront fees and other payments) or for seasonal working capital and variations from projected working capital at the closing of the NPC Acquisition and (~~ii~~y) after the Closing Date, to finance the working capital needs and other general corporate purposes of the Borrower and its Subsidiaries, or for any other purpose (other than the making of "non ordinary course



dividends," which term shall be deemed to exclude, without limitation, dividends and other Distributions permitted under Sections 6.18(a), (b), (c), (d), (e), (g) and (h)) not prohibited by the Loan Documents.

(b) No part of the proceeds of any Loan or other extension of credit hereunder will be used by the Borrower or any Restricted Subsidiary thereof to purchase or carry any margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System, *"Margin Stock"*) or to extend credit to others for the purpose of purchasing or carrying any margin stock. Neither the making of any Loan or other extension of credit hereunder nor the use of the proceeds thereof will violate or be inconsistent with the provisions of Regulations T, U or X of the Board of Governors of the Federal Reserve System and any successor to all or any portion of such regulations. Margin Stock constitutes less than 25% of the value of those assets of the Borrower and its Restricted Subsidiaries that are subject to any limitation on sale, pledge or other restriction hereunder.

Section 5.8. *Taxes*. The Borrower and each of its Subsidiaries has filed or caused to be filed all tax returns required to be filed by the Borrower and/or any of its Subsidiaries, except where failure to so file could not be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect. The Borrower and each of its Subsidiaries has paid all taxes, assessments and other governmental charges payable by them (other than taxes, assessments and other governmental charges which are not delinquent), except those (a) not overdue by more than thirty (30) days or (b) if more than 30 days overdue, (i) those that are being contested in good faith and by proper legal proceedings and as to which appropriate reserves have been provided for in accordance with GAAP or (ii) those the non-payment of which could not be reasonably expected to result in a Material Adverse Effect.

Section 5.9. *ERISA*. The Borrower and each other member of its Controlled Group has fulfilled its obligations under the minimum funding standards of, and is in compliance in all material respects with, ERISA and the Code to the extent applicable to it and, other than a liability for premiums under Section 4007 of ERISA, has not incurred any liability to the PBGC or a Plan, except where the failure, noncompliance or incurrence of such could not be reasonably expected, individually or in the aggregate, to have a Material Adverse Effect. The Borrower and its Subsidiaries have no contingent liabilities with respect to any post-retirement benefits under a Welfare Plan, other than liability for continuation coverage described in article 6 of Title 1 of ERISA, and except as could not be reasonably expected to have a Material Adverse Effect.

Section 5.10. *Subsidiaries*. Schedule 5.10 correctly sets forth, as of the Closing Date, each Subsidiary of the Borrower, its respective jurisdiction of organization and the percentage ownership (whether directly or indirectly) of the Borrower in each class of capital stock or other Equity

Interests of each of its Subsidiaries and also identifies the direct owner thereof. As of the Closing Date, all of the Subsidiaries of the Borrower will be Restricted Subsidiaries.

Section 5.11. *Compliance with Laws*. The Borrower and each of its Restricted Subsidiaries is in compliance with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all Governmental Authority in respect of the conduct of their businesses and the ownership of their property, except such noncompliances as could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

Section 5.12. *Environmental Matters*. The Borrower and each of its Subsidiaries is in compliance with all applicable Environmental Laws and the requirements of any permits issued under such Environmental Laws, except to the extent that the aggregate effect of all noncompliances could not reasonably be expected to have a Material Adverse Effect. There are no pending or, to the knowledge of the Borrower and its Subsidiaries, threatened Environmental Claims, including any such claims (regardless of materiality) for liabilities under CERCLA relating to the disposal of Hazardous Materials, against the



Borrower or any of its Subsidiaries or any real property, including leaseholds, owned or operated by the Borrower or any of its Subsidiaries, except such claims as could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect. Except as could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect, there are no facts, circumstances, conditions or occurrences on any real property, including leaseholds, owned or operated by the Borrower or any of its Subsidiaries that, to the knowledge of the Borrower and its Subsidiaries, could reasonably be expected (i) to form the basis of an Environmental Claim against the Borrower or any of its Subsidiaries or any such real property, or (ii) to cause any such real property to be subject to any restrictions on the ownership, occupancy, use or transferability of such real property by the Borrower or any of its Subsidiaries under any applicable Environmental Law. To the knowledge of the Borrower, Hazardous Materials have not been Released on or from any real property, including leaseholds, owned or operated by the Borrower or any of its Subsidiaries where such Release, individually, or when combined with other Releases, in the aggregate, may reasonably be expected to have a Material Adverse Effect.

Section 5.13. *Investment Company*. Neither the Borrower nor any Restricted Subsidiary is an “investment company” or a company “controlled” by an “investment company” within the meaning of the Investment Company Act of 1940, as amended.

Section 5.14. *Intellectual Property*. The Borrower and each of its Restricted Subsidiaries own all the patents, trademarks, service marks, trade names, copyrights, trade secrets, know-how or other intellectual property rights, or each has obtained licenses or other rights of whatever nature necessary for the present conduct of its businesses, in each case without any known conflict with the rights of others which, or the failure to obtain which, as the case may be, could reasonably be expected to result in a Material Adverse Effect.

Section 5.15. *Good Title*. The Borrower and its Restricted Subsidiaries have good and indefeasible title, or valid leasehold interests, to their material properties and assets as reflected on the Borrower’s most recent consolidated balance sheet provided to the Administrative Agent (except for sales of assets in the ordinary course of business, and such defects in title that could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect) and is subject to no Liens, other than Permitted Liens.

Section 5.16. *Labor Relations*. Neither the Borrower nor any of its Restricted Subsidiaries is engaged in any unfair labor practice that could reasonably be expected to have a Material Adverse Effect. There is (i) no strike, labor dispute, slowdown or stoppage pending against the Borrower or any of its Restricted Subsidiaries or, to the knowledge of the Borrower and its Restricted Subsidiaries, threatened against the Borrower or any of its Restricted Subsidiaries and (ii) to the knowledge of the Borrower and its Restricted Subsidiaries, no union representation proceeding is pending with respect to the employees of the Borrower or any of its Restricted Subsidiaries and no union organizing activities are taking place, except (with respect to any matter specified in clause (i) or (ii) above, either individually or in the aggregate) such as could not reasonably be expected to have a Material Adverse Effect.

Section 5.17. *Capitalization*. Except as set forth on Schedule 5.17, all outstanding Equity Interests of the Borrower and its Restricted Subsidiaries have been duly authorized and validly issued, and, to the extent applicable, are fully paid and nonassessable, and as of the Closing Date there are no outstanding commitments or other obligations of any Restricted Subsidiary to issue, and no rights of any Person to acquire, any Equity Interests in any Restricted Subsidiary.

Section 5.18. *Governmental Authority and Licensing*. The Borrower and its Restricted Subsidiaries have received all licenses, permits, and approvals of each Governmental Authority necessary to conduct their businesses, in each case where the failure to obtain or maintain the same could reasonably



be expected to have a Material Adverse Effect. No investigation or proceeding that could reasonably be expected to result in revocation or denial of any license, permit or approval is pending or, to the knowledge of the Borrower, threatened, except where such revocation or denial could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

Section 5.19. *Approvals*. No authorization, consent, license or exemption from, or filing or registration with, any Governmental Authority, nor any approval or consent of any other Person, is or will be necessary to the valid execution, delivery or performance by the Borrower or any other Loan Party of any Loan Document, except (a) for such approvals which have been obtained prior to the date of this Agreement and remain in full force and effect, (b) filings necessary to perfect Liens created by the Loan Documents and (c) consents, approvals, registrations, filings, permits or actions the failure to obtain or perform which could not be reasonably expected to have a Material Adverse Effect.

Section 5.20. *Solvency*. As of the Closing Date, the Borrower and its Subsidiaries, on a consolidated basis after giving effect to the Transactions, are solvent, able to pay their debts as they become due, and have sufficient capital to carry on their business as currently conducted and all businesses in which they are about to engage.

Section 5.21. *Foreign Assets Control Regulations and Anti-Money Laundering*.

(a) *OFAC*. Neither Borrower nor any of its Restricted Subsidiaries is (i) a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Party and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) a person who engages in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise associated with any such person in any manner violative of Section 2, or (iii) a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other U.S. Department of Treasury's Office of Foreign Assets Control regulation or executive order.

(b) *Patriot Act*. The Borrower and its Restricted Subsidiaries are in compliance, in all material respects, with the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the *"Patriot Act"*). No part of the proceeds of the Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

~~Section 5.22. *Senior Indebtedness*. The Obligations constitute "Senior Indebtedness" of the Borrower under and as defined in the Intercreditor Agreement. The obligations of each Guarantor under the Guaranty constitute "Guarantor Senior Indebtedness" of such Guarantor under and as defined in the Intercreditor Agreement.~~

SECTION 6. COVENANTS.

The Borrower covenants and agrees that, so long as any Loan or other Obligation hereunder shall remain unpaid or unsatisfied (other than any contingent indemnity obligations):

Section 6.1. *Information Covenants*. The Borrower will furnish to the Administrative Agent (for delivery to the Lenders):

(a) *Quarterly Reports*. Within 45 days after the end of each fiscal quarter of the Borrower not corresponding with the fiscal year end, commencing with the first full fiscal



quarter of the Borrower ending after the Closing Date, the Borrower's consolidated balance sheet as at the end of such fiscal quarter and the related consolidated statements of income and retained earnings and of cash flows for such fiscal quarter and for the elapsed portion of the fiscal year-to-date period then ended, each in reasonable detail, prepared by the Borrower in accordance with GAAP, and starting with the first full fiscal quarter after the first anniversary of the Closing Date setting forth comparative figures for the corresponding fiscal quarter in the prior fiscal year, all of which shall be certified by the chief financial officer or other financial or accounting officer of the Borrower that they fairly present in all material respects in accordance with GAAP the financial condition of the Borrower and its Restricted Subsidiaries as of the dates indicated and the results of their operations and changes in their cash flows for the periods indicated, subject to normal year-end audit adjustments and the absence of footnotes.

(b) *Annual Statements*. Within 100 days after the close of each fiscal year of the Borrower (commencing with the fiscal year ending December 31, 2010), a copy of the Borrower's consolidated balance sheet as of the last day of the fiscal year then ended and the Borrower's consolidated statements of income, retained earnings, and cash flows for the fiscal year then ended, and accompanying notes thereto, each in reasonable detail and starting with the first full fiscal year after the first anniversary of the Closing Date showing in comparative form the figures for the previous fiscal year, accompanied by an unqualified opinion of a firm of independent public accountants of recognized national standing, selected by the Borrower, to the effect that the consolidated financial statements have been prepared in accordance with GAAP and present fairly in accordance with GAAP the consolidated financial condition of the Borrower and its Restricted Subsidiaries as of the close of such fiscal year and the results of their operations and cash flows for the fiscal year then ended and that an examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards. Notwithstanding the foregoing, for the fiscal year ending December 31, 2010, the financial statements delivered under this paragraph (b) need only cover the period from and after the Closing Date through and including December 31, 2010.

(c) *Annual Budget*. Within 45 days after the commencement of each fiscal year of the Borrower, a detailed consolidated budget for the Borrower and its Restricted Subsidiaries for such fiscal year (including a projected consolidated balance sheet and consolidated statements of projected operations, comprehensive income and cash flows as of the end of and for such fiscal year and setting forth the material assumptions used for purposes of preparing such budget).

(d) *Management Discussion and Analysis*. Within 45 days after the close of each of the first three fiscal quarters, a management discussion and analysis of the Borrower's and its Restricted Subsidiaries' financial performance for that fiscal quarter and a comparison of financial performance for that financial quarter to the corresponding fiscal quarter of the previous fiscal year (in form reasonably acceptable to the Administrative Agent, which shall not be unacceptable solely because it does not contain all of the information required to be included in unaudited interim financial statements by Item 303 of Regulation S-K of the Securities Act of 1933, as amended). Within 100 days after the close of each fiscal year, a management discussion and analysis of each of the Borrower's and its Restricted Subsidiaries' financial performance for that fiscal year and a comparison of financial performance for that fiscal year to the prior year.

(e) *Compliance Certificate*. At the time of the delivery of the financial statements provided for in Sections 6.1(a) and (b), a certificate of the chief financial officer or other financial or accounting officer of the Borrower substantially in the form of Exhibit F (x) stating



no Default or Event of Default has occurred and is then continuing or, if a Default or Event of Default exists, a detailed description of the Default or Event of Default and all actions the Borrower is taking with respect to such Default or Event of Default, and (y) showing the Borrower's compliance with the covenants set forth in Section 6.22.

(f) *Notice of Default or Litigation*. Promptly after any senior executive officer of the Borrower obtains knowledge thereof, notice of (i) the occurrence of any event which constitutes a Default or an Event of Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Borrower proposes to take with respect thereto, (ii) the commencement of, or threat in writing of, or any significant development in, any litigation, labor controversy, arbitration or governmental proceeding pending against the Borrower or any of its Restricted Subsidiaries which would reasonably be expected to result in a Material Adverse Effect.

(g) *Other Reports and Filings*. To the extent not required by any other paragraph in this Section 6.1, promptly, copies of all financial information, proxy materials and other material information which the Borrower or any of its Restricted Subsidiaries has delivered to holders of, or to any agent or trustee with respect to, Indebtedness of the Borrower or any of its Subsidiaries in their capacity as such a holder, agent or trustee to the extent that the aggregate principal amount of such Indebtedness exceeds (or upon the utilization of any unused commitments may exceed) $15,000,000.

(h) *Pro Forma Adjustment Certificate*. On or before the date on which a Pro Forma Adjustment is made, a certificate of an officer of the Borrower in form reasonably acceptable to the Administrative Agent setting forth the amount of such Pro Forma Adjustment and, in reasonable detail, the calculations and basis therefor, which certificate shall, in the case of any Pro Forma Adjustment made as a result of any Permitted Acquisition equal to or greater than $30,000,000, be accompanied by financial statements for such acquired business for each fiscal quarter ending during the relevant period, to the extent available.

(i) *Environmental Matters*. Promptly after any senior executive officer of the Borrower obtains knowledge thereof, notice of one or more of the following environmental matters which individually, or in the aggregate, may reasonably be expected to have a Material Adverse Effect: (i) any notice of an Environmental Claim against the Borrower or any of its Subsidiaries or any real property owned or operated by the Borrower or any of its Subsidiaries; (ii) any condition or occurrence on or arising from any real property owned or operated by the Borrower or any of its Subsidiaries that (a) results in noncompliance by the Borrower or any of its Subsidiaries with any applicable Environmental Law or (b) could reasonably be expected to form the basis of an Environmental Claim against the Borrower or any of its Subsidiaries or any such real property; (iii) any condition or occurrence on any real property owned or operated by the Borrower or any of its Subsidiaries that could reasonably be expected to cause such real property to be subject to any restrictions on the ownership, occupancy, use or transferability by the Borrower or any of its Subsidiaries of such real property under any Environmental Law; and (iv) any removal or remedial actions to be taken in response to the actual or alleged presence of any Hazardous Material on any real property owned or operated by the Borrower or any of its Subsidiaries as required by any Environmental Law or any Governmental Authority. All such notices shall describe in reasonable detail the nature of the claim, investigation, condition, occurrence or removal or remedial action and the Borrower's or such Subsidiary's response thereto. In addition, the Borrower agrees to provide the Lenders with copies of all material non-privileged written communications by the Borrower or any of its Subsidiaries with any Person or Governmental Authority relating to any of the matters set forth in clauses (i)-(iv)



above, and such detailed reports relating to any of the matters set forth in clauses (i)-(iv) above as may reasonably be requested by the Administrative Agent or the Required Lenders.

(j) *Other Information*. From time to time, such other information or documents (financial or otherwise) as the Administrative Agent or any Lender (through the Administrative Agent) may reasonably request; *provided* that, the Administrative Agent and any Lender (through the Administrative Agent) may request such information in their respective capacities as Administrative Agent and Lender only and may not use such information for any purpose other than a purpose reasonably related to its capacity as Administrative Agent or Lender, as applicable.

Information and documents required to be delivered pursuant to this Section 6.1 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address provided to the Administrative Agent or on an Intralinks or similar site to which the Lenders have been granted access; or (ii) on which such documents are transmitted by electronic mail to the Administrative Agent.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 6.1 may be satisfied with respect to financial information of the Borrower and its Subsidiaries by furnishing (A) the applicable financial statements of any direct or indirect parent of the Borrower or (B) the Borrower's (or any direct or indirect parent thereof), as applicable, Form 10-K or 10-Q, as applicable, filed with the Securities and Exchange Commission.

Section 6.2. *Inspections*. The Borrower will, and will cause each Restricted Subsidiary to, permit officers, designated representatives and agents of the Administrative Agent (or any Lender solely if accompanying the Administrative Agent), to visit and inspect any Property of the Borrower or such Restricted Subsidiary, and to examine the books of account of the Borrower or such Restricted Subsidiary and discuss the affairs, finances and accounts of the Borrower or such Restricted Subsidiary with its and their officers and independent accountants, all at such reasonable times as the Administrative Agent may request; *provided* that, (i) prior written notice of any such visit, inspection or examination shall be provided to the Borrower and such visit, inspection or examination shall be performed at reasonable times to be agreed to by the Borrower, which agreement will not be unreasonably withheld, (ii) excluding any such visits and inspections during the continuation of an Event of Default, the Administrative Agent shall not exercise its rights under this Section 6.2 more often than one time during any such fiscal year, the Borrower is not obligated to compensate the Administrative Agent for more than one inspection and examination by the Administrative Agent during any calendar year and any such compensation shall be subject to the limitations of Section 10.13, and (iii) the Administrative Agent may conduct inspections pursuant to this Section 6.2 in its respective capacity as Administrative Agent only and may not conduct inspections or utilize information from such inspections for any purpose other than a purpose reasonably related to its capacity as Administrative Agent. The Administrative Agent shall give the Borrower a reasonable opportunity to participate in any discussions with the Borrower's independent public accountants.

Section 6.3. *Maintenance of Property, Insurance, Environmental Matters, etc.*

(a) The Borrower will, and will cause each of its Subsidiaries to, (i) keep its property, plant and equipment in good repair, working order and condition, except (A) normal wear and tear and casualty and condemnation and (B) to the extent that failure to do so would not reasonably be expected to result in a Material Adverse Effect, and (ii) maintain in full force and effect with financially sound and reputable insurance companies insurance against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business of the Borrower and shall furnish to the Administrative Agent upon

its reasonable request (but not more than twice per fiscal year in the absence of an Event of Default) reasonably detailed information as to the insurance so carried.

(b) Without limiting the generality of Section 6.3(a), the Borrower and its Subsidiaries: (i) shall comply with, and maintain all real property in compliance with, any applicable Environmental Laws; (ii) shall obtain and maintain in full force and effect all governmental approvals required for its operations at or on its properties by any applicable Environmental Laws; (iii) shall cure as soon as reasonably practicable any violation of applicable Environmental Laws with respect to any of its properties which individually or in the aggregate may reasonably be expected to have a Material Adverse Effect; (iv) shall not, and shall not permit any other Person to, own or operate on any of its properties any landfill or dump or hazardous waste treatment, storage or disposal facility as defined pursuant to the RCRA, or any comparable state law; and (v) shall not use, generate, treat, store, release or dispose of Hazardous Materials at or on any of the real property except in the ordinary course of its business and in compliance with all Environmental Laws; except, with respect to clauses (i), (ii), (iv) and (v), to the extent, either individually or in the aggregate, all of the same could not be reasonably expected to have a Material Adverse Effect. With respect to any Release of Hazardous Materials, the Borrower and its Restricted Subsidiaries shall conduct any necessary or required investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other response action necessary to remove, cleanup or abate any material quantity of Hazardous Materials released at or on any of its properties as required by any applicable Environmental Law.

Section 6.4. *Books and Records*. Each of Holdco and the Borrower will, and will cause each Restricted Subsidiary to, maintain proper books of record and account in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of Holdco, the Borrower or its Restricted Subsidiary, as the case may be.

Section 6.5. *Preservation of Existence*. The Borrower will, and will cause each of its Restricted Subsidiaries to, do or cause to be done, all things necessary to preserve and keep in full force and effect (a) its existence under the laws of its jurisdiction of organization and (b) its franchises, authority to do business, licenses, patents, trademarks, copyrights and other proprietary rights, except, in the case of clause (b) where the failure to do so would not reasonably be expected to have a Material Adverse Effect; *provided, however*, that nothing in this Section 6.5 shall prevent the Borrower or any Restricted Subsidiary from consummating any transaction permitted by Section 6.16.

Section 6.6. *Compliance with Laws*. The Borrower shall, and shall cause each Restricted Subsidiary to, comply in all respects with the requirements of all laws, rules, regulations, ordinances and orders applicable to its property or business operations of any Governmental Authority, where any such non-compliance, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect or result in a Lien upon any of its Property (other than a Permitted Lien).

Section 6.7. *ERISA*. The Borrower shall, and shall cause each Subsidiary to, promptly pay and discharge all obligations and liabilities arising under ERISA of a character which if unpaid or unperformed would reasonably be expected to have a Material Adverse Effect. The Borrower shall, and shall cause each Subsidiary to, promptly notify the Administrative Agent of: (a) the occurrence of any Reportable Event with respect to a Plan, (b) receipt of any notice from the PBGC of its intention to seek termination of any Plan or appointment of a trustee therefor and (c) its intention to terminate or withdraw from any Plan, in each case, except as could not reasonably be expected to have a Material Adverse Effect.

Section 6.8. *Payment of Taxes*. The Borrower will, and will cause each of its Restricted Subsidiaries to, pay and discharge, all material taxes, assessments, fees and other material governmental



charges imposed upon it or any of its Property, before becoming delinquent and before any material penalties accrue thereon, unless and to the extent that (a) the same are being contested in good faith and by proper proceedings and as to which appropriate reserves are provided therefor, unless and until any material Lien resulting therefrom attaches to any of its Property or (b) the failure to pay the same could not be reasonably expected to have a Material Adverse Effect.

Section 6.9. *Designation of Subsidiaries*. The Borrower may at any time after the Closing Date designate any Restricted Subsidiary of the Borrower as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that (i) immediately before and after such designation on a Pro Forma Basis, no Event of Default shall have occurred and be continuing and (ii) immediately after giving effect to such designation, the Borrower shall be in compliance, on a Pro Forma Basis, with the covenants set forth in Section 6.22 recomputed as of the last day of the most recent period for which financial statements have been (or were required to be) delivered hereunder. The designation of any Subsidiary as an Unrestricted Subsidiary after the Closing Date shall constitute an investment by the Borrower therein at the date of designation in an amount equal to the fair market value of the Borrower's or its Restricted Subsidiary's (as applicable) investment therein. Such designation will be permitted only if an investment in such amount would be permitted at such time pursuant to Section 6.17. Unrestricted Subsidiaries will not be subject to any of the mandatory prepayments, representations and warranties, covenants or Events of Default set forth in the Loan Documents.

Section 6.10. *Interest Rate Protection*. In the case of the Borrower, within 180 days after the ~~Closing~~Second Amendment Effective Date, enter into, and thereafter maintain, Hedge Agreements to the extent necessary to provide that at least 50% of the aggregate principal amount of ~~(i)~~ the Loans funded on the ~~Closing Date and (ii) the~~ Second ~~Lien Loans~~Amendment Effective Date are subject to either a fixed interest rate or interest rate protection for a period of not less than two years, which Hedge Agreements shall have terms and conditions reasonably satisfactory to the Administrative Agent.

Section 6.11. *Contracts with Affiliates*. The Borrower shall not, nor shall it permit any Restricted Subsidiary to, enter into any contract, agreement or business arrangement with any of its Affiliates (other than its Restricted Subsidiaries) except on terms that are not materially less favorable to the Borrower or such Restricted Subsidiary as would have been obtained in a comparable arm's-length transaction with a Person that is not an Affiliate; *provided* that the foregoing restrictions shall not apply to:

(a) the payment of customary fees to the Existing Shareholders for management, consulting and financial services rendered to the Borrower and the Restricted Subsidiaries and customary investment banking fees paid to the Existing Shareholders for services rendered to the

Borrower and the Restricted Subsidiaries in connection with divestitures, acquisitions, financings and other transactions, in each case, in an amount not to exceed $1,000,000 per fiscal year and payment of the expenses and indemnification claims of the Existing Shareholders in connection with their performance of such services,

(b) transactions permitted by Section 6.18,

(c) the Transactions and the transactions contemplated by the Master Investment Agreement and the Ancillary Agreements (as defined in the Master Investment Agreement),

(d) the issuance of capital stock or other Equity Interests of the Borrower or other payment to the management of the Borrower (or any direct or indirect parent thereof) or any of its Restricted Subsidiaries in connection with the Transactions, pursuant to arrangements described in the following paragraph (e), or otherwise to the extent permitted under this Section 6,



(e) employment and severance arrangements and health, disability and similar insurance or benefit plans between the Borrower (or any direct or indirect parent thereof) and the Restricted Subsidiaries and their respective directors, officers, employees (including management and employee benefit plans or agreements, subscription agreements or similar agreements pertaining to the repurchase of capital stock pursuant to put/call rights or similar rights with current or former employees, officers or directors and stock option or incentive plans and other compensation arrangements) in the ordinary course of business or as otherwise approved by the board of directors (or similar governing body) of the Borrower,

(f) the payment of customary fees and reasonable out of pocket costs to, and indemnities provided on behalf of, directors, managers, consultants, officers and employees of the Borrower and the Restricted Subsidiaries (or any direct or indirect parent of the Borrower) in the ordinary course of business (in the case of any direct or indirect parent of the Borrower, to the extent attributable to the operations of the Borrower or its Restricted Subsidiaries),

(g) transactions with joint ventures for the purchase and sale of goods, equipment or services entered into in the ordinary course of business,

(h) transactions pursuant to permitted agreements in existence on the Closing Date and set forth on Schedule 6.11 or any amendment thereto to the extent such an amendment is not adverse, taken as a whole, to the Lenders in any material respect,

(i) payments by the Borrower and its Restricted Subsidiaries to each other pursuant to tax sharing agreements or arrangements among any direct or indirect parent of Borrower and such parent's Restricted Subsidiaries on customary terms,

(j) loans and other transactions among the Borrower and its Subsidiaries (and any direct and indirect parent company of the Borrower) to the extent permitted under this Section 6; *provided* that any Indebtedness of any Loan Party owed to a Subsidiary that is not a Loan Party shall be subordinated in right of payment to the Obligations, and

(k) payments or loans (or cancellation of loans) to directors, officers, employees, members of management or consultants of the Borrower, any of its direct or indirect parent companies or any of its Restricted Subsidiaries which are approved by a majority of the board of directors of the Borrower in good faith.

Section 6.12. *No Changes in Fiscal Year*. The Borrower shall not, nor shall it permit any Restricted Subsidiary to, change its fiscal year for financial reporting purposes from its present basis without the prior written consent of the Administrative Agent (which consent shall not be unreasonably withheld); *provided,* that in the event that the Administrative Agent shall so consent to such change, the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary in order to reflect such change in financial reporting.

Section 6.13. *Change in the Nature of Business; Limitations on the Activities of Holdco*. (a) The Borrower and its Restricted Subsidiaries, taken as a whole, will not fundamentally and substantively alter the character of their business, taken as a whole, from the Business conducted by the Borrower on the Closing Date and other business activities incidental or related to any of the foregoing unless such change occurs as a result of any Regulatory Event at any Lender.

(b) Holdco will not conduct, transact or otherwise engage in any business or operations other than (i) the ownership of the capital stock of each direct Subsidiary of Holdco, as applicable,



on the Closing Date, (ii) maintaining its corporate existence, (iii) participating in tax, accounting and other administrative activities as a member of the consolidated group of companies, including the Loan Parties, (iv) the execution and delivery of the Loan Documents~~, the Second Lien Loan Documents (or the documentation governing any Refinancing Indebtedness in connection therewith)~~ and other documents relating to the Transactions to which it is a party and the performance of its obligations thereunder, (v) the performance of its obligations under the Master Investment Agreement and the Ancillary Agreements (as defined in the Master Investment Agreement), (vi) any Qualified Public Offering or any other issuance of its Equity Interests not prohibited by Section 6, (vii) providing indemnification to officers and directors, (viii) holding any cash or property received in connection with Distributions permitted under Section 6.18 and (ix) activities incidental to the businesses or operations described in clauses (i) through (viii) above; or create, incur, assume or suffer to exist (i) any Indebtedness except pursuant to the Transactions, or the transactions contemplated under the Master Investment Agreement or the Ancillary Agreements (as defined in the Master Investment Agreement) or (ii) Liens except pursuant to the Transactions, or the transactions contemplated under the Master Investment Agreement or the Ancillary Agreements (as defined in the Master Investment Agreement) and non-consensual Liens.

Section 6.14. *Indebtedness*. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, contract, create, incur, assume or suffer to exist any Indebtedness, except;

~~(a) (i) Indebtedness of the Borrower in respect of the Second Lien Loan Agreement in an aggregate principal amount not to exceed (x) $550,000,000 minus (y) the amount of any Commitment Increases hereunder and (ii) Contingent Obligations of any Restricted Subsidiary in respect of such Indebtedness; *provided* that such Contingent Obligations are secured only to the extent of the secured obligations under the Second Lien Loan Agreement.~~

(a) ~~(b)~~ the Obligations, Hedging Liability (other than for speculative purposes), and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations of the Borrower and its Restricted Subsidiaries;

(b) ~~(c)~~ Indebtedness owed pursuant to Hedge Agreements entered into in the ordinary course of business and not for speculative purposes with Persons other than Lenders (or their Affiliates);

(c) ~~(d)~~ intercompany Indebtedness among the Borrower and its Restricted Subsidiaries to the extent permitted by Section 6.17;

(d) ~~(e)~~ Indebtedness (including Capitalized Lease Obligations and other Indebtedness arising under Capital Leases) the proceeds of which are used to finance the acquisition, lease, construction, repair, replacement, expansion or improvement of fixed or capital assets or otherwise incurred in respect of capital expenditures, whether through the direct purchase of assets or the purchase of capital stock of any Person owning such assets; *provided* that the aggregate principal amount of Indebtedness outstanding under this paragraph (~~e~~d), together with any Refinancing Indebtedness incurred under paragraph (~~t~~s) below in respect thereof, shall not exceed $50,000,000 at any time;

(e) ~~(f)~~ Indebtedness of the Borrower and its Restricted Subsidiaries not otherwise permitted by this Section in an amount not to exceed $200,000,000 in the aggregate at any one time outstanding;



(f) ~~(g)~~ Contingent Obligations incurred by (i) any Restricted Subsidiary in respect of Indebtedness of the Borrower or any other Subsidiary that is permitted to be incurred under this Agreement and (ii) the Borrower in respect of Indebtedness of any Subsidiary that is permitted to be incurred under this Agreement; *provided* that any such Contingent Obligations incurred by the Borrower or any Loan Party with respect to Indebtedness incurred by any Subsidiary that is not a Loan Party, must not be prohibited by Section 6.17;

(g) ~~(h)~~ Contingent Obligations incurred in the ordinary course of business in respect of obligations to suppliers, customers, franchisees, lessors, licensees or distribution partners;

(h) ~~(i)~~ (i) unsecured Indebtedness in respect of obligations of the Borrower or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; *provided* that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Hedge Agreements and (ii) unsecured Indebtedness in respect of intercompany obligations of the Borrower or any Restricted Subsidiary in respect of accounts payable incurred in connection with goods sold or services rendered in the ordinary course of business and not in connection with the borrowing of money;

(i) ~~(j)~~ Indebtedness arising from agreements of the Borrower or any Restricted Subsidiary providing for indemnification, adjustment of purchase price or similar obligations, in each case, entered into in connection with the disposition of any business, assets or capital stock permitted hereunder, other than Contingent Obligations incurred by any Person acquiring all or any portion of such business, assets or capital stock for the purpose of financing such acquisition;

(j) ~~(k)~~ Indebtedness arising from agreements of the Borrower or any Restricted Subsidiary providing for indemnification, adjustment of purchase price or similar obligations, in each case, entered into in connection with Permitted Acquisitions or other investments permitted under Section 6.17;

(k) ~~(l)~~ Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds, performance and completion guarantees and similar obligations incurred in the ordinary course of business and not in connection with the borrowing of money or Hedge Agreements;

(l) ~~(m)~~ Indebtedness of the Borrower or any Restricted Subsidiary consisting of (i) obligations to pay insurance premiums or (ii) take or pay obligations contained in supply agreements, in each case arising in the ordinary course of business and not in connection with the borrowing of money or Hedge Agreements;

(m) ~~(n)~~ Indebtedness representing deferred compensation or similar arrangements to employees, consultants or independent contractors of the Borrower (or its direct or indirect parent) and its Restricted Subsidiaries incurred in the ordinary course of business or otherwise incurred in connection with the Transactions or any Permitted Acquisition or other investment permitted under Section 6.17;



(n) ~~(o)~~ Indebtedness consisting of promissory notes issued to current or former officers, managers, consultants, directors and employees (or their respective spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees) to finance the purchase or redemption of capital stock of the Borrower or any of its direct or indirect parent companies permitted by Section 6.18;

(o) ~~(p)~~ Indebtedness in respect of Cash Management Services, netting services, automatic clearing house arrangements, employees' credit or purchase cards, overdraft protections and similar arrangements in each case incurred in the ordinary course of business;

(p) ~~(q)~~ Indebtedness incurred by the Borrower or any Restricted Subsidiary to finance the acquisition of the FTPS Headquarters not to exceed $10,200,000 and any Contingent Obligations by the Borrower in respect of such Indebtedness;

(q) ~~(r)~~ Indebtedness of the Borrower and its Restricted Subsidiaries in existence on the Closing Date and set forth in all material respects on Schedule 6.14;

(r) ~~(s)~~ Indebtedness incurred by the Borrower or any Restricted Subsidiary constituting reimbursement obligations with respect to bankers' acceptances and letters of credit issued in the ordinary course of business, including letters of credit in respect of workers' compensation laws, unemployment insurance laws or similar legislation, or other Indebtedness with respect to reimbursement type obligations regarding workers' compensation laws, unemployment insurance laws or similar legislation; *provided*, *however*, that upon the drawing of such bankers' acceptances and letters of credit or the incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or incurrence;

(s) ~~(t)~~ the incurrence by the Borrower or any Restricted Subsidiary of Indebtedness which serves to refund or refinance any Indebtedness permitted under paragraphs (~~a~~d), (~~c~~p), (q)~~, (r)~~ and (~~u~~t) of this Section 6.14 or any Indebtedness issued to so refund, replace or refinance such Indebtedness, including, in each case, additional Indebtedness incurred to pay premiums (including tender premiums), defeasance costs and fees and expenses in connection therewith (collectively, the *"Refinancing Indebtedness"*) prior to its respective maturity; *provided, however,* that such Refinancing Indebtedness:

(A) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the remaining Weighted Average Life to Maturity of the Indebtedness being refunded or refinanced;

(B) to the extent such Refinancing Indebtedness refinances Indebtedness (1) subordinated or *pari passu* to the Obligations, such Refinancing Indebtedness is subordinated or *pari passu* to the Obligations at least to the same extent as the Indebtedness being refinanced or refunded or (2) secured by the Collateral on a *pari passu* or junior basis, such Refinancing Indebtedness is secured only to the extent as the Indebtedness being refinanced or refunded; and

(C) shall not include Indebtedness of a non-Loan Party that refinances Indebtedness of a Loan Party~~; and~~.



---

~~(D) shall be permitted by and subject to the terms of the Intercreditor Agreement, in the case of any refunding, replacement or refinancing of Indebtedness permitted pursuant to Section 6.14(a);~~

(t) ~~(u)~~ Indebtedness of (x) the Borrower or any Subsidiary incurred to finance a Permitted Acquisition or (y) Persons that are acquired by the Borrower or any Subsidiary or merged into the Borrower or a Subsidiary in a Permitted Acquisition in accordance with the terms of this Agreement or that is assumed by the Borrower or any Subsidiary in connection with such Permitted Acquisition; *provided* that such Indebtedness under this clause (y) is not incurred in contemplation of such Permitted Acquisition:

(A) no Default exists or shall result therefrom;

(B) any Indebtedness incurred in reliance on clause (x) of this Section 6.14(~~u~~t) shall not be secured by a Lien and shall not mature or require any payment of principal, in each case, prior to the date which is 91 days after the maturity date of the Term B-2 Loans as set forth in Section 2.7(~~a~~b);

(C) in the case of any Indebtedness incurred in reliance on clause (y) of this Section 6.14(~~u~~t) the aggregate principal amount of such Indebtedness that is secured by any Lien, together with all Refinancing Indebtedness in respect thereof, shall not exceed $100,000,000; and

(D) subject to subclause (C) above, immediately prior to, and after giving effect to such Permitted Acquisition, the Borrower and its Restricted Subsidiaries shall be in compliance, on a Pro Forma Basis, with the covenants set forth in Section 6.22 recomputed as of the last day of the most recently completed period;

(u) ~~(v)~~ Indebtedness of the Borrower or any of its Restricted Subsidiaries supported by a letter of credit in a principal amount not to exceed the face amount of such letter of credit; and

(v) ~~(w)~~ all customary premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in each of Section 6.14(a) through 6.14(~~v~~u) above.

Section 6.15. *Liens*. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, create, incur or suffer to exist any Lien on any of its Property; *provided* that the foregoing shall not prevent the following (the Liens described below, the *"Permitted Liens"*):

(a) inchoate Liens for the payment of taxes which are not yet due and payable or the payment of which is not required by Section 6.8;

(b) Liens (i) arising by statute in connection with worker's compensation, unemployment insurance, old age benefits, social security obligations, taxes, assessments, statutory obligations or other similar charges, (ii) in connection with bids, tenders, contracts or leases to which the Borrower or any Restricted Subsidiary is a party or (iii) to secure public or statutory obligations of such Person or deposits of cash or Cash Equivalents to secure surety or appeal bonds to which such Person is a party, or deposits as security for contested taxes or for the payment of rent, in each case, incurred in the ordinary course of business;



---

(c) mechanics', workmen's, materialmen's, landlords', carriers' or other similar Liens arising in the ordinary course of business with respect to obligations which are not overdue by a period of more than 30 days or if more than 30 days over due (i) which could not reasonably be expected to have a Material Adverse Effect or (ii) which are being contested in good faith by appropriate proceedings;

(d) Liens created by or pursuant to this Agreement and the Collateral Documents;

(e) Liens on property of the Borrower or any Restricted Subsidiary created solely for the purpose of securing indebtedness permitted by Section 6.14(ed) hereof, *provided* that no such Lien shall extend to or cover other Property of the Borrower or such Restricted Subsidiary other than the respective Property so acquired or similar Property acquired from the same lender or its Affiliates, and the principal amount of indebtedness secured by any such Lien shall at no time exceed the purchase price of all such Property;

(f) Liens assumed in connection with Permitted Acquisitions;

(g) easements, rights-of-way, restrictions, and other similar encumbrances as to the use of real property of the Borrower or any Restricted Subsidiary incurred in the ordinary course of business which do not impair their use in the operation of the business of such Person;

(h) Liens in favor of (i) Fifth Third Bank created pursuant to the Clearing Agreement, (ii) one or more financial institutions pursuant to similar sponsorship, clearinghouse and/or settlement arrangements, *provided* that no Liens permitted under this clause (ii) will extend to cover Property of the Borrower or any Restricted Subsidiary other than that held by the other party to such agreement and the amount of such Lien shall not exceed the amount owed by the Borrower or any Restricted Subsidiary under such agreement;

(i) ground leases or subleases, licenses or sublicenses in respect of real property on which facilities owned or leased by the Borrower or any of its Restricted Subsidiaries are located;

(j) Liens arising from judgments or decrees for the payment of money in circumstances not constituting an Event of Default under Section 7.1;

(k) any interest or title of a lessor, sublessor, licensor or sublicensor or Lien securing a lessor's, sublessor's, licensor's or sublicensor's interest under any lease not prohibited by this Agreement;

(l) licenses and sublicenses of intellectual property granted in the ordinary course of business;

(m) any zoning or similar law or right reserved to, or vested in, any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary course of conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(n) Liens (i) of a collection bank arising under Section 4-210 of the UCC on items in the course of collection, (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business and (iii) in favor of a banking



institution arising as a matter of law encumbering deposits (including the right to set off), which are within the general parameters customary in the banking industry;

(o) Liens (i) on cash advances in favor of the seller of any property to be acquired in an investment permitted pursuant to Section 6.17 to be applied against the purchase price for such investment or (ii) consisting of an agreement to sell, transfer, lease or otherwise dispose of any property in a transaction permitted under Section 6.16;

(p) Liens on securities that are the subject of repurchase agreements constituting Cash Equivalents;

(q) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of indebtedness, (ii) relating to pooled deposit, automatic clearing house or sweep accounts of the Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and its Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any Restricted Subsidiary in the ordinary course of business;

(r) Liens solely on any cash earnest money deposits or escrow arrangements made by the Borrower or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;

(s) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(t) Liens incurred to secure any Indebtedness permitted to be incurred under Section 6.14; *provided* that the aggregate principal amount of all Indebtedness secured by such Liens, together with all Refinancing Indebtedness in respect thereof, shall not exceed $200,000,000;

(u) Liens in favor of the issuer of customs, stay, performance, bid, appeal or surety bonds or completion guarantees and other obligations of a like nature or letters of credit issued pursuant to the request of and for the account of such Person in the ordinary course of its business;

(v) Liens existing on the Closing Date and described on Schedule 6.15;

(w) Liens on property or shares of stock of a Person at the time such Person becomes a Restricted Subsidiary; *provided*, *however*, such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming such a Restricted Subsidiary or concurrently therewith; *provided*, *further*, that such Liens may not extend to any other property owned by the Borrower or any of its Restricted Subsidiaries; *provided*, *further*, that such Liens secure Indebtedness permitted to be incurred under clause (y) of Section 6.14(ut);

(x) Liens on property at the time the Borrower or a Subsidiary acquired the property or concurrently therewith, including any acquisition by means of a merger or consolidation with or into the Borrower or any of its Restricted Subsidiaries; *provided*, *however*, that such

Liens are not created or incurred in connection with, or in contemplation of, such acquisition; *provided, further,* that the Liens may not extend to any other property owned by the



Borrower or any of its Restricted Subsidiaries; *provided, further,* that such Liens secure Indebtedness permitted to be incurred under clause (y) of Section 6.14(~~u~~t);

(y) Liens on specific items of inventory or other goods and the proceeds thereof of any Person securing such Person's obligations under any agreement to facilitate the purchase, shipment or storage of such inventory or other goods, and pledges or deposits in the ordinary course of business securing inventory purchases from vendors;

(z) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancing, refunding, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness permitted by Section 6.14 and secured by any Lien referred to in the foregoing paragraphs (e), (v), (w) and (x); *provided, however,* that (i) such new Lien shall be limited to all or part of the same property that secured the original Lien (plus improvements on such property), and (ii) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount or, if greater, committed amount of the Indebtedness described under paragraphs (e), (v), (w) and (x) at the time the original Lien became a Permitted Lien hereunder, and (B) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing, refunding, extension, renewal or replacement~~;~~

~~(aa) Liens created by or existing pursuant to the Second Lien Loan Documents or any loan documentation governing any Refinancing Indebtedness thereof~~; and

(aa) ~~(bb)~~ Liens securing Indebtedness permitted by Section 6.14(~~q~~p) so long as such Indebtedness is only secured by the FTPS Headquarters and improvements thereon (including fixtures), any leases thereof and any rent, income, profits or proceeds derived therefrom.

Section 6.16. *Consolidation, Merger, Sale of Assets, etc.* The Borrower will not, and will not permit any of its Restricted Subsidiaries to, wind up, liquidate or dissolve its affairs or merge or consolidate, or convey, sell, lease or otherwise dispose of all or any part of its Property, including any disposition as part of any sale-leaseback transactions except that this Section shall not prevent:

(a) the sale and lease of inventory in the ordinary course of business;

(b) the sale, transfer or other disposition of any Property that, in the reasonable judgment of the Borrower or its Restricted Subsidiaries, has become uneconomic, obsolete or worn out or is no longer useful in its business;

(c) the sale, transfer, lease, or other disposition of Property of the Borrower and its Restricted Subsidiaries to one another; *provided* that the fair market value of any Property in respect of any such sale, transfer, lease, or other disposition made by any Loan Party to any Restricted Subsidiary which is not a Loan Party plus the fair market value of any Loan Party that is merged with and into any Restricted Subsidiary that is not a Loan Party pursuant to a merger permitted by Section 6.16(d) hereof shall not exceed $50,000,000 in the aggregate during the term of this Agreement;

(d) the merger of any Restricted Subsidiary with and into the Borrower or any other Restricted Subsidiary; *provided* that, in the case of any merger involving the Borrower, the Borrower is the legal entity surviving the merger; and *provided further* that the fair market value of any Loan Party that is merged with and into any Restricted Subsidiary which is not a Loan Party plus the fair market value of any Property in respect of any sale, transfer, lease, or other



disposition by a Loan Party to a Restricted Subsidiary which is not a Loan Party permitted by Section 6.16(c) hereof shall not exceed $50,000,000 in the aggregate during the term of this Agreement;

(e) the disposition or sale of Cash Equivalents;

(f) any Restricted Subsidiary may dissolve if the Borrower determines in good faith that such dissolution is in the best interests of the Borrower, such dissolution is not disadvantageous to the Lenders and the Borrower or any Restricted Subsidiary receives any assets of such dissolved Subsidiary, subject in the case of a dissolution of a Loan Party that results in a distribution of assets to a non-Loan Party to the limitations set forth in the provisos in each of paragraphs (c) and (d) above;

(g) the sale, transfer, lease, or other disposition of Property of the Borrower or any Restricted Subsidiary (including any disposition of Property as part of a sale and leaseback transaction) aggregating for the Borrower and its Restricted Subsidiaries not more than $25,000,000 during any fiscal year of the Borrower;

(h) the lease, sublease, license (or cross-license) or sublicense (or cross-sublicense) of real or personal property in the ordinary course of business;

(i) the sale, transfer or other disposal of property (including like-kind exchanges) to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such disposition are promptly applied to the purchase price of such replacement property;

(j) the sale, transfer or other disposal of investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements or similar binding arrangements;

(k) any transaction permitted by Section 6.17;

(l) [Reserved];

(m) the unwinding of any Hedge Agreement;

(n) the disposition of any asset between or among the Borrower and/or its Restricted Subsidiaries as a substantially concurrent interim disposition in connection with a disposition otherwise permitted pursuant to paragraphs (a) through (m) above; and

(o) the sale of the EFT Business; *provided* that at least 75% of the consideration received therefore must be in the form of cash or Cash Equivalents; and *provided further* that 100% of the net cash proceeds therefrom are applied toward the repayment of the Obligations in the manner set forth in Section 2.8(c)(ii) and Section 2.8(c)(vi).

To the extent any Collateral is disposed of as expressly permitted by this Section 6.16 to any Person other than a Loan Party, such Collateral shall automatically be sold free and clear of the Liens created by the Loan Documents, and the Administrative Agent shall be authorized to take any actions deemed appropriate in order to effect the foregoing.



---

Section 6.17. *Advances, Investments and Loans*. The Borrower will not, and will not permit any of its Restricted Subsidiaries to make loans or advances to, guarantee any obligations of, or make, retain or have outstanding any investments (whether through purchase of Equity Interests or debt obligations) in, any Person or enter into any partnerships or joint ventures, or purchase or own a futures contract or otherwise become liable for the purchase or sale of currency or other commodities at a future date in the nature of a futures contract (all of the foregoing, collectively, "*investments*"), except that this Section shall not prevent:

(a) investments constituting receivables created in the ordinary course of business;

(b) investments in Cash Equivalents;

(c) investments (including debt obligations) received in connection with the bankruptcy or reorganization of a Person and in settlement of delinquent obligations of, and other disputes with, a Person arising in the ordinary course of business;

(d) (i) the Borrower's equity investments from time to time in its Restricted Subsidiaries, and (ii) investments made from time to time by a Restricted Subsidiary in the Borrower or one or more of its Restricted Subsidiaries; *provided* that any such investments made by any Loan Party in any Restricted Subsidiary which is not a Loan Party plus any intercompany advances by a Loan Party to any Restricted Subsidiary which is not a Loan Party permitted by Section 6.17(e) hereof shall not exceed $50,000,000 in the aggregate at any one time outstanding;

(e) intercompany advances (including in the form of a guarantee for the benefit of such Person) made from time to time from (i) the Borrower to any one or more Restricted Subsidiaries, (ii) from one or more Restricted Subsidiaries to the Borrower and (iii) from one or more Restricted Subsidiaries to one or more Restricted Subsidiaries; *provided* that any such advances made by a Loan Party to a Restricted Subsidiary that is not a Loan Party plus any equity investments by any Loan Party in any Restricted Subsidiary which is not a Loan Party permitted by Section 6.17(d) hereof shall not exceed $50,000,000 in the aggregate at any one time outstanding;

(f) other investments (including investments in joint ventures or similar entities that do not constitute Restricted Subsidiaries), in each case, as valued at the fair market value of such investment at the time each such investment is made, in an aggregate amount for all such investments under this paragraph (f) that, at the time such investment is made, would not exceed the sum of (i) $50,000,000 plus (ii) the amount of any returns of capital, dividends or other distributions received in connection with such investment (not to exceed the original amount of the investment);

(g) loans and advances to officers, directors, employees and consultants of the Borrower (or its direct or indirect parent company) or any of its Restricted Subsidiaries for reasonable and customary business related travel expenses, entertainment expenses, moving expenses and similar expenses, in each case incurred in the ordinary course of business and advances of payroll payments to employees, consultants or independent contractors or other advances of salaries or compensation to employees, consultants or independent contractors, in each case in the ordinary course of business; *provided* that, the aggregate amount of such loan in advance outstanding at any time shall not exceed $5,000,000;

(h) investments in Hedge Agreements permitted by Section 6.14(~~b~~a) and (~~c~~b);



---

(i) investments received upon the foreclosure with respect to any secured investment or other transfer of title with respect to any secured investment;

(j) investments in the ordinary course of business consisting of Article 3 endorsements for collection or deposit and Article 4 customary trade arrangements with customers consistent with past practices;

(k) guarantees by the Borrower or any Restricted Subsidiary of leases (other than Capital Leases) or of other obligations that do not constitute indebtedness for borrowed money, in each case entered into in the ordinary course of business;

(l) Permitted Acquisitions;

(m) investments in Restricted Subsidiaries for the purpose of consummating transactions permitted under Section 6.16(n) or any Permitted Acquisition;

(n) investments permitted under Sections 6.14, 6.15, 6.16 and 6.18;

(o) other investments, loans and advances in addition to those otherwise permitted by this Section in an amount not to exceed $50,000,000 plus the Growth Amount in the aggregate at any one time outstanding;

(p) investments consisting of consideration received in connection with any disposition or other transfer made in compliance with Section 6.16;

(q) other investments, loans and advances existing as of the Closing Date and set forth on Schedule 6.17 (as the same may be renewed, refinanced or extended from time to time);

(r) investments the sole consideration for which is Equity Interests of Holdco (or any direct or indirect parent of Holdco) or, following the consummation of a Qualified Public Offering of the Borrower, the Borrower; and

(s) investments in or loans to Domestic Subsidiaries for the purpose of consummating the NPC Acquisition.

Section 6.18. *Restricted Payments*. The Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to, (i) declare or pay any dividends on or make any other distributions in respect of any class or series of its Equity Interests or (ii) directly or indirectly purchase, redeem, or otherwise acquire or retire any of its Equity Interests or any warrants, options, or similar instruments to acquire the same (all the foregoing, *"Distributions"*); *provided, however*:

(a) any Subsidiary of the Borrower may make Distributions to its parent corporation (and, in the case of any non-Wholly-owned Subsidiary, pro rata to its parent companies based on their relative ownership interests);

(b) so long as no Event of Default has occurred, is continuing or would result therefrom, the Borrower may redeem, acquire, retire or repurchase (and the Borrower may declare and pay Distributions, the proceeds of which are used to so redeem, acquire, retire or repurchase and to pay withholding or similar tax payments that are expected to be payable in connection therewith) its Equity Interests (or any options or warrants or stock appreciation rights issued with respect to any of such Equity Interests) (or make Distributions to allow any of



the Borrower's direct or indirect parent companies to so redeem, retire, acquire or repurchase their equity) held by current or former officers, managers, consultants, directors and employees (or their respective spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees) of Borrower (or any direct or indirect parent thereof) and its Restricted Subsidiaries, with the proceeds of Distributions from, seriatim, the Borrower, upon the death, disability, retirement or termination of employment of any such Person or otherwise in accordance with any stock option or stock appreciation rights plan, any management, director and/or employee stock ownership or incentive plan, stock subscription plan, employment termination agreement or any other employment agreements or equity holders' agreement; *provided* that, the aggregate amount of Distributions made pursuant to this Section shall not exceed $5,000,000;

(c) the Borrower may repurchase Equity Interests (or pay Distributions to permit any direct or indirect parent to repurchase Equity Interests) upon exercise of options or warrants if such Equity Interest represents all or a portion of the exercise price of such options or warrants;

(d) the Borrower may pay Distributions, the proceeds of which shall be used to allow any direct or indirect parent of Borrower to pay its operating expenses incurred in the ordinary course of business and other corporate overhead costs and expenses (including administrative, legal, accounting and similar expenses provided by third parties), which are reasonable and customary and incurred in the ordinary course of business, in an aggregate amount not to exceed $1,000,000 in any fiscal year of the Borrower plus any reasonable and customary indemnification claims made by directors or officers of the Borrower (or any parent thereof) attributable to the ownership or operations of the Borrower and its Restricted Subsidiaries;

(e) the Borrower may make Distributions in an aggregate amount equal to all Quarterly Distributions as of the time such Distribution is made;

(f) so long as (i) no Event of Default has occurred, is continuing or would result therefrom and (ii) the Borrower shall be in compliance, on a Pro Forma Basis, with the covenants set forth in Section 6.22, the Borrower may make Distributions in an aggregate amount not to exceed (x) $50,000,000 minus any amounts paid pursuant to Section 6.20(a)(x) plus (y) the Growth Amount at the time such Distribution is made;

(g) the Borrower may make Distributions to (i) redeem, repurchase, retire or otherwise acquire any (A) Equity Interests (*"Treasury Capital Stock"*) of the Borrower or any Subsidiary or (B) Equity Interests of any direct or indirect parent company of the Borrower, in the case of each of subclause (A) and (B), in exchange for, or out of the proceeds of the substantially concurrent sale (other than to the Borrower or a Subsidiary) of, Equity Interests of the Borrower, or any direct or indirect parent company of the Borrower to the extent contributed to the capital of the Borrower or any Subsidiary (*"Refunding Capital Stock"*) and (ii) declare and pay dividends on the Treasury Capital Stock out of the proceeds of the substantially concurrent sale (other than to the Borrower or a Subsidiary) of the Refunding Capital Stock;

(h) Distributions the proceeds of which will be used to make cash payments in lieu of issuing fractional Equity Interests in connection with the exercise of warrants, options or other securities convertible or exchangeable for Equity Interests of the Borrower (or its direct or indirect parent) in an amount not to exceed $100,000 in any fiscal year;



(i) to the extent constituting a Distribution, transactions permitted by Section 6.11 and 6.16; and

(j) following any Qualified Public Offering, Distributions by the Borrower (or to any direct or indirect parent to fund a Distribution) of up to 6% of the net cash proceeds received by (or contributed to the capital of) the Borrower in or from any such Qualified Public Offering.

Section 6.19. *Limitation on Restrictions*. The Borrower will not, and it will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual restriction on the ability of any such Restricted Subsidiary to (a) pay dividends or make any other distributions on its capital stock or other Equity Interests owned by the Borrower or any other Restricted Subsidiary, (b) pay or repay any Indebtedness owed to the Borrower or any other Restricted Subsidiary, (c) make loans or advances to the Borrower or any other Restricted Subsidiary, (d) transfer any of its Property to the Borrower or any other Restricted Subsidiary, (e) encumber or pledge any of its assets to or for the benefit of the Administrative Agent or (f) guaranty the Obligations, Hedging Liability and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, except for, in each case:

(i) restrictions and conditions imposed by any Loan Document~~ or Second Lien Loan Document~~ or which (x) exist on the date hereof and (y) to the extent contractual obligations permitted by subclause (x) are set forth in an agreement evidencing Indebtedness, are set forth in any agreement evidencing any permitted renewal, extension or refinancing of such Indebtedness so long as such renewal, extension or refinancing does not expand the scope of such contractual obligation;

(ii) customary restrictions and conditions contained in agreements relating to any sale of assets pending such sale, *provided* such restrictions and conditions apply only to the Person or property that is to be sold;

(iii) restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the Person obligated under such Indebtedness and its Subsidiaries or the property or assets intended to secure such Indebtedness;

(iv) contractual obligations binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary, so long as such contractual obligations were not entered into solely in contemplation of such Person becoming a Restricted Subsidiary;

(v) customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted under Section 6.17 and applicable solely to such joint venture entered into in the ordinary course of business;

(vi) restrictions on cash, other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business and customary provisions in leases, subleases, licenses, sublicenses and other contracts restricting the assignment thereof, in each case entered into in the ordinary course of business;

(vii) secured Indebtedness otherwise permitted to be incurred under Sections 6.14 and 6.15 that limit the right of the obligor to dispose of the assets securing such Indebtedness; and



(viii) any encumbrances or restrictions of the types referred to in paragraphs (a) through (f) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (i) through (vii) above; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Borrower, no more restrictive with respect to such encumbrance and other restrictions taken as a whole than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 6.20. *Optional Payments of Certain Indebtedness; Modifications of Certain Indebtedness and Organizational Documents*. The Borrower will not, and it will not permit any of its Restricted Subsidiaries to:

(a) directly or indirectly make any optional or voluntary payment, prepayment, repurchase or redemption of or otherwise optionally or voluntarily defease the principal amount of any subordinated Indebtedness, Indebtedness secured by junior Liens or unsecured Indebtedness, ~~including Indebtedness under the Second Lien Loan Agreement, ~~other than (i) in connection with the incurrence of Refinancing Indebtedness, (ii) in connection with a conversion or exchange of such Indebtedness to, or for, as applicable, Equity Interests of Holdco (or any direct or indirect parent of Holdco) or the Borrower (other than Disqualified Equity Interests), and (iii) so long as (A) no Default has occurred, is continuing or would result therefrom and (B) the Borrower shall be in compliance, on a Pro Forma Basis, with the covenants set forth in Section 6.22, additional payments, prepayments, repurchases, redemptions and defeasances in respect of such Indebtedness in an aggregate amount up to (x) $50,000,000 minus any amounts paid pursuant to Section 6.18(f)(x) plus (y) the Growth Amount;

~~(b) amend, modify, or otherwise change any of the terms of the Second Lien Loan Agreement except as permitted by the Intercreditor Agreement; or~~

(b) ~~(c) ~~amend, modify, or otherwise change in any manner any of the terms of (i) the documentation governing any subordinated Indebtedness, Indebtedness secured by junior Liens~~ (other than the Second Lien Loan Documents or any documents governing any Permitted Refinancing thereof)~~ or unsecured Indebtedness or (ii) the charter documents of the Borrower or such Restricted Subsidiary, except, in the case of each of clauses (i) and (ii) if the effect of any such amendment, modification or change is not materially adverse to the interests of the Lenders.

Section 6.21. *OFAC*. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, (i) become a person whose property or interests in property are blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Party and Prohibiting Transactions With Persons Who Commit, Threaten to Commit or Support Terrorism (66 Fed. Reg. 49079(2001)), (ii) engage in any dealings or transactions prohibited by Section 2 of such executive order, or be otherwise associated with any such person in any manner violative of Section 2, and (iii) become a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other U.S. Department of Treasury's Office of Foreign Assets Control regulation or executive order.

Section 6.22. *Financial Covenants*.

(a) *Leverage Ratio*. The Borrower shall not, as of the last day of each fiscal quarter of the Borrower ending during each of the periods specified below, permit the Leverage Ratio to be greater than:



| FROM AND INCLUDING | TO AND INCLUDING | THE LEVERAGE RATIO SHALL NOT BE GREATER THAN: |
|---|---|---|
| JANUARY 1, 2011 | JUNE 30, 2011 | 5.50 to 1.00 |
| JULY 1, 2011 | JUNE 30, 2012 | 5.25 to 1.00 |
| JULY 1, 2012 | JUNE 30, 2013 | 4.75 to 1.00 |
| JULY 1, 2013 | JUNE 30, 2014 | 3.75 to 1.00 |
| JULY 1, 2014 | ALL TIMES THEREAFTER | 3.00 to 1.00 |

(b) *Interest Coverage Ratio*. The Borrower shall not, as of the last day of each fiscal quarter of the Borrower ending during each of the periods specified below, permit the ratio of Consolidated EBITDA for the four fiscal quarters of the Borrower then ended (*provided* if Consolidated EBITDA for such period is less than $1, then for purposes of this covenant Consolidated EBITDA shall be deemed to be $1) to Interest Expense for the same four fiscal quarters then ended to be less than:

| FROM AND INCLUDING | TO AND INCLUDING | THE INTEREST COVERAGE RATIO SHALL NOT BE LESS THAN: |
|---|---|---|
| JANUARY 1, 2011 | JUNE 30, 2012 | 2.50 to 1.00 |
| JULY 1, 2012 | JUNE 30, 2013 | 2.75 to 1.00 |
| JULY 1, 2013 | JUNE 30, 2014 | 3.00 to 1.00 |
| JULY 1, 2014 | ALL TIMES THEREAFTER | 3.25 to 1.00 |

(c) *Pro Forma Compliance*. Compliance with the financial covenants set forth in paragraphs (a) and (b) above shall always be calculated on a Pro Forma Basis.

Section 6.23. *Maintenance of Rating*s. The Borrower shall use its commercially reasonable efforts to maintain a (i) long-term credit rating of the Borrower and (y) a credit rating for the Facilities, in each case, from both S&P and Moody's.

Section 6.24. *Limitation on Non-Material Subsidiaries*. The Borrower shall not permit (i), at any time, the aggregate book value of the assets of all Restricted Subsidiaries that are Domestic Subsidiaries but that are not Material Subsidiaries to exceed 5% of the book value of the consolidated assets of the Borrower and its Restricted Subsidiaries that are Domestic Subsidiaries or (ii), as of the last day of each fiscal quarter of the Borrower, the aggregate net income computed in accordance with GAAP of all Restricted Subsidiaries that are Domestic Subsidiaries but that are not Material Subsidiaries during the four fiscal quarters of the Borrower then ending, not to exceed 5% of the consolidated net income computed in accordance with GAAP of the Borrower and its Restricted Subsidiaries that are Domestic Subsidiaries during such period.

Section 6.25. *Post-Closing Obligations*. As promptly as practicable, and in any event within the time period after the Closing Date specified in Schedule 6.25 or such later date as the Administrative Agent agrees to in writing, the Borrower shall deliver the documents or take the actions specified on Schedule 6.25.

SECTION 7. EVENTS OF DEFAULT AND REMEDIES.

Section 7.1. *Events of Default*. Any one or more of the following shall constitute an "Event of Default" hereunder:



(a) default (i) in the payment when due (whether at the stated maturity thereof or at any other time provided for in this Agreement) of all or any part of the principal of any Loan or Reimbursement Obligation or (ii) in the payment when due of interest on any Loan or any other Obligation payable hereunder or under any other Loan Document and such default shall continue unremedied for a period of five Business Days;

(b) default in the observance or performance of any covenant set forth in Sections 6.1(f), 6.5 (with respect to the Borrower), 6.11, 6.12, 6.13, 6.14, 6.15, 6.16, 6.17, 6.18, 6.19, 6.20, 6.21, 6.22 or 6.24 hereof.

(c) default in the observance or performance of any other provision hereof or of any other Loan Document which is not remedied within 30 days after written notice of such default is given to the Borrower by the Administrative Agent;

(d) any representation or warranty made or deemed made herein or in any other Loan Document or in any certificate delivered to the Administrative Agent or the Lenders pursuant hereto or thereto proves untrue in any material respect (or in all respects, if qualified by a materiality threshold) as of the date of the issuance or making thereof;

(e) any of the Loan Documents shall for any reason not be or shall cease to be in full force and effect or is declared to be null and void (other than pursuant to the terms thereof or as a result of the gross negligence, bad faith or willful misconduct of the Administrative Agent), or any of the Collateral Documents shall for any reason fail to create a valid and perfected Lien in favor of the Administrative Agent in any Collateral purported to be covered thereby except as expressly permitted by the terms hereof or thereof (other than as a result of the gross negligence, bad faith or willful misconduct of the Administrative Agent), or any Loan Party terminates, repudiates in writing or rescinds any Loan Document executed by it or any of its obligations thereunder;

(f) default shall occur under any Material Indebtedness, or under any indenture, agreement or other instrument under which the same may be issued, the effect of which default is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause any such Indebtedness to become due prior to its stated maturity, or the principal or interest under any such Indebtedness shall not be paid when due (whether by demand, lapse of time, acceleration or otherwise) after giving effect to applicable grace or cure periods, if any;

(g) any final judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes, shall be entered or filed against the Borrower or any of its Restricted Subsidiaries, or against any of its Property, in an aggregate amount in excess of $25,000,000 (except to the extent paid or covered by insurance (other than the applicable deductible) and the insurer has not denied coverage therefor in writing), and which remains undischarged, unvacated, unbonded or unstayed for a period of 60 days from the entry thereof;

(h) a Reportable Event shall have occurred which could reasonably be expected to result in a Material Adverse Effect; the Borrower or any of its Restricted Subsidiaries, or any member of its Controlled Group, shall fail to pay when due an amount or amounts aggregating in excess of $25,000,000 which it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or notice of intent to terminate a Plan or Plans having aggregate Unfunded Vested Liabilities in excess of $25,000,000 (collectively, a *"Material Plan"*) shall be



filed under Title IV of ERISA by the Borrower or any of its Restricted Subsidiaries, or any other member of its Controlled Group, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any Material Plan or a proceeding shall be instituted by a fiduciary of any Material Plan against the Borrower or any of its Restricted Subsidiaries, or any member of its Controlled Group, to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated;

(i) any Change of Control shall occur;

(j) Holdco, the Borrower or any of its Restricted Subsidiaries shall (i) have entered involuntarily against it an order for relief under the United States Bankruptcy Code, as amended, (ii) admit in writing its inability to pay its debts generally as they become due, (iii) make a general assignment for the benefit of creditors, (iv) apply for, seek, consent to or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property, or (v) institute any proceeding seeking to have entered against it an order for relief under the United States Bankruptcy Code, as amended, to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors;

(k) a custodian, receiver, trustee, examiner, liquidator or similar official shall be appointed for Holdco, the Borrower or any of its Restricted Subsidiaries, or any substantial part of any of its Property, or a proceeding described in Section 7.1(j)(v) shall be instituted against Holdco, the Borrower or any Restricted Subsidiary, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of 60 days; or

(l) The ~~Intercreditor Agreement shall cease, for any reason, to be in full force and effect, or shall cease to be legal, valid and binding upon any of the parties thereto other than the Administrative Agent or any Lender or the~~ Liens securing the obligations under ~~the Second Lien Loan Agreement or any other~~any subordinated or junior secured Material Indebtedness, shall cease, for any reason, to be validly subordinated to the Liens securing the Obligations, or any Loan Party shall assert in writing any of the foregoing.

Section 7.2. *Non Bankruptcy Defaults*. When any Event of Default other than those described in subsection (j) or (k) of Section 7.1 hereof has occurred and is continuing, the Administrative Agent shall, by written notice to the Borrower: (a) if so directed by the Required Lenders, terminate the remaining Revolving Credit Commitments and all other obligations of the Lenders hereunder on the date stated in such notice (which may be the date thereof); (b) if so directed by the Required Lenders, declare the principal of and the accrued interest on all outstanding Loans to be forthwith due and payable and thereupon all outstanding Loans, including both principal and interest thereon, shall be and become immediately due and payable together with all other amounts payable under the Loan Documents without further demand, presentment, protest or notice of any kind; and (c) if so directed by the Required Lenders, demand that the Borrower immediately pay to the Administrative Agent, as cash collateral, the full amount then available for drawing under each or any Letter of Credit, whether or not any drawings or other demands for payment have been made under any Letter of Credit. The Administrative Agent, after giving notice to the Borrower pursuant to Section 7.1(c) or this Section 7.2, shall also promptly send a copy of such notice to the other Lenders, but the failure to do so shall not impair or annul the effect of such notice.



Section 7.3. *Bankruptcy Defaults*. When any Event of Default described in subsections (j) or (k) of Section 7.1 hereof has occurred and is continuing, then all outstanding Loans shall immediately become due and payable together with all other amounts payable under the Loan Documents without presentment, demand, protest or notice of any kind, the Revolving Credit Commitments and any and all other obligations of the Lenders to extend further credit pursuant to any of the terms hereof shall immediately terminate and the Borrower shall immediately pay to the Administrative Agent, as cash collateral, the full amount then available for drawing under all outstanding Letters of Credit, whether or not any draws or other demands for payment have been made under any of the Letters of Credit.

Section 7.4. *Collateral for Undrawn Letters of Credit*. (a) If the prepayment of the amount available for drawing under any or all outstanding Letters of Credit is required under Section 2.8(c)(iv) or under Section 7.2 or 7.3 above, the Borrower shall forthwith pay the amount required to be so prepaid, to be held by the Administrative Agent as provided in subsection (b) below.

(b) All amounts prepaid pursuant to paragraph (a) above shall be held by the Administrative Agent in one or more separate collateral accounts (each such account, and the credit balances, properties, and any investments from time to time held therein, and any substitutions for such account, any certificate of deposit or other instrument evidencing any of the foregoing and all proceeds of and earnings on any of the foregoing being collectively called

the *"Collateral Account"*) as security for, and for application by the Administrative Agent (to the extent available) to, the reimbursement of any payment under any Letter of Credit then or thereafter made by the L/C Issuer, and to the payment of the unpaid balance of any other Obligations in respect of any Letter of Credit. The Collateral Account shall be held in the name of and subject to the exclusive dominion and control of the Administrative Agent for the benefit of the Administrative Agent, the Lenders, and the L/C Issuer. If and when requested by the Borrower, the Administrative Agent shall invest funds held in the Collateral Account from time to time in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America with a remaining maturity of one year or less, *provided* that the Administrative Agent is irrevocably authorized to sell investments held in the Collateral Account when and as required to make payments out of the Collateral Account for application to amounts due and owing from the Borrower to the L/C Issuer, the Administrative Agent or the Lenders in respect of any Letter of Credit; *provided, however*, that if (i) the Borrower shall have made payment of all such obligations referred to in paragraph (a) above and (ii) no Letters of Credit remain outstanding hereunder, then the Administrative Agent shall release to the Borrower any remaining amounts held in the Collateral Account.

Section 7.5. *Notice of Default*. The Administrative Agent shall give notice to the Borrower under Section 7.1(c) hereof promptly upon being requested to do so by the Required Lenders and shall at such time also notify all the Lenders thereof.

Section 7.6. *Equity Cure*. Notwithstanding anything to the contrary contained in this Section 7, in the event that the Borrower fails to comply with the requirements of Section 6.22 as of the end of any relevant fiscal quarter, the Borrower shall have the right (the *"Cure Right"*) (at any time during such fiscal quarter or thereafter until the date that is 15 days after the date the Compliance Certificate is required to be delivered pursuant to Section 6.1(e)) to issue Equity Interests for cash or otherwise receive cash contributions to its common equity (the *"Cure Amount"*), and thereupon the Borrower's compliance with Section 6.22 shall be recalculated giving effect to the following pro forma adjustment: Consolidated EBITDA shall be increased (notwithstanding the absence of an addback in the definition of "Consolidated EBITDA"), solely for the purposes of determining compliance with Section 6.22 hereof, including determining compliance with Section 6.22 hereof as of the end of such fiscal quarter and applicable subsequent periods that include such fiscal quarter, by an amount equal to the Cure Amount. If, after giving effect to the foregoing recalculations (but not, for the avoidance of doubt, taking into account any immediate repayment of Indebtedness in connection therewith), the requirements of Section 6.22 shall be



satisfied, then the requirements of Section 6.22 shall be deemed satisfied as of the end of the relevant fiscal quarter with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or default of Section 6.22 that had occurred shall be deemed cured for the purposes of this Agreement.

Notwithstanding anything herein to the contrary, (v) in each four consecutive fiscal quarter period of the Borrower there shall be at least two fiscal quarters in which the Cure Right is not exercised, (w) during the term of this Agreement, the Cure Right shall not be exercised more than five times, (x) the Cure Amount shall be no greater than the amount required for purposes of complying with Section 6.22, (y) upon the Administrative Agent's receipt of a notice from the Borrower that it intends to exercise the Cure Right (a *"Notice of Intent to Cure"*), until the 15th day following the date of delivery of the Compliance Certificate under Section 6.1(e) to which such Notice of Intent to Cure relates, none of the Administrative Agent nor any Lender shall exercise the right to accelerate the Loans or terminate the Revolving Credit Commitments and neither the Administrative Agent nor any other Lender or secured party shall exercise any right to foreclose on or take possession of the Collateral solely on the basis of an Event of Default having occurred and being continuing under Section 6.22 and (z) the Cure Amount received pursuant to any exercise of the Cure Right shall be disregarded for purposes of determining any financial ratio-based conditions, pricing or any available basket (in reliance upon the Available Amount, Growth Amount or otherwise) under Section 6 of this Agreement.

## SECTION 8. CHANGE IN CIRCUMSTANCES AND CONTINGENCIES.

Section 8.1. *Funding Indemnity*. If any Lender shall incur any loss, cost or expense (including, without limitation, any loss, cost or expense incurred by reason of the liquidation or re-employment of deposits or other funds acquired by such Lender to fund or maintain any Eurodollar Loan, but excluding any loss of margin) as a result of:

(a) any payment, prepayment or conversion of a Eurodollar Loan on a date other than the last day of its Interest Period,

(b) any failure (because of a failure to meet the conditions of Section 3 or otherwise) by the Borrower to borrow or continue a Eurodollar Loan, or to convert a Loan that is a Base Rate Loan into a Eurodollar Loan, on the date specified in a notice given pursuant to Section 2.5(a) hereof,

(c) any failure by the Borrower to make any payment of principal on any Eurodollar Loan when due (whether by acceleration or otherwise), or

(d) any acceleration of the maturity of a Eurodollar Loan as a result of the occurrence of any Event of Default hereunder,

then, within ten days after the demand of such Lender, the Borrower shall pay to such Lender such amount as will reimburse such Lender for such loss, cost or expense. If any Lender makes such a claim for compensation, it shall provide to the Borrower, with a copy to the Administrative Agent, a certificate setting forth the amount of such loss, cost or expense in reasonable detail (including an explanation of the basis for and the computation of such loss, cost or expense) and the amounts shown on such certificate shall be conclusive absent manifest error.

Section 8.2. *Illegality*. Notwithstanding any other provisions of this Agreement or any other Loan Document, if at any time any change in applicable law, rule or regulation or in the interpretation thereof makes it unlawful for any Lender to make or continue to maintain any Eurodollar Loans or to



perform its obligations as contemplated hereby with respect to such Eurodollar Loans, such Lender shall promptly give notice thereof to the Borrower and the Administrative Agent and such Lender's obligations to make or maintain Eurodollar Loans under this Agreement shall be suspended until it is no longer unlawful for such Lender to make or maintain Eurodollar Loans. Such Lender may require that such affected Eurodollar Loans be converted to Base Rate Loans from such Lender automatically on the effective date of the notice provided above, and such Base Rate Loans shall not be made ratably by the Lenders

but only from such affected Lender. Such Lender shall withdraw such notice promptly following any date on which it becomes lawful for such Lender to make and maintain Eurodollar Loans or give effect to its obligations as contemplated hereby with respect to any Eurodollar Loan.

Section 8.3. *Reserved*.

Section 8.4. *Yield Protection*. (a) If, on or after the date hereof, the adoption of any applicable law, rule or regulation, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority charged with the interpretation or administration thereof, or compliance by any Lender (or its Lending Office) with any request or directive (whether or not having the force of law) of any such Governmental Authority:

(i) shall subject any Lender (or its Lending Office) to any tax, duty or other charge (other than net income tax (including branch profits tax), franchise taxes and other similar taxes), with respect to its Eurodollar Loans, its Revolving Notes, its Letter(s) of Credit, or its participation in any thereof, any Reimbursement Obligations owed to it or its obligation to make Eurodollar Loans, issue a Letter of Credit, or to participate therein (other than taxes subject to Section 10.1(a) hereof); or

(ii) shall impose, modify or deem applicable any reserve, special deposit or similar requirement (including, without limitation, any such requirement imposed by the Board of Governors of the Federal Reserve System, but excluding with respect to any Eurodollar Loans any such requirement included in an applicable Reserve Percentage) against assets of, deposits with or for the account of, or credit extended by, any Lender (or its Lending Office) or shall impose on any Lender (or its Lending Office) or on the interbank market any other condition affecting its Eurodollar Loans, its Revolving Notes, its Letter(s) of Credit, or its participation in any thereof, any Reimbursement Obligation owed to it, or its obligation to make Eurodollar Loans, or to issue a Letter of Credit, or to participate therein;

and the result of any of the foregoing is to increase the cost to such Lender (or its Lending Office) of making or maintaining any Eurodollar Loan, issuing or maintaining a Letter of Credit, or participating therein, or to reduce the amount of any sum received or receivable by such Lender (or its Lending Office) under this Agreement or under any other Loan Document with respect thereto, by an amount deemed by such Lender to be material, then, within 30 days after demand by such Lender (with a copy to the Administrative Agent), the Borrower shall be obligated to pay to such Lender such additional amount or amounts as will compensate such Lender for such increased cost or reduction.

(b) If, after the date hereof, any Lender or the Administrative Agent shall have determined that the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority charged with the interpretation or administration thereof, or compliance by any Lender (or its Lending Office) or any corporation controlling such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) of any such Governmental Authority has had the effect of reducing the rate of return on such Lender's or such corporation's capital as a consequence of its obligations hereunder to a



level below that which such Lender or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Lender's or such corporation's policies with respect to capital adequacy) by an amount deemed by such Lender to be material, then from time to time, within 30 days after demand by such Lender (with a copy to the Administrative Agent), the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender for such reduction.

(c) A certificate of a Lender claiming compensation under this Section 8.4 and setting forth the additional amount or amounts to be paid to it hereunder shall be delivered to Borrower at the time of such demand and shall be conclusive absent manifest error. In determining such amount, such Lender may use any reasonable averaging and attribution methods.

Section 8.5. *Substitution of Lenders*. Upon the receipt by the Borrower of (a) a claim from any Lender for compensation under Section 8.4 or Section 10.1 hereof, (b) notice by any Lender to the Borrower of any illegality pursuant to Section 8.2 hereof, (c) in the event any Lender is a Defaulting Lender or (d) in the event any Lender fails to consent to any amendment, waiver, supplement or other modification pursuant to Section 10.11 requiring the consent of all Lenders or each Lender directly affected thereby, and as to which the Required Lenders have otherwise consented (any such Lender referred to in paragraph (a), (b), (c) or (d) above being hereinafter referred to as an *"Affected Lender"*), the Borrower may, in addition to any other rights the Borrower may have hereunder or under applicable law, (i) require, at its expense, any such Affected Lender to assign, at par plus accrued interest and fees, without recourse, all of its interest, rights, and obligations hereunder (including all of its Revolving Credit Commitments and the Revolving Loans and participation interests in Letters of Credit and other amounts at any time owing to it hereunder and the other Loan Documents) to an Eligible Assignee specified by the Borrower, *provided* that (A) such assignment shall not conflict with or violate any law, rule or regulation or order of any Governmental Authority, (B) if the assignment is to a Person other than a Lender, the Borrower shall have received the written consent of the Administrative Agent and, in the case of any Revolving Credit Commitment, the L/C Issuer, which consents shall not be unreasonably withheld or delayed, to such assignment, (C) the Borrower shall have paid to the Affected Lender all monies (together with amounts due such Affected Lender under Section 8.1 hereof as if the Loans owing to it were prepaid rather than assigned) other than principal owing to it hereunder, (D) the Borrower shall repay (or the replacement bank or institution shall purchase, at par) all Loans and other amounts (other than any disputed amounts), pursuant to Section 10.10 owing to such replaced Lender prior to the date of replacement, (E) the assignment is entered into in accordance with the other requirements of Section 10.10 hereof, (F) solely with respect to assignments in connection with clause (a) (with respect to claims under Section 10.1) or (c) above, no Event of Default shall have occurred and be continuing at the time of such assignment and (G) any such assignment shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against the Affected Lender, or (ii) terminate the Revolving Credit Commitment of such Affected Lender and repay all Obligations of the Borrower owing to such Lender as of such termination date.

Section 8.6. *Lending Offices*. Each Lender may, at its option, elect to make its Loans hereunder at the branch, office or affiliate specified on the appropriate signature page hereof (each a *"Lending Office"*) for each type of Loan available hereunder or at such other of its branches, offices or affiliates as it may from time to time elect and designate in a written notice to the Borrower and the Administrative Agent. To the extent reasonably possible, a Lender shall designate an alternative branch or funding office with respect to its Eurodollar Loans to reduce any liability of the Borrower to such Lender under Section 8.4 hereof or to avoid the unavailability of Eurodollar Loans under Section 8.2 hereof, so long as such designation is not disadvantageous to the Lender.

SECTION 9. THE ADMINISTRATIVE AGENT.

Section 9.1. *Appointment and Authorization of Administrative Agent*. Each Lender hereby appoints Goldman Sachs Lending Partners LLC, as the Administrative Agent and Collateral Agent under the Loan Documents and hereby authorizes the Administrative Agent to take such action as Administrative Agent on its behalf and to exercise such powers, rights and remedies under the Loan Documents as are delegated to the Administrative Agent by the terms thereof, together with such powers as are reasonably incidental thereto. The Administrative Agent shall have only those duties and responsibilities that are expressly specified in the Loan Documents. Each Agent may exercise such powers, rights and remedies and perform such duties by or through its agents or employees. Notwithstanding the use of the word "Administrative Agent" as a defined term, the Lenders expressly agree that the Administrative Agent is not acting as a fiduciary of any Lender in respect of the Loan Documents, the Borrower or otherwise, and nothing herein or in any of the other Loan Documents shall result in any duties or obligations on the Administrative Agent or any of the Lenders except as expressly set forth herein and therein. The provisions of this Section 9 (other than to the extent provided in Sections 9.1, 9.3, 9.7, 9.11 and 9.12) are solely for the benefit of the Administrative Agent and the Lenders and no Loan Party shall have any rights as a third party beneficiary of any of the provisions thereof. In performing its functions and duties hereunder, the Administrative Agent shall act solely as an agent of the Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for Holdco, Borrower or any of its Subsidiaries, other than as provided in Section 10.10(c) with respect to the maintenance of the Register.

Section 9.2. *Administrative Agent and its Affiliates*. The Administrative Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any other Lender and may exercise or refrain from exercising such rights and power as though it were not the Administrative Agent, and the Administrative Agent and its affiliates may accept deposits from, lend money to, own securities of and generally engage in any kind of banking, trust, financial advisory or other business with the Borrower or any Affiliate of the Borrower as if it were not the Administrative Agent under the Loan Documents, and may accept fees and other consideration from the Borrower for services in connection herewith and otherwise without having to account for the same to the Lenders. The term "Lender" as used herein and in all other Loan Documents, unless the context otherwise clearly requires, includes the Administrative Agent in its individual capacity as a Lender. References in Section 2 hereof to the amount owing to the Administrative Agent for which an interest rate is being determined, refer to the Administrative Agent in its individual capacity as a Lender.

Section 9.3. *Action by Administrative Agent*. If the Administrative Agent receives from the Borrower a written notice of an Event of Default pursuant to Section 6.1 hereof, the Administrative Agent shall promptly give each of the Lenders written notice thereof. Without limiting the generality of the foregoing, the Administrative Agent shall not be required to take any action hereunder with respect to any Default or Event of Default, except as expressly provided in the Loan Documents. Upon the occurrence of an Event of Default, the Administrative Agent shall take such action to enforce its Lien on the Collateral and to preserve and protect the Collateral as may be directed by the Required Lenders. Unless and until the Required Lenders give such direction, the Administrative Agent may (but shall not be obligated to) take or refrain from taking such actions as it deems appropriate and in the best interest of all the Lenders. In no event, however, shall the Administrative Agent be required to take any action in violation of Applicable Law or of any provision of any Loan Document, and the Administrative Agent shall in all cases be fully justified in failing or refusing to act hereunder or under any other Loan Document unless it first receives any further assurances of its indemnification from the Lenders that it may require, including prepayment of any related expenses and any other protection it requires against any and all costs, expense, and liability which may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall be entitled to assume that no Default or Event of Default exists unless notified in writing to the



contrary by a Lender or the Borrower. In all cases in which the Loan Documents do not require the Administrative Agent to take specific action, the Administrative Agent shall be fully justified in using its discretion in failing to take or in taking any action thereunder. Any instructions of the Required Lenders, or of any other group of Lenders called for under the specific provisions of the Loan Documents, shall be binding upon all the Lenders and the holders of the Obligations.

Section 9.4. *Consultation with Experts*. The Administrative Agent may consult with legal counsel, independent public accountants, and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts.

Section 9.5. *Liability of Administrative Agent; Credit Decision; Delegation of Duties*. (a) Neither the Administrative Agent nor any of its officers, partners, directors, employees or agents shall be liable to the Lenders for any action taken or omitted by the Administrative Agent under or in connection with any of the Loan Documents except to the extent caused by the Administrative Agent's gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction. The Administrative Agent shall be entitled to refrain from any act or the taking of any action (including the failure to take an action) in connection herewith or any of the other Loan Documents or from the exercise of any power, discretion or authority vested in it hereunder or thereunder unless and until the Administrative Agent shall have received instructions in respect thereof from the Required Lenders (or such other Lenders as may be required to give such instructions under Section 10.11) and, upon receipt of such instructions from Required Lenders (or such other Lenders, as the case may be), the Administrative Agent shall be entitled to act or (where so instructed) refrain from acting, or to exercise such power, discretion or authority, in accordance with such instructions. Without prejudice to the generality of the foregoing, (i) the Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any communication, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper party or parties, and shall be entitled to rely and shall be protected in relying on opinions and judgments of attorneys (who may be attorneys for Holdco, the Borrower and its Subsidiaries), accountants, experts and other professional advisors selected by it; and (ii) no Lender shall have any right of action whatsoever against the Administrative Agent as a result of it acting or (where so instructed) refraining from acting hereunder or any of the other Loan Documents in accordance with the instructions of Required Lenders (or such other Lenders as may be required to give such instructions under Section 10.11). In particular and without limiting any of the foregoing, the Administrative Agent shall have no responsibility for confirming the accuracy of any Compliance Certificate or other document or instrument received by it under the Loan Documents. Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be responsible for or have any duty to ascertain, inquire into or verify: (i) any statement, warranty, representation or recital made in connection with this Agreement, any other Loan Document or any Credit Extension, or made in any written or oral statements or in any financial or other statements, instruments, reports or certificates or any other documents furnished or made by the Administrative Agent to the Lenders or by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the Loan Documents and the transactions contemplated thereby or for the financial condition or business affairs of any Loan Party or any other Person liable for the payment of any Obligations; (ii) the performance or observance of any of the terms, conditions, provisions, covenants or agreements of the Borrower or any Subsidiary contained herein or in any other Loan Document or any Credit Extension or the use of the proceeds of the Loans or as to the existence or possible existence of any Event of Default or Default or to make any disclosures with respect to the foregoing; (iii) the satisfaction of any condition specified in Section 3 hereof, except receipt of items required to be delivered to the Administrative Agent; or (iv) the execution, validity, effectiveness, genuineness, enforceability, perfection, value, worth or collectibility hereof or of any other Loan Document or of any other documents or writing furnished in connection with any Loan

Document or of any Collateral; and the Administrative Agent makes no representation of any kind or character with respect to any such matter mentioned in this sentence. The



Administrative Agent may execute any of its duties under any of the Loan Documents by or through employees, agents, and attorneys-in-fact and shall not be answerable to the Lenders, the Borrower, or any other Person for the default or misconduct of any such agents or attorneys-in-fact selected with reasonable care. The Administrative Agent may treat the payee of any Note as the holder thereof until written notice of transfer shall have been filed with the Administrative Agent signed by such payee in form satisfactory to the Administrative Agent. Each Lender acknowledges, represents and warrants that it has independently and without reliance on the Administrative Agent or any other Lender, and based upon such information, investigations and inquiries as it deems appropriate, made its own credit analysis and decision to extend credit to the Borrower in the manner set forth in the Loan Documents. It shall be the responsibility of each Lender to keep itself informed as to the creditworthiness of the Borrower and its Subsidiaries, and the Administrative Agent shall have no liability to any Lender with respect thereto. The Administrative Agent shall not have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of Lenders or to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter, and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to Lenders.

(b) Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers under this Agreement or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent (and not otherwise reasonably objected to by the Borrower within 10 days after notice of such appointment). The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Affiliates. The exculpatory, indemnification and other provisions of this Section 9.5 and of Section 9.6 shall apply to any Affiliates of the Administrative Agent and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Administrative Agent. All of the rights, benefits, and privileges (including the exculpatory and indemnification provisions) of this Section 9.5 and of Section 9.6 shall apply to any such sub-agent and to the Affiliates of any such sub-agent, and shall apply to their respective activities as sub-agent as if such sub-agent and Affiliates were named herein. Notwithstanding anything herein to the contrary, with respect to each sub-agent appointed by the Administrative Agent, (i) such sub-agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory rights and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of Loan Parties and the Lenders, (ii) such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be modified or amended without the consent of such sub-agent, and (iii) such sub-agent shall only have obligations to the Administrative Agent and not to any Loan Party, Lender or any other Person and no Loan Party, Lender or any other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise, against such sub-agent.

Section 9.6. *Indemnity*. The Lenders shall ratably, in accordance with their respective Percentages, indemnify the Administrative Agent, to the extent that the Administrative Agent has not been reimbursed by any Loan Party, for and against any and all liabilities, obligations, losses, damages, taxes, penalties, actions, judgments, suits, costs, expenses (including counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Administrative Agent in exercising its powers, rights and remedies or performing its duties hereunder or under the other Loan Documents or otherwise in its capacity as Administrative Agent in any way relating to or arising out of this Agreement or the other Loan Documents; *provided*, no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, taxes, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's gross negligence or willful



misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction. If any indemnity furnished to the Administrative Agent for any purpose shall, in the opinion of the Administrative Agent, be insufficient or become impaired, the Administrative Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; *provided*, in no event shall this sentence require any Lender to indemnify the Administrative Agent against any liability, obligation, loss, damage, tax, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's ratable share thereof, in accordance with such Lender's respective Percentage; and *provided further*, this sentence shall not be deemed to require any Lender to indemnify the Administrative Agent against any liability, obligation, loss, damage, tax, penalty, action, judgment, suit, cost, expense or disbursement described in the proviso in the immediately preceding sentence. The obligations of the Lenders under this Section shall survive termination of this Agreement. The Administrative Agent shall be entitled to offset amounts received for the account of a Lender under this Agreement against unpaid amounts due from such Lender to the Administrative Agent hereunder (whether as fundings of participations, indemnities or otherwise), but shall not be entitled to offset against amounts owed to the Administrative Agent by any Lender arising outside of this Agreement and the other Loan Documents.

Section 9.7. *Resignation of Administrative Agent and Successor Administrative Agent*. The Administrative Agent may resign at any time by giving written notice thereof to the Lenders and the Borrower and the Administrative Agent may be removed at any time with or without cause by an instrument or concurrent instruments in writing delivered to the Borrower and the Administrative Agent and signed by the Required Lenders (such retiring or replaced Administrative Agent, the "*Departing Administrative Agent*"). The Administrative Agent shall have the right to appoint a financial institution to act as Administrative Agent and/or Collateral Agent hereunder, with the written consent of the Borrower and the Required Lenders (not to be unreasonably withheld), and the Administrative Agent's resignation shall become effective on the earliest of (i) 30 days after delivery of the notice of resignation, (ii) the acceptance of such successor Administrative Agent by the Borrower and the Required Lenders or (iii) such other date, if any, agreed to by the Borrower and the Required Lenders. Upon any such notice of resignation or any such removal, if a successor Administrative Agent has not already been appointed by the retiring Administrative Agent, the Required Lenders shall have the right, upon the written consent of the Borrower (not to be unreasonably withheld), to appoint a successor Administrative Agent. If neither the Required Lenders nor the Administrative Agent have appointed a successor Administrative Agent, the Required Lenders shall be deemed to have succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; *provided* that, until a successor Administrative Agent is so appointed by Required Lenders or the Administrative Agent, any collateral security held by the Administrative Agent in its role as Collateral Agent on behalf of the Lenders or the L/C Issuer under any of the Loan Documents shall continue to be held by the retiring Collateral Agent as nominee until such time as a successor Collateral Agent is appointed. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, that successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the Departing Administrative Agent and the Departing Administrative Agent shall promptly (i) transfer to such successor Administrative Agent all sums, securities and other items of Collateral held under the Collateral Documents, together with all records and

other documents necessary or appropriate in connection with the performance of the duties of the successor Administrative Agent under the Loan Documents, and (ii) execute and deliver to such successor Administrative Agent such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Administrative Agent of the security interests created under the Collateral Documents, whereupon such Departing Administrative Agent shall be discharged from its duties and obligations hereunder. Except as provided above, any resignation or removal of Goldman Sachs Lending Partners LLC or its successor as Administrative Agent pursuant to this Section shall also constitute the resignation or removal of GS Lending Partners or its successor as Collateral Agent. After any Departing Administrative Agent's resignation or replacement hereunder as Administrative Agent, the provisions of this Section 9 and



all protective provisions of the other Loan Documents shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent, but no successor Administrative Agent shall in any event be liable or responsible for any actions of its predecessor. Any successor Administrative Agent appointed pursuant to this Section shall, upon its acceptance of such appointment, become the successor Collateral Agent of all purposes hereunder.

Section 9.8. *L/C Issuer*. The L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith. The L/C Issuer shall have all of the benefits and immunities (i) provided to the Administrative Agent in this Section 9 with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and the Applications pertaining to such Letters of Credit as fully as if the term "Administrative Agent", as used in this Section 9, included the L/C Issuer with respect to such acts or omissions and (ii) as additionally provided in this Agreement with respect to such L/C Issuer.

Section 9.9. *Hedging Liability and Funds Transfer Liability and Deposit Account Liability Obligation Arrangements*. By virtue of a Lender's execution of this Agreement or an assignment agreement pursuant to Section 10.10 hereof, as the case may be, any Affiliate of such Lender with whom the Borrower or any Subsidiary has entered into an agreement creating Hedging Liability or Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations shall be deemed a Lender party hereto for purposes of any reference in a Loan Document to the parties for whom the Administrative Agent is acting, it being understood and agreed that the rights and benefits of such Affiliate under the Loan Documents consist exclusively of such Affiliate's right to share in payments and collections out of the Collateral as more fully set forth in Section 2.9 and Section 4 hereof. In connection with any such distribution of payments and collections, the Administrative Agent shall be entitled to assume no amounts are due to any Lender or its Affiliate with respect to Hedging Liability or Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations unless such Lender has notified the Administrative Agent in writing of the amount of any such liability owed to it or its Affiliate prior to such distribution.

Section 9.10. *Designation of Additional Administrative Agents*. The Administrative Agent shall have the continuing right, for purposes hereof, at any time and from time to time to designate one or more of the Lenders (and/or its or their Affiliates) as "syndication agents," "documentation agents," "arrangers" or other designations for purposes hereto, but such designation shall have no substantive effect, and such Lenders and their Affiliates shall have no additional powers, duties or responsibilities as a result thereof.

Section 9.11. *Authorization to Enter into, and Enforcement of, the Collateral Documents*. The Administrative Agent or Collateral Agent, as applicable, is hereby irrevocably authorized by each Secured Party to be the agent for and representative of the Secured Parties and to execute and deliver the Collateral Documents and Guaranty on behalf of and for the benefit of the Secured Parties and to take such action and exercise such powers under the Collateral Documents as the Administrative Agent or Collateral Agent, as applicable considers appropriate; *provided* that neither the Administrative Agent nor the Collateral Agent shall owe any fiduciary duty, duty of loyalty, duty of care, duty of disclosure or any other obligation whatsoever to any other holder of Obligations with respect to any Hedge Agreement. The Administrative Agent shall not (except as expressly provided in Section 10.11) amend the Collateral Documents unless such amendment is agreed to in writing by the Required Lenders. Each Lender acknowledges and agrees that it will be bound by the terms and conditions of the Collateral Documents upon the execution and delivery thereof by the Administrative Agent. Except as otherwise specifically provided for herein, no Lender (or its Affiliates) other than the Administrative Agent shall have the right to institute any suit, action or proceeding in equity or at law for the foreclosure or other realization upon any Collateral or for the execution of any trust or power in respect of the Collateral or for the appointment of a receiver or for the enforcement of any other remedy under the Collateral Documents; it being understood



and intended that no one or more of the Lenders (or their Affiliates) shall have any right in any manner whatsoever to affect, disturb or prejudice the Lien of the Administrative Agent (or any security trustee therefor) under the Collateral Documents by its or their action or to enforce any right thereunder, and that all proceedings at law or in equity shall be instituted, had, and maintained by the Administrative Agent (or its security trustee) in the manner provided for in the relevant Collateral Documents for the benefit of the Lenders and their Affiliates.

Section 9.12. *Authorization to Release Liens and Limit Amount of Certain Claims*. The Administrative Agent or Collateral Agent, as applicable, is hereby irrevocably authorized by each of the Lenders (and shall, upon the written request of the Borrower) to (and to execute any documents or instruments necessary to):

(i) release any Lien covering any Property of the Borrower or its Subsidiaries that is the subject of a disposition that is permitted by this Agreement or that has been consented to in accordance with Section 10.11;

(A) upon the date when all Revolving Credit Commitments have terminated, no Letters of Credit are outstanding and the Loans and other non-contingent obligations have been paid in full, release the Borrower and each of the Guarantors from its Obligations under the Loan Documents (other than those that specifically survive termination of this Agreement) and any Liens covering any of their Property with respect thereto; and

(B) release any Guarantor from its obligations under any Loan Document to which it is a party if such Person ceases to be a Restricted Subsidiary as a result of a transaction or designation permitted by this Agreement and the Liens on such Obligations shall be automatically released; and

(ii) at the request of the Borrower, to subordinate any Lien on any Property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such Property that is permitted by paragraph (e), (w) or (x) or, with respect to the

replacement of Liens, permitted by paragraph (e), (w) or (x) of the definition of Permitted Liens.

SECTION 10. MISCELLANEOUS.

Section 10.1. *Withholding Taxes*.

(a) *Payments Free of Withholding*. Except as otherwise required by law and subject to Section 10.1(b) hereof, each payment by or on behalf of any Loan Party under this Agreement or the other Loan Documents shall be made without withholding or deduction for or on account of any present or future United States withholding taxes or any taxes of any other jurisdiction (other than overall net income taxes (including branch profits tax), franchise taxes and other similar taxes on the recipient imposed by the jurisdiction (or any political subdivision thereof) in which its principal executive office or Lending Office is located or taxes imposed on a recipient as a result of a present or former connection between such recipient and the United States (other than in connection with entering into this Agreement, the receipt of payments hereunder or the enforcement of rights hereunder)). If any such withholding is so required, such withholding or deduction shall be made, the amount withheld shall be paid to the appropriate Governmental Authority before penalties attach thereto or interest accrues thereon, and the relevant Loan Party shall pay such additional amount as may be necessary to ensure that the net amount actually received by each Lender and the Administrative Agent free and clear of such taxes (including such taxes on such additional amount)



is equal to the amount which that Lender or the Administrative Agent (as the case may be) would have received had such withholding not been made. If the Administrative Agent or any Lender pays any amount in respect of any such taxes, amounts subject to Section 10.4, or any related penalties or interest, the Borrower shall reimburse the Administrative Agent or such Lender for that payment on demand in the currency in which such payment was made whether or not such amounts were correctly or legally imposed. Notwithstanding the foregoing, a Loan Party shall not be required to pay any additional amounts or reimburse any Lender or the Administrative Agent with respect to any taxes, penalties or backup withholding tax (i) that, except as provided in Section 10.1(c), are attributable to a Lender's failure to comply with the requirements of Section 10.1(b), (ii) that are United States federal withholding taxes imposed on amounts payable to a Lender or Administrative Agent at the time such Lender or Administrative Agent becomes a party to this Agreement, except to the extent such Lender's assignor (if any) was entitled, at the time of assignment, to receive additional amounts or reimbursement under this Section 10.1(a) or (iii) imposed due to a failure by any Lender, Administrative Agent or any foreign financial institution through which payments under this Agreement are made to comply with any applicable certification, documentation, information or other reporting requirement concerning the nationality, residence, identity, direct or indirect ownership of or investment in, or connection with the United States of America of any Lender or Administrative Agent or any foreign financial institution through which payments under this Agreement are made if such compliance is required by Sections 1471-1474 of the Code or any federal regulation promulgated or Revenue Ruling, Revenue Procedure, or Notice issued by the U.S. Internal Revenue Service (the *"IRS"*) thereunder as a precondition to relief or exemption from such tax, penalty or backup withholding. If a Loan Party pays any such taxes, penalties or interest, it shall deliver official tax receipts evidencing that payment or certified copies thereof (or, if such receipts are not available, other evidence of payment reasonably acceptable to the relevant Lender or Administrative Agent) to the Lender or Administrative Agent on whose account such withholding was made (with a copy to the Administrative Agent if not the recipient of the original) on or before the thirtieth day after payment.

(b) *U.S. Withholding Tax Exemptions.* Each Lender that is not a United States person (as such term is defined in Section 7701(a)(30) of the Code) shall submit to the Borrower and the Administrative Agent (x) on or before the Closing Date or, if later, the date such financial institution becomes a Lender hereunder, (y) on or prior to the date 60 days after written notice from Borrower that such form or certificate shall expire or become obsolete other than in connection with an event described in (z), and (z) after the occurrence of any event within such Lender's control requiring a change in the most recent form of certification previously delivered by it, two duly completed and signed originals of (i) Form W-8BEN (relating to such Lender and entitling it to a complete exemption from, or a reduced rate of, withholding under the Code on all amounts to be received by such Lender, including fees, pursuant to the Loan Documents and the Obligations), Form W-8ECI (relating to all amounts to be received by such Lender, including fees, pursuant to the Loan Documents and the Obligations) or Form W-8IMY (relating to entities acting as intermediaries) of the IRS, or any successor forms, (ii) solely if such Lender is claiming exemption from United States withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest", a Form W-8BEN, or any successor form prescribed by the IRS, and a certificate representing that such Lender is not a bank for purposes of Section 881(c) of the Code, is not a ten-percent shareholder (within the meaning of Section 871(h)(3)(B) of the Code) of the Borrower and is not a controlled foreign corporation related to the Borrower (within the meaning of Section 864(d)(4) of the Code) or (iii) any other applicable document prescribed by the IRS certifying as to the entitlement of such Lender to such exemption from United States withholding tax or reduced rate with respect to all payments to be made to such Lender under the Loan Documents. Each Lender that is a United States person (as such term is defined in Section 7701(a)(30) of the Code) shall (A) on or prior to the Closing Date or, if later, the date such financial institution becomes a Lender hereunder, (B) on or prior to the date 60 days after written notice from Borrower that such form or certification shall expire or become obsolete other than in connection with an event described in (C), (C) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this paragraph (b) and (D) from time



to time if requested by the Borrower or the Administrative Agent, provide the Administrative Agent and the Borrower with two completed originals of Form W-9 (certifying that such Lender is entitled to an exemption from U.S. backup withholding tax) or any successor form. Thereafter and from time to time, each Lender, within 60 days of Borrower's written request, shall submit to the Borrower and the Administrative Agent such additional duly completed and signed copies of one or the other of such forms (or such successor forms as shall be adopted from time to time by the relevant United States taxing authorities) and such other certificates as may be (i) requested by the Borrower in a written notice, directly or through the Administrative Agent, to such Lender and (ii) required under then-current United States law or regulations to avoid or reduce United States withholding taxes on payments in respect of all amounts to be received by such Lender, including fees, pursuant to the Loan Documents or the Obligations.

(c) *Inability of Lender to Submit Forms*. If as a result of any change in Applicable Law, regulation or treaty, or in any official application or interpretation thereof applicable to the payments made by or on behalf of any Loan Party or by the Administrative Agent under any Loan Document or any change in an income tax treaty applicable to any Lender, any Lender is unable to submit to the Borrower or the Administrative Agent any form or certificate that such Lender is obligated to submit pursuant to subsection (b) of this Section 10.1 or such Lender is required to withdraw or cancel any such form or certificate previously submitted or any such form or certificate otherwise becomes ineffective or inaccurate, such Lender shall promptly notify the Borrower and Administrative Agent of such fact and the Lender shall to that extent not be obligated to provide any such form or certificate and will be entitled to withdraw or cancel any affected form or certificate, as applicable.

(d) *Tax Refunds.* If the Administrative Agent or any Lender determines, in its sole discretion, that it has received a refund of taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 10.1 or Section 10.4, it shall pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 10.1 or Section 10.4 giving rise to such refund), net of all reasonable out of pocket expenses of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority) with respect to such refund; *provided*, that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower plus any penalties, interest or other charges imposed by the relevant Governmental Authority to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This paragraph shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Borrower or any other Person.

(e) *Mitigation*. Any Lender claiming any additional amounts payable pursuant to this Section 10.1 shall use its reasonable efforts (consistent with its internal policies and Applicable Laws) to change the jurisdiction of its lending office if such a change would reduce any such additional amounts (or any similar amount that may thereafter accrue) and would not, in the sole determination of such Lender, be otherwise disadvantageous to such Lender.

Section 10.2. *No Waiver; Cumulative Remedies; Collective Action*. No delay or failure on the part of the Administrative Agent or any Lender or on the part of the holder or holders of any of the Obligations in the exercise of any power or right under any Loan Document shall operate as a waiver thereof or as an acquiescence in any default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The rights and remedies hereunder of the Administrative Agent, the Lenders and of the holder or holders of any of the Obligations are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have.



---

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 7.2, Section 7.3 and Section 7.4 for the benefit of all the Lenders and the L/C Issuer, and each Lender and the L/C Issuer hereby agree with each other Lender and the L/C Issuer, as applicable, that no Lender shall (and the L/C Issuer shall not) take any action to protect or enforce its rights under this Agreement or any other Loan Document (including exercising any rights of set-off) without first obtaining the prior written consent of the Administrative Agent or the Required Lenders; *provided*, *however*, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) the L/C Issuer or the Swing Line Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer or Swing Line Lender, as the case may be) hereunder and under the other Loan Documents, or (c) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any debtor relief law.

Section 10.3. *Non-Business Days*. Except as otherwise provided herein, if any payment hereunder or date for performance becomes due and payable or performable (in each case, including as a result of the expiration of any relevant notice period) on a day which is not a Business Day, the due date of such payment or the date for such performance shall be extended to the next succeeding Business Day on which date such payment shall be due and payable or such other requirement shall be performed. In the case of any payment of principal falling due on a day which is not a Business Day, interest on such principal amount shall continue to accrue during such extension at the rate per annum then in effect, which accrued amount shall be due and payable on the next scheduled date for the payment of interest.

Section 10.4. *Documentary Taxes*. The Borrower agrees to pay within ten days after demand therefor any documentary, stamp, excise, property or similar taxes payable in respect of this Agreement or any other Loan Document, including interest and penalties, in the event any such taxes are assessed, irrespective of when such assessment is made and whether or not any credit is then in use or available hereunder.

Section 10.5. *Survival of Representations*. All representations and warranties made herein or in any other Loan Document or in certificates given pursuant hereto or thereto shall survive the execution and delivery of this Agreement and the other Loan Documents, and shall continue in full force and effect with respect to the date as of which they were made as long as any Lender or the L/C Issuer has any Revolving Credit Commitment hereunder or any Obligations remain unpaid hereunder.

Section 10.6. *Survival of Indemnities*. All indemnities and other provisions relative to reimbursement to the Lenders of amounts sufficient to protect the yield of the Lenders with respect to the Loans and Letters of Credit, including, but not limited to, Sections 8.1, 8.4, 10.4 and 10.13 hereof, shall survive the termination of this Agreement and the other Loan Documents and the payment of the Obligations.

Section 10.7. *Sharing of Set-Off*. Each Lender agrees with each other Lender a party hereto that if such Lender shall receive and retain any payment, whether by set-off or application of deposit balances or otherwise (except pursuant to a valid assignment or participation pursuant to Section 10.10), on any of the Loans or Reimbursement Obligations in excess of its ratable share of payments on all such Obligations then outstanding to the Lenders, then such Lender shall purchase for cash at face value, but without recourse, ratably from each of the other Lenders such amount of the Loans or Reimbursement Obligations, or participations therein, held by each such other Lenders (or interest therein) as shall be



---

necessary to cause such Lender to share such excess payment ratably with all the other Lenders; *provided, however,* that if any such purchase is made by any Lender, and if such excess payment or part thereof is thereafter recovered from such purchasing Lender, the related purchases from the other Lenders shall be rescinded ratably and the purchase price restored as to the portion of such excess payment so recovered, but without interest. For purposes of this Section, amounts owed to or recovered by the L/C Issuer in connection with Reimbursement Obligations in which Lenders have been required to fund their participation shall be treated as amounts owed to or recovered by the L/C Issuer as a Lender hereunder.

Section 10.8. *Notices*. Except as otherwise specified herein, all notices hereunder and under the other Loan Documents shall be in writing (including, without limitation, notice by facsimile or email transmission) and shall be given to the relevant party at its physical address, facsimile number or email address set forth below, or such other physical address, facsimile number or email address as such party may hereafter specify by notice to the Administrative Agent and the Borrower given by courier, by United States certified or registered mail, by facsimile, email transmission or by other

telecommunication device capable of creating a written record of such notice and its receipt. Notices under the Loan Documents to any Lender shall be addressed to its physical address or facsimile number or email address set forth on its Administrative Questionnaire; and notices under the Loan Documents to the Borrower or the Administrative Agent shall be addressed to their respective physical addresses, facsimile numbers or email addresses set forth below:

to the Borrower:

Fifth Third Processing Solutions, LLC
38 Fountain Square Plaza, 11th Floor
MD 1090BH
Cincinnati, OH 45263
Attention: Mark Heimbouch
Telephone: (513) 534-2037
Facsimile: (513) 534-0318
Email: Mark.Heimbouch@53.com

With a copy of any notice of any Default or Event of Default (which shall not constitute notice to the Borrower) to:

Weil, Gotshal & Manges LLP
200 Crescent Court, Suite 300
Dallas, Texas 75201
Attention: Kelly M. Dybala
Telephone: (214) 746-7898
Facsimile: (214) 746-7777
Email: kelly.dybala@weil.com

to the Administrative Agent:

Goldman Sachs Lending Partners LLC
c/o Goldman, Sachs & Co.
30 Hudson Street, 36th Floor
Jersey City, NJ 07302
Attention: SBD Operations

Facsimile (646) 769-7700
Email: gsd.link@gs.com and
ficc-sbdagency-nydallas@ny.email.gs.com

Each such notice, request or other communication shall be effective (i) if given by facsimile, when such facsimile is transmitted to the facsimile number specified in this Section 10.8 or in the relevant Administrative Questionnaire and a confirmation of such telecopy has been received by the sender, (ii) if given by mail, five days after such communication is deposited in the mail, certified or registered with return receipt requested, addressed as aforesaid, (iii) if by email, when delivered (all such notices and communications sent by email shall be deemed delivered upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return email or



other written acknowledgement)), or (iv) if given by any other means, when delivered at the addresses specified in this Section 10.8 or in the relevant Administrative Questionnaire; *provided* that any notice given pursuant to Section 2 hereof shall be effective only upon receipt.

Section 10.9. *Counterparts*. This Agreement may be executed in any number of counterparts, and by the different parties hereto on separate counterpart signature pages, and all such counterparts taken together shall be deemed to constitute one and the same instrument.

Section 10.10. *Successors and Assigns; Assignments and Participations*.

(a) *Successors and Assigns Generally*. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations under any Loan Document without the prior written consent of the Administrative Agent and each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of paragraph (b) of this Section, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in paragraph (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) *Assignments by Lenders*. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement with respect to all or a portion of its Revolving Credit Commitment(s) and the Loans at the time owing to it; *provided* that:

(i) except in the case of an assignment of the entire remaining amount of the assigning Lender's Revolving Credit Commitment(s) and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, the aggregate amount of the Revolving Credit Commitment(s) (which for this purpose includes Loans outstanding thereunder) or, if the applicable Revolving Credit Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of such Trade Date) shall not be less than $5,000,000, in the case of any assignment in respect of the Revolving Facility, or less than $1,000,000, in the case of any assignment in respect of the Term B-1 Facility or Term B-2 Facility (calculated, in each case, in the aggregate with respect to multiple, simultaneous assignments by two or more Approved Funds which are Affiliates or share the same (or affiliated) manager or advisor and/or two or more lenders that are Affiliates) unless each of the Administrative Agent and the Borrower otherwise consent (each such consent not to be unreasonably withheld or delayed);

(ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Facility or the Revolving Credit Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis;

(iii) any assignment of a Revolving Credit Commitment must be approved by the Administrative Agent, the L/C Issuer and the Borrower (each such approval not to be unreasonably withheld) unless the Person that is the proposed assignee is itself a Lender with a Revolving Credit Commitment (whether or not the proposed assignee would otherwise qualify as an Eligible Assignee);

(iv) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500 (unless otherwise waived or reduced by the Administrative Agent in its sole discretion), and the Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire; and

(v) the Eligible Assignee provides the Borrower and the Administrative Agent the forms required by Section 10.1(b) prior to the assignment and shall not be entitled to any additional amounts or indemnification of taxes under Section 10.1 in excess of the amounts that would be paid to its assignor.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to paragraph (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 8.4 and 10.13 and subject to any obligations hereunder with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be void *ab initio*. All parties hereto consent that assignments to the Borrower permitted by the terms hereof shall not be construed as violating pro rata, optional redemption or any other provisions hereof, it being understood that, not withstanding anything to the contrary elsewhere in this Agreement, immediately upon receipt by the Borrower of any Loans and/or Revolving Credit Commitments the same shall be deemed cancelled and no longer outstanding for any purpose under this Agreement, including without limitation, Section 10.11, and in no event shall the Borrower have any rights of a Lender under this Agreement or any other Loan Document.

(c) *Register*. (i) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, the Revolving Credit Commitment(s) of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time, and each repayment in respect of the principal amount (and any interest thereon) (the *"Register"*). The entries in the Register shall be conclusive absent manifest error or except to the extent an assignment has been recorded therein which assignment does not comply with Section 10.10(b), and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary; *provided* that in the event any assignment contemplated by paragraph (b) above is not effected in accordance with the requirements of that Section, nothing in the Register to the contrary shall override the nullity of such assignment as provided pursuant to paragraph (b) above. The Register shall be available for inspection by the Borrower and any Lender (as to its own interest, but not the interest of any other Lender), at any reasonable time and from time to time upon reasonable prior notice.



---

(ii) The Administrative Agent shall (A) accept the Assignment and Assumption and (B) promptly record the information contained therein in the Register once all the requirements of paragraph (a) above have been met. No assignment shall be effective unless it has been recorded in the Register.

(d) *Participations*. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person) (each, a *"Participant"*) in all or a portion of such Lender's rights and/or obligations under the this Agreement (including all or a portion of its Revolving Credit Commitment(s) and/or the Loans owing to it); *provided* that, (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification, supplement or waiver of any provision of this Agreement; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification, supplement or waiver described in subclause (A) (to the extent that such Participant is directly affected) or (B) of Section 10.11 Subject to paragraph (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 8.1, 8.4(b) and 10.1(a) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.14 as though it were a Lender, *provided* such Participant agrees to be subject to Section 10.7 as though it were a Lender.

Each Lender that sells a participation pursuant to this Section 10.10(d) shall maintain a register for the recordation of the names and addresses of the Participants, the commitments of, and principal amounts (and stated interest) of the Loans owing to, each Participant pursuant to the terms hereof from time to time, and each repayment in respect of the principal amount (and any interest thereon) (each, a "*Participant Register*"). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register pursuant to the terms hereof as the owner of a participation for all purposes of this Agreement, notwithstanding notice to the contrary.

(e) *Limitations upon Participant Rights*. A Participant shall not be entitled to receive any greater payment under Section 8.4(a) than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant. A Participant shall not be entitled to receive any greater payment under Section 10.1(a) than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant. A Participant that is not a United States person (as such term is defined in Section 7701(a)(30) of the Code) shall not be entitled to the benefits of Section 10.1(a) unless the Borrower is notified of the participation sold to such Participant and such Participant complies with Section 10.1(b) and (c) as though it were a Lender.

(f) *Certain Pledges*. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.



---

(g) *Electronic Execution of Assignments*. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the Ohio Uniform Electronic Transactions Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(h) So long as no Default or Event of Default has occurred or is continuing, any Lender may, at any time, assign all or a portion of its rights and obligations in respect of the Term B Loans to (a) Advent, (b) any Non-Debt Fund Affiliate and/or (c) Holdco and/or any Subsidiary of Holdco (each of the Persons identified in paragraphs (a), (b) and (c), an *"Affiliated Lender"*) on a non pro rata basis through (x) Dutch Auctions open to all Lenders on a pro rata basis and/or (y) solely in the case of Advent or any Non-Debt Fund Affiliate, open market purchases, subject to the following limitations:

(i) such Affiliated Lender shall make a representation that, as of the date of any such purchase and assignment, it is not in possession of material non-public information (*"MNPI"*) with respect to the Borrower, its Subsidiaries or their respective securities that (A) has not been disclosed to the assigning Lender prior to such date and (B) could reasonably be expected to have a material effect upon, or otherwise be material to, a Lender's decision to assign Loans to such Affiliated Lender, as the case may be (in each case, other than because such assigning Lender does not wish to receive MNPI with respect to the Borrower, its Subsidiaries or their respective securities);

(ii) all Term B Loans held by any Affiliated Lender shall be deemed to be not outstanding for all purposes of calculating whether the Required Lenders have taken any action;

(iii) the aggregate principal amount of Term B Loans purchased by assignment pursuant to this Section 10.10(h) and held at any one time by Affiliated Lenders may not exceed 25% of the outstanding principal amount of all Term B Loans plus the outstanding principal amount of all term loans made pursuant to a Term Commitment Increase;

(iv) Affiliated Lenders will not receive information provided solely to Lenders by the Administrative Agent or any Lender and will not be permitted to attend or participate in meetings attended solely by the Lenders and the Administrative Agent, other than the receipt of notices of Borrowings, notices of prepayments and other administrative notices in respect of its Loans or Revolving Credit Commitments required to be delivered to Lenders pursuant to Section 2;

(v) No Affiliated Lender shall take any action in any bankruptcy, insolvency or reorganization proceeding to object to, impede or delay the exercise of any right or the taking of any action by the Administrative Agent or Collateral Agent or the taking of any action by a third party that is supported by the Administrative Agent or Collateral Agent (including, without limitation, voting on any plan of reorganization, liquidation or similar scheme) so long as such Affiliated Lender is treated in connection therewith on the same or better terms as the other Lenders upon the resolution of such proceeding;

(vi) in the case of any Dutch Auction conducted by Holdco, the Borrower or any of its Restricted Subsidiaries, (A) the Borrower shall be in Pro Forma Compliance with the financial covenants under Section 6.22, (B) the Revolving Facility shall not be utilized to fund the assignment, and after giving effect thereto, the aggregate amount outstanding under the Revolving Facility may not exceed the aggregate amount of unrestricted cash and Cash Equivalents of the



---

Borrower and the Guarantors and (C) the loans purchased by Holdco or its Subsidiaries shall be immediately cancelled (provided that neither Holdco nor its Subsidiaries may increase the amount of Consolidated EBITDA by any non-cash gains associated with such cancellation of debt).

It is understood and agreed that the limitations set forth in clauses (ii), (iii), (iv) and (v) above shall be applicable to and in respect of any Affiliated Lender that is a party to this agreement whether such Lender is a party hereto on the Closing Date, becomes a Lender as a result of assignment pursuant to this Section 10.10(h) or otherwise and shall only be applicable with respect to the Term B Loans that are held by such Affiliated Lender while such Term B Loans are held by such Affiliated Lender.

Notwithstanding anything to the contrary contained in the foregoing, (a) Advent and any Non-Debt Fund Affiliate may (but shall not be required to) contribute any Term B Loans so purchased under this Section 10.10(h) to Holdco or any of its Subsidiaries for purposes of cancellation of such debt and (b) each Affiliated Lender shall have the right to vote on any amendment, modification, waiver or consent that would require the vote of all Lenders or the vote of all Lenders directly and adversely affected thereby pursuant to subclauses (A) or (B) of Section 10.11(a).

In addition, Term B Loans and/or Revolving Credit Commitments may be purchased by and assigned to any Debt Fund Affiliate on a non-*pro rata* basis through (a) Dutch Auctions open to all Lenders on a pro rata basis in accordance with customary procedures and/or (b) open market purchases. The limitations under clauses (i) through (iv) above shall not apply to any such purchase by a Debt Fund Affiliate, and each Lender shall be permitted to assign all or a portion of such Lender's Term B Loans and/or Revolving Commitments to any Debt Fund Affiliate without regard to such foregoing provisions.

Section 10.11. *Amendments*. (a) Any provision of this Agreement or the other Loan Documents may be amended, modified, supplemented or waived if, but only if, such amendment, modification, supplement or waiver is in writing and is signed by (i) the Borrower, (ii) the Required Lenders, (iii) if the rights or duties of the Administrative Agent are adversely affected thereby, the Administrative Agent, and (iv) if the rights or duties of the L/C Issuer are affected thereby, the L/C Issuer; *provided* that:

(A) no amendment, modification, supplement or waiver pursuant to this Section 10.11 shall (i) increase any Revolving Credit Commitment or extend the expiry date of any such Revolving Credit Commitment of any Lender without the consent of such Lender (it being understood that any such amendment, modification, supplement or waiver that provides for the payment of interest in kind in addition to, and not as substitution for or as conversion of, the interest otherwise payable hereunder shall only require the consent of the Required Lenders and that a waiver of any condition precedent or the waiver of any Default or Event of Default or mandatory prepayment shall not constitute an extension or increase of any Revolving Credit Commitment), (ii) reduce the amount of, postpone the date for any scheduled payment of any principal of or interest or fee on, or extend the final maturity of any Loan or of any Reimbursement Obligation or of any fee payable hereunder (other than with respect to a waiver of default interest) without the consent of the Lender to which such payment is owing or which has committed to make such Loan or Letter of Credit (or participate therein) hereunder or (iii) change the application of payments set forth in Section 2.9 hereof without the consent of any Lender adversely affected thereby;

(B) no amendment, modification, supplement or waiver pursuant to this Section 10.11 shall, unless signed by each Lender, change the definition of Required Lenders in a manner that reduces the voting percentages set forth therein, change the



provisions of this Section 10.11, release all or substantially all of the Collateral (except as expressly provided in the Loan Documents) or all or substantially all of the value of the guarantees provided by the Guarantors (except as expressly provided in the Loan Documents), affect the number of Lenders required to take any action hereunder or under any other Loan Document, or change or waive any provision of any Loan Document that provides for the pro rata nature of disbursements or payments to Lenders or sharing of Collateral among the Lenders (except in connection with any transaction permitted by the last paragraph of this Section 10.11(a) or Section 10.10(h)); and

(C) no amendment, modification, supplement or waiver pursuant to this Section 10.11 shall amend or otherwise modify Section 2.8 or any other provisions of any Loan Document in a manner that by its terms adversely affects the rights in respect of payments due to Lenders holding Loans of any Class differently than those holding Loans of any other Class, without the consent of Lenders representing a majority in interest of each affected Class (it being understood that the Required Lenders may waive, in whole or in part, any prepayment of Loans hereunder so long as the application, as between Classes, of any portion of such prepayment that is still required to be made is not altered).

Notwithstanding anything to the contrary herein, (a) no Defaulting Lender shall have any right to approve or disapprove any amendment, modification, supplement, waiver or consent hereunder or otherwise give any direction to the Administrative Agent; (b) the Administrative Agent may, with the consent of Borrower only, amend, modify or supplement this Agreement or any other Loan Document to cure any ambiguity, omission, defect or inconsistency, so long as such amendment, modification or supplement does not adversely affect the rights of any Lender or the Lenders shall have received, at least five Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment and (c) any agreement of the Required Lenders to forbear (and/or direction to the Administrative Agent to forbear) from exercising any of their rights and remedies upon a Default or Event of Default shall be effective without the consent of the Administrative Agent or any other Lender.

In addition, notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders (as determined hereunder prior to any such amendment or amendment and restatement), the Administrative Agent and the Borrower (i) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Loans and the accrued interest and fees in respect thereof and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders, the Required Term Lenders, the Required Revolving Lenders and other definitions related to such new credit facilities; *provided* that, no Lender shall be obligated to commit to or hold any part of such credit facilities.

(b) If any Lender (such Lender, a *"Non-Consenting Lender"*) has failed to consent to a proposed amendment, modification, supplement, waiver, discharge or termination which pursuant to the terms of this Section 10.11 requires the consent of all of the Lenders affected and with respect to which the Required Lenders shall have granted their consent, then provided no Event of Default then exists, the Borrower shall have the right (unless such Non-Consenting Lender grants such consent) to (i) replace such Non-Consenting Lender by requiring such Non-Consenting Lender to assign its relevant outstanding Loans plus any accrued and unpaid interest and fees, its Revolving Credit Commitments and all of its rights and obligations hereunder to one or more assignees, *provided* that: (a) all Obligations of the Borrower owing to such Non-Consenting Lender being replaced shall be paid in full to such Non-Consenting Lender



concurrently with such assignment, (b) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon, and (c) the replacement Lender shall grant such consent or (ii) terminate the Revolving Credit Commitment of such Non-Consenting Lender and repay all Obligations of the Borrower owing to such Lender as of such termination date. In connection with any such assignment, the Borrower, Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 10.10 hereof.

(c) Each waiver, amendment, modification, supplement or consent made or given pursuant to this Section 10.11 shall be effective only in the specific instance and for the specific purpose for which given, and such waiver, amendment, modification or supplement shall apply equally to each of the Lenders and shall be binding on the Loan Parties, the Lenders, the Administrative Agent and all future holders of the Loans and Revolving Credit Commitments.

Section 10.12. *Heading*. Section headings and the Table of Contents used in this Agreement are for reference only and shall not affect the construction of this Agreement.

Section 10.13. *Costs and Expenses; Indemnification*. (a) The Borrower agrees to pay all reasonable and documented out-of-pocket costs and expenses (within thirty days of a written demand therefor, together with reasonable backup documentation supporting such reimbursement request) of (i)

the Administrative Agent and Joint Lead Arrangers in connection with the syndication of the Facilities and the preparation, execution, delivery and administration of the Loan Documents and any amendment, modification, supplement, waiver or consent related to the Loan Documents, together with any fees and charges suffered or incurred by the Administrative Agent in connection with collateral filing fees and lien searches and (ii) the Administrative Agent and the Lenders (within thirty days of a written demand therefor together with reasonable backup documentation supporting such reimbursement request) in connection with the enforcement of the Loan Documents.

(b) The Borrower further agrees to indemnify the Administrative Agent in its capacity as such, each Lender, and their respective directors, officers, employees, advisors, agents and Affiliates against all Damages (including, without limitation, reasonable attorney's fees and other expenses of litigation or preparation therefor, whether or not the indemnified Person is a party thereto, or any settlement arrangement arising from or relating to any such litigation) which any of them may pay or incur arising out of or relating to any Loan Document or any of the transactions contemplated thereby or the direct or indirect application or proposed application of the proceeds of any Loan or Letter of Credit, other than those which (i) arise from the gross negligence, willful misconduct or bad faith of, or material breach of the Loan Documents by, the party claiming indemnification (or any of its respective directors, officers, employees, advisors, agents and Affiliates), in each case, to the extent determined by a court of competent jurisdiction in a final and non-appealable judgment or (ii) arise out of any dispute solely among indemnitees (other than in connection with any agent acting in its capacity as a Joint Lead Arranger or Administrative Agent or any other agent or co-agent (if any) designated by the Joint Lead Arrangers, in each case in their respective capacities as such, or in connection with any syndication activities, but in each case solely to the extent such indemnification would not be denied pursuant to clause (b)(i)) that a court of competent jurisdiction has determined in a final and non-appealable decision did not arise out of any act or omission of the Borrower or any of its Affiliates. Notwithstanding the foregoing, each indemnified person shall be obligated to refund and return any and all amounts paid by the Borrower to such indemnified person for fees, expenses or damages to the extent such indemnified person is not entitled to payment of such amounts in accordance with the terms hereof.



(c) Notwithstanding any of the foregoing clauses (a) or (b) to the contrary, in no event shall the Borrower be obligated to pay for the legal expenses or fees of more than one firm of outside counsel (and shall not be obligated to pay for any in-house counsel) and, if reasonably necessary, one local counsel and one regulatory counsel in any relevant material jurisdiction, to the Administrative Agent, or the Administrative Agent and the Lenders, taken as a whole, as the case may be, except, solely in the case of a conflict of interest under clauses (a)(ii) or (b) above, one additional counsel to the affected persons similarly situated, taken as a whole. The obligations of the Borrower under this Section shall survive the termination of this Agreement.

Section 10.14. *Set-off* In addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, but subject to Section 10.2, upon the occurrence and during the continuation of any Event of Default, each Lender and each subsequent holder of any Obligation is hereby authorized by the Borrower at any time or from time to time, without prior notice to the Borrower or to any other Person, any such notice being hereby expressly waived, to set-off and to appropriate and to apply any and all deposits (general or special, including, but not limited to, indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts, and in whatever currency denominated) and any other indebtedness at any time held or owing by that Lender or that subsequent holder to or for the credit or the account of the Borrower, whether or not matured, against and on account of any amount due and payable by the Borrower hereunder. Each Lender or any such subsequent holder of any Obligations agrees to promptly notify the Borrower and the Administrative Agent after any such set-off and application made by such Lender, *provided* that the failure to give such notice shall not affect the validity of such set-off and application.

Section 10.15. *Entire Agreement*. The Loan Documents constitute the entire understanding of the parties thereto with respect to the subject matter thereof and any prior agreements, whether written or oral, with respect thereto are superseded hereby.

Section 10.16. *Governing Law*. This Agreement and the rights and obligations of the parties hereunder shall be governed by, and construed by and interpreted in accordance with, the law of the State of New York, including section 5 -1401 of the general obligations law of the State of New York, but excluding the laws applicable to conflicts or choice of law.

Section 10.17. *Severability of Provisions*. Any provision of any Loan Document which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All rights, remedies and powers provided in this Agreement and the other Loan Documents may be exercised only to the extent that the exercise thereof does not violate any applicable mandatory provisions of law, and all the provisions of this Agreement and other Loan Documents are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Agreement or the other Loan Documents invalid or unenforceable.

Section 10.18. *Excess Interest*. Notwithstanding any provision to the contrary contained herein or in any other Loan Document, no such provision shall require the payment or permit the collection of any amount of interest in excess of the maximum amount of interest permitted by Applicable Law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the Loans or other obligations outstanding under this Agreement or any other Loan Document (*"Excess Interest"*). If any Excess Interest is provided for, or is adjudicated to be provided for, herein or in any other Loan Document, then in such event (a) the provisions of this Section shall govern and control, (b) neither the Borrower nor any guarantor or endorser shall be obligated to pay any Excess Interest, (c) any Excess Interest that the Administrative Agent or any Lender may have received hereunder shall, at the option of the



Administrative Agent, be (i) applied as a credit against the then outstanding principal amount of Obligations hereunder and accrued and unpaid interest thereon (not to exceed the maximum amount permitted by Applicable Law), (ii) refunded to the Borrower, or (iii) any combination of the foregoing, (d) the interest rate payable hereunder or under any other Loan Document shall be automatically subject to reduction to the maximum lawful contract rate allowed under applicable usury laws (the *"Maximum Rate"*), and this Agreement and the other Loan Documents shall be deemed to have been, and shall be, reformed and modified to reflect such reduction in the relevant interest rate, and (e) neither the Borrower nor any guarantor or endorser shall have any action against the Administrative Agent or any Lender for any Damages whatsoever arising out of the payment or collection of any Excess Interest. Notwithstanding the foregoing, if for any period of time interest on any of Borrower's Obligations is calculated at the Maximum Rate rather than the applicable rate under this

Agreement, and thereafter such applicable rate becomes less than the Maximum Rate, the rate of interest payable on the Borrower's Obligations shall remain at the Maximum Rate until the Lenders have received the amount of interest which such Lenders would have received during such period on the Borrower's Obligations had the rate of interest not been limited to the Maximum Rate during such period.

Section 10.19. *Construction*. The parties acknowledge and agree that the Loan Documents shall not be construed more favorably in favor of any party hereto based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the negotiation of the Loan Documents. The provisions of this Agreement relating to Subsidiaries shall apply only during such times as the Borrower has one or more Subsidiaries. In the event of any conflict or inconsistency between or among this Agreement and the other Loan Documents, the terms and conditions of this Agreement shall govern and control.

Section 10.20. *Lender's Obligations Several*. The obligations of the Lenders hereunder are several and not joint. Nothing contained in this Agreement and no action taken by the Lenders pursuant hereto shall be deemed to constitute the Lenders a partnership, association, joint venture or other entity.

Section 10.21. *USA Patriot Act*. Each Lender hereby notifies the Borrower that pursuant to the requirements of the Patriot Act it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Patriot Act.

Section 10.22. *Submission to Jurisdiction; Waiver of Jury Trial*. Each of the parties hereto hereby submits to the nonexclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court sitting in New York City in the borough of Manhattan for purposes of all legal proceedings arising out of or relating to this Agreement, the other Loan Documents or the transactions contemplated hereby or thereby. Each of the parties hereto irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum. THE BORROWER, THE ADMINISTRATIVE AGENT AND THE LENDERS HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY.

Section 10.23. *Treatment of Certain Information; Confidentiality*. Each of the Administrative Agent, the Lenders and the L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and other representatives on a "need to know basis" (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information



confidential) solely in connection with the transactions contemplated or permitted hereby; *provided* that the Administrative Agent, the Lenders or the L/C Issuer, as the case may be, shall be responsible for its Affiliates' compliance with this paragraph, (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by Applicable Laws or regulations or by any subpoena or similar legal process; *provided* that unless specifically prohibited by Applicable Law or court order, each Lender and the Administrative Agent shall promptly notify the Borrower in advance of any such disclosure, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section 10.23, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any Hedge Agreement relating to the Borrower and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section 10.23 or (y) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower (except to the extent that such Information was available to the Administrative Agent, any Lender or any of their Affiliates as a result of Administrative Agent's, any Lender's or their Affiliates' ownership interests in the Business or the Borrower). For purposes of this Section 10.23, "*Information*" means all information received by the Administrative Agent, any Lender or the L/C Issuer, as the case may be, from the Borrower or any of its Subsidiaries relating to the Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower or any of its Subsidiaries. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information. Notwithstanding the foregoing, the Administrative Agent and the Lenders agree not to disclose any Information to a (i) Prohibited Lender or (ii) any of their respective Affiliates or any of their and their Affiliates' officers, directors or employees that (x) are engaged as principles primarily in private equity or venture capital on a proprietary bases (other than, in each case, such Affiliates engaged by the Borrower with respect to the Transactions and the private equity group affiliated with the GSLP Funds or any other debt fund affiliates or any advisors thereto) or (y) to the knowledge of the Administrative Agent, the Lenders or the L/C Issuer, as the case may be, are engaged in businesses competing with the Borrower (including any Affiliate which has been previously identified in writing to the Joint Lead Arrangers as such); <u>provided</u>, that nothing contained in this Section 10.23 shall prohibit the disclosure of such Information to any officers, directors or employees of any Affiliate of the Administrative Agent, the Lenders or the L/C Issuer, as the case may be, who reasonably need to know such Information for purposes of evaluating, negotiating, enforcing or consummating any of the transactions contemplated hereby, so long as, such Information is used solely for such purposes.

~~Section 10.24. *Conflicts with Intercreditor Agreement.*~~

~~To the extent any obligation of any Loan Party hereunder or under any other Loan Document conflicts or is inconsistent with the terms of the Intercreditor Agreement, the Intercreditor Agreement shall control, and such Loan Party shall not be required to fulfill such obligations. Each Lender hereby acknowledges that it has reviewed the Intercreditor Agreement, authorizes the Collateral Agent to execute and deliver such agreement and acknowledges that such Lender will be bound by the terms thereof.~~



**THE SIGNATURES OF EACH PARTY HERETO EVIDENCE EACH PARTIES' AGREEMENT TO BE BOUND BY THE TERMS OF THIS FIRST LIEN LOAN AGREEMENT.**

**FIFTH THIRD PROCESSING SOLUTIONS, LLC**

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**GOLDMAN SACHS LENDING PARTNERS LLC**,
as Administrative Agent, Collateral Agent and as a Lender

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**CREDIT SUISSE SECURITIES (USA) LLC**, as Co-Syndication Agent

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**MORGAN STANLEY SENIOR FUNDING INC.**,
as Co-Syndication Agent, Co-Documentation Agent and as a Lender

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**BANK OF AMERICA, N.A.**,
as Co-Syndication Agent and as a Lender

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**FIFTH THIRD BANK**, as L/C Issuer, Swing Line Lender, Co-Documentation Agent and as a Lender

By: ______________________________
Name:

Title:

[*Signature Page to First Lien Loan Agreement*]

---

**SUNTRUST BANK,** as Co-Documentation Agent and as a Lender

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**JPMORGAN CHASE BANK, N.A.,** as a Lender

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,** as a Lender

By: ______________________________
Name:
Title:

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**GSLP I Offshore Holdings Fund A, L.P.,** as a Lender

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**GSLP I Offshore Holdings Fund B, L.P.,** as a Lender

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**GSLP I Offshore Holdings Fund C, L.P.,** as a Lender

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**GSLP I Offshore Holdings Fund D, L.P.,** as a Lender

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**GSLP I Onshore Holdings Fund, L.L.C.,** as a Lender

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**MORGAN STANLEY BANK, N.A.,** as a Lender

By: ______________________________
Name:
Title:

[*Signature Page to First Lien Loan Agreement*]

---

**Exhibit 10.5**

**EXECUTION VERSION**

# SECURITY AGREEMENT

This Security Agreement (this "*Agreement*") is dated as of November 3, 2010, by and among Fifth Third Processing Solutions, LLC, a Delaware limited liability company (the "*Borrower*") and the other parties who have executed this Security Agreement (the Borrower, such other parties and any other parties who execute and deliver to the Collateral Agent an agreement substantially in the form attached hereto as Schedule F, being hereinafter referred to collectively as the "*Debtors*" and individually as a "*Debtor*"), each with its mailing address as set forth in Section 14(b) below, and Goldman Sachs Lending Partners LLC ("*GS Lending Partners*"), with its mailing address as set forth in Section 14(b) below, acting as collateral agent hereunder for the Secured Parties hereinafter identified and defined (GS Lending Partners acting as such collateral agent and any successor or successors to GS Lending Partners acting in such capacity being hereinafter referred to as the "*Collateral Agent*").

## PRELIMINARY STATEMENTS

A. Reference is made to the First Lien Loan Agreement, dated as of November 3, 2010 (as amended, restated, amended and restated, supplemented, modified, replaced or refinanced from time to time, the "*First Lien Loan Agreement*"), among the Borrower, GS Lending Partners, as Administrative Agent (the "*Administrative Agent*"), Fifth Third Bank as L/C Issuer ("*L/C Issuer*"), the Lenders party thereto and the other banks and financial institutions from time to time party thereto, pursuant to which the Administrative Agent, L/C Issuer and the other banks and financial institutions from time to time party thereto have agreed to provide financial accommodations to the Borrower (GS Lending Partners, in its individual capacity and such other banks, financial institutions and lenders being hereinafter referred to collectively as the "*Lenders*" and individually as a "*Lender*").

B. In addition, one or more of the Debtors may from time to time be liable to the Lenders and/or their Affiliates with respect to Hedging Liability and/or Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations (as such terms are defined in the First Lien Loan Agreement) (the Collateral Agent, the L/C Issuer and the Lenders, together with any Affiliates of the Lenders with respect to the Hedging Liability and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, as such terms are defined in the First Lien Loan Agreement, are referred to collectively as the "*Secured Parties*" and individually as a "*Secured Party*").

C. As a condition to the closing of the transactions contemplated by the First Lien Loan Agreement, the Secured Parties have required, among other things, that each Debtor enter into this Agreement and grant to the Collateral Agent for the benefit of the Secured Parties a lien on and security interest in the personal property and fixtures of such Debtor described herein subject to the terms and conditions hereof.

NOW, THEREFORE, for good and valuable consideration, receipt whereof is hereby acknowledged, the parties hereto hereby agree as follows:

---

*Section 1. Terms defined in First Lien Loan Agreement.* Except as otherwise provided in Section 2 below, all capitalized terms used herein without definition shall have the same meanings herein as such terms have in the First Lien Loan Agreement. The term "Debtor" and "Debtors" as used herein shall mean and include the Debtors collectively and also each individually, with all representations, warranties, and covenants of and by the Debtors, or any of them, herein contained to constitute joint and several representations, warranties, and covenants of and by the Debtors; *provided, however,* that unless the context in which the same is used shall otherwise require, any grant, representation, warranty or covenant contained herein related to the Collateral shall be made by each Debtor only with respect to the Collateral owned by it or represented by such Debtor as owned by it.

*Section 2. Grant of Security Interest in the Collateral.* As collateral security for the Secured Obligations defined below, each Debtor hereby grants to the Collateral Agent for the benefit of the Secured Parties a lien on and security interest in, and right of set-off against, and acknowledges and agrees that the Collateral Agent has and shall continue to have until the Termination Date (as hereinafter defined) for the benefit of the Secured Parties a continuing lien on and security interest in, and right of set-off against, all right, title, and interest of such Debtor, whether now owned or existing or hereafter created, acquired or arising, in and to all of the following:

(a) Accounts;

(b) Chattel Paper;

(c) Instruments (including Promissory Notes);

(d) Documents;

(e) General Intangibles (including Payment Intangibles and Software, patents, trademarks, copyrights, and all other intellectual property rights, including all applications, registrations, and licenses therefor, and all goodwill of the business connected therewith or represented thereby);

(f) Letter-of-Credit Rights;

(g) Supporting Obligations;

(h) Deposit Accounts;

(i) Investment Property (including certificated and uncertificated Securities, Securities Accounts, Security Entitlements, Commodity Accounts, and Commodity Contracts);

(j) Inventory;

(k) Equipment (including all software, whether or not the same constitutes embedded software, used in the operation thereof);

(l) Fixtures;

(m) Commercial Tort Claims (as described on Schedule E hereto or on one or more supplements to this Agreement);

(n) Rights to merchandise and other Goods (including rights to returned or repossessed Goods and rights of stoppage in transit) which are represented by, arise from, or relate to any of the foregoing;

(o) Monies, personal property, and interests in personal property of such Debtor of any kind or description now held by any Secured Party or at any time hereafter transferred or delivered to, or coming into the possession, custody or control of, any Secured Party, or any agent or affiliate of any Secured Party, whether expressly as collateral security or for any other purpose (whether for safekeeping, custody, collection or otherwise), and all dividends and distributions on or other rights in connection with any such property;

(p) Supporting evidence and documents relating to any of the above-described property, including, without limitation, computer programs, disks, tapes and related electronic data processing media, and all rights of such Debtor to retrieve the same from third parties, written applications, credit information, account cards, payment records, correspondence, delivery and installation certificates, invoice copies, delivery receipts, notes and other evidences of indebtedness, insurance certificates and the like, together with all books of account, ledgers, and cabinets in which the same are reflected or maintained;

(q) Accessions and additions to, and substitutions and replacements of, any and all of the foregoing; and

(r) Proceeds and products of the foregoing, and all insurance of the foregoing and proceeds thereof;

all of the foregoing being herein sometimes referred to as the "*Collateral*". Notwithstanding the foregoing, the security interest shall not extend to, and the term "Collateral" (and any component definition thereof) shall not include, any Excluded Property. All terms which are used in this Agreement which are defined in the Uniform Commercial Code of the State of New York as in effect from time to time ("*UCC*") shall have the same meanings herein as such terms are defined in the UCC, unless this Agreement shall otherwise specifically provide. For purposes of this Agreement, the term "*Receivables*" means all rights to the payment of a monetary obligation, whether or not earned by performance, and whether evidenced by an Account, Chattel Paper, Instrument, General Intangible, or otherwise.



---

*Section 3. Secured Obligations.* This Agreement is made and given to secure, and shall secure, the prompt payment and performance of (a) any and all indebtedness, obligations, and liabilities of the Debtors, and of any of them individually, to the Secured Parties, and to any of them individually, under or in connection with or evidenced by the First Lien Loan Agreement or any other Loan Documents, including, without limitation, all obligations evidenced by the Notes (if any) of the Borrower heretofore or hereafter issued under the First Lien Loan Agreement, and all obligations of the Debtors, and of any of them individually, with respect to any Hedging Liability, all obligations of the Debtors, and of any of them individually, with respect to any Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, and all obligations of the Debtors, and of any of them individually, arising under any guaranty issued by it relating to the foregoing or any part thereof, in each case whether now existing or hereafter arising (and whether arising before or after the filing of a petition in bankruptcy and including all interest accrued after the petition date), due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired and (b) any and all reasonable and documented out-of-pocket expenses and charges, including, without limitation, all reasonable attorney's fees and other expenses of litigation or preparation therefor (but under no circumstances shall the Debtors be obligated to pay for more than one firm of outside counsel, and no Debtor shall be obligated to pay for any in-house counsel except, if reasonably necessary, one local counsel and one regulatory counsel in any relevant material jurisdiction, to the Collateral Agent, or the Collateral Agent and the Secured Parties, taken as a whole, as the case may be, and, solely in the case of a conflict of interest, one additional counsel to the affected persons similarly situated, taken as a whole) suffered or incurred by the Secured Parties, and any of them individually, in collecting or enforcing any of such indebtedness, obligations, and liabilities or in realizing on or protecting or preserving any security therefor, including, without limitation, the lien and security interest granted hereby (all of the indebtedness, obligations, liabilities, expenses, and charges described above being hereinafter referred to as the "*Secured Obligations*").

*Section 4. Covenants, Agreements, Representations and Warranties.* (a) Each Debtor hereby represents and warrants to the Secured Parties that:

(i) Each Debtor is duly organized and validly existing in good standing under the laws of the jurisdiction of its organization. Each Debtor is the sole and lawful owner of its Collateral, and has full right, power, and authority to enter into this Agreement and to perform each and all of the matters and things herein provided for. The execution and delivery of this Agreement, and the observance and performance of each of the matters and things herein set forth, will not (i) violate any provision of law or any judgment, injunction, order or decree binding upon such Debtor, (ii) contravene or constitute a default under any provision of the organizational documents (*e.g.*, charter, articles of incorporation or by-laws, articles of association or operating agreement, partnership agreement or other similar document) of such Debtor, (iii) contravene or constitute a default under any covenant, indenture or agreement of or affecting such Debtor or any of its Property, in each case, where such contravention or default, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or (iv) result in the creation or imposition of any Lien on any Property of such Debtor other than the Liens granted to the Collateral Agent pursuant to this Agreement and Permitted Liens,



---

except with respect to clauses (i), (iii) and (iv), to the extent, individually or in the aggregate, that such violation, contravention, breach, conflict, default or creation or imposition of any Lien could not reasonably be expected to result in a Material Adverse Effect.

(ii) As of the Closing Date, each Debtor's respective chief executive office is at the location listed under Column 2 on Schedule A attached hereto opposite such Debtor's name.

(iii) As of the Closing Date, each Debtor's legal name, jurisdiction of organization and organizational number (if any) are correctly set forth under Column 1 on Schedule A of this Agreement. As of the Closing Date, no Debtor has transacted business at any time during the immediately preceding five-year period, and does not currently transact business, under any other legal names other than the prior legal names set forth on Schedule B attached hereto.

(iv) Schedule C attached hereto contains a true, complete, and current listing of all patents, trademarks, copyrights, and other intellectual property rights owned by each of the Debtors as of the date hereof that are registered or the subject of a pending application with any United States federal governmental authority. Each Debtor owns or possesses rights to use all patents, trademarks, trade names, copyrights, rights with respect to the foregoing, trade secrets, know-how, and other intellectual property rights which are necessary to the present conduct of its business, in each case, without any known conflict with the rights of others which, or the failure to obtain which, as the case may be, could reasonably be expected to result in a Material Adverse Effect. To the knowledge of the Debtors, no event has occurred which permits, or after notice or lapse of time or both would permit, the revocation or termination of any such rights, except to the extent that such revocation or termination could not reasonably be expected to result in a Material Adverse Effect, and, to the knowledge of the Debtors, and except as set forth on Schedule H attached hereto, the Debtors are not liable to any person for infringement, misappropriation or violation under applicable law with respect to any such rights as a result of its business operations, except to the extent that such liability could not reasonably be expect to result in a Material Adverse Effect.

(v) Schedule E attached hereto contains a true, complete and current listing of all Commercial Tort Claims held by the Debtors as of the date hereof, each described by referring to a specific incident giving rise to the claim.

(b) Each Debtor hereby covenants and agrees with the Secured Parties that:

(i) Each Debtor shall provide the Collateral Agent prompt written notice of a change of the location of such Debtor's chief executive office; *provided* that each Debtor shall at all times maintain its chief executive office in the United States of America.

(ii) The applicable Debtor shall provide the Collateral Agent with fifteen (15) days (or such shorter period as to which Collateral Agent may agree) prior written notice



of any change to any Debtor's jurisdiction of organization. Upon any change to the legal name of any Debtor the applicable Debtor shall provide written notice thereof to the Collateral Agent within fifteen (15) days (or such longer period as to which Collateral Agent may agree) after the occurrence thereof.

(iii) Each Debtor shall take all commercially reasonably actions necessary to defend the Collateral against any claims and demands of all persons at any time claiming the same or any interest in the Collateral other than a Permitted Lien adverse to any of the Secured Parties.

(iv) Each Debtor will perform in all material respects its obligations under any contract or other agreement constituting part of the Collateral, it being understood and agreed that the Secured Parties have no responsibility to perform such obligations, except to the extent that any nonperformance could not be reasonably expected to result in a Material Adverse Effect.

(v) Each Debtor will insure its Collateral with financially sound and reputable insurance companies insuring against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business of the Borrower and containing loss payable clauses to the Collateral Agent as its interests may appear (and, if the Collateral Agent requests, naming the Collateral Agent as an additional insured therein). Each Debtor shall furnish to the Collateral Agent upon its reasonable request (but not more than twice per fiscal year in the absence of an Event of Default) reasonably detailed information as to the insurance so carried. All premiums on such insurance shall be paid by the Debtors. All insurance required hereby, to the extent available on commercially reasonable terms, shall provide that any loss shall be payable notwithstanding any act or negligence of the relevant Debtor, shall provide that no cancellation thereof shall be effective until at least thirty (30) days (or, in the case of non-payment, ten (10) days) after receipt by the relevant Debtor and the Collateral Agent of written notice thereof, and shall be reasonably satisfactory to the Collateral Agent in all other respects. Each Debtor hereby authorizes the Collateral Agent, at the Collateral Agent's option, to adjust, compromise, and settle any losses in respect of any Collateral under any insurance afforded at any time after the occurrence and during the continuation of any Event of Default, and such Debtor does hereby irrevocably (until the Termination Date) constitute the Collateral Agent, its officers, agents, and attorneys, as such Debtor's attorneys-in-fact, with full power and authority after the occurrence and during the continuation of any Event of Default to effect such adjustment, compromise, and/or settlement and to endorse any drafts drawn by an insurer of the Collateral or any part thereof and to do everything necessary to carry out such purposes and to receive and receipt for any unearned premiums due under policies of such insurance. Notwithstanding the foregoing, unless the Collateral Agent elects to adjust, compromise or settle losses as aforesaid, any adjustment, compromise, and/or settlement of any losses under any insurance shall be made by the relevant Debtor subject to the final approval by the Collateral Agent in the case of losses exceeding $5,000,000.00. All insurance proceeds shall be subject to the lien and security interest of the Collateral Agent hereunder.



(vi) At any time after and during the continuance of any Event of Default, if any Collateral is in the possession or control of any agents or processors of a Debtor and the Collateral Agent so requests, such Debtor agrees to notify such agents or processors in writing of the Collateral Agent's lien and security interest therein and instruct them to hold all such Collateral for the Collateral Agent's account and subject to the Collateral Agent's instructions.

(vii) At any time after and during the continuation of any Event of Default, each Debtor agrees from time to time to deliver to the Collateral Agent such evidence of the existence, identity, and location of its Collateral and of its availability as collateral security pursuant hereto (including, without limitation, schedules describing all Receivables created or acquired by such Debtor, copies of customer invoices or the equivalent and original receipts for all services rendered by it), in each case as the Collateral Agent may reasonably request. At any time after and during the continuation of any Event of Default, the Collateral Agent shall have the right to verify all or any part of the Collateral in any manner, and through

any medium, which the Collateral Agent considers appropriate and reasonable, and each Debtor agrees to furnish all reasonable assistance and information, and perform any reasonable acts, which the Collateral Agent may reasonably require in connection therewith.

(viii) Upon any new registration, or application for registration, for any intellectual property rights constituting Collateral granted to or filed or acquired by any Debtor after the Closing Date, the Debtor shall, on or prior to the later to occur of (i) thirty (30) days following such grant, filing or acquisition and (ii) the date of the next required delivery of the certificate required by Section 6.1(e) of the First Lien Loan Agreement (the "*Compliance Certificate*") following the date of such grant, filing or acquisition (or such longer period as to which the Collateral Agent may consent), submit to the Collateral Agent a supplement to Schedule C to reflect such additional rights (provided any Debtor's failure to do so shall not impair the Collateral Agent's security interest therein).

(ix) If any Debtor shall at any time hold or acquire a Commercial Tort Claim in excess of $5,000,000.00 individually, the Debtor shall, on or prior to the later to occur of (i) thirty (30) days following such acquisition and (ii) the date of the next required delivery of the Compliance Certificate following the date of such acquisition (or such longer period as to which the Collateral Agent may consent), execute and deliver to the Collateral Agent an agreement in the form attached hereto as Schedule G, or in such other form reasonably acceptable to the Collateral Agent (provided any Debtor's failure to do so shall not impair the Collateral Agent's security interest therein).

(x) Each Debtor agrees to execute and deliver to the Collateral Agent such further agreements, assignments, instruments, and documents, and to do all such other things, as the Collateral Agent may reasonably deem necessary to assure the Collateral Agent of its lien and security interest hereunder, including, without limitation, such agreements with respect to patents, trademarks, copyrights, and similar intellectual property rights as the Collateral Agent may from time to time reasonably require to



comply with the filing requirements of the United States Patent and Trademark Office and the United States Copyright Office; *provided* that (x) the Collateral Agent shall not require the taking of a Lien on, or require the perfection of any Lien granted in, those assets as to which the cost of obtaining or perfecting such Lien (including any mortgage, stamp, intangibles or other tax or expenses relating to such Lien) outweighs the benefit to the Secured Parties of the security afforded thereby as reasonably determined by the Borrower and the Collateral Agent and (y) no control agreements shall be required. The Collateral Agent may order lien searches from time to time against any Debtor and the Collateral, and the Debtors shall promptly reimburse the Collateral Agent for all reasonable costs and expenses incurred in connection with such lien searches (which, in the absence of an Event of Default, shall not be ordered more than once per year). In the event for any reason the law of any jurisdiction other than New York becomes or is applicable to the Collateral or any part thereof, or to any of the Secured Obligations, each Debtor agrees to execute and deliver all such agreements, assignments, instruments, and documents and to do all such other things as the Collateral Agent deems necessary or appropriate to preserve, protect, and enforce the security interest of the Collateral Agent under the law of such other jurisdiction; *provided* that in no event shall any foreign law security or pledge agreements be required. Each Debtor agrees to mark its books and records to reflect the lien and security interest of the Collateral Agent in the Collateral.

(xi) If an Event of Default has occurred and is continuing, the Collateral Agent may, at its option, but only following five (5) Business Days' written notice to each Debtor of its intent to do so, expend such sums as the Collateral Agent reasonably deems advisable to perform the obligations of the Debtors with respect to the Collateral under this Agreement and the other Loan Documents to the extent that any Debtor fails to do so, including, without limitation, the payment of any insurance premiums, the payment of any taxes, Liens and encumbrances that do not constitute Permitted Liens, expenditures made in defending against any adverse claims that do not constitute Permitted Liens, and all other expenditures which the Collateral Agent may be compelled to make by operation of law or which the Collateral Agent may make by agreement or otherwise for the protection of the security hereof that do not constitute Permitted Liens. All such sums and amounts so expended shall be repayable by the Debtors within thirty (30) days after demand, shall constitute additional Secured Obligations secured hereunder, and shall bear interest from the date said amounts are expended at a rate per annum (computed on the basis of a year of 360 days for the actual number of days elapsed) equal to 2% plus the Base Rate from time to time in effect plus the Applicable Margin for Base Rate Loans (such rate per annum as so determined being hereinafter referred to as the "*Default Rate*"). No such performance of any obligation by the Collateral Agent on behalf of a Debtor, and no such advancement or expenditure therefor, shall relieve any Debtor of any default under the terms of this Agreement or in any way obligate any Secured Party to take any further or future action with respect thereto. The Collateral Agent, in making any payment hereby authorized, may do so according to any bill, statement or estimate procured from the appropriate public office or holder of the claim to be discharged without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax lien or title or claim. The Collateral Agent, in



performing any act hereunder, shall be the sole judge of whether the relevant Debtor is required to perform the same under the terms of this Agreement.

*Section 5. Special Provisions Re: Receivables*. (a) Upon the occurrence and during the continuance of an Event of Default, if any Receivable arises out of a contract with the United States of America, or any state or political subdivision thereof, or any department, agency or instrumentality of any of the foregoing, each Debtor agrees to promptly so notify the Collateral Agent and, at the request of the Collateral Agent or the Secured Parties, execute whatever instruments and documents are required by the Collateral Agent in order that such Receivable shall be assigned to the Collateral Agent and that proper notice of such assignment shall be given under the federal Assignment of Claims Act (or any successor statute) or any similar state or local statute, as the case may be.

(b) If any Debtor shall at any time after the Closing Date hold or acquire any Instrument or Chattel Paper evidencing any Receivable or other item of Collateral, the Debtor shall, on or prior to the later to occur of (i) thirty (30) days following such acquisition and (ii) the date of the next required delivery of the Compliance Certificate following the date of such acquisition (or such longer period as to which the Collateral Agent may consent), cause such Instrument or tangible Chattel Paper to be pledged and delivered to the Collateral Agent; *provided*, *however*, that, unless an Event of Default has occurred and is continuing, a Debtor shall not be required to deliver any such Instrument or tangible Chattel Paper if and only so long as the aggregate unpaid principal balance of all such Instruments and tangible Chattel Paper held by the Debtors and not delivered to the Collateral Agent hereunder is less than $5,000,000.00 at any one time outstanding.

*Section 6.* *Collection of Receivables.* (a) Except as otherwise provided in this Agreement, each Debtor shall make collection of its Receivables and may use the same to carry on its business in accordance with customary business practice and otherwise subject to the terms hereof.

(b) Upon the occurrence and during the continuance of any Event of Default, whether or not the Collateral Agent has exercised any of its other rights under other provisions of this Section 6, in the event the Collateral Agent makes a written request for any Debtor to do so:

(i) all Instruments and tangible Chattel Paper at any time constituting part of the Receivables (including any postdated checks) shall, upon receipt by such Debtor, be promptly endorsed to and deposited with Collateral Agent; and/or

(ii) such Debtor shall instruct all customers and account debtors to remit all payments in respect of Receivables or any other Collateral to a lockbox or lockboxes under the sole custody and control of the Collateral Agent and which are maintained at one or more post offices selected by the Collateral Agent.

(c) Upon the occurrence and during the continuation of any Event of Default, whether or not the Collateral Agent has exercised any of its other rights under the other provisions of this Section 6, the Collateral Agent or its designee may notify the relevant Debtor's customers and



account debtors at any time that Receivables have been assigned to the Collateral Agent or of the Collateral Agent's security interest therein, and either in its own name, or such Debtor's name, or both, demand, collect (including, without limitation, through a lockbox analogous to that described in Section 6(b)(ii) hereof), receive, receipt for, sue for, compound and give acquittance for any or all amounts due or to become due on Receivables, and in the Collateral Agent's reasonable discretion file any claim or take any other action or proceeding which the Collateral Agent may reasonably deem necessary to protect and realize upon the security interest of the Collateral Agent in the Receivables or any other Collateral.

(d) Any proceeds of Receivables or other Collateral transmitted to or otherwise received by the Collateral Agent pursuant to any of the provisions of Sections 6(b) or 6(c) hereof may be handled and administered by the Collateral Agent in and through a remittance account or accounts maintained at the Collateral Agent or by the Collateral Agent at a commercial bank or banks selected by the Collateral Agent with reasonable care (collectively the *"Depositary Banks"* and individually a *"Depositary Bank"*), and each Debtor acknowledges that the maintenance of such remittance accounts by the Collateral Agent is solely for the Collateral Agent's convenience. The Collateral Agent may, after the occurrence and during the continuation of any Event of Default, apply all or any part of any proceeds of Receivables or other Collateral received by it from any source to the payment of the Secured Obligations (whether or not then due and payable), such applications to be made pursuant to the terms of the First Lien Loan Agreement, and at such intervals as the Collateral Agent may from time to time in its discretion determine. The Collateral Agent need not apply or give credit for any item included in proceeds of Receivables or other Collateral until the Depositary Bank has received final payment therefor at its office in cash or final solvent credits current at the site of deposit reasonably acceptable to the Collateral Agent and the Depositary Bank as such. However, if the Collateral Agent does permit credit to be given for any item prior to a Depositary Bank receiving final payment therefor and such Depositary Bank fails to receive such final payment or an item is charged back to the Collateral Agent or any Depositary Bank for any reason, the Collateral Agent may at its election in either instance charge the amount of such item back against any such remittance accounts. After all Events of Default have been cured or waived, the Collateral Agent shall promptly return to the applicable Debtor all proceeds of Collateral which the Collateral Agent has not applied to the Secured Obligations as provided above from the remittance account, as well as all Instruments and tangible Chattel Paper delivered to the Collateral Agent pursuant to Section 6(b)(i) hereof. Each Debtor hereby indemnifies the Secured Parties from and against all liabilities, damages, losses, actions, claims, judgments, and all reasonable costs, expenses, charges, and attorneys' fees (but limited, in the case of attorney's fees, to one firm of outside counsel, and, if reasonably necessary, one local counsel and one regulatory counsel in any relevant material jurisdiction, to the Collateral Agent, or the Collateral Agent and the Secured Parties, taken as a whole, as the case may be, and, solely in the case of a conflict of interest, one additional counsel to the affected persons similarly situated, taken as a whole) suffered or incurred by any Secured Party because of the maintenance of the foregoing arrangements; *provided*, *however*, that no Debtor shall be required to indemnify any Secured Party for any of the foregoing to the extent they (i) arise from the gross negligence, willful misconduct or bad faith of, or a material breach of this Agreement by, the person seeking to be indemnified to the extent determined by a court of competent jurisdiction in a final and non-appealable judgment or (ii) arise out of any dispute solely among Secured Parties (other than in connection with the



Collateral Agent acting in its capacity as Collateral Agent, solely to the extent such indemnification would not be denied pursuant to clause (i)) that a court of competent jurisdiction has determined in a final and non-appealable decision did not arise out of any act or omission of any Debtor. Notwithstanding the foregoing, each Secured Party shall be obligated to refund and return any and all amounts paid by any Debtor to such Secured Party for fees, expenses or damages to the extent such Secured Party is not entitled to payment of such amounts in accordance with the terms hereof. The Secured Parties shall have no liability or responsibility to any Debtor for the Collateral Agent or any Depositary Bank accepting any check, draft or other order for payment of money bearing the legend "payment in full" or words of similar import or any other restrictive legend or endorsement whatsoever or be responsible for determining the correctness of any remittance.

*Section 8.* *Special Provisions Re: Investment Property and Deposits.* (a) Unless and until an Event of Default has occurred and is continuing and the Collateral Agent shall have given the Debtors at least three (3) Business Days' notice of its intent to exercise its rights under this Agreement:

(i) each Debtor shall be entitled to exercise all voting and/or consensual powers pertaining to its Investment Property, or any part thereof, for all purposes not inconsistent with the terms of this Agreement, the First Lien Loan Agreement or any other document evidencing or otherwise relating to any Secured Obligations; and

(ii) each Debtor shall be entitled to receive and retain all cash dividends paid upon or in respect of its Investment Property subject to the lien and security interest of this Agreement.

(b) All Investment Property (including all securities, certificated or uncertificated, securities accounts, and commodity accounts) of the Debtors as of the Closing Date that constitutes Collateral is listed and identified on Schedule D attached hereto and made a part hereof. If any Debtor shall at any time after the Closing Date hold or acquire any other Investment Property constituting Collateral, the Debtor shall, on or prior to the later to occur of (i) thirty (30) days following such acquisition and (ii) the date of the next required delivery of the Compliance Certificate following the date of such acquisition (or such longer period as to which the Collateral Agent may consent), submit to the Collateral Agent a supplement to Schedule D to reflect such additional rights

(provided any Debtor's failure to do so shall not impair the Collateral Agent's security interest therein) and deliver to the Collateral Agent certificates for all certificated securities constituting Investment Property and part of the Collateral hereunder, all duly endorsed in blank for transfer or accompanied by an appropriate assignment or assignments or an appropriate undated stock power or powers, in every case sufficient to transfer title thereto, including, without limitation, all stock received in respect of a stock dividend or resulting from a split-up, revision or reclassification of the Investment Property or any part thereof or received in addition to, in substitution of or in exchange for the Investment Property or any part thereof as a result of a merger, consolidation or otherwise. With respect to any uncertificated securities or any Investment Property held by a securities intermediary, commodity intermediary, or other financial intermediary of any kind, at the Collateral Agent's request after the occurrence and during the continuance of an Event of Default (or at any time with respect to uncertificated



securities or Investment Property issued (i) by any Guarantor to Borrower or (ii) by Borrower to FTPS Holding, LLC), the relevant Debtor shall execute and deliver, and shall cause any such issuer or intermediary to execute and deliver, an agreement among such Debtor, the Collateral Agent, and such issuer or intermediary in form and substance satisfactory to the Collateral Agent which provides, among other things, for the issuer's or intermediary's agreement that it will comply with such entitlement orders, and apply any value distributed on account of any Investment Property, as directed by the Collateral Agent without further consent by such Debtor. The Collateral Agent may, upon three (3) Business Days' written notice to the Debtors at any time after the occurrence and during the continuation of any Event of Default, cause to be transferred into its name or the name of its nominee or nominees any and all of the Investment Property hereunder.

(c) Each Debtor represents that on the date of this Agreement none of its Investment Property consists of margin stock (as such term is defined in Regulation U of the Board of Governors of the Federal Reserve System) except to the extent such Debtor has delivered to the Collateral Agent a duly executed and completed Form U-1 with respect to such stock. If at any time the Investment Property or any part thereof consists of margin stock, the relevant Debtor shall promptly so notify the Collateral Agent and deliver to the Collateral Agent a duly executed and completed Form U-1 and such other instruments and documents reasonably requested by the Collateral Agent in form and substance reasonably satisfactory to the Collateral Agent.

(d) All Deposit Accounts of the Debtors as of the Closing Date that constitute Collateral are listed and identified (by account number and depository institution) on Schedule D attached hereto and made a part hereof. If any Debtor shall at any time after the Closing Date acquire any new Deposit Accounts constituting Collateral, the Debtor shall, on or prior to the later to occur of (i) thirty (30) days following such acquisition and (ii) the date of the next required delivery of the Compliance Certificate following the date of such acquisition (or such longer period as to which the Collateral Agent may consent), submit to the Collateral Agent a supplement to Schedule D to reflect such additional accounts (provided any Debtor's failure to do so shall not impair the Collateral Agent's security interest therein).

*Section 9. Power of Attorney.* In addition to any other powers of attorney contained herein, each Debtor hereby appoints the Collateral Agent, its nominee, or any other person whom the Collateral Agent may designate as such Debtor's attorney-in-fact, with full power and authority upon the occurrence and during the continuation of any Event of Default to sign such Debtor's name on verifications of Receivables and other Collateral; to send requests for verification of Collateral to such Debtor's customers, account debtors, and other obligors; to endorse such Debtor's name on any checks, notes, acceptances, money orders, drafts, and any other forms of payment or security that may come into the Collateral Agent's possession; to endorse the Collateral in blank or to the order of the Collateral Agent or its nominee; to sign such Debtor's name on any invoice or bill of lading relating to any Collateral, on claims to enforce collection of any Collateral, on notices to and drafts against customers and account debtors and other obligors, on schedules and assignments of Collateral, on notices of assignment and on public records; to notify the post office authorities to change the address for delivery of such Debtor's mail to an address designated by the Collateral Agent; to receive, open, and dispose of all mail addressed to such Debtor; and to do all things reasonably necessary to carry out this



Agreement. Each Debtor hereby ratifies and approves all acts of any such attorney and agrees that neither the Collateral Agent nor any such attorney will be liable for any acts or omissions or for any error of judgment or mistake of fact or law other than such person's gross negligence or willful misconduct or breach of this Agreement. The foregoing powers of attorney, being coupled with an interest, are irrevocable until the Termination Date.

*Section 10. Defaults and Remedies.* (a) The occurrence of any event or the existence of any condition specified as an "Event of Default" under the First Lien Loan Agreement shall constitute an *"Event of Default"* hereunder.

(b) Upon the occurrence and during the continuation of any Event of Default, the Collateral Agent shall have, in addition to all other rights provided herein or by law, the rights and remedies of a secured party under the UCC (regardless of whether the UCC is the law of the jurisdiction where the rights or remedies are asserted and regardless of whether the UCC applies to the affected Collateral), and further the Collateral Agent may, without demand and, to the extent permitted by applicable law, without advertisement, notice, hearing or process of law, all of which each Debtor hereby waives to the extent permitted by applicable law, at any time or times, sell and deliver any or all Collateral held by or for it at public or private sale, at any securities exchange or broker's board or at the Collateral Agent's office or elsewhere, for cash, upon credit or otherwise, at such prices and upon such terms as the Collateral Agent deems advisable, in its reasonable discretion. In the exercise of any such remedies, the Collateral Agent may sell the Collateral as a unit even though the sales price thereof may be in excess of the amount remaining unpaid on the Secured Obligations. Also, if less than all the Collateral is sold, the Collateral Agent shall have no duty to marshal or apportion the part of the Collateral so sold as between the Debtors, or any of them, but may sell and deliver any or all of the Collateral without regard to which of the Debtors are the owners thereof. In addition to all other sums due any Secured Party hereunder, each Debtor shall pay the Secured Parties all costs and expenses incurred by the Secured Parties, including reasonable attorneys' fees and court costs (but under no circumstances shall the Debtors be obligated to pay for more than one firm of outside counsel, and no Debtor shall be obligated to pay for any in-house counsel), in obtaining, liquidating or enforcing payment of Collateral or the Secured Obligations or in the prosecution or defense of any action or proceeding by or against any Secured Party or any Debtor concerning any matter arising out of or connected with this Agreement or the Collateral or the Secured Obligations, including, without limitation, any of the foregoing arising in, arising under or related to a case under the United States Bankruptcy Code (or any successor statute). Any requirement of reasonable notice shall be met if such notice is personally served on or mailed, postage prepaid, to the Debtors in accordance with Section 14(b) hereof at least ten (10) Business Days before the time of sale or other event giving rise to the requirement of such notice; *provided, however,* no notification need be given to a Debtor if such Debtor has signed, after the Event of Default hereunder that is then continuing has occurred, a statement renouncing any right to notification of sale or other intended disposition. The Collateral Agent shall not be obligated to make any sale or other disposition of the Collateral regardless of notice having been given. Any Secured Party may be the purchaser at any public sale. Each Debtor hereby

waives all of its rights of redemption from any such sale. The Collateral Agent may postpone or cause the postponement of the sale of all or any portion of the Collateral by announcement at the time and place of such sale, and such sale may, without further notice, be made at the time and place to which the sale



was postponed or the Collateral Agent may further postpone such sale by announcement made at such time and place. The Collateral Agent has no obligation to prepare the Collateral for sale. The Collateral Agent may sell or otherwise dispose of the Collateral without giving any warranties as to the Collateral or any part thereof, including disclaimers of any warranties of title or the like, and each Debtor acknowledges and agrees that the absence of such warranties shall not render the disposition commercially unreasonable.

(c) Without in any way limiting the foregoing, upon the occurrence and during the continuation of any Event of Default hereunder, in addition to all other rights provided herein or by law, (i) the Collateral Agent shall have the right to take physical possession of any and all of the Collateral, the right for that purpose to enter without legal process any premises where the Collateral may be found (provided such entry be done lawfully), and the right to maintain such possession on the relevant Debtor's premises or to remove the Collateral or any part thereof to such other places as the Collateral Agent may desire, in each case, subject to the terms of any lease covering the relevant premises, (ii) the Collateral Agent shall have the right to direct any intermediary at any time holding any Investment Property or other Collateral, or any issuer thereof, to deliver such Collateral or any part thereof to the Collateral Agent and/or to liquidate such Collateral or any part thereof and deliver the proceeds thereof to the Collateral Agent, and (iii) each Debtor shall, upon the Collateral Agent's demand, promptly assemble the Collateral and make it available to the Collateral Agent at a place reasonably designated by the Collateral Agent. If the Collateral Agent exercises its right to take possession of the Collateral, each Debtor shall also at its expense perform any and all other steps requested by the Collateral Agent to preserve and protect the security interest hereby granted in the Collateral, such as placing and maintaining signs indicating the security interest of the Collateral Agent, appointing overseers for the Collateral and maintaining Collateral records.

(d) Without in any way limiting the foregoing, upon the occurrence and during the continuation of any Event of Default, all rights of the Debtors to exercise the voting and/or consensual powers which they are entitled to exercise pursuant to Section 8(a)(i) hereof and/or to receive and retain the distributions which they are entitled to receive and retain pursuant to Section 8(a)(ii) hereof, shall, at the option of the Collateral Agent upon three (3) Business Days prior written notice to the Debtors, cease and thereupon become vested in the Collateral Agent, which, in addition to all other rights provided herein or by law, shall then be entitled solely and exclusively to exercise all voting and other consensual powers pertaining to the Investment Property and/or to receive and retain the distributions which such Debtor would otherwise have been authorized to retain pursuant to Section 8(a)(ii) hereof and shall then be entitled solely and exclusively to exercise any and all rights of conversion, exchange or subscription or any other rights, privileges or options pertaining to any Investment Property as if the Collateral Agent were the absolute owner thereof including, without limitation, the rights to exchange, at its discretion, all Investment Property or any part thereof upon the merger, consolidation, reorganization, recapitalization or other readjustment of the respective issuer thereof or upon the exercise by or on behalf of any such issuer or the Collateral Agent of any right, privilege or option pertaining to any Investment Property and, in connection therewith, to deposit and deliver the Investment Property or any part thereof with any committee, depositary, transfer agent, registrar or other designated agency upon such terms and conditions as the Collateral Agent may determine. In the event the Collateral Agent in good faith believes any of the Collateral constitutes restricted



securities within the meaning of any applicable securities laws, any disposition thereof in compliance with such laws shall not render the disposition commercially unreasonable. To the extent that the notice referred to in the first sentence of this paragraph (d) has been given, after all Events of Default have been cured or waived, (i) each Debtor shall have the exclusive right to exercise the voting and consensual rights and powers that such Debtor would have otherwise been entitled to exercise pursuant to the terms of Section 8(a)(i) hereof and (ii) the Collateral Agent shall promptly repay to each applicable Debtor (without interest) all dividends, interest, principal or other distributions that such Debtor would otherwise be permitted to retain pursuant to Section 8(a)(ii) hereof and that have not been applied to the repayment of the Secured Obligations.

(e) Without in any way limiting the foregoing, each Debtor hereby grants to the Secured Parties, effective and exercisable solely upon the occurrence and during the continuation of an Event of Default, a royalty-free, irrevocable (solely during the continuation of an Event of Default), non-exclusive, non-transferrable, non-sublicensable license and right to use, in connection with any foreclosure or other realization by the Collateral Agent or the Secured Parties on all or any part of the Collateral to the extent permitted by law and this Agreement, all of such Debtor's patents, patent applications, patent licenses (excluding any such patent license that by its terms is prohibited from being licensed as set forth in this Section 10(e)), trademarks, trademark registrations, trademark licenses (excluding any such trademark license that by its terms is prohibited from being licensed as set forth in this Section 10(e)), trade names and other intellectual property now owned or hereafter acquired by such Debtor, and wherever the same may be located, and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof, the right to prosecute and maintain all intellectual property and the right to sue for past infringement of the intellectual property. The license and right granted to the Secured Parties hereby shall be without any royalty or fee or charge whatsoever with respect to fees payable by the Secured Parties to Debtors.

(f) The powers conferred upon the Secured Parties hereunder are solely to protect their interest in the Collateral and shall not impose on them any duty to exercise such powers. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession or control if such Collateral is accorded treatment substantially equivalent to that which the Collateral Agent accords its own property, consisting of similar type assets, it being understood, however, that the Collateral Agent shall have no responsibility for (i) ascertaining or taking any action with respect to calls, conversions, exchanges, maturities, tenders or other matters relating to any Collateral, whether or not the Collateral Agent has or is deemed to have knowledge of such matters, (ii) taking any necessary steps to preserve rights against any parties with respect to any Collateral, or (iii) initiating any action to protect the Collateral or any part thereof against the possibility of a decline in market value. This Agreement constitutes an assignment of rights only and not an assignment of any duties or obligations of the Debtors in any way related to the Collateral, and the Collateral Agent shall have no duty or obligation to discharge any such duty or obligation. Neither any Secured Party nor any party acting as attorney for any Secured Party shall be liable for any acts or omissions or for any error of judgment or mistake of fact or law other than such person's gross negligence or willful misconduct or breach of this Agreement.

(g) Failure by the Collateral Agent to exercise any right, remedy or option under this Agreement or any other agreement between any Debtor and the Collateral Agent or provided by law, or delay by the Collateral Agent in exercising the same, shall not operate as a waiver; and no waiver shall be effective unless it is in writing, signed by the party against whom such waiver is sought to be enforced and otherwise complies with the requirements set forth in Section 10.11 of the First Lien Loan Agreement and then only to the extent specifically stated. The rights and remedies of the Secured Parties under this Agreement shall be cumulative and not exclusive of any other right or remedy which any Secured Party may have.

*Section 11. Application of Proceeds*. The proceeds and avails of the Collateral at any time received by the Collateral Agent upon the occurrence and during the continuation of any Event of Default shall, when received by the Collateral Agent in cash or its equivalent, be applied by the Collateral Agent in reduction of, or held as collateral security for, the Secured Obligations in accordance with the terms of the First Lien Loan Agreement. The Debtors shall remain liable to the Secured Parties for any deficiency. Any surplus remaining after the full payment and satisfaction of the non-contingent Secured Obligations shall be returned to the Borrower, as agent for the Debtors, or to whomsoever the Collateral Agent reasonably determines is lawfully entitled thereto.

*Section 12. Continuing Agreement.* This Agreement shall be a continuing agreement in every respect and shall remain in full force and effect until all of the non-contingent Secured Obligations, both for principal and interest, have been fully paid and satisfied and each commitment by the Secured Parties to extend any indebtedness to the Debtors under the First Lien Loan Agreement and other Loan Documents shall have expired or otherwise terminated (such date, the "*Termination Date*"). Upon the Termination Date, the pledge of all Collateral hereunder will terminate and all liens and security interests hereunder shall automatically be released. In connection with any termination or release pursuant to this Section 12 or as required by any other provision of this Agreement or the First Lien Loan Agreement, the Collateral Agent shall promptly execute and deliver to any Debtor, at such Debtor's expense, all Uniform Commercial Code termination statements and similar documents that such Debtor shall reasonably request to evidence such termination or release.

*Section 13. The Collateral Agent.* In acting under or by virtue of this Agreement, the Collateral Agent shall be entitled to all the rights, authority, privileges, and immunities provided in the First Lien Loan Agreement, all of which provisions of said First Lien Loan Agreement (including, without limitation, Section 9 thereof) are incorporated by reference herein with the same force and effect as if set forth herein in their entirety. The Collateral Agent hereby disclaims any representation or warranty to the Secured Parties or any other holders of the Secured Obligations concerning the perfection of the liens and security interests granted hereunder or in the value of any of the Collateral.

*Section 14. Miscellaneous.* (a) This Agreement may only be waived or modified in writing in accordance with the requirements of Section 10.11 of the First Lien Loan Agreement. This Agreement shall create a continuing lien on and security interest in the Collateral and shall be binding upon each Debtor, its successors and assigns and shall inure, together with the rights and remedies of the Secured Parties hereunder, to the benefit of the Secured Parties and their



---

successors and permitted assigns; *provided*, *however*, that no Debtor may assign its rights or delegate its duties hereunder without the Collateral Agent's prior written consent. Without limiting the generality of the foregoing, and subject to the provisions of the First Lien Loan Agreement, any Lender may assign or otherwise transfer any indebtedness held by it secured by this Agreement to any other person subject to the requirements of Section 10.10 of the First Lien Loan Agreement, and such other person shall thereupon become vested with all the benefits in respect thereof granted to such Lender herein or otherwise.

(b) All notices and other communications hereunder shall comply with Section 10.8 of the First Lien Loan Agreement; *provided* that, the address information for each Debtor shall be that expressed for the Borrower in such Section.

(c) Any provision of this Agreement which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All rights, remedies and powers provided in this Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable mandatory provisions of law, and all the provisions of this Agreement are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Agreement invalid or unenforceable.

(d) The lien and security interest herein created and provided for stand as direct and primary security for the Secured Obligations of the Borrower arising under or otherwise relating to the First Lien Loan Agreement as well as for the other Secured Obligations secured hereby. No application of any sums received by the Secured Parties in respect of the Collateral or any disposition thereof to the reduction of the Secured Obligations or any part thereof shall in any manner entitle any Debtor to any right, title or interest in or to the Secured Obligations or any collateral or security therefor, whether by subrogation or otherwise, unless and until all Secured Obligations have been fully paid and satisfied. Each Debtor acknowledges and agrees that the lien and security interest hereby created and provided are absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of any Secured Party or any other holder of any Secured Obligations, and without limiting the generality of the foregoing, the lien and security interest hereof shall not be impaired by any acceptance by any Secured Party or any other holder of any Secured Obligations of any other security for or guarantors upon any of the Secured Obligations or by any failure, neglect or omission on the part of any Secured Party or any other holder of any of the Secured Obligations to realize upon or protect any of the Secured Obligations or any collateral or security therefor. The lien and security interest hereof shall not in any manner be impaired or affected by (and the Secured Parties, without notice to anyone, are hereby authorized to make from time to time) any sale, pledge, surrender, compromise, settlement, release, renewal, extension, indulgence, alteration, substitution, exchange, change in, modification or disposition of any of the Secured Obligations or of any collateral or security therefor, or of any guaranty thereof, or of any instrument or agreement setting forth the terms and conditions pertaining to any of the foregoing. The Secured Parties may at their discretion at any time grant credit to the Borrower without notice to the other Debtors in such amounts and on such terms as the Secured Parties may elect without in any manner impairing the lien and security interest created and provided for. In order to realize



---

hereon and to exercise the rights granted the Secured Parties hereunder and under applicable law, there shall be no obligation on the part of any Secured Party or any other holder of any Secured Obligations at any time to first resort for payment to the Borrower or any other Debtor or to any guaranty of the Secured Obligations or any portion thereof or to resort to any other collateral, security, property, liens or any other rights or remedies whatsoever, and the Secured

Parties shall have the right to enforce this Agreement against any Debtor or its Collateral irrespective of whether or not other proceedings or steps seeking resort to or realization upon or from any of the foregoing are pending.

(e) In the event the Secured Parties shall at any time in their discretion permit a substitution of Debtors hereunder or a party shall wish to become a Debtor hereunder, such substituted or additional Debtor shall, upon executing an agreement in the form attached hereto as Schedule F, become a party hereto and be bound by all the terms and conditions hereof to the same extent as though such Debtor had originally executed this Agreement and, in the case of a substitution, in lieu of the Debtor being replaced. Any such agreement shall contain information as to such Debtor necessary to update Schedules A, B, C, D, and E hereto with respect to it. No such substitution shall be effective absent the written consent of the Collateral Agent nor shall it in any manner affect the obligations of the other Debtors hereunder.

(f) This Agreement may be executed in counterparts and by different parties hereto on separate counterparts, each of which shall be an original, but all together one and the same instrument. Delivery of executed counterparts of this Agreement by telecopy or by e-mail of an Adobe portable document format file (also known as a "PDF" file) shall be effective as originals. Each Debtor acknowledges that this Agreement is and shall be effective upon its execution and delivery by such Debtor to the Collateral Agent, and it shall not be necessary for the Collateral Agent to execute this Agreement or any other acceptance hereof or otherwise to signify or express its acceptance hereof.

(g) No Secured Party (other than the Collateral Agent) shall have the right to institute any suit, action or proceeding in equity or at law in connection with this Agreement for the enforcement of any remedy under or upon this Agreement; it being understood and intended that no one or more of the Secured Parties (other than the Collateral Agent) shall have any right in any manner whatsoever to enforce any right hereunder, and that all proceedings at law or in equity shall be instituted, had and maintained by the Collateral Agent in the manner herein provided and for the benefit of the Secured Parties.

(h) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED BY AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, INCLUDING SECTION 5 -1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning of any provision hereof.

(i) Each Debtor hereby submits to the non-exclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York state court sitting in



---

New York City in the borough of Manhattan, for purposes of all legal proceedings arising out of or relating to this Agreement or the transactions contemplated hereby. Each Debtor irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient form. EACH DEBTOR AND, BY ACCEPTING THE BENEFITS OF THIS AGREEMENT, EACH SECURED PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

[SIGNATURE PAGES TO FOLLOW]



---

IN WITNESS WHEREOF, each Debtor has caused this Security Agreement to be duly executed and delivered as of the date first above written.

*"DEBTORS"*
FIFTH THIRD PROCESSING SOLUTIONS, LLC
FTPS HOLDING, LLC
NPC GROUP, INC.
NATIONAL PROCESSING COMPANY GROUP, INC.
NATIONAL PROCESSING MANAGEMENT COMPANY
CARD MANAGEMENT COMPANY, LLC
NATIONAL PROCESSING COMPANY
BEST PAYMENT SOLUTIONS, INC.

By /s/ Mark Heimbouch
Name: Mark Heimbouch
Title: Chief Financial Officer



---

Accepted and agreed to as of the date first above written.

GOLDMAN SACHS LENDING PARTNERS LLC, as
Collateral Agent

By /s/ Anna Ostrovsky
Name: Anna Ostrovsky

Title: Authorized Signatory

[Signature Page to Security Agreement]

## SCHEDULE A

## LOCATIONS

| COLUMN 1<br>NAME OF DEBTOR (AND STATE OF ORGANIZATION AND ORGANIZATIONAL REGISTRATION NUMBER) | COLUMN 2<br>CHIEF EXECUTIVE OFFICE |
|---|---|
| FTPS Holding, LLC | Fifth Third Center<br>38 Fountain Square Plaza. 11th Floor<br>Cincinnati, Ohio 45263 |
| Fifth Third Processing Solutions, LLC<br>(Delaware, 4669095) | Fifth Third Center<br>38 Fountain Square Plaza, 11th Floor<br>Cincinnati, Ohio 45263 |
| NPC Group, Inc.<br>(Delaware, 3809250) | 5100 Interchange Way<br>Louisville, KY 40229 |
| National Processing Company Group, Inc.<br>(Delaware, 3801879) | 5100 Interchange Way<br>Louisville, KY 40229 |
| National Processing Company<br>(Nebraska, 1268251) | 5100 Interchange Way<br>Louisville, KY 40229 |
| Best Payment Solutions, Inc.<br>(Illinois, 61004424) | 7851 West 185th Street<br>Tinley Park, IL 60477 |
| National Processing Management Company<br>(Delaware, 3634167) | 5100 Interchange Way<br>Louisville, KY 40229 |
| Card Management Company, LLC<br>(Indiana, 198504-215) | One Riverfront Place<br>20 NW 1st Street<br>Evansville, IN 47708 |

## SCHEDULE B

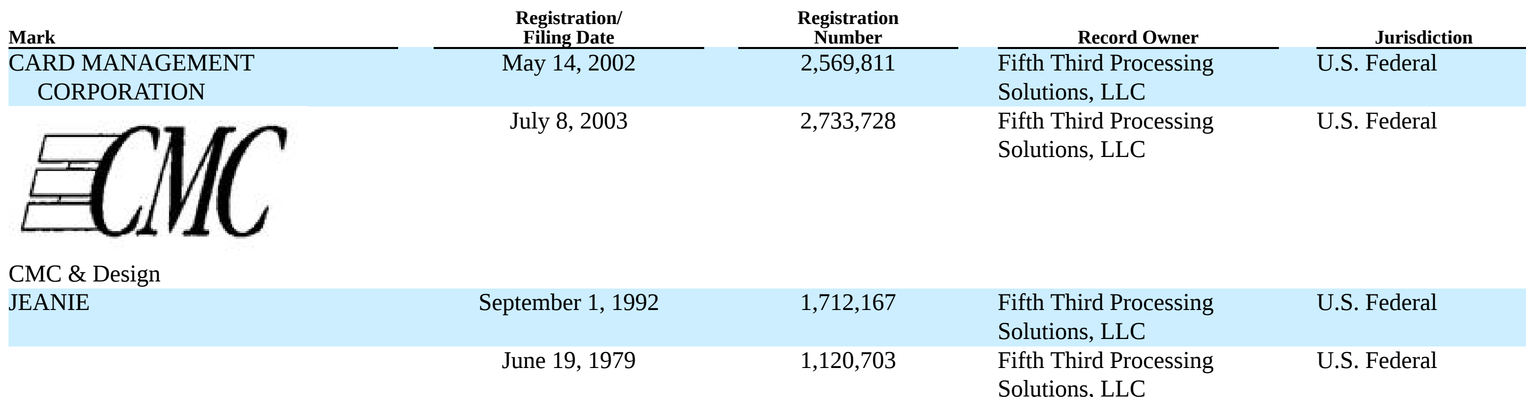
## PRIOR LEGAL NAMES

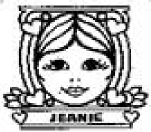
| Debtor | Prior Legal Name |
|---|---|
| FTPS Holding, LLC | Fifth Third Processing Solutions, LLC |
| Fifth Third Processing Solutions, LLC | FTPS Opco, LLC |
| Card Management Company, LLC | Card Management Corporation |
| NPC Group, Inc. | Retriever Group, Inc. |
| National Processing Company Group, Inc. | Retriever Acquisition Co. |
| National Processing Company | RPSI, Inc.<br>National Processing Corporation<br>Acquisition Company 2006A, Inc. |
| National Processing Management Company | Iron Triangle Payment Systems, Inc. |
| Best Payment Solutions, Inc. | None |

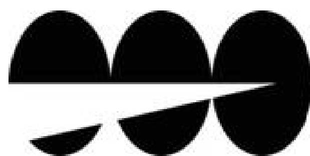
## SCHEDULE C

## INTELLECTUAL PROPERTY RIGHTS

**Registered Trademarks:**

| Mark | Registration/ Filing Date | Registration Number | Record Owner | Jurisdiction |
|---|---|---|---|---|
| CARD MANAGEMENT CORPORATION | May 14, 2002 | 2,569,811 | Fifth Third Processing Solutions, LLC | U.S. Federal |
|  CMC & Design | July 8, 2003 | 2,733,728 | Fifth Third Processing Solutions, LLC | U.S. Federal |
| JEANIE | September 1, 1992 | 1,712,167 | Fifth Third Processing Solutions, LLC | U.S. Federal |
| | June 19, 1979 | 1,120,703 | Fifth Third Processing Solutions, LLC | U.S. Federal |

| Mark | Registration/ Filing Date | Registration Number | Record Owner | Jurisdiction |
|---|---|---|---|---|
|   JEANIE & Design | | | | |
| JEANIE (Stylized)) | August 5, 2008 | 3,481,501 | Fifth Third Processing Solutions, LLC | U.S. Federal |
| PREMIER ISSUE | September 24, 2002 | 2,626,436 | Fifth Third Processing Solutions, LLC | U.S. Federal |
| SPRINGBOK SERVICES | July 8, 2008 | 3,464,161 | Fifth Third Processing Solutions, LLC | U.S. Federal |

| Mark | Registration/ Filing Date | Registration Number | Record Owner | Jurisdiction |
|---|---|---|---|---|
| SPRINGBOK SERVICES | April 8, 2008 | 3,410,601 | Fifth Third Processing Solutions, LLC | U.S. Federal |
| SPRINGBOK SPRINGBOK | September 25, 2007 | 3,299,623 | Fifth Third Processing Solutions, LLC | U.S. Federal |
| SPRINGBOK SPRINGBOK | September 25, 2007 | 3,299,622 | Fifth Third Processing Solutions, LLC | U.S. Federal |
| EMPLOYEE GIFT GIVING MADE EASY EMPLOYEE GIFT GIVING MADE EASY | August 21, 2007 | 3,281,504 | Fifth Third Processing Solutions, LLC | U.S. Federal |
| SKIPJACK | November 5, 2002 | 2,646,000 | Fifth Third Processing Solutions, LLC | U.S. Federal |
| SKIPJACK | January 2, 2001 | 2,417,652 | Fifth Third Processing Solutions, LLC | U.S. Federal |
|  DESIGN ONLY (3 SHADED CIRCLES WITH A CONICAL SHAPE EMANATING FROM THE CENTER OF THE CIRCLE ON THE FAR RIGHT AND GROWING LARGER AS IT EXTENDS LEFT THROUGH THE MIDDLES OF BOTH OF THE OTHER CIRCLES.) | June 29, 2010 | 3,809,494 | National Processing Company | U.S. Federal |

| Mark | Registration/ Filing Date | Registration Number | Record Owner | Jurisdiction |
|---|---|---|---|---|
| NATIONAL PROCESSING COMPANY | March 4, 2008 | 3,390,710 | National Processing Company | U.S. Federal |

| | | | | |
|---|---|---|---|---|
| NATIONAL PROCESSING COMPANY | | | | |
| RETRIEVER AMERICA'S PAYMENT SYSTEMS AUTHORITY | March 28, 2006 | 3,072,818 | National Processing Company | U.S. Federal |
| DESIGN ONLY ((3 INCOMPLETE CIRCLES WITH A CONICAL SHAPE EMANATING FROM THE CENTER OF THE CIRCLE ON THE FAR RIGHT AND GROWING LARGER AS IT EXTENDS LEFT THROUGH THE MIDDLES OF BOTH OF THE OTHER CIRCLES.) | September 17, 2002 | 2,622,122 | National Processing Company | U.S. Federal |
| RETRIEVER AMERICA'S PAYMENT SYSTEMS AUTHORITY | September 17, 2002 | 2,142,148 | National Processing Company | U.S. Federal |
| RETRIEVER PAYMENT SYSTEMS | December 9, 1997 | 2,119,553 | National Processing Company | U.S. Federal |
| NPC | November 27, 1984 | 1,307,418 | National Processing Company | U.S. Federal |
| ACCEPT MERCHANT SERVICES | October 26, 2004 | 2,897,334 | Best Payment Solutions, Inc. | U.S. Federal |

**Trademark Applications**:

| Mark | Application Date | Serial Number | Record Owner | Jurisdiction |
|---|---|---|---|---|
| ANYCARD, ANYWHERE, ANYTIME | 10/26/10 (intent to use) | 85161711 | National Processing Company | U.S. Federal |
| ANYCARD, ANYTIME, ANYWHERE | 10/26/10 (intent to use) | 85161702 | National Processing Company | U.S. Federal |

**Registered Copyrights**:

| Title | Registration Number | Registration Date | Record Owner | Jurisdiction |
|---|---|---|---|---|
| Total Payment System (TPS) system, version 4 | TXu001155301 | May 5, 2004 | Fifth Third Processing Solutions, LLC | United States |
| NPC PLATINUM SECURITY PROTECTION PROGRAM (PCIANNMND0109). | TX0007019082 | 2/26/2009 | National Processing Company | United States |
| NPC PLATINUM SECURITY PROTECTION PROGRAM (PCIANN0808) | TX0007024127 | 2/25/2009 | National Processing Company | United States |
| NPC PLATINUM SECURITY PROTECTION PROGRAM (PCIANNO109) | TX0007028155 | 3/6/2009 | National Processing Company | United States |
| NPC Platinum Security Protection Program (PCIMON0808) | TX0007041545 | 2/19/2009 | National Processing Company | United States |
| NPC PLATINUM SECURITY PROTECTION PROGRAM (PCIMONMND0109) | TX0007028158 | 3/6/2009 | National Processing Company | United States |

| Title | Registration Number | Registration Date | Record Owner | Jurisdiction |
|---|---|---|---|---|
| NPC PLATINUM SECURITY PROTECTION PROGRAM (PCIMONO109) | TX0007025974 | 4/6/2009 | National Processing Company | United States |
| Sample Merchant Statement. | TXu001665891 | 1/15/2010 | National Processing Company | United States |

**Copyright Applications**:

None.

**Registered Patents**:

| Title | Patent Number | Issue Date | Record Owner | Jurisdiction |
|---|---|---|---|---|
| System and method for paying bills and other obligations including selective payor and payee controls | 5,649,117 | July 15, 1997 | Fifth Third Processing Solutions, LLC | United States |
| System and method for paying bills and other obligations including selective payor and payee controls | 5,956,700 | September 21, 1999 | Fifth Third Processing Solutions, LLC | United States |
| System and method for paying bills and other obligations including selective payor and payee controls | 6,996,542 | February 7, 2006 | Fifth Third Processing Solutions, LLC | United States |
| Method and system for gathering and reporting data associated with a cardholder's use of a prepaid debit card. | 7,747,462 | June 29, 2010 | Fifth Third Processing Solutions, LLC | United States |

**Patent Applications**:

| Title | Application Number | Filing Date | Record Owner | Jurisdiction |
|---|---|---|---|---|
| System and method for paying bills and other obligations including selective payor and payee controls | 09/859,615 | May 16, 2001 | Fifth Third Processing Solutions, LLC | United States |

---

## SCHEDULE D

## INVESTMENT PROPERTY AND DEPOSIT ACCOUNTS

A. INVESTMENT PROPERTY

1. Equity Issuances

| Legal Name of Entity | Record Owner | Certificate Number | Number of Shares or Interests Owned | Percentage Ownership |
|---|---|---|---|---|
| Fifth Third Processing Solutions, LLC | FTPS Holding, LLC | N/A | N/A | 100% |
| Card Management Company, LLC | Fifth Third Processing Solutions, LLC | N/A | N/A | 100% |
| NPC Group, Inc | Fifth Third Processing Solutions, LLC | C-49 | 1,000 | 100% |
| National Processing Company Group, Inc. | NPC Group, Inc. | C-4 | 100 | 100% |
| National Processing Company | National Processing Company Group, Inc. | 9 | 1,045.0783 | 100% |
| Best Payment Solutions, Inc. | National Processing Company | 8 | 700,000 | 100% |
| National Processing Management Company | NPC Group, Inc. | C-11 | 21,405 | 100% |

2. Securities Accounts and Commodities Accounts

None.

B. DEPOSIT ACCOUNTS

| Deposit Account Number | Name of Account | Financial Institution |
|---|---|---|
| 70472089 | SERVICE INVOICE REJECTS | Fifth Third Bank, an Ohio Banking corporation (*"FTB OH"*) |
| 72038358 | MKE SETTLMNT OUTAGES | FTB OH |
| 71620880 | BANKCARD ACH REJECTS | FTB OH |
| 73110657 | BANKCARD REJECT HOLDOVERS | FTB OH |
| 72038702 | FEE CLEARING | FTB OH |

| | | |
|---|---|---|
| 70471027 | ISSUER IN PROCESS CHARTS | FTB OH |
| 70471019 | ISSUER IN PROCESS ATM ACTVY | FTB OH |
| 71514746 | PROC SOL CHARGEBACKS | FTB OH |
| 73110980 | MRA OPERATING | FTB OH |
| 71066365 | ACH FTB OH | FTB OH |
| 72038665 | PROC SOL MERCHANT BILLING | FTB OH |
| 71573789 | CHARGEBACK CLEARING | FTB OH |
| 89922721 | USB LOCKBOX PMTS | FTB OH |
| 71848041 | PROC SOL LOCKBOX PMTS | FTB OH |
| 73110278 | BANKCARD CHARGEBACK REJECTS | FTB OH |
| 71574765 | FTPS REJECT ACCOUNT | FTB OH |
| 72038200 | BANKCARD ISSUER HOLDOVERS | FTB OH |
| 7023334704 | DISCOVER DEBIT CHARGEBACK | FTB OH |
| 89916815 | CHICAGO OVER/SHORT | FTB OH |
| 7023334811 | ISSUER DISCOVER SETTLEMENT | FTB OH |
| 71620741 | PRINC BNKCRD CLRNG | FTB OH |
| 70471078 | ISSUER IN PROCESS VISA MC | FTB OH |
| 72038788 | PROC SOL MCFEE ACCOUNT | FTB OH |
| 70470956 | ISSUER IN PROCESS | FTB OH |
| 72957370 | PULSE CHECK CARD SETTLEMENT | FTB OH |
| 72037945 | ONLINE FORCEPOST SETTLEMENT | FTB OH |
| 71573973 | PENDING ITEMS CLEARING | FTB OH |
| 70471115 | ISSUER CHARTS ACTIVITY | FTB OH |
| 70470841 | BNCKRD ISSR INTRCNG FEES | FTB OH |
| 73110286 | BANKCARD ISSUER PENDING | FTB OH |
| 7023334647 | PROC 354 DISCOVER SETTLEMENT | FTB OH |
| 7023333680 | JEANIE NETWORK SWITCH FEES | FTB OH |
| 70470905 | BANKCARD ISSR PROGR | FTB OH |

| | | |
|---|---|---|
| | HOLDOVERS | |
| 70470913 | BANKCARD ISSUER FEES IN PROC | FTB OH |
| 70470825 | ISSUER IN PROCESS | FTB OH |
| 70470817 | ISSUER IN PROCESS | FTB OH |
| 7024699329 | EFT XAA FED ACH Rejects | FTB OH |
| 70470972 | BANKCARD ISSUER SETTLEMENT | FTB OH |
| 70470980 | BNCKRD ISSR CASH ADV FEES | FTB OH |
| 73177800 | SUNDAY ACH PIN EFT | FTB OH |
| 7023332187 | US TREASURY EXCEPTIONS | FTB OH |
| 89923193 | DCC MERCHANT FEE CLEARING | FTB OH |
| 79016784 | MERCHANT DISCOUNT CLEARING | FTB OH |
| 71514332 | MERCHANT DAILY UNBUNDLED | FTB OH |
| 7023333896 | AMERICAN EXPRESS CHARGEBACKS | FTB OH |
| 73110665 | BANKCARD SALES REJECTS | FTB OH |
| 89923409 | DCC CHARGEBACK CLEARING | FTB OH |
| 89922545 | THIRD PARTY MERCHANT REJECTS | FTB OH |
| 71422577 | MERCHANT C/B CLEARING | FTB OH |
| 89921999 | NET NEGATIVE BATCH-REJS PROC | FTB OH |
| 72038534 | MERCHANT DISPOSITION | FTB OH |
| 99221240 | INTERCOMPANY USB EQUIP CO 515 | FTB OH |
| 7023330777 | MERCHANT DISP IN PROCESS | FTB OH |
| 71121707 | VISA FEE ACH | FTB OH |
| 70471211 | EDS-EBT FEE | FTB OH |
| 71498870 | NETWORK MONTHLY FEES | FTB OH |
| 71574415 | PULSE FEE | FTB OH |
| 89923679 | AFN2 - ARMED FORCES FEE | FTB OH |
| 70471203 | TRANSALLIANCE FEE | FTB OH |
| 72040386 | NETWORKS INTERCHANGE FEES | FTB OH |
| 71574343 | ARMED FORCES FEE | FTB OH |
| 71373816 | POS FIXED EOD INTERNAL | FTB OH |
| 71379636 | POS MERCHANT EOD INTERNAL | FTB OH |

| | | |
|---|---|---|
| 71124115 | CIRRUS SETTLEMENT | FTB OH |
| 71374472 | STAR INTERNAL SETTLEMENT | FTB OH |
| 71377497 | PRESTO INTERNAL SETTLEMENT | FTB OH |
| 71374325 | MCI1 CIRRUS PROPRIETARY | FTB OH |
| 71374827 | PULSE SETTLEMENT | FTB OH |
| 71379994 | MONEY STATION INTERNAL | FTB OH |
| 71727119 | POS MERCHANT EOD EXTERNAL | FTB OH |
| 89916014 | MONEY STATION SETTLEMENT I | FTB OH |
| 71848236 | JEANIE ILLINOIS | FTB OH |

| | | |
|---|---|---|
| 89916022 | MAB1 NETWORK SETTLEMENT | FTB OH |
| 71374130 | QUEST SETTLEMENT | FTB OH |
| 72686507 | MAC EAST MAC 3 SETTLEMENT | FTB OH |
| 73179910 | ATH3 SETTLEMENT | FTB OH |
| 71378828 | NYCE SETTLEMENT | FTB OH |
| 71067106 | MOST SETTLEMENT | FTB OH |
| 89922940 | EME2 SETTLEMENT | FTB OH |
| 71727186 | SWTO INTERNAL SETTLEMENT | FTB OH |
| 71574714 | PUL2 SETTLEMENT | FTB OH |
| 71373963 | SES INTERNAL SWITCH SETT | FTB OH |
| 73110382 | ETX2 SETTLEMENT | FTB OH |
| 70471190 | TRANSALLIANCE SETTLEMENT | FTB OH |
| 71377438 | MYN1 | FTB OH |
| 72688609 | POS FIXED EOD EXTERNAL | FTB OH |
| 71621437 | SES2 SETTLEMENT | FTB OH |
| 89922123 | ECHO CLEARING ACCOUNT | FTB OH |
| 79018464 | CASH STATION SETTLEMENT | FTB OH |
| 71727987 | MJN1 SETTLEMENT | FTB OH |
| 7024683398 | PRESTO NETWORK | FTB OH |
| 71121643 | VISA SETTLEMENT | FTB OH |
| 71066330 | FISERV SETTLEMENT | FTB OH |
| 73111123 | COP1 SETTLEMENT | FTB OH |
| 7023330991 | JEANIE NETWORK SETTLEMENT ACCT | FTB OH |
| 71379855 | TYME INTERNAL SETTLEMENT | FTB OH |

---

| | | |
|---|---|---|
| 71514412 | BLF1 SETTLEMENT | FTB OH |
| 71374018 | CTF2 SETTLEMENT | FTB OH |
| 72887683 | PTI PAYMENTECH SETTLEMENT | FTB OH |
| 89922262 | ECHO EXCEPTION HOLDOVERS | FTB OH |
| 71124596 | VISA EFT INCOMING WIRE | FTB OH |
| 7023334175 | DPP1 SETTLEMENT | FTB OH |
| 72686849 | CTF2 INTERCHANGE | FTB OH |
| 71373699 | PROC SOL INTERNAL CIRRUS | FTB OH |
| 7023333748 | JEANIE NETWORK INTERCHANGE | FTB OH |
| 89924313 | AFN2 INTERCHANGE | FTB OH |
| 71573535 | AFN1 SETTLEMENT | FTB OH |
| 71846329 | AFN2 SETTLEMENT | FTB OH |
| 71373701 | MONEYPASS SETTLEMENT | FTB OH |
| 70471772 | ALP1 ALLPOINT | FTB OH |
| 70472118 | NETWORKS NTW1 | FTB OH |
| 89922190 | ECHO MERCH SETTLEMENT M A/C | FTB OH |
| 72877207 | EDXI SETTLEMENT | FTB OH |
| 70471924 | ALASKA OPTION POS | FTB OH |
| 70471182 | EBT/EDS SETTLEMENT | FTB OH |
| 72688676 | SAZL SHAZAM SETTLEMENT | FTB OH |
| 71574650 | MAF1 SETTLEMENT | FTB OH |
| 71375280 | STAR SETTLEMENT | FTB OH |
| 71041686 | PLUS SETTLEMENT | FTB OH |
| 71066568 | NBD CIRRUS/MC INCOMING ACH | FTB OH |
| 71379310 | MMI1 INTERNAL SETTLEMENT | FTB OH |
| 71621795 | INT1 SETTLEMENT | FTB OH |
| 72038286 | MKE CORRESPONDENT | FTB OH |
| 7024699766 | MICHIGAN WIC | FTB OH |
| 71378158 | MPSM SETTLEMENT | FTB OH |
| 7024699337 | PULSE RETURNING SIG SETTL | FTB OH |
| 7024699899 | OPERATING DDA | FTB OH |
| 7024699998 | OPERATING DDA | FTB OH |
| 7024699980 | OPERATING DDA | FTB OH |
| 7691778083 | CLC BIN SPONSORSHIP | Fifth Third Michigan |
| 7023331262 | OPERATING DDA | FTB OH |

---

| | | |
|---|---|---|
| 7024701018 | SKIPJACK | FTB OH |
| 7024699345 | CCS MASTER SETTLEMENT | FTB OH |
| 7023333144 | DISCOVER REPRESENTMENTS | FTB OH |
| 7024701000 | FTPS LLC | FTB OH |
| 22627131 | RPSI, Inc. (n/k/a National Processing Company) | First National Bank of Omaha |
| 31051725 | NPC — Operating Account | Sterling Bank |
| 31074512 | NPC — Payroll | Sterling Bank |
| 31076302 | NPC — Vendor EFT | Sterling Bank |
| 31074520 | NPC — Convenience Fees | Sterling Bank |

| | | |
|---|---|---|
| 31074539 | NPC — Convenience Fees | Sterling Bank |
| 31078445 | NPC Convenience Fees | Sterling Bank |
| 5000513614 | NPC — Residual Buy Back Program | Sterling Bank |
| 31075713 | NPC — Convenience Fees | Sterling Bank |
| 31089011 | NPC — Deployment Debit testing | Sterling Bank |
| 31089275 | Best Payment Solutions - Operating | Sterling Bank |
| 22627131 | RPSI — Settlement Exceptions | FNBO |
| 22552921 | Best Payment Solutions — Income/Expense | FNBO |
| 22552934 | Best Payment Solutions — Collections | FNBO |
| 1701325698 | RPSI — Leasing Operating Account | First Premier |
| 1701325671 | RPSI — Check Services Operating Account | First Premier |
| 1701328409 | RPSI — MBS Operating Account | First Premier |
| 1701380168 | RPSI — Collections | First Premier |
| 621573674 | NPC - Mgmt Co — Operating | JP Morgan Chase |
| 644357600 | NPC — Mgmt Co - Payroll | JP Morgan Chase |
| 1616050132 | NPC — Mgmt Co — Savings | JP Morgan Chase |

---

**SCHEDULE E**

**COMMERCIAL TORT CLAIMS**

None.

---

**SCHEDULE F**

**ASSUMPTION AND SUPPLEMENTAL SECURITY AGREEMENT**

THIS AGREEMENT dated as of this day of , 20 from [**new Debtor**], a **corporation/limited liability company/partnership** (the "*New Debtor*"), to Goldman Sachs Lending Partners LLC ("*GS Lending Partners*"), as collateral agent for the Secured Parties (defined in the Security Agreement hereinafter identified and defined) (GS Lending Partners acting as such agent and any successor or successors to GS Lending Partners in such capacity being hereinafter referred to as the "*Collateral Agent*").

**PRELIMINARY STATEMENTS**

A. FIFTH THIRD PROCESSING SOLUTIONS, LLC, a Delaware limited liability company (the *"Borrower"*), and certain other parties have executed and delivered to the Collateral Agent that certain Security Agreement dated as of November 3, 2010 (such Security Agreement, as the same may from time to time be amended, restated, amended and restated, modified or restated, including supplements thereto which add additional parties as Debtors thereunder, being hereinafter referred to as the "*Security Agreement*"), pursuant to which such parties (the "*Existing Debtors*") have granted to the Collateral Agent for the benefit of the Secured Parties a lien on and security interest in the Existing Debtors' Collateral (as such term is defined in the Security Agreement) to secure the Secured Obligations (as such term is defined in the Security Agreement).

B. The Borrower provides the New Debtor with substantial financial, managerial, administrative, and technical support and the New Debtor will benefit, directly and indirectly, from the financial accommodations extended by the Secured Parties to the Borrower.

NOW, THEREFORE, FOR VALUE RECEIVED, and in consideration of financial accommodations given or to be given, to the Borrower by the Secured Parties from time to time, the New Debtor hereby agrees as follows:

1. The New Debtor acknowledges and agrees that it shall become a "Debtor" party to the Security Agreement effective upon the date of the New Debtor's execution of this Agreement and the delivery of this Agreement to the Collateral Agent, and that upon such execution and delivery, all references in the Security Agreement to the terms "Debtor" or "Debtors" shall be deemed to include the New Debtor. Without limiting the generality of the foregoing, the New Debtor hereby repeats and reaffirms all grants (including the grant of a lien and security interest), covenants, agreements, representations, and warranties contained in the Security Agreement as amended hereby, each and all of which are and shall remain applicable to the Collateral from time to time owned by the New Debtor or in which the New Debtor from time to time has any rights. Without limiting the foregoing, in order to secure payment of the Secured Obligations, whether now existing or hereafter arising, the New Debtor does hereby grant to the Collateral Agent for the benefit of the Secured Parties, and hereby agrees that the Collateral Agent has and shall continue to have until the Termination Date for the benefit of the Secured Parties a

---

continuing lien on and security interest in all of the New Debtor's Collateral (as such term is defined in the Security Agreement), including, without limitation, all of the New Debtor's Accounts, Chattel Paper, Instruments, Documents, General Intangibles, Letter-of-Credit Rights, Supporting Obligations, Deposit Accounts, Investment Property, Inventory, Equipment, Fixtures, Commercial Tort Claims, and all of the other Collateral other than the Excluded Property described in Section 2 of the Security Agreement, each and all of such granting clauses being incorporated herein by reference with the same force and effect as if set forth herein in their entirety except that all references in such clauses to the Existing Debtors or any of them shall be deemed to include references to the New Debtor. Nothing contained herein shall in any manner impair the priority of the liens and security interests heretofore granted in favor of the Collateral Agent under the Security Agreement.

2. Schedule A (Locations), Schedule B (Other Names), Schedule C (Intellectual Property Rights), Schedule D (Investment Property and Deposit Accounts), and Schedule E (Commercial Tort Claims) to the Security Agreement shall be supplemented by the information stated below with respect to the New Debtor:

SUPPLEMENT TO SCHEDULE A

| NAME OF DEBTOR (AND STATE OF ORGANIZATION AND ORGANIZATIONAL REGISTRATION NUMBER) | CHIEF EXECUTIVE OFFICE |
| --- | --- |
| ______________________ | ______________________ |
| ______________________ | ______________________ |

SUPPLEMENT TO SCHEDULE B

| NAME OF DEBTOR | PRIOR LEGAL NAMES OF SUCH DEBTOR |
| --- | --- |
| ______________________ | ______________________ |

SUPPLEMENT TO SCHEDULE C

INTELLECTUAL PROPERTY RIGHTS

______________________

______________________



SUPPLEMENT TO SCHEDULE D

INVESTMENT PROPERTY AND DEPOSIT ACCOUNTS

______________________

______________________

SUPPLEMENT TO SCHEDULE E

COMMERCIAL TORT CLAIMS

______________________

______________________

3. The New Debtor hereby acknowledges and agrees that the Secured Obligations are secured by all of the Collateral according to, and otherwise on and subject to, the terms and conditions of the Security Agreement to the same extent and with the same force and effect as if the New Debtor had originally been one of the Existing Debtors under the Security Agreement and had originally executed the same as such an Existing Debtor.

4. All capitalized terms used in this Agreement without definition shall have the same meaning herein as such terms have in the Security Agreement, except that any reference to the term “Debtor” or “Debtors” and any provision of the Security Agreement providing meaning to such term shall be deemed a reference to the Existing Debtors and the New Debtor. Except as specifically modified hereby, all of the terms and conditions of the Security Agreement shall stand and remain unchanged and in full force and effect.

5. The New Debtor agrees to execute and deliver such further instruments and documents and do such further acts and things as the Collateral Agent may reasonably deem necessary or proper to carry out more effectively the purposes of this Agreement.

6. No reference to this Agreement need be made in the Security Agreement or in any other document or instrument making reference to the Security Agreement, any reference to the Security Agreement in any of such to be deemed a reference to the Security Agreement as modified hereby.



7. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED BY AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, INCLUDING SECTION 5 -1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW.

[INSERT NAME OF NEW DEBTOR]

By ______________________________
Name ______________________________
Title ______________________________

Accepted and agreed to as of the date first above written.

GOLDMAN SACHS LENDING PARTNERS LLC, as Collateral Agent

By ______________________________
Name ______________________________
Title ______________________________



---

**SCHEDULE G**

**SUPPLEMENTAL SECURITY AGREEMENT**

THIS AGREEMENT (this *"Agreement"*) dated as of this          day of                    , 20     from [**Debtor**], a                    **corporation/limited liability company/partnership** (the *"Debtor"*), to Goldman Sachs Lending Partners LLC (*"GS Lending Partners"*), as collateral agent for the Secured Parties (defined in the Security Agreement hereinafter identified and defined) (GS Lending Partners acting as such agent and any successor or successors to GS Lending Partners in such capacity being hereinafter referred to as the *"Collateral Agent"*).

**PRELIMINARY STATEMENTS**

A. FIFTH THIRD PROCESSING SOLUTIONS, LLC, a Delaware limited liability company (the *"Borrower"*) and certain other parties have executed and delivered to the Administrative Agent that certain Security Agreement dated as of November 3, 2010 (such Security Agreement, as the same may from time to time be amended, restated, amended and restated, modified or restated, being hereinafter referred to as the *"Security Agreement"*), pursuant to which such parties have granted to the Collateral Agent for the benefit of the Secured Parties a lien on and security interest in the Collateral (as such term is defined in the Security Agreement) to secure the Secured Obligations (as such term is defined in the Security Agreement).

B. Pursuant to the Security Agreement, the Debtor granted to the Collateral Agent, among other things, a continuing security interest in all Commercial Tort Claims.

C. The Debtor has acquired a Commercial Tort Claim, and executes and delivers this Agreement to confirm and assure the Collateral Agent's security interest therein.

NOW, THEREFORE, FOR VALUE RECEIVED, and in consideration of advances made or to be made, or credit accommodations given or to be given, to the Borrower by the Secured Parties from time to time, the Debtor hereby agrees as follows:

1. In order to secure payment of the Secured Obligations, whether now existing or hereafter arising, the Debtor does hereby grant to the Collateral Agent for the benefit of the Secured Parties, and hereby agrees that the Collateral Agent has and shall continue to have until the Termination Date for the benefit of the Secured Parties a continuing lien on and security interest in the Commercial Tort Claim described below:

(Insert description of the Commercial Tort Claim by referring to a specific incident giving rise to the claim)

2. Schedule E (Commercial Tort Claims) to the Security Agreement is hereby amended to include reference to the Commercial Tort Claim referred to in Section 1 above. The Commercial Tort Claim described herein is in addition to, and not in substitution or replacement for, the Commercial Tort Claims heretofore described in and subject to the Security Agreement,

---

and nothing contained herein shall in any manner impair the priority of the liens and security interests heretofore granted by the Debtor in favor of the Collateral Agent under the Security Agreement.

3. All capitalized terms used in this Agreement without definition shall have the same meaning herein as such terms have in the Security Agreement, except that any reference to the term "Collateral" and any provision of the Security Agreement providing meaning to such term shall be deemed to include the Commercial Tort Claim referred to in Section 1 above. Except as specifically modified hereby, all of the terms and conditions of the Security Agreement shall stand and remain unchanged and in full force and effect.

4. The Debtor agrees to execute and deliver such further instruments and documents and do such further acts and things as the Collateral Agent may reasonably deem necessary or proper to carry out more effectively the purposes of this Agreement.

5. No reference to this Agreement need be made in the Security Agreement or in any other document or instrument making reference to the Security Agreement, any reference to the Security Agreement in any of such to be deemed a reference to the Security Agreement as modified hereby.

6. The Debtor acknowledges that this Agreement shall be effective upon its execution and delivery by the Debtor to the Collateral Agent, and it shall not be necessary for the Collateral Agent to execute this Agreement or any other acceptance hereof or otherwise to signify or express its acceptance hereof.

7. This Agreement shall be governed by and construed in accordance with the laws of the State of New York (without regard to principles of conflicts of law).

[INSERT NAME OF DEBTOR]

By ____________________________
Name __________________________
Title ___________________________



---

**<u>SCHEDULE H</u>**

**IP INFRINGEMENT CLAIMS**

None.

**Exhibit 10.6**

**EXECUTION VERSION**

# FIRST LIEN GUARANTY AGREEMENT

This First Lien Guaranty Agreement (this *"First Lien Guaranty"*) is entered into as of November 3, 2010, by Fifth Third Processing Solutions, LLC, a Delaware limited liability company, FTPS Holding, LLC, a Delaware limited liability company (*"Holdco"*) and the other parties who have executed this First Lien Guaranty (the *"Subsidiary Guarantors"*; and along with Holdco and any other parties who execute and deliver to the Administrative Agent (as hereinafter identified and defined) an agreement in the form attached hereto as *Exhibit A*, being herein referred to collectively as the *"Guarantors"* and individually as a *"Guarantor"*).

## PRELIMINARY STATEMENTS

A. Fifth Third Processing Solutions, LLC, a Delaware limited liability company (the *"Borrower"*), Goldman Sachs Lending Partners LLC (*"GS Lending Partners"*), as Administrative Agent (GS Lending Partners in such capacity being referred to herein as the *"Administrative Agent"*), and the other banks and financial institutions party thereto are parties to a First Lien Loan Agreement dated as of November 3, 2010 (as amended, restated, amended and restated or otherwise modified, the *"First Lien Loan Agreement"*) pursuant to which GS Lending Partners, Fifth Third Bank as L/C Issuer (*"L/C Issuer"*) and other banks and financial institutions from time to time party to the First Lien Loan Agreement have provided financial accommodations to the Borrower (GS Lending Partners, in its individual capacity and such other banks, financial institutions and lenders being hereinafter referred to collectively as the *"Lenders"* and individually as a *"Lender"*).

B. The Borrower and one or more of the Guarantors may from time to time be liable to the Lenders and/or their Affiliates with respect to Hedging Liability and/or Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations as such terms are defined in the First Lien Loan Agreement (the Administrative Agent and the Lenders, together with any Affiliates of the Lenders with respect to the Hedging Liability and Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, as such terms are defined in the First Lien Loan Agreement, being hereinafter referred to collectively as the *"Guaranteed Creditors"* and individually as a *"Guaranteed Creditor"*).

C. The obligations of the Lenders and the L/C Issuer to extend such credit are conditioned upon, among other things, the execution and delivery of this First Lien Guaranty.

D. The Borrower is a direct subsidiary of Holdco, and the Subsidiary Guarantors are direct or indirect Subsidiaries of the Borrower; and the Borrower provides each of the Guarantors with financial, management, administrative, and/or technical support which enables the Guarantors to conduct their businesses in an orderly and efficient manner in the ordinary course.

E. Each Guarantor will benefit, directly or indirectly, from credit and other financial accommodations extended by the Guaranteed Creditors to the Borrower.

NOW, THEREFORE, for good and valuable consideration, receipt whereof is hereby acknowledged, the parties hereto hereby agree as follows:

---

1. All capitalized terms used herein without definition shall have the same meanings herein as such terms have in the First Lien Loan Agreement.

2. Each Guarantor hereby jointly and severally guarantees to the Administrative Agent, for the ratable benefit of the Guaranteed Creditors, the due and punctual payment when due (subject to any applicable grace periods provided for in the First Lien Loan Agreement) of (a) any and all indebtedness, obligations, and liabilities of the Borrower to the Guaranteed Creditors, and to any of them individually, under or in connection with or evidenced by the First Lien Loan Agreement or any other Loan Documents, including, without limitation, all obligations evidenced by the Notes (if any) of the Borrower heretofore or hereafter issued under the First Lien Loan Agreement, all Reimbursement Obligations of the Borrower and all other obligations of the Borrower under all Applications for Letters of Credit, all obligations of the Borrower and the Guarantors, and of any of them individually, with respect to any Hedging Liability, and all obligations of the Borrower and the Guarantors, and of any of them individually, with respect to any Funds Transfer Liability, Deposit Account Liability and Data Processing Obligations, in each case whether now existing or hereafter arising (and whether arising before or after the filing of a petition in bankruptcy and including all interest accrued after the petition date), due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired and (b) any and all reasonable and documented out-of-pocket expenses and charges, including, without limitation, all reasonable attorney's fees and other expenses of litigation or preparation therefor (but under no circumstances shall the Guarantors be obligated to pay for more than one firm of outside counsel, and no Guarantor shall be obligated to pay for any in-house counsel except, if reasonably necessary, one local counsel and one regulatory counsel in any relevant material jurisdiction, to the Administrative Agent, or the Administrative Agent and the Guaranteed Creditors, taken as a whole, as the case may be, and, solely in the case of a conflict of interest, one additional counsel to the affected persons similarly situated, taken as a whole), suffered or incurred by the Guaranteed Creditors, and any of them individually, in collecting or enforcing any of such indebtedness, obligations, and liabilities or in realizing on or protecting or preserving any security or guarantees therefore, including, without limitation, this First Lien Guaranty. The indebtedness, obligations and liabilities described in the immediately preceding clauses (a) and (b) are hereinafter referred to as the *"indebtedness hereby guaranteed"*. In case of failure by the Borrower or the Guarantors punctually to pay any indebtedness hereby guaranteed, each Guarantor hereby jointly and severally agrees to make such payment or to cause such payment to be made punctually as and when the same shall become due and payable, whether at stated maturity, by acceleration or otherwise, and as if such payment were made by the Borrower or other Guarantors. All payments hereunder by any Guarantor shall be made in immediately available funds in Dollars without setoff, counterclaim or other defense or withholding or deduction of any nature. Notwithstanding anything in this First Lien Guaranty to the contrary, the right of recovery against a Guarantor under this First Lien Guaranty shall not exceed $1.00 less than the lowest amount which would render such Guarantor's obligations under this First Lien Guaranty void or voidable under applicable law, including fraudulent conveyance law.

3. Each Guarantor agrees that, upon demand, such Guarantor will then pay to the Administrative Agent for the benefit of the Guaranteed Creditors the full amount of the indebtedness hereby guaranteed that is then due (subject to the limitation on the right of recovery

from such Guarantor pursuant to the last sentence of Section 2 above) whether or not any one or more of the other Guarantors shall then or thereafter pay any amount whatsoever in respect to their obligations hereunder.

4. Each Guarantor agrees that such Guarantor will not exercise or enforce any right of exoneration, contribution, reimbursement, recourse or subrogation available to such Guarantor against the Borrower or any other Guarantor liable for payment of the indebtedness hereby guaranteed, or as to any security therefor, unless and until the full amount (other than contingent obligations) owing to the Guaranteed Creditors of the indebtedness hereby guaranteed has been fully paid and satisfied and the commitments of the Guaranteed Creditors to extend credit to the Borrower or any one of them under the First Lien Loan Agreement shall have expired or terminated. The payment by any Guarantor of any amount or amounts to the Guaranteed Creditors pursuant hereto shall not in any way entitle any such Guarantor, either at law, in equity or otherwise, to any right, title or interest (whether by way of subrogation or otherwise) in and to the indebtedness hereby guaranteed or any part thereof or any collateral security therefor or any other rights or remedies in any way relating thereto or in and to any amounts theretofor, then or thereafter paid or applicable to the payment thereof howsoever such payment may be made and from whatsoever source such payment may be derived unless and until the full amount (other than contingent obligations) owing to the Guaranteed Creditors of the indebtedness hereby guaranteed has been fully paid and satisfied and the commitments of the Guaranteed Creditors to extend credit to the Borrower or any one of them under the First Lien Loan Agreement shall have expired or terminated, and unless and until such payment in full and termination, any payments made by any Guarantor hereunder and any other payments from whatsoever source derived on account of or applicable to the indebtedness hereby guaranteed or any part thereof shall be held and taken to be merely payments in gross to the Guaranteed Creditors reducing pro tanto the indebtedness hereby guaranteed.

5. Subject to the terms and conditions of the First Lien Loan Agreement, including, without limitation, Section 10.10 thereof, each Guaranteed Creditor may, without any notice whatsoever to any of the Guarantors, sell, assign, or transfer all of the indebtedness hereby guaranteed, or any part thereof, or grant participations therein, and in that event each and every immediate and successive assignee, transferee, or holder of or participant in all or any part of the indebtedness hereby guaranteed, shall have the right through the Administrative Agent pursuant to Section 17 hereof to enforce this First Lien Guaranty, by suit or otherwise, for the benefit of such assignee, transferee, holder or participant, as fully as if such assignee, transferee, or holder or participant were herein by name specifically given such rights, powers and benefits; but each Guaranteed Creditor through the Administrative Agent pursuant to Section 17 hereof shall have an unimpaired right to enforce this First Lien Guaranty for its own benefit or any such participant, as to so much of the indebtedness hereby guaranteed that it has not sold, assigned or transferred.

6. This First Lien Guaranty is a continuing, absolute and unconditional First Lien Guaranty, and shall remain in full force and effect until all of the indebtedness hereby guaranteed shall be fully paid and satisfied and the commitments of the Guaranteed Creditors to extend credit to the Borrower or any one of them under the First Lien Loan Agreement shall have expired or terminated. The Guaranteed Creditors may at any time or from time to time release



any Guarantor from its obligations hereunder or effect any compromise with any Guarantor and no such release or compromise shall in any manner impair or otherwise affect the obligations hereunder of the other Guarantors. No release, compromise, or discharge of any one or more of the Guarantors shall release, compromise or discharge the obligations of the other Guarantors hereunder.

7. In case of the dissolution, liquidation or insolvency (howsoever evidenced) of, or the institution of bankruptcy or receivership proceedings against the Borrower or any Guarantor, in each case, that would permit or cause the acceleration of the indebtedness under the First Lien Loan Agreement, all of the indebtedness hereby guaranteed which is then existing may be declared by the Administrative Agent immediately due or accrued and payable from the Guarantors. All payments received from the Borrower or on account of the indebtedness hereby guaranteed from whatsoever source, shall be taken and applied as payment in gross, and this First Lien Guaranty shall apply to and secure any ultimate balance that shall remain owing to the Guaranteed Creditors.

8. The liability hereunder shall in no way be affected or impaired by (and the Guaranteed Creditors are hereby expressly authorized to make from time to time, without notice to any of the Guarantors), any sale, pledge, surrender, compromise, settlement, release, renewal, extension, impairment, indulgence, alteration, substitution, exchange, change in, modification or other disposition of any of the indebtedness hereby guaranteed, either express or implied, or of any Loan Document or any other contract or contracts evidencing any thereof, or of any security or collateral therefor or any guaranty thereof. The liability hereunder shall in no way be affected or impaired by any acceptance by the Guaranteed Creditors of any security for or other guarantors upon any of the indebtedness hereby guaranteed, or by any failure, neglect or omission on the part of the Guaranteed Creditors to realize upon or protect any of the indebtedness hereby guaranteed, or any collateral or security therefor (including, without limitation, impairment of collateral and failure to perfect security interests in any collateral), or to exercise any lien upon or right of appropriation of any moneys, credits or property of the Borrower or any Guarantor, possessed by any of the Guaranteed Creditors, toward the liquidation of the indebtedness hereby guaranteed, or by any application of payments or credits thereon. The Guaranteed Creditors shall have the exclusive right to determine how, when and what application of payments and credits, if any, shall be made on said indebtedness hereby guaranteed, or any part of same. In order to hold any Guarantor liable hereunder, there shall be no obligation on the part of the Guaranteed Creditors, at any time, to resort for payment to the Borrower or to any other Guarantor, or to any other person, its property or estate, or resort to any collateral, security, property, liens or other rights or remedies whatsoever, and the Guaranteed Creditors shall have the right to enforce this First Lien Guaranty against any Guarantor irrespective of whether or not other proceedings or steps are pending seeking resort to or realization upon or from any of the foregoing are pending.

9. In the event the Guaranteed Creditors shall at any time in their discretion permit a substitution of Guarantors hereunder or a party shall wish to become Guarantor hereunder, such substituted or additional Guarantor shall, upon executing an agreement in the form attached hereto as *Exhibit A*, become a party hereto and be bound by all the terms and conditions hereof to the same extent as though such Guarantor had originally executed this First Lien Guaranty and in



the case of a substitution, in lieu of the Guarantor being replaced. No such substitution shall be effective absent the written consent delivered in accordance with the terms of the First Lien Loan Agreement, nor shall it in any manner affect the obligations of the other Guarantors hereunder.

10. All diligence in collection or protection, and all presentment, demand, protest and/or notice, as to any and everyone, whether or not the Borrower or the Guarantors or others, of dishonor and of default and of non-payment and with respect to the creation and existence of any and all of said indebtedness hereby guaranteed, and of any security and collateral therefor, and of the acceptance of this First Lien Guaranty, and of any and all extensions of credit and indulgence hereunder, are expressly waived to the extent permitted by applicable law.

11. To the extent permitted by law, the Guarantors waive any and all defenses, claims and discharges of the Borrower, or any other obligor or guarantor, pertaining to the indebtedness hereby guaranteed, except the defense of discharge by payment in full. To the extent permitted by law, without limiting the generality of the foregoing, the Guarantors will not assert, plead or enforce against the Guaranteed Creditors any defense of waiver, release, discharge in bankruptcy, statute of limitations, res judicata, statue of frauds, anti-deficiency statute, incapacity, minority, usury, illegality or unenforceability which may be available to the Borrower or any other person liable in respect of any of the indebtedness hereby guaranteed, or any set-off available against the Guaranteed Creditors to the Borrower or any such other person, whether or not on account of a related transaction. Subject to the last sentence of Section 2 above, the Guarantors agree that the Guarantors shall be and remain jointly and severally liable for any deficiency remaining after foreclosure or other realization on any lien or security interest securing the indebtedness hereby guaranteed, whether or not the liability of the Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision.

12. If any payment applied by the Guaranteed Creditors to the indebtedness hereby guaranteed is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of the Borrower or any other obligor), the indebtedness hereby guaranteed to which such payment was applied shall for the purposes of this First Lien Guaranty be deemed to have continued in existence, notwithstanding such application, and this First Lien Guaranty shall be enforceable as to such of the indebtedness hereby guaranteed as fully as if such application had never been made.

13. Each Guarantor represents and warrants to the Guaranteed Creditors that as of the date hereof:

(a) (i) Such Guarantor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (ii) has the power and authority to own its property and to transact the business in which it is engaged and proposes to engage, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, and (iii) is duly qualified and in good standing in each jurisdiction where the ownership, leasing or operation of property or the conduct of its business requires such qualification, except, in each case, where the same could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.



---

(b) Such Guarantor has full power and authority to enter into this First Lien Guaranty, to guarantee the indebtedness hereby guaranteed and to perform all of its obligations under this First Lien Guaranty.

(c) The First Lien Guaranty has been duly authorized, executed, and delivered by such Guarantor and constitutes a valid and binding obligation of such Guarantor enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or similar laws affecting creditors' rights generally and general principles of equity (regardless of whether the application of such principles is considered in a proceeding in equity or at law).

(d) This First Lien Guaranty does not, nor does the performance or observance by such Guarantor of any of the matters and things herein provided for, (i) violate any provision of law or any judgment, injunction, order or decree binding upon such Guarantor, (ii) contravene or constitute a default under any provision of the organizational documents (*e.g.*, charter, articles of incorporation or by-laws, articles of association or operating agreement, partnership agreement or other similar document) of such Guarantor, (iii) contravene or constitute a default under any covenant, indenture or agreement of or affecting such Guarantor or any of its Property, in each case where such contravention or default, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or (iv) result in the creation or imposition of any Lien on any Property of such Guarantor other than the Liens granted to the Administrative Agent pursuant to any Loan Document and Permitted Liens, except with respect to clauses (i), (iii) and (iv), to the extent, individually or in the aggregate, that such violation, contravention, breach, conflict, default or creation or imposition of any Lien could not reasonably be expected to result in a Material Adverse Effect.

(e) From and after the date of execution of this Agreement or any agreement in the form attached hereto as Exhibit A by any Guarantor and continuing so long as any of the indebtedness hereby guaranteed remains outstanding or until such Guarantor is earlier released from its obligations hereunder in accordance with Section 6 hereof, such Guarantor agrees to comply with the terms and provisions of Section 6 of the First Lien Loan Agreement, insofar as such provisions apply to such Guarantor, as if said Section was set forth herein in full.

14. The liability of the Guarantors under this First Lien Guaranty is in addition to and shall be cumulative with all other liabilities of the Guarantors after the date hereof to the Guaranteed Creditors as a Guarantor of the indebtedness hereby guaranteed, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

15. Any provision of this First Lien Guaranty which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All rights, remedies and powers provided in this First Lien Guaranty may be exercised only to the extent that the exercise thereof does not violate any applicable mandatory provisions of law, and all the provisions of this First Lien Guaranty are intended to be subject to all applicable mandatory provisions of law which may be controlling



---

and to be limited to the extent necessary so that they will not render this First Lien Guaranty invalid or unenforceable.

16. Any demand for payment on this First Lien Guaranty or any other notice required or desired to be given hereunder to any Guarantor shall comply with Section 10.8 of the First Lien Loan Agreement; *provided* that, the address information for each Guarantor shall be its address or facsimile number set forth on the appropriate signature page hereof, or such other address or facsimile number as such party may hereafter specify by notice to the Administrative Agent given by courier, United States certified or registered mail, by facsimile, by email transmission or by other telecommunication device

capable of creating written record of such notice and its receipt. Each such notice, request or other communication shall be effective (i) if given by facsimile, when such facsimile is transmitted to the facsimile number specified in this Section and a confirmation of such telecopy has been received by the sender, (ii) if given by mail, five days after such communication is deposited in the mail, certified or registered with return receipt requested, addressed as aforesaid, (iii) if by email, when delivered (all such notices and communications sent by email shall be deemed delivered upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgement)), or (iv) if given by any other means, when delivered at the addresses specified in this Section.

17. No Guaranteed Creditor (other than the Administrative Agent) shall have the right to institute any suit, action or proceeding in equity or at law in connection with this First Lien Guaranty for the enforcement of any remedy under or upon this First Lien Guaranty; it being understood and intended that no one or more of the Guaranteed Creditors (other than the Administrative Agent) shall have any right in any manner whatsoever to enforce any right hereunder, and that all proceedings at law or in equity shall be instituted, had and maintained by the Administrative Agent in the manner herein provided and for the benefit of the Guaranteed Creditors.

18. THIS FIRST LIEN GUARANTY AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED BY AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, INCLUDING SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW. This First Lien Guaranty may only be waived or modified in writing in accordance with the requirements of Section 10.11 of the First Lien Loan Agreement. This First Lien Guaranty and every part thereof shall be effective as to each Guarantor upon its execution and delivery by such Guarantor to the Administrative Agent, without further act, condition or acceptance by the Guaranteed Creditors, shall be binding upon such Guarantors and upon the legal representatives, successors and assigns of the Guarantors, and shall inure to the benefit of the Guaranteed Creditors, their successors, legal representatives and assigns. The Guarantors waive notice of the Guaranteed Creditors' acceptance hereof. This First Lien Guaranty may be executed in counterparts and by different parties hereto on separate counterparts, each of which shall be an original, but all together one and the same instrument. Delivery of executed counterparts of this First Lien Guaranty by telecopy or by e-mail of an Adobe portable document format file (also known as a "PDF" file) shall be effective as originals.



---

19. Each Guarantor hereby submits to the nonexclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State court sitting in New York City in the borough of Manhattan for purposes of all legal proceedings arising out of or relating to this First Lien Guaranty or the transactions contemplated hereby. Each Guarantor irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such court has been brought in an inconvenient forum. EACH OF THE GUARANTORS, THE ADMINISTRATIVE AGENT AND THE GUARANTEED CREDITORS HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS FIRST LIEN GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY.

[SIGNATURE PAGES TO FOLLOW]



---

IN WITNESS WHEREOF, the Guarantors have caused this First Lien Guaranty Agreement to be executed and delivered as of the date first above written.

*"GUARANTORS"*

FTPS HOLDING, LLC
NPC GROUP, INC.
NATIONAL PROCESSING COMPANY GROUP, INC.
NATIONAL PROCESSING MANAGEMENT COMPANY
CARD MANAGEMENT COMPANY, LLC
NATIONAL PROCESSING COMPANY
BEST PAYMENT SOLUTIONS, INC.

By /s/ Mark Heimbouch
Name: Mark Heimbouch
Title: Chief Financial Officer

Address:

38 Fountain Square Plaza, 11th Floor
Cincinnati, Ohio 45263
Attention: Mark Heimbouch
Telephone: (513) 534-2037
Facsimile: (513) 534-0318
Email: Mark.Heimbouch@53.com

[Signature Page to First Lien Guaranty Agreement]

---

Accepted and agreed as of the date first above written.

FIFTH THIRD PROCESSING SOLUTIONS, LLC, as the Borrower

By /s/ Mark Heimbouch
Name: Mark Heimbouch
Title: Executive Officer and Chief Financial Officer

Address:
38 Fountain Square Plaza, 11th Floor
Cincinnati, Ohio 45263
Attention Mark Heimbouch
Telephone: (513) 534-2037
Facsimile: (513) 534-0318
Email: Mark.Heimbouch@53.com

[Signature Page to First Lien Guaranty Agreement]

---

Accepted and agreed as of the date first above written.

GOLDMAN SACHS LENDING PARTNERS LLC, as Administrative Agent for the Guaranteed Creditors

By /s/ Anna Ostrovsky
Name: Anna Ostrovsky
Title: Authorized Signatory

Address:

c/o Goldman, Sachs & Co.
30 Hudson Street, 26th Floor
Jersey City, NH 07302
Attention: SBD Operations
Telecopy: (646) 769-7700
Email: gsd.link@gs.com and ficc-sbdagency-nydallas@ny.email.gs.com

[Signature Page to First Lien Guaranty Agreement]

---

**EXHIBIT A**
**TO**
**FIRST LIEN GUARANTY AGREEMENT**

**ASSUMPTION AND SUPPLEMENT TO FIRST LIEN GUARANTY AGREEMENT**

This Assumption and Supplement to First Lien Guaranty Agreement (the *"Agreement"*) is dated as of this day of , , made by [**Insert name of new guarantor**], a (the *"New Guarantor"*);

**WITNESSETH THAT:**

WHEREAS, certain affiliates of Fifth Third Processing Solutions, LLC, a Delaware limited liability company (the *"Borrower"*), have executed and delivered to the Administrative Agent for the Guaranteed Creditors that certain First Lien Guaranty Agreement dated as of November 3, 2010 (such First Lien Guaranty Agreement, as the same may from time to time be amended, restated, amended and restated or otherwise modified, including supplements thereto which add or substitute parties as Guarantors thereunder, being hereinafter referred to as the *"First Lien Guaranty"*) pursuant to which such affiliates (the *"Existing Guarantors"*) have guaranteed to the Guaranteed Creditors, the full and prompt payment of, among other things, any and all indebtedness, obligations and liabilities of the Borrower arising under or relating to the First Lien Loan Agreement as defined therein; and

WHEREAS, the New Guarantor will directly and substantially benefit from credit and other financial accommodations extended and to be extended by the Guaranteed Creditors to the Borrower;

NOW, THEREFORE, FOR VALUE RECEIVED, and in consideration of advances made or to be made, or credit accommodations given or to be given, to the Borrower by the Guaranteed Creditors from time to time, the New Guarantor hereby agrees as follows:

1. The New Guarantor acknowledges and agrees that it shall become a "Guarantor" party to the First Lien Guaranty effective upon the date of the New Guarantor's execution of this Agreement and the delivery of this Agreement to the Administrative Agent on behalf of the Guaranteed Creditors, and that upon such execution and delivery, all references in the First Lien Guaranty to the terms "Guarantor" or "Guarantors" shall be deemed to include the New Guarantor.

2. The New Guarantor hereby assumes and becomes liable (jointly and severally with all the other Guarantors) for the indebtedness hereby guaranteed (as defined in the First Lien Guaranty) and agrees to pay and otherwise perform all of the obligations of a Guarantor under the First Lien Guaranty according to, and otherwise on and subject to, the terms and conditions of the First Lien Guaranty to the same extent and with the same force and effect as if the New Guarantor had originally been one of the Existing Guarantors under the First Lien Guaranty and had originally executed the same as such an Existing Guarantor.

---

3. The New Guarantor acknowledges and agrees that, as of the date hereof, the New Guarantor makes each and every representation and warranty that is set forth in Section 13 of the First Lien Guaranty.

4. All capitalized terms used in this Agreement without definition shall have the same meaning herein as such terms have in the First Lien Guaranty, except that any reference to the term "Guarantor" or "Guarantors" and any provision of the First Lien Guaranty providing meaning to such term shall be deemed a reference to the Existing Guarantors and the New Guarantor. Except as specifically modified hereby, all of the terms and conditions of the First Lien Guaranty shall stand and remain unchanged and in full force and effect.

5. The New Guarantor agrees to execute and deliver such further instruments and documents and do such further acts and things as the Administrative Agent or the Guaranteed Creditors may reasonably deem necessary or proper to carry out more effectively the purposes of this Agreement.

6. No reference to this Agreement need be made in the First Lien Guaranty or in any other document or instrument making reference to the First Lien Guaranty, any reference to the First Lien Guaranty in any of such to be deemed a reference to the First Lien Guaranty as modified hereby.

7. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED BY AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, INCLUDING SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW, IN WHICH STATE IT SHALL BE PERFORMED BY THE NEW GUARANTOR.

[**NEW GUARANTOR**]

By
Name ______________________
Title ______________________

Address:

______________________
______________________

Attention: ______________________
Telephone: (   ) ______________________
Facsimile: (   ) ______________________
Email: ______________________

---

Acknowledged and agreed as of the date first above written.

GOLDMAN SACHS LENDING PARTNERS LLC, as Administrative Agent for the Guaranteed Creditors

By
Name ______________________
Title ______________________

---

**Exhibit 10.8**

Execution Version

# MANAGEMENT AGREEMENT

June 30, 2009

This Management Agreement (this "***Agreement***") is entered into as of the date written above (the "***Effective Date***") by and between Fifth Third Processing Solutions, LLC (formerly known as FTPS Opco, LLC ), a Delaware limited liability company (the "***Company***"), and Advent International Corporation, a Delaware corporation (the "***Advisor***"). The Company and the Advisor are referred to in this Agreement individually as a "***Party***" and collectively as the "***Parties***."

## Recitals

Certain investment funds advised by the Advisor (the "***Investors***") have acquired Class A Units of FTPS Holding, LLC (formerly known as Fifth Third Processing Solutions, LLC), a Delaware limited liability company ("***Holdco***"), which holds 100% of the equity interest of the Company, pursuant to the Master Investment Agreement entered into on March 27, 2009, as amended June 30, 2009, by and among Fifth Third Bank, a bank chartered under the laws of the State of Ohio, Fifth Third Financial Corporation, an Ohio corporation, Advent-Kong Blocker Corp., a Delaware corporation, Holdco and the Company.

The Advisor is in the business of providing advisory services to private equity pooled investment funds (the "***Advent Funds***") and other services to the portfolio companies in which the Advent Funds invest. The Advisor has staff specifically skilled in the areas of corporate finance, acquisitions, strategic corporate planning, management and advisory services, among other areas.

The Company has required, and will continue to require, the Advisor's special skills and advisory services in addition to those the Advisor's affiliates will be providing in connection with the investment in Holdco; and the Advisor has provided, and is willing to continue to provide, these skills and advisory services to the Company; in each case, pursuant to the terms of this Agreement.

## Agreement

In consideration of the mutual covenants contained in this Agreement, the Parties, intending to be legally bound, hereby agree as follows:

1. The Services.

(a) The Advisor hereby agrees that, during the Term (as defined below), the Advisor and/or one or more of its affiliates will provide the following services to the Company and/or its subsidiaries, if and as reasonably and specifically requested by the Company and if and as agreed to by provided by the Advisor (these services that are to be provided only through this Agreement are referred to in this Agreement collectively as the "***Services***"):

(i) supplemental advice with respect to the development and implementation of alternative strategies for improving the operating, marketing and financial performance of the Company, and other senior management matters related to the business, administration and policies of the Company; and

(ii) supplemental advice in connection with the negotiation and consummation of agreements, contracts, documents and instruments related to the Company's finances and alternative financing arrangements or relationships with banks or other financial institutions.

(b) The Advisor shall have no obligation to the Company as to the time commitment involved in, or the method or timing of, rendering the Services (provided that the Services shall be rendered in a reasonably timely manner), and the Company shall not have any right to dictate or direct the details of the Advisor's (or its affiliate's) performance of any requested Services.

---

(c) The Services are not exclusive to the Company and/or its subsidiaries, and this Agreement shall in no way prohibit the Advisor, the Advent Funds or any of their affiliates or any of their respective shareholders, partners (general, limited and so-called "operating"), members (both managing and otherwise), officers, directors, employees, agents and representatives (collectively, the "***Related Parties***") from engaging in other activities, whether or not competitive with any business of the Company or any of its affiliates. The parties hereto acknowledge and agree that the Services provided hereunder are intended to supplement but in no way replace or limit the management of the Company by the Board of Directors of the Company and the expertise that will be brought to the Company by the members of the Board of Directors of the Company.

2. Payment of Services Fees and Reimbursement of Expenses.

(a) *Services Fees*. In exchange for the Services, the Company hereby agrees to pay to the Advisor or its designee(s) a services fee, payable in advance in annual installments (beginning on the Effective Date and, for each succeeding fiscal year of the Company thereafter, on the first business day of such fiscal year), in an amount for the 2009 fiscal year equal to $500,000 and in an amount per each subsequent year equal to $1,000,000 (the "***Services Fees***"), which Services Fees shall not be prorated on a daily basis for any partial fiscal year during the Term.

(b) *Payments by Wire*. Each payment or reimbursement made pursuant to this Section 2 shall be paid by wire transfer of immediately available funds to the account specified on Exhibit A attached to this Agreement or to any other account(s) as the Advisor may specify in writing to the Company.

(c) *Reimbursement of Expenses*. In addition to the Services Fees, the Company agrees to pay on demand all reasonable and documented costs and expenses incurred and paid by the Advisor and/or any of its affiliates in connection with this Agreement or in connection with performing the Services (including, but not limited to, air travel, out-of-pocket and other expenses) in an amount not to exceed $100,000 per calendar year during the Term (or pro rata portion thereof for a partial calendar year during the Term) (the "Expenses Cap"); provided that travel expenses incurred by Advisor for travel to and from the Company's headquarters shall not apply towards the Expenses Cap.

3. Term and Termination.

(a) This Agreement shall be effective as of the Effective Date and shall continue in full force and effect unless and until it is automatically terminated on the earlier of: (i) the date on which the Advisor, in its sole discretion, provides written notice of termination to the Company; (ii) immediately before a registration statement relating to Holdco's or the Company's equity securities is declared effective; or (iii) the date on which the Advisor and its affiliates have transferred, directly or indirectly in one or more transactions, more than 66.6% of the units of beneficial interest of Holdco held by the Advisor and its affiliates on the Effective Date (the period beginning on the Effective Date through and including such earlier date is referred to in this Agreement as the "***Term***").

(b) Notwithstanding anything to the contrary in this Agreement or in any subsequently-executed agreement that does not explicitly and specifically terminate the Advisor's rights under this Section 3(b), all of the Company's owed and unpaid obligations under Section 2 above, all of the Company's obligations under Section 4 below and each of the provisions of Section 5 shall survive any termination of this Agreement to the maximum extent permitted under applicable law.

4. Indemnification and Exculpation.

(a) *Indemnity*. The Company will indemnify, defend and hold harmless each of the Advisor and each Related Party (each, an "***Indemnified Party***," and collectively, the "***Indemnified Parties***") from and against any and all Losses. As used in this Agreement, the term "***Losses***" shall mean, collectively, any and all losses, claims, damages and liabilities, whether joint or several, expenses of any nature (including reasonable attorneys' fees and disbursements), judgments, fines, settlements and other amounts incurred in connection with any Proceeding. A "***Proceeding***" shall mean any threatened, pending or completed claim, action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing, appeal or other proceeding (including any discovery event, issue or matter therein or related thereto), whether brought in the right of the Company or otherwise, whether of a civil (including intentional or unintentional tort claims), criminal, administrative or investigative nature, and whether formal or informal, in which an Indemnified Party was, is or will be involved as a party, in each case, in any way relating to (x) the Services or (y) this Agreement.



(b) *Expenses*. The Company will, at an Indemnified Party's election, either advance (after the receipt by the Company of a statement or statements requesting such advances from time to time, whether before or after final disposition of any Proceeding) or reimburse (as incurred) that Indemnified Party for all reasonable costs and expenses (including reasonable attorneys' fees and expenses) in connection with investigating, preparing, pursuing, defending or assisting in the defense of any Proceeding for which the Indemnified Party would be entitled to indemnification under this Section 4, whether or not that Indemnified Party is a party to this Agreement; provided that, (i) subject to Section 4(c) below, the Company shall be entitled to assume the defense thereof at its own expense, with counsel satisfactory to that Indemnified Party in its reasonable judgment and (ii) any such defense is prosecuted actively and with reasonable diligence. Advances shall be unsecured, interest free and made without regard to an Indemnified Party's ability to repay the expenses and without regard to the Indemnified Party's ultimate entitlement to indemnification under the other provisions of this Agreement.

(c) *Separate Counsel*. Any Indemnified Party may, at its own expense, retain separate counsel to participate in that defense, and in any Proceeding in which both the Company and/or one or more of its subsidiaries, on the one hand, and an Indemnified Party, on the other hand, is, or is reasonably likely to become, a party; provided that Indemnified Party shall have the right to employ one separate counsel at the expense of the Company and to control its own defense of that action, claim, suit, investigation or proceeding if, in the reasonable opinion of counsel to that Indemnified Party, a conflict or potential conflict exists between the Company, on the one hand, and that Indemnified Party, on the other hand, that would make that separate representation advisable.

(d) *Settlements*. The Company agrees that it will not, without the prior written consent of the applicable Indemnified Party, settle, compromise or consent to the entry of any judgment in, any Proceeding relating to the matters contemplated by this Agreement (if any Indemnified Party is a party thereto or has been threatened to be made a party thereto) unless that settlement, compromise or consent includes an unconditional release of the applicable Indemnified Party and each other Indemnified Party from all liability arising, or that may arise, out of that Proceeding. Provided the Company is not in breach of its indemnification obligations under this Agreement, the Company will not be obligated under this Agreement to indemnify any Indemnified Party that settles or compromises any claim subject to indemnification under this Agreement without the prior written consent of the Company, which consent shall not be unreasonably withheld, conditioned or delayed.

(e) *Limitations on Indemnity and Expenses*. The Company will not be obligated to indemnify an Indemnified Party under this Section 4 for any Losses that are determined by a court, in a final judgment from which no further appeal may be taken, to have resulted from the gross negligence or willful misconduct of that Indemnified Party. If an Indemnified Party is advanced or reimbursed under this Agreement for any expenses, then that advancement or reimbursement of expenses shall be refunded to the extent it is determined by a court, in a final judgment from which no further appeal may be taken, that such expenses relate to Losses that resulted from the gross negligence or willful misconduct of that Indemnified Party.

(f) *Contribution*. The Company agrees that if any indemnification sought by any Indemnified Party pursuant to this Section 4 is unavailable for any reason or is insufficient to hold that Indemnified Party harmless against any Losses referred to in this Agreement (other than because of the gross negligence or willful misconduct of that Indemnified Party ), then the Company shall contribute to the Losses for which that indemnification is held unavailable or insufficient in that proportion as is appropriate to reflect the relative benefits received (or anticipated to be received) by the Company, on the one hand, and that Indemnified Party, on the other hand, in connection with the actions or omissions that gave rise to those Losses or, if that allocation is not permitted by applicable law, not only the relative benefits but also the relative faults of the Company, on the one hand, and that Indemnified Party, on the other hand, as well as any other equitable considerations, subject to the limitation that, in any event, the aggregate contribution by the Indemnified Parties to all Losses with respect to which contribution is available under this Agreement shall not exceed the aggregate amount of Services Fees actually received by the Advisor in connection with the actions or omissions that gave rise to those Losses (excluding any amounts paid as reimbursement of expenses).

(g) *Exculpation*. Neither the Advisor nor any other Indemnified Party shall be liable to the Company or any of its affiliates for any act or omission, whether actual or alleged, suffered or taken by the Advisor or any other Indemnified Party, unless such action or omission is determined by a court, in a final judgment from which no further appeal may be taken, to have resulted primarily from the gross negligence or willful misconduct of that Indemnified Party. Notwithstanding anything in this Agreement to the contrary, and without limiting the foregoing, in no event will an Indemnified Party be liable to the Company or any of its affiliates for (i) any indirect, special, punitive, incidental or

consequential damages, including without limitation, lost profits or savings, whether or not such damages are foreseeable, or (ii) any third party claims (whether based in contract, tort or otherwise) in any way relating to (x) the Services or (y) this Agreement.

(h) *Director Indemnity*. For the avoidance of doubt, any director designated by the Advisor or any of its affiliates who is serving on the Company's board of directors shall not be entitled to seek indemnification under this Agreement in his or her capacity as a director of the Company; those directors instead will be entitled to indemnification provided under applicable law, pursuant to the Company's organizational documents, and any other contractual arrangements applicable to those directors.

(i) *Disclaimers*.

(i) *Disclaimer*. The Advisor makes no representations or warranties, express or implied, in respect of the Services.

(ii) *Freedom to Pursue Opportunities, Etc*. In the event that the Advisor or any of its Related Parties or any of their respective clients, affiliates and other associated Persons, as defined below (collectively, the "***Advisor Parties***"), acquires knowledge of a potential transaction or matter that may be a corporate opportunity of the Company or any of its affiliates, none of the Advisor Parties shall have any duty (contractual or otherwise) to communicate or present that corporate opportunity to the Company or any of its affiliates and, notwithstanding any provision of this Agreement to the contrary, none of the Advisor Parties shall be liable to the Company or any of its affiliates for breach of any duty (contractual or otherwise) by reason of the fact that any of the Advisor Parties directly or indirectly pursues or acquires that opportunity for itself, directs that opportunity to another Person or does not present that opportunity to the Company or any of its affiliates. The Advisor Parties shall have the right to, and shall have no duty (contractual or otherwise) not to, directly or indirectly, engage in the same or similar business activities or lines of business as the Company, including those competing with the Company and do business with any customer or supplier of the Company. As used in this Agreement, the term "***Person***" shall be construed in the broadest sense and shall means a natural person, a partnership, a corporation, an association, a joint stock company, a limited liability company, a trust, a joint venture, an unincorporated organization and any other entity and any federal, state, municipal, foreign or other government, governmental department, commission, board, bureau, agency or instrumentality, or any private or public court or tribunal.

(j) *Third Party Beneficiaries*. Notwithstanding anything to the contrary in this Agreement, the Company acknowledges and agrees that the Advisor and its Related Parties have relied on this Section 4 and are express third party beneficiaries of this Section 4 with the express right and ability to enforce the Company's obligations under this Section 4 directly against the Company to the full extent of such obligations.

5. Miscellaneous.

(a) *Assignment*. Except as provided below, neither the Company nor the Advisor shall have the right to assign this Agreement without the prior written consent of the other Party. The Advisor acknowledges that its Services are unique. Accordingly, any purported assignment by the Advisor (other than as specifically permitted below) shall be void. Notwithstanding the foregoing, the Advisor may assign any or all of its rights and obligations under this Agreement to any affiliate of the Advisor that provides services similar to the Services.

(b) *Amendments and Waivers*. No amendment of any term, provision or condition of this Agreement shall be effective, unless in writing and executed by the Advisor and the Company. No waiver of any term, provision or condition of this Agreement shall be effective, unless in writing and executed by the party against whom such waiver is to be effective. No waiver on any one occasion shall extend to or effect or be construed as a waiver of any right or remedy on any future occasion. No course of dealing of any Person nor any delay or omission in exercising any right or remedy shall constitute an amendment of this Agreement or a waiver of any right or remedy of any Party.

(c) *Choice of Law.* This Agreement (and any claim, controversy or cause of action arising under this Agreement, related thereto or in connection therewith, whether in contract, tort or otherwise) shall be governed by and construed in accordance with the domestic substantive laws of the State of New York without giving effect to any choice or conflict of law provision or rule that would cause the application of the domestic substantive laws of any other jurisdiction.



(d) *Consent to Jurisdiction.* Each of the Parties agrees that all actions, suits or proceedings arising out of, or based upon, this Agreement or the subject matter of this Agreement shall be brought and maintained exclusively in the United States District Court the Southern District of New York or any New York State court (the "*Chosen Courts*"). Each of the Parties by execution of this Agreement (i) hereby irrevocably submits to the jurisdiction of the Chosen Courts for the purpose of any action, suit or proceeding arising out of, or based upon, this Agreement or the subject matter of this Agreement and (ii) hereby waives to the extent not prohibited by applicable law, and agrees not to assert, by way of motion, as a defense or otherwise, in any such action, suit or proceeding, any claim that it is not subject personally to the jurisdiction of the Chosen Courts, that it is immune from extraterritorial injunctive relief or other injunctive relief, that its property is exempt or immune from attachment or execution, that any such action, suit or proceeding may not be brought or maintained in one of the Chosen Courts, that any such action, suit or proceeding brought or maintained in one of the Chosen Courts should be dismissed on grounds of forum non conveniens, should be transferred to any court other than one of the Chosen Courts, should be stayed by virtue of the pendency of any other action, suit or proceeding in any court other than one of the Chosen Courts, or that this Agreement or the subject matter of this Agreement may not be enforced in or by any of the Chosen Courts. Each of the Parties hereby consents to service of process in any such suit, action or proceeding in any manner permitted by the laws of the State of New York, agrees that service of process by registered or certified mail, return receipt requested, at the address specified in or pursuant to Section 5(h) is reasonably calculated to give actual notice and waives and agrees not to assert by way of motion, as a defense or otherwise, in any such action, suit or proceeding any claim that service of process made in accordance with Section 5(h) does not constitute good and sufficient service of process. The provisions of this Section 5(d) shall not restrict the ability of any Party to enforce in any court any judgment obtained in a Chosen Court.

(e) *Waiver of Jury Trial.* TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH OF THE PARTIES HEREBY WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT, OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, CAUSE OF ACTION, ACTION, SUIT OR PROCEEDING ARISING OUT OF, OR BASED UPON, THIS AGREEMENT OR THE SUBJECT OF THIS AGREEMENT, IN EACH CASE, WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER IN CONTRACT OR TORT OR OTHERWISE. Each of the Parties acknowledges that it has been informed by each other Party that the provisions of this Section 5(e) constitute a material inducement upon which that Party is relying and will rely

in entering into this Agreement and the transactions contemplated hereby. Any of the Parties may file an original counterpart or a copy of this Agreement with any court as written evidence of the consent of each of the Parties to the waiver of its right to trial by jury.

(f) *Independent Contractor*. The Parties agree and understand that the Advisor is and shall act as an independent contractor of the Company in the performance of its duties under this Agreement, and no Party has the right or ability to contract for, or on behalf of, the other Party or to effect any transaction for the account of the other Party. The Advisor is not, and in the performance of its duties under this Agreement will not hold itself out as, an employee, agent or partner of the Company.

(g) *Merger/Entire Agreement*. This Agreement contains the entire understanding of the Parties with respect to the subject matter of this Agreement and supersedes any prior communication or agreement with respect thereto.

(h) *Notice*. All notices, demands, and communications of any kind that any Party may require or desire to serve upon any other Party under this Agreement shall be in writing and shall be served upon that other Party and that other Party's copied persons as specified below (a) by personal delivery to the address set forth for it below or to any other address as that Party shall have specified by notice to each other Party, (b) by mailing a copy thereof by certified or registered mail, (c) by Federal Express or any other reputable overnight courier service, postage prepaid, with return receipt requested, or (d) by facsimile or email (if such facsimile is promptly confirmed by automated or telephone confirmation thereof or if the email is promptly confirmed by email or telephone confirmation thereof), addressed to that Party and copied persons at that addresses. In the case of service by personal delivery, it shall be deemed complete on the first business day after the date of actual delivery to that address. In case of service by mail or by overnight courier, it shall be deemed complete, whether or not received, on the third day after the date of mailing as shown by the registered or certified mail receipt or courier service receipt. Notwithstanding the foregoing, notice to any Party or copied Person of change of address shall be deemed complete only upon actual receipt by an officer or agent of that Party or copied person.



---

If to the Company:

Fifth Third Processing Solutions, LLC
38 Fountain Square Plaza
Cincinnati, OH 45263
Attention: Charles Drucker
Facsimile: 513-579-4300

with a copy, which shall not constitute notice, to:

Sullivan & Cromwell LLP
125 Broad Street
New York, New York 10004
Attention: Alexandra D. Korry
Facsimile: 212-291-9085
Email: korrya@sullcrom.com

If to the Advisor:

Advent International Corporation
75 State Street
Boston, MA 02109
Attention: Christopher Pike
Facsimile: (617) 951-0566
Email: cpike@adventinternational.com

with a copy, which shall not constitute notice, to:

Weil, Gotshal & Manges LLP
100 Federal Street, 34th Floor
Boston, Massachusetts 02110
Attention: James Westra
Facsimile: 617-772-8333
Email: james.westra@weil.com

(i) *Severability*. If in any judicial or arbitral proceedings a court or arbitrator shall refuse to enforce any provision of this Agreement, then that unenforceable provision shall be deemed eliminated from this Agreement for the purpose of those proceedings to the extent necessary to permit the remaining provisions to be enforced. To the full extent, however, that the provisions of any applicable law may be waived, they are hereby waived to the end that this Agreement be, deemed to be a valid and binding agreement enforceable in accordance with its terms, and in the event that any provision of this Agreement shall be found to be invalid or unenforceable, that provision shall be construed by limiting it so as to be valid and enforceable to the maximum extent consistent with and possible under applicable law.

(j) *Counterparts*. This Agreement may be executed in any number of counterparts and by each of the Parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.

(k) *Headings*. All descriptive headings in this Agreement are inserted for convenience only and shall be disregarded in construing or applying any provision of this Agreement.

[*The remainder of this page is left blank intentionally.*]

**IN WITNESS WHEREOF**, each of the Parties has caused this Management Agreement to be executed on its behalf as an instrument under seal as of the date first above written by its officer or representative thereunto duly authorized.

FIFTH THIRD PROCESSING SOLUTIONS, LLC
(formerly known as FTPS Opco, LLC)

By: /s/ Charles D. Drucker
Name: Charles D. Drucker
Title: Chief Executive Officer

[SIGNATURE PAGE TO MANAGEMENT AGREEMENT]

ADVENT INTERNATIONAL CORPORATION

By: /s/ Christopher Pike
Name: Christopher Pike
Title: Vice President

[SIGNATURE PAGE TO MANAGEMENT AGREEMENT]

**Exhibit 21.1**

**SUBSIDIARIES OF VANTIV, INC.**
**(At Time of Offering)**

| Subsidiary | State or other Jurisdiction of Formation |
|---|---|
| Vantiv Holding, LLC | Delaware |
| Vaniv, LLC | Delaware |
| Vantiv Company, LLC | Indiana |
| NPC Group, Inc. | Delaware |
| National Processing Management Company | Delaware |
| National Processing Company Group, Inc. | Delaware |
| National Processing Company | Nebraska |
| Best Payment Solutions Inc. | Illinois |
| 8500 Governors Hill Drive, LLC | Delaware |
| Transactive Ecommerce Solutions, Inc. | Canada |

QuickLinks -- Click here to rapidly navigate through this document

**Exhibit 23.1**

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the use in this Registration Statement on Form S-1 of our report dated November 9, 2011 relating to the consolidated financial statements of Vantiv, Inc. (formerly known as Advent-Kong Blocker Corp.) as of and for the year ended December 31, 2010 and as of and for the six-month period ended December 31, 2009, appearing in the Prospectus, which is part of this Registration Statement.

We also consent to the reference to us under the heading "Experts" in such Prospectus.

/s/ Deloitte & Touche LLP

Cincinnati, OH
November 9, 2011

QuickLinks

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

**Exhibit 23.2**

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the use in this Registration Statement on Form S-1 of our report dated November 9, 2011 relating to the combined financial statements of Vantiv Holding, LLC (formerly known as FTPS Holding, LLC) and Transactive Ecommerce Solutions Inc. for the six-month period ended June 30, 2009 and the year ended December 31, 2008, appearing in the Prospectus, which is part of this Registration Statement.

We also consent to the reference to us under the heading "Experts" in such Prospectus.

/s/ Deloitte & Touche LLP

Cincinnati, OH
November 9, 2011

QuickLinks

[Exhibit 23.2](#)

[CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM](#)

**Exhibit 23.3**

**Consent of Independent Accountants**

We hereby consent to the use in this Registration Statement on Form S-1 of Vantiv, Inc. of our report dated April 27, 2010 relating to the consolidated statements of operations and comprehensive loss and consolidated statements of cash flows for the three years in the period ended December 31, 2009 of NPC Group, Inc. which appears in such Registration Statement. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ PricewaterhouseCoopers LLP

PricewaterhouseCoopers LLP
Houston, Texas
November 8, 2011

QuickLinks

Exhibit 23.3

Consent of Independent Accountants