UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934

Date of report (Date of earliest event reported): September 26, 2012

Tempur-Pedic International Inc.

(Exact name of registrant as specified in its charter)

Delaware	001-31922	33-1022198
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

1713 Jaggie Fox Way
Lexington, Kentucky 40511
(Address of principal executive offices) (Zip Code)

(800) 878-8889
(Registrant's telephone number, including area code)

N/A
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

Merger Agreement

On September 26, 2012, Tempur-Pedic International Inc. (the "Company"), entered into an Agreement and Plan of Merger (the "Merger Agreement") with Sealy Corporation ("Sealy"), and Silver Lightning Merger Company, a direct, wholly owned subsidiary of the Company ("Merger Sub"). The Merger Agreement provides for the acquisition of Sealy by the Company by means of a merger of the Merger Sub with and into Sealy, with Sealy being the surviving corporation (the "Surviving Corporation"). As a result of the Merger, Sealy would become a wholly owned subsidiary of the Company (the "Merger").

Subject to the terms and conditions of the Merger Agreement, at the effective time and as a result of the Merger:

- Each share of Sealy common stock (other than shares of treasury stock, shares owned by Sealy and shares with respect to which appraisal rights are properly exercised and not withdrawn), issued and outstanding immediately prior to the effective time of the Merger, will be converted into the right to receive a cash amount of $2.20 per share, without interest;
- Each option to purchase shares of Sealy common stock, whether or not vested (each a "Sealy Stock Right"), will be cancelled and converted into the right to receive a cash payment (less any applicable withholding) equal to the product obtained by multiplying (x) the total number of shares of Sealy common stock subject to such Sealy Stock Rights or to which such rights relate immediately prior to the effective time of the Merger by (y) the excess, if any, of $2.20 over the per share exercise price of such Sealy Stock Right;
- Each equity share unit issued, whether or not earned and vested in full (each a "Sealy Share Unit"), will be deemed earned and vested in full and the Surviving Corporation will pay to each grantee of a Sealy Share Unit, at or promptly after the effective time of the Merger, an amount in cash equal to $2.20 (less any applicable withholding); and
- Each restricted stock unit issued (each a "Sealy RSU"), to the extent not previously earned and vested, will (A) with respect to Sealy RSUs subject to time-based vesting, be deemed earned and vested in full and (B) with respect to Sealy RSUs subject to performance-based vesting, be deemed earned and vested as if the applicable target performance goals had been met, and, in each case, the Surviving Corporation shall pay to each grantee of a Sealy RSU, at or promptly after the effective time, an amount in cash equal to $2.20 (less any applicable withholding).

The anticipated aggregate consideration to be paid by the Company to consummate the Merger, including refinancing debt, is approximately $1.3 billion.

The closing of the transaction is subject to regulatory clearance under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and the applicable merger control laws of certain foreign jurisdictions, and other customary closing conditions.

Sealy and the Company have made certain customary representations, warranties and covenants in the Merger Agreement, including, among others, covenants that, subject to certain exceptions, (i) Sealy will conduct its business in the ordinary course consistent with past practice, and refrain from taking specified actions, during the period between the execution of the Merger Agreement and the effective time of the Merger, (ii) the Board of Directors of Sealy will recommend to its stockholders adoption of the Merger Agreement, and (iii) Sealy will not solicit, initiate, induce or knowingly encourage, facilitate or assist, any inquiry or proposal from, furnish non-public information to, participate in any discussions with, or enter into any agreement with, any person or group regarding any alternative transaction, or approve, endorse or recommend any such alternative transaction.

The Merger Agreement contains certain termination rights for both the Company and Sealy and further provides that, upon termination of the Merger Agreement under certain circumstances, Sealy may be obligated to pay the Company a termination fee of $25.0 million. In addition, if antitrust enforcement agencies either commence or inform the parties that they intend to commence an action to enjoin the Merger, (i) the Company may be required to pay Sealy a termination fee of $90.0 million if both parties elect to terminate the Merger Agreement or (ii) a termination fee of $90.0 million (or $40 million if the Company elects to terminate the Merger Agreement but Sealy does not so elect to terminate) if the Merger does not close due to a failure to receive antitrust approval in the nine months following the execution of the Merger Agreement, subject to certain extensions.

The Boards of Directors of the Company, Merger Sub and Sealy have approved the Merger and the Merger Agreement. On September 26, 2012, stockholders of Sealy holding approximately 50.55% of the outstanding capital stock of Sealy signed a written consent to the Merger and no further action of Sealy's stockholders is required.

The Merger Agreement has been included to provide stockholders with information regarding its terms. It is not intended to provide any other factual information about the Company. The Merger Agreement contains representations and warranties that the parties to the Merger Agreement made to and solely for the benefit of each other. Moreover, information concerning the subject matter of such representations and warranties may change after the date of the Merger Agreement, which subsequent information may or may not be reflected in the Company's or Sealy's public disclosures.

A copy of the Merger Agreement is filed as Exhibit 2.1 to this Report and is incorporated herein by reference. We encourage you to read the Merger Agreement for a more complete understanding of the transaction. The foregoing description of the Merger Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Merger Agreement.

Concurrently with the execution of the Merger Agreement, Sealy Holding LLC, an affiliate of Kohlberg Kravis Roberts & Co. L.P. ("Sealy Holding") signed a support agreement whereby it agrees that (i) it will not solicit, initiate, induce or knowingly encourage, facilitate or assist, any inquiry or proposal from, furnish non-public information to, participate in any discussions with, or enter into any agreement with, any person or group regarding any alternative transaction, or approve, endorse or recommend any such alternative transaction, (ii) it will convert all of its convertible notes following the Merger, (iii) it will consent to an amendment to the indenture governing the convertible notes to remove certain covenants and certain events of default and (iv) it will waive its appraisal rights with respect to the Merger. Sealy Holding controls approximately 44.54% of the issued and outstanding common stock of the Company.

Debt Commitment Letter

Concurrently, and in connection with entering into the Merger Agreement, the Company entered into a debt commitment letter (the "Debt Commitment Letter") with Bank of America, N.A. ("Bank of America") and Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), pursuant to which, subject to the conditions set forth therein, Bank of America has committed to provide to the Company (a) $1,770,000,000 in senior secured credit facilities (collectively, the "Senior Credit Facilities"), comprised of (i) a term loan A facility of $650,000,000, (ii) a term loan B facility of $770,000,000 and (iii) a revolving credit facility of $350,000,000; and (b) $350,000,000 in senior unsecured bridge loans (the "Bridge Loans, and together with the Senior Credit Facilities, the "Facilities") made available to the Company as interim financing to $350,000,000 in senior unsecured notes (the "Notes") if the Notes are not issued and sold on or prior to the date of consummation of the Merger. Merrill Lynch will act as sole and exclusive lead arranger and sole and exclusive bookrunning manager for the Facilities, subject to the rights of the Company to name certain additional arrangers, bookrunning managers, agents or co-agents acceptable to Merrill Lynch (each a "Co-Agent"). The proceeds of the Facilities will be used to finance the Merger, for the repayment, defeasance or redemption of substantially all existing indebtedness of the Company and Sealy, the costs and expenses related to the Merger and the closing of the Facilities and the ongoing working capital and other general corporate purposes of the Company after consummation of the Merger. Bank of America, Merrill Lynch and any Co-Agents and certain of each of their affiliates may have engaged in, and may in the future engage in, investment banking and other commercial dealings in the ordinary course of business with the Company and its affiliates. They have received, or may in the future receive, customary fees and commissions for these transactions.

The foregoing description of the Debt Commitment Letter is included to provide you with information regarding its terms. It does not purport to be a complete description and is qualified in its entirety by reference to the full text of the Debt Commitment Letter, which is filed as Exhibit 10.1 hereto and is incorporated herein by reference.

Cautionary Note Regarding Forward-Looking Statements. Information set forth in this Current Report on Form 8-K contains forward-looking statements that involve certain risks and uncertainties that could cause actual results to differ materially from those expressed or implied by these statements. Such forward-looking statements include, but

are not limited to, statements about the consummation of the Merger and other transactions contemplated by the Merger Agreement and the Facilities contemplated by the Debt Commitment Letter, and the Company's plans, objectives, expectations and intentions and other statements that are not historical facts. The Company cautions readers that any forward-looking information is not a guarantee of future performance and actual results could differ materially from those contained in the forward-looking information. Risks and uncertainties include, among others: the ability of the parties to consummate the Merger in a timely manner or at all; satisfaction of the conditions precedent to consummation of the Merger, including the ability to secure regulatory approvals in a timely manner or at all; that the transaction may involve unexpected costs or unexpected liabilities, including the possibility of litigation; and successful completion of anticipated financing arrangements. In addition, the transaction will require the Company to obtain significant financing. While the Company has obtained a commitment to obtain such financing, the Company's liquidity and results of operations could be materially adversely affected if such financing is not available on the terms anticipated or at all. If the Company is unable to obtain financing under its current commitments, it may be obligated to obtain financing on terms that are less favorable to the Company. Moreover, the substantial leverage resulting from such financing will subject the Company's business to additional risks and uncertainties. The risks included above are not exhaustive. The annual reports on Form 10-K, the quarterly reports on Form 10-Q, current reports on Form 8-K and other documents the Company has filed with the SEC contain additional factors that could impact the Company's business and financial performance. Any forward-looking statement speaks only as of the date on which it is made, and the Company does not undertake any obligation to update any forward-looking statements for any reason, including to reflect events or circumstances after the date on which such statements are made or to reflect the occurrence of anticipated or unanticipated events or circumstances.

Item 8.01. Other Events.

On September 27, 2012, the Company and Sealy issued a joint press release announcing the execution of the Merger Agreement. A copy of the press release is attached as Exhibit 99.1 to this Current Report on Form 8-K and incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

Exhibit No.	Description
2.1	Agreement and Plan of Merger, dated as of September 26, 2012, among Tempur-Pedic International Inc., Silver Lightning Merger Company and Sealy Corporation
10.1	Commitment Letter, dated as of September 26, 2012, among Tempur-Pedic International Inc., Bank of America, N.A. and Merrill Lynch, Pierce, Fenner & Smith Incorporated
99.1	Joint Press Release dated as of September 27, 2012 of Tempur-Pedic International Inc. and Sealy Corporation announcing the execution of a merger agreement

SIGNATURE

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

Tempur-Pedic International Inc.

Date: September 27, 2012

By: /s/ Dale E. Williams
Name: Dale E. Williams
Title: Executive Vice President and Chief Financial Officer

EXHIBIT INDEX

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Exhibit 2.1

AGREEMENT AND PLAN OF MERGER

by and among

TEMPUR-PEDIC INTERNATIONAL INC.,

SILVER LIGHTNING MERGER COMPANY

and

SEALY CORPORATION

Dated as of September 26, 2012

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AGREEMENT AND PLAN OF MERGER

This AGREEMENT AND PLAN OF MERGER (this "Agreement"), dated as of September 26, 2012, is by and among Tempur-Pedic International Inc., a Delaware corporation ("Parent"), Silver Lightning Merger Company, a Delaware corporation and a direct wholly-owned Subsidiary of Parent ("Sub"), and Sealy Corporation, a Delaware corporation (the "Company").

WHEREAS, the board of directors of the Company (the "Company Board"), by unanimous vote of all of the directors, has, upon the terms and subject to the conditions set forth in this Agreement, (i) determined that it is in the best interests of the Company and its stockholders, and declared it advisable, to enter into this Agreement and to consummate the transactions contemplated hereby, including the merger of Sub with and into the Company (the "Merger"), (ii) approved the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, including the Merger, and (iii) resolved to recommend the adoption of this Agreement by the holders of the shares of Company Common Stock;

WHEREAS, concurrently with the execution and delivery of this Agreement and as a condition to the willingness of Parent to enter into this Agreement, Sealy Holding LLC has entered into an agreement with Parent in the form attached hereto as Exhibit A; and

WHEREAS, the boards of directors of Parent and Sub, by unanimous vote of those directors, have, upon the terms and subject to the conditions set forth in this Agreement, (i) determined that it is in the best interests of their respective companies and stockholders, and declared it advisable, to enter into this Agreement and to consummate the transactions contemplated hereby and (ii) approved the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, including the Merger.

NOW, THEREFORE, in consideration of the representations, warranties, covenants and agreements contained in this Agreement, and subject to the conditions set forth herein, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I

THE MERGER

Section 1.1. The Merger. Upon the terms and subject to the conditions set forth in this Agreement, and in accordance with the General Corporation Law of the State of Delaware (the "DGCL"), Sub shall be merged with and into the Company at the Effective Time. As a result of the Merger, the separate corporate existence of Sub shall cease and the Company shall continue as the surviving corporation of the Merger (the "Surviving Corporation").

Section 1.2. Closing. Subject to the provisions of Article VII, the closing of the Merger (the "Closing") shall take place as soon as possible after, but in any event no later than the second Business Day after, satisfaction or (to the extent permitted by applicable Law and this Agreement) waiver of the conditions set forth in Article VII (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or (to the extent permitted by applicable Law and this Agreement) waiver of those conditions); *provided*, *however*, that if the Marketing Period has not ended at the time of the satisfaction or waiver of the conditions set forth in Article VII (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or (to the extent permitted by applicable Law and this Agreement) waiver of those conditions), the Closing shall occur on the date following the satisfaction or waiver of such conditions that is the earliest to occur of (a) a date during the Marketing Period to be specified by Parent on no fewer than three Business Days' notice to the Company, (b) the final day of the Marketing Period or (c) such other date as Parent and the Company may agree in writing; *provided*, *further*, that in no event shall the Closing occur prior to the Written Consent End Date. The date on which the Closing occurs is referred to in this Agreement as the "Closing Date." The Closing shall be held at the offices of Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017, and take place at 10:00 a.m., New York City time, on the Closing Date unless another place or time is agreed to by Parent and the Company.

Section 1.3. Effective Time. Subject to the provisions of this Agreement, at the Closing, the parties shall cause the Merger to be consummated by filing with the Secretary of State of the State of Delaware a certificate of merger (the "Certificate of Merger"), in such form as required by, and executed and acknowledged by the parties in accordance with, the relevant provisions of the DGCL. The Merger shall become effective upon the filing of the Certificate of Merger with the Secretary of State of the State of Delaware or at such later time (or subsequent date and time) as Parent and the Company may agree and may specify in the Certificate of Merger (the date and time the Merger becomes effective being hereinafter referred to as the "Effective Time").

Section 1.4. Effects of the Merger. The Merger shall have the effects set forth herein and in the applicable provisions of the DGCL. Without limiting the generality of the foregoing and subject thereto, at the Effective Time, all the property, rights, privileges, immunities, powers and franchises of the Company and Sub shall vest in the Surviving Corporation, and all claims, obligations, debts, liabilities and duties of the Company and Sub shall become the claims, obligations, debts, liabilities and duties of the Surviving Corporation.

Section 1.5. Certificate of Incorporation and Bylaws.

(a) At the Effective Time, the certificate of incorporation of the Company shall be amended and restated to read in its entirety as set forth in Exhibit B, and as so amended and restated, shall be the certificate of incorporation of the Surviving Corporation until thereafter amended in accordance with its terms and the terms hereof and as provided by applicable Law.

(b) The bylaws of the Company in effect at the Effective Time shall be the bylaws of the Surviving Corporation until amended in accordance with applicable Law.

Section 1.6. Directors of the Surviving Corporation. The directors of Sub immediately prior to the Effective Time shall be the initial directors of the Surviving Corporation and shall hold office until their respective successors and assigns are duly elected and qualified, or their earlier death, resignation or removal.

Section 1.7. Officers of the Surviving Corporation. The officers of the Company immediately prior to the Effective Time shall be the officers of the Surviving Corporation.

ARTICLE II

EFFECT OF THE MERGER ON THE CAPITAL STOCK OF THE CONSTITUENT CORPORATIONS

Section 2.1. Effect on Capital Stock. At the Effective Time, by virtue of the Merger and without any action on the part of Parent, Sub, the Company or any holder of any of the securities of the Company or Sub:

(a) Conversion of Company Common Stock.

(i) Each share of common stock, par value $0.01 per share, of the Company (the "Company Common Stock") issued and outstanding immediately prior to the Effective Time (other than (A) shares of Company Common Stock described in Section 2.1(b) and (B) Dissenting Shares) shall be converted into the right to receive $2.20 in cash (the "Merger Consideration") payable to the holder thereof, without interest, in the manner provided in Section 2.3.

(ii) At the Effective Time, all issued and outstanding shares of Company Common Stock converted into the right to receive the Merger Consideration pursuant to this Section 2.1(a) shall no longer be outstanding and shall automatically be cancelled and shall cease to exist, and each holder of (x) a certificate that immediately prior to the Effective Time represented any shares of Company Common Stock converted into the right to receive the Merger Consideration pursuant to this Section 2.1(a) (a "Certificate") or (y) any shares of Company Common Stock converted into the right to receive the Merger Consideration pursuant to this Section 2.1(a) that are represented by book-entry ("Book-Entry Shares") shall cease to have any rights with respect thereto, except the right to receive the Merger Consideration to

which such holder is entitled pursuant to this Section 2.1(a), in each case without any interest thereon, in consideration therefor upon surrender of such Certificate in accordance with Section 2.3, in the case of certificated shares, and automatically, in the case of Book-Entry Shares.

(b) Cancellation of Treasury Stock and Parent-Owned Stock. Each issued and outstanding share of Company Common Stock that is directly owned by the Company or Parent immediately prior to the Effective Time shall automatically be cancelled and shall cease to exist, and no consideration shall be delivered in exchange therefor. Each issued and outstanding share of Company Common Stock that is directly owned by any direct or indirect wholly-owned Subsidiaries of the Company or Parent shall not represent the right to receive the Merger Consideration and shall, at the election of Parent, either (i) convert into shares of a class of common stock of the Surviving Corporation designated by Parent in connection with the Merger or (ii) be cancelled.

(c) Capital Stock of Sub. Each issued and outstanding share of capital stock of Sub outstanding immediately prior to the Effective Time shall be converted into one validly issued, fully paid and nonassessable share of common stock of the Surviving Corporation and shall constitute the only outstanding shares of capital stock of the Surviving Corporation.

(d) Treatment of Stock Options; Equity Share Units; RSUs.

(i) Immediately prior to the Effective Time, each then-outstanding option to purchase shares of Company Common Stock (a "Company Stock Option") granted under the 1998 Stock Option Plan of Sealy Corporation, the 2004 Stock Option Plan for Key Employees Sealy Corporation and its Subsidiaries, the Amended and Restated Equity Plan for Key Employees of Sealy Corporation and its Subsidiaries, the Second Amended and Restated Equity Plan for Key Employees of Sealy Corporation and its Subsidiaries or the Sealy Directors' Deferred Compensation Plan (collectively, the "Company Stock Plans"), whether or not vested or exercisable, shall become fully vested and exercisable as of, and contingent upon, the Effective Time, and shall thereupon be converted into the right to receive, and cancelled in consideration for the payment, at or promptly after the Effective Time, an amount in cash equal to the product of (A) the excess, if any, of the Merger Consideration over the applicable exercise price per share of Company Common Stock of such Company Stock Option and (B) the number of shares of Company Common Stock such holder had the right to purchase if such Company Stock Options were fully vested and such holder had exercised such Company Stock Option in full immediately prior to the Effective Time. As of, and contingent upon, the Effective Time, the Company shall take all actions required under the applicable Company Stock Plan and related award agreement granting any Company Stock Option to cause any such Company Stock Options that have an exercise price per share of Company Common Stock which is equal to or greater than the Merger Consideration to be cancelled without further payment.

(ii) Immediately prior to the Effective Time, each then-outstanding equity share unit issued under the Sealy Directors' Deferred Compensation Plan (each, an "Equity Share Unit") shall to the extent not previously earned and vested, contingent upon the Effective Time, be deemed earned and vested in full pursuant to the terms of the applicable award document and Company Stock Plan pursuant to which such Equity Share Unit has been granted, and the Surviving Corporation shall pay to each grantee of each Equity Share Unit, at or promptly after the Effective Time, an amount in cash equal to the Merger Consideration for each such Equity Share Unit.

(iii) Immediately prior to the Effective Time, each then-outstanding restricted stock unit ("RSU") issued under the Second Amended and Restated Equity Plan for Key Employees of Sealy Corporation and its Subsidiaries shall, to the extent not previously earned and vested, contingent upon the Effective Time, be deemed earned and vested in full (including with respect to any additional RSUs that accrete, pro rata through the Effective Time, pursuant to the Accretion Terms (as defined in the applicable RSU award agreement) if applicable, of a given RSU and, the Surviving Corporation shall pay to each grantee of each such vested RSU, at or promptly after the Effective Time, an amount in cash equal to the Merger Consideration for each such RSU; *provided*, *however*, that notwithstanding anything herein to the

contrary, all amounts payable in respect of a RSU will be paid in accordance with the terms of the Company Stock Plans and the applicable award agreement, to the extent (A) necessary to avoid the imposition of any additional Taxes or penalties in respect thereof pursuant to Section 409A of Code, or (B) required under a payment election made by an individual award holder in respect of the applicable RSU.

(iv) Notwithstanding the foregoing, any amounts payable under this Section 2.1(d) shall be subject to applicable withholding taxes as provided in Section 2.3(f).

(e) Dissenting Shares.

(i) Such shares of Company Common Stock with respect to which appraisal of the fair value of such shares of Company Common Stock shall have been properly demanded in accordance with Section 262 of the DGCL (the "Dissenting Shares") shall not be converted into the right to receive the Merger Consideration at or after the Effective Time, and the holders thereof shall be entitled to only such rights as are granted by Section 262 of the DGCL; *provided*, *however*, that if any stockholder of the Company shall fail to perfect or shall effectively waive, withdraw or lose such stockholder's rights under Section 262 of the DGCL, such stockholder's Dissenting Shares in respect of which the stockholder would otherwise be entitled to receive payment under Section 262 of the DGCL shall thereupon be deemed to have been converted into the right (if otherwise entitled to receive Merger Consideration pursuant to Section 2.1(a)) to receive the Merger Consideration in accordance with Section 2.1(a) (payable without any interest thereon).

(ii) The Company shall give Parent prompt notice of any written demand for appraisal pursuant to Section 262 of the DGCL and any written withdrawals of such notices and any other instruments or notices delivered to the Company prior to the Effective Time pursuant to Section 262 of the DGCL. The Company shall have the right to direct negotiations and proceedings with respect to demands for appraisal under Section 262 of the DGCL, and Parent shall have the right to participate in such negotiations and proceedings. Prior to the Effective Time, neither the Company nor Parent shall, except with the prior written consent of the other party or as otherwise required by an Order, (A) make any payment or other commitment with respect to any such exercise of appraisal rights, (B) offer to settle or settle any such rights, (C) admit (in writing or otherwise) any liability of the Company with respect to any holder of Dissenting Shares, or (D) waive any failure to timely deliver a written demand for appraisal or timely take any other action to perfect appraisal rights in accordance with the DGCL.

Section 2.2. Treatment of Convertible Notes. Pursuant to the terms of the Convertible Notes Indenture, after the Effective Time and prior to the expiration of the Make-Whole Period (as defined in the Convertible Notes Indenture), each holder of the Convertible Notes, to the extent such holder has not exercised its right to require the Surviving Corporation to repurchase such holder's Convertible Notes in accordance with the terms of the Convertible Notes and the Convertible Notes Indenture, will be entitled to convert such holder's Convertible Notes into the right to receive an amount in cash for each $25.00 principal amount of Convertible Notes held by such holder as set forth in (and to be calculated in accordance with the terms of) the Convertible Notes Indenture (such amount, the "Convertible Note Consideration"). The Surviving Corporation (directly or through the Paying Agent) shall pay to each holder of Convertible Notes that so converts the Convertible Note Consideration as soon as practicable following such conversion in accordance with the terms of the Convertible Notes Indenture.

Section 2.3. Exchange of Shares and Convertible Notes.

(a) Prior to the Effective Time, Parent and Sub shall enter into an agreement (in a form reasonably acceptable to the Company) with a paying agent reasonably acceptable to the Company to act as agent (the "Paying Agent") of the stockholders of the Company and the holders of Convertible Notes for (i) the payment of the Merger Consideration to which the stockholders of the Company shall become entitled pursuant to Section 2.1 and (ii) the payment of the Convertible Note Consideration to which Convertible Note holders shall become

entitled pursuant to Section 2.2 and pursuant to the terms of the Convertible Notes Indenture. At or immediately following the Effective Time, Parent shall deposit (or cause to be deposited) with the Paying Agent an amount in cash sufficient to make all payments pursuant to Section 2.1 and Section 2.2 (collectively, the "Payment Fund"). The Payment Fund shall not be used for any purpose other than to fund payments due pursuant to this Article II (or otherwise due to a holder of Convertible Notes in respect of such holder's Convertible Notes), but the Payment Fund may be invested by the Paying Agent as directed by Parent or Sub, *provided* that (i) no such investment or losses thereon shall relieve Parent, the Surviving Corporation or the Paying Agent from making the payments required by this Article II or affect the amount of Merger Consideration payable to the holders of Company Common Stock or the amount of Convertible Note Consideration payable to Convertible Note holders, and following any losses Parent or Sub shall promptly provide additional funds to the Paying Agent to add to the Payment Fund for the benefit of the stockholders of the Company and Convertible Note holders in the amount of any such losses and (ii) such investments shall be in short term obligations of the United States of America with maturities of no more than thirty calendar days, short term obligations guaranteed by the United States of America, commercial paper obligations rated A-1 or P-1 or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation, respectively, or money market funds having a rating in the highest investment category granted by a recognized credit rating agency at the time of investment or in one or more other investment categories proposed by Parent and approved by the Company prior to the Effective Time. Any interest or income produced by such investments will be payable to the Surviving Corporation or Parent, as Parent directs.

(b) Promptly after the Effective Time and in any event not later than the third Business Day following the Effective Time, the Surviving Corporation shall cause to be mailed to each record holder, as of the Effective Time, of an outstanding Certificate or outstanding Certificates which have converted into the right to receive the Merger Consideration with respect thereto pursuant to Section 2.1, a form of letter of transmittal (which shall be in customary form and shall specify that delivery shall be effected, and risk of loss and title to the Certificates held by such Person shall pass, only upon proper delivery of Certificates to the Paying Agent) and instructions for use in effecting the surrender of the Certificates. Upon surrender to the Paying Agent of a Certificate, together with such letter of transmittal, duly completed and validly executed in accordance with the instructions thereto, the holder of such Certificate shall be entitled to receive in exchange therefor the Merger Consideration for each share of Company Common Stock formerly represented by such Certificate and such Certificate shall then be cancelled. Promptly after the Effective Time and in any event not later than the third Business Day following the Effective Time, the Paying Agent shall issue and deliver to each holder of Book-Entry Shares a check or wire transfer for the amount of cash that such holder is entitled to receive pursuant to Section 2.1 of this Agreement in respect of such Book-Entry Shares, without such holder being required to deliver a Certificate or an executed letter of transmittal to the Paying Agent, and such Book-Entry Shares shall then be cancelled. No interest shall be paid or accrued for the benefit of holders of the Certificates or Book-Entry Shares on the Merger Consideration payable in respect of the Certificates or Book-Entry Shares. In the event of a transfer of ownership of shares of Company Common Stock that is not registered in the transfer records of the Company, it shall be a condition of payment that any Certificate surrendered shall be properly endorsed or shall be otherwise in proper form for transfer or any Book-Entry Share shall be properly transferred and that the Person requesting payment shall have paid any transfer and other Taxes required by reason of the payment of the Merger Consideration to a Person other than the registered holder of the Certificate or Book-Entry Share surrendered or shall have established to the satisfaction of Parent that such Tax either has been paid or is not applicable. Until surrendered as contemplated by this Section 2.3(b), each Certificate shall be deemed at any time after the Effective Time to represent only the right to receive upon such surrender the Merger Consideration as contemplated by this Article II.

(c) Prior to the Effective Time, Parent and the Company shall cooperate to establish procedures with the Paying Agent and the Depository Trust Company ("DTC") to ensure that (i) if the Closing occurs at or prior to 11:30 a.m. (New York City time) on the Closing Date, the Paying Agent will transmit to DTC or its nominees on the Closing Date an amount in cash in immediately available funds equal to the number of shares of Company Common Stock held of record by DTC or such nominee immediately prior to the Effective Time multiplied by the Merger Consideration (such amount, the "DTC Payment"), and (ii) if the Closing occurs after 11:30 a.m. (New York City time) on the Closing Date, the Paying Agent will transmit to DTC or its nominees on the first Business Day after the Closing Date an amount in cash in immediately available funds equal to the DTC Payment.

(d) At any time following the date that is (i) forty Business Days after the Effective Time, Parent shall be entitled to require the Paying Agent to deliver to it or its designees any funds (including any interest received with respect thereto) that have been made available to the Paying Agent for payment of the Convertible Note Consideration and that have not been disbursed to holders of Convertible Notes and (ii) twelve months after the Effective Time, Parent shall be entitled to require the Paying Agent to deliver to it or its designee any funds (including any interest received with respect thereto) that have been made available to the Paying Agent for payment of the Merger Consideration and that have not been disbursed to holders of Certificates or Book-Entry Shares and thereafter such holders shall be entitled to look to the Surviving Corporation (subject to abandoned property, escheat or other similar Laws) only as general creditors thereof with respect to the Merger Consideration payable upon due surrender of their Certificates and Book-Entry Shares. The Surviving Corporation shall pay all charges and expenses, including those of the Paying Agent, in connection with the exchange of shares of Company Common Stock for the Merger Consideration. Notwithstanding any provision of this Agreement to the contrary, none of the parties hereto, the Surviving Corporation or the Paying Agent shall be liable to any Person for Merger Consideration delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law. All cash paid upon the surrender of Certificates in accordance with the terms of this Article II shall be deemed to have been paid in full satisfaction of all rights pertaining to the shares of Company Common Stock formerly represented by such Certificates.

(e) At the Effective Time, the stock transfer books of the Company shall be closed and thereafter there shall be no further registration of transfers of shares of Company Common Stock that were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates are presented to the Surviving Corporation for transfer, subject to applicable Law in the case of Dissenting Shares, such Certificates shall be cancelled and exchanged for the consideration provided for, and in accordance with the procedures set forth in, this Article II.

(f) Notwithstanding anything in this Agreement to the contrary, Parent, the Surviving Corporation and the Paying Agent shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to this Agreement any amount as may be required to be deducted and withheld with respect to the making of such payment under applicable Tax Laws. To the extent that amounts are so withheld by Parent, the Surviving Corporation or the Paying Agent, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of whom such deduction and withholding was made by Parent, the Surviving Corporation or the Paying Agent.

(g) In the event that any Certificate shall have been lost, stolen or destroyed, upon the holder's compliance with the replacement requirements established by the Paying Agent, including making an affidavit to that effect and, if necessary, the posting by the holder of a bond in customary amount as indemnity against any claim that may be made against it or the Surviving Corporation with respect to the Certificate, the Paying Agent will deliver in exchange for the lost, stolen or destroyed Certificate the applicable Merger Consideration payable in respect of the shares of Company Common Stock represented by such Certificate pursuant to this Article II.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as set forth in (a) the Company SEC Documents filed with the SEC and made publicly available on or after November 29, 2010 and at least three Business Days prior to the date of this Agreement (excluding, in each case, any disclosures set forth in any risk factor section or in any similar section to the extent that they are forward-looking statements or cautionary, predictive or forward-looking in nature); *provided*, *however*, that the exception provided for in this clause (a) shall be applied with respect to a particular representation or warranty if, and only if, the nature and content of the applicable disclosure in any such document is reasonably specific as to the matters and items which are the subject of such representation or warranty, or (b) the disclosure letter delivered by the Company to Parent concurrently with the execution of this Agreement (the "Company Disclosure Letter") (it being understood and agreed that disclosure of any event, item or occurrence set forth in the Company Disclosure Letter shall apply to, qualify or modify the Section or subsection to which it corresponds and each of

the other Sections or subsections of this Agreement to the extent the relevance of such disclosure to such other Section or subsection is reasonably apparent from the text and nature of such disclosure), the Company hereby represents and warrants to Parent and Sub as set forth in this Article III.

Section 3.1. Qualification; Organization. The Company is duly incorporated, validly existing and in good standing under the Laws of the State of Delaware, and has all requisite corporate power and authority to own, lease, license and operate its assets, rights and properties and to carry on the Business as currently conducted. The Company is duly licensed and qualified to do business and is in good standing (or equivalent status) in each jurisdiction where the character of its properties owned or leased or the nature of its activities make such qualification necessary, except where the failure to be so qualified, licensed or in good standing (or equivalent status) has not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. The Company has made available to Parent copies of the Organizational Documents of the Company, and each such copy is true, correct and complete, and each such instrument is in full force and effect. The Company is not in material violation of its Organizational Documents.

Section 3.2. Authority.

(a) The Company has all requisite corporate power and authority to enter into this Agreement and, subject to obtaining the Company Stockholder Approval, to consummate the transactions contemplated hereby, including the Merger. The execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary and proper corporate action on the part of the Company and no other corporate action on the part of the Company is necessary to authorize the execution, delivery and performance by the Company of this Agreement and the consummation by it of the transactions contemplated hereby, including the Merger (other than the adoption of this Agreement by the affirmative vote or written consent of the holders of at least a majority of the outstanding shares of Company Common Stock (the "Company Stockholder Approval") and the filing with the Secretary of State of the State of Delaware of the Certificate of Merger as required by the DGCL). The affirmative vote or written consent of the holders of at least a majority of the outstanding shares of Company Common Stock is the only vote of the holders of any class or series of capital stock of the Company necessary to adopt this Agreement and approve and authorize the Merger and the other transactions contemplated by this Agreement.

(b) This Agreement has been duly executed and delivered by the Company and, assuming the valid execution and delivery by the other parties hereto, constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws relating to or affecting the enforcement of creditors' rights in general and by general principles of equity (regardless of whether enforcement is sought in equity or at Law).

(c) The Company Board has unanimously (i) determined that it is in the best interests of the Company and its stockholders, and declared it advisable, to enter into this Agreement and to consummate the transactions contemplated hereby, including the Merger, (ii) approved the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, including the Merger, upon the terms and subject to the conditions set forth in this Agreement and (iii) resolved to recommend that the holders of shares of Company Common Stock adopt this Agreement (the "Company Board Recommendation").

Section 3.3. Non-Contravention. The execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and obligations hereunder and the consummation by the Company of the transactions contemplated hereby do not and will not (a) violate or conflict with any provision of the Organizational Documents of the Company or any of its Subsidiaries, (b) except as set forth in Section 3.3 of the Company Disclosure Letter, violate, conflict with, or result in the breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration under, any Material Contract or any other Contract to which the Company or any of its Subsidiaries is a party or by which any of their assets are bound, (c) subject to obtaining the Company Stockholder Approval, violate or conflict with in any

material respect any Law or Order applicable to the Company or any of its Subsidiaries or by which any of their properties, rights or assets are bound, or (d) result in the creation of any Lien (other than Permitted Liens) upon any of the assets, rights or properties of the Company or any of its Subsidiaries, except, in the case of each of clauses (b), (c) and (d) above, for such violations, conflicts, breaches, defaults, terminations, accelerations or Liens that have not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 3.4. Governmental Approvals. The execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and obligations hereunder and the consummation by the Company of the transactions contemplated hereby do not and will not require any Consent of any governmental or regulatory (including stock exchange) authority, agency, court or other judicial body, commission or other governmental body (each, a "Governmental Entity"), except for (a) applicable requirements of the Exchange Act (including the filing of the Information Statement) and state securities, takeover and "blue sky" laws, (b) the filing of a premerger notification and report form by the Company under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), and the filings and receipt, termination or expiration, as applicable, of such other approvals or waiting periods as may be required under any other applicable competition, merger control, antitrust or similar Law of any jurisdiction ("Foreign Merger Control Laws"), (c) the filing with the Secretary of State of the State of Delaware of the Certificate of Merger as required by the DGCL and (d) any such Consent the failure of which to make or obtain would not (i) prevent or materially delay the Company from performing its obligations under this Agreement in any material respect or (ii) reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. There are no Anti-Takeover provisions in the Company's Organizational Documents.

Section 3.5. Capitalization.

(a) The authorized capital stock of the Company consists of (i) 600,000,000 shares of Company Common Stock and (ii) 50,000,000 shares of preferred stock, par value $0.01 per share (the "Company Preferred Stock").

(b) As of September 25, 2012 (the "Capitalization Date"), (i) 104,692,575 shares of Company Common Stock were issued and outstanding (which number includes 610,164 shares of Company Common Stock held by the Company in its treasury) and (ii) no shares of Company Preferred Stock were issued and outstanding. Since the Capitalization Date to the date of this Agreement, there have been no issuances of capital stock of the Company except upon exercise of Company Stock Options described in Section 3.5(c). The outstanding shares of Company Common Stock have been duly authorized and validly issued and are fully paid and nonassessable and free of any preemptive rights and were issued in compliance in all material respects with all applicable federal and state securities laws.

(c) As of the Capitalization Date, 6,464,456 shares of Company Common Stock were reserved for issuance under the Company Stock Plans in connection with the exercise of outstanding Company Stock Options. As of the Capitalization Date, there were outstanding Company Stock Options to purchase 6,464,456 shares of Company Common Stock. Section 3.5(c) of the Company Disclosure Letter sets forth, with respect to each tranche of Company Stock Options, the Company Stock Plan under which such tranche of Company Stock Options was granted, the number of shares of Company Common Stock issuable under such tranche of Company Stock Options and the exercise price therefor. Since the Capitalization Date, the Company has not granted, committed to grant or otherwise created or assumed any obligation with respect to any Company Stock Options, other than as permitted by Section 5.1(b). All grants of Company Stock Options were validly issued and properly approved by the Company Board (or a committee thereof) in accordance with all applicable Law. With respect to the Company Stock Options, (i) each grant of a Company Stock Option was duly authorized no later than the date on which the grant of such Company Stock Option was by its terms to be effective (the "Grant Date") by all necessary corporate action, including, as applicable, approval by the Company Board (or a duly constituted and authorized committee thereof), or a duly authorized delegate thereof, and any required shareholder approval by the necessary number of votes or written consents, and the award agreement governing such grant (if any) was duly executed and delivered by each party thereto no later than the Grant Date, (ii) each such grant was made in

accordance with the terms of the applicable Company Stock Plan, the Exchange Act and all other applicable Law, including the rules of the New York Stock Exchange, and (iii) the per share exercise price of each Company Stock Option was not less than the fair market value of a share of Company Common Stock on the applicable Grant Date. The Company has not granted, and there is no and has been no Company policy or practice to grant, Company Stock Options prior to, or otherwise coordinate the grant of Company Stock Options with, the release or other public announcement of material information regarding the Company or any of its Subsidiaries or their financial results or prospects. No outstanding Company Stock Option, RSU, or Equity Share Unit has been granted pursuant to an agreement which contains terms that conflict with the terms set forth on Section 3.5(c), (d), or (e) and the award agreements set forth on Section 3.15(a) of the Company Disclosure Letter.

(d) As of the Capitalization Date, an aggregate of 624,514.5454 Equity Share Units were outstanding. Section 3.5(d) of the Company Disclosure Letter sets forth, with respect to the Equity Share Units that are outstanding, the Company Stock Plan under which such Equity Share Units were granted, the number of units issuable under such Equity Share Units and the total number of outstanding Equity Share Units. Since the Capitalization Date, the Company has not granted, committed to grant or otherwise created or assumed any obligation with respect to any Equity Share Unit, other than as permitted by Section 5.1(b). All grants of Equity Share Units were validly issued and properly approved by the Company Board (or a committee thereof) in accordance with all applicable Law.

(e) As of the Capitalization Date, an aggregate of 5,988,009 RSUs were outstanding. Section 3.5(e) of the Company Disclosure Letter sets forth, with respect to each tranche of such RSUs, the Company Stock Plan under which such tranche of RSUs was granted, the number of units issuable under such tranche of RSUs and the total number of such unvested RSUs. Since the Capitalization Date, the Company has not granted, committed to grant or otherwise created or assumed any obligation with respect to any RSU, other than as permitted by Section 5.1(b). All grants of RSUs were validly issued and properly approved by the Company Board (or a committee thereof) in accordance with all applicable Law.

(f) As of the Capitalization Date, 221,158,563 shares of Company Common Stock were reserved and available for issuance upon conversion of the Company Convertible Notes.

(g) Except as set forth in this Section 3.5 or Section 3.5(g) of the Company Disclosure Letter, as of the date of this Agreement, except with respect to shares of Company Common Stock issued upon the exercise of Company Stock Options or issued upon the vesting and/or settlement of Equity Share Units and/or RSUs, in each case, subsequent to the Capitalization Date, there were no (i) outstanding shares of capital stock or other voting securities of the Company, (ii) securities of the Company or its Subsidiaries convertible into or exchangeable for shares of capital stock or voting securities of the Company, (iii) options, warrants, calls, phantom stock or other rights to acquire from the Company or its Subsidiaries, or obligation of the Company or its Subsidiaries to issue, any capital stock, voting securities or securities convertible into or exchangeable for capital stock or voting securities of the Company (the items in clauses (i), (ii) and (iii) are referred to collectively as "Company Securities"), or (iv) outstanding obligations of the Company or any Subsidiary of the Company to repurchase, redeem or otherwise acquire any Company Securities. Except (x) as set forth in Section 3.5(g) of the Company Disclosure Letter or (y) in connection with the repurchase or acquisition of Company Common Stock pursuant to the terms of Company Stock Plans, neither the Company nor any of its Subsidiaries is a party to any Contract that (i) obligates the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any Company Securities, (ii) relates to the voting or transfer of, requires registration of, or grants any preemptive rights, anti-dilutive rights, rights of first refusal or other similar rights with respect to, any Company Securities or (iii) otherwise relates to, creates, establishes or defines the terms and conditions of, any Company Securities. There are no director, independent contractor, or employee stock incentive plans or arrangements of the Company, other than the Company Stock Plans, under which any Company Securities are outstanding.

Section 3.6. Subsidiaries; Joint Ventures.

(a) All equity interests of the Company's Subsidiaries are owned by the Company or another wholly-owned Subsidiary of the Company (other than nominal director or nominating shares issued by foreign

Subsidiaries) free and clear of all Liens (other than Permitted Liens and Liens arising under applicable securities laws). Except as provided in Section 3.6(a) of the Company Disclosure Letter, as of the date hereof, except for the Company's Subsidiaries, the Company does not own any capital stock of or other equity interest in, or any interest convertible into or exercisable or exchangeable for any capital stock of or other equity interest in, any other Person. Each of the outstanding equity interests of each of the Company's Subsidiaries is duly authorized, validly issued, fully paid and nonassessable (in each case, to the extent applicable) and not subject to preemptive or similar rights other than any rights that may accrue in favor of the Company or its wholly-owned Subsidiaries. Section 3.6(a) of the Company Disclosure Letter sets forth each Subsidiary of the Company as of the date hereof. There are no outstanding (i) securities of the Company or its Subsidiaries convertible into or exchangeable for shares of capital stock or voting securities of the Company's Subsidiaries or (ii) options or other rights to acquire from the Company's Subsidiaries, and no obligation of the Company's Subsidiaries to issue, any capital stock, voting securities or securities convertible into or exchangeable for capital stock or voting securities of the Company's Subsidiaries.

(b) Except as set forth in Section 3.6(b) of the Company Disclosure Letter, the Company or its Subsidiaries own all of the outstanding shares of capital stock of, and other equity or voting securities in each Joint Venture, free and clear of all Liens (other than Permitted Liens and Liens arising under applicable securities laws). For each Joint Venture indicated in Section 3.6(b) of the Company Disclosure Letter, the Company has made available to Parent true and correct copies of (i) the Organizational Documents of such Joint Venture which were approved by the Company (ii) certain books and records of such Joint Venture evidencing the Company's direct or indirect ownership interest in such Joint Venture and the operative agreement for such Joint Venture which was approved by the Company. To the knowledge of the Company, except as set forth in Section 3.6(b) of the Company Disclosure Letter, there are no outstanding options or other rights to acquire from any of the Joint Ventures, and no obligation of the Joint Ventures to issue, any capital stock, voting securities or securities convertible into or exchangeable for capital stock or voting securities of any of the Joint Ventures.

Section 3.7. Company SEC Documents and Financial Statements; No Undisclosed Liabilities.

(a) The Company has filed or furnished (as applicable) with the Securities and Exchange Commission (the "SEC") all forms, reports, schedules, statements and other documents required by it to be filed or furnished (as applicable) since and including November 30, 2009 under the Exchange Act or the Securities Act of 1933, as amended (together with the rules and regulations promulgated thereunder, the "Securities Act") (all such forms, reports, schedules, statements and other documents filed by the Company with the SEC since November 30, 2009, together with all amendments thereto and including all exhibits and schedules thereto and documents incorporated by reference therein, collectively, the "Company SEC Documents"). Each of the Company SEC Documents, as of its respective date, or if amended prior to the date hereof, as of the date of such amendment, complied as to form in all material respects with the applicable requirements of the Securities Act or the Exchange Act, as the case may be, each as in effect on the date so filed. As of their respective filing dates or, in the case of Company SEC Documents that are registration statements filed pursuant to the Securities Act, as of their respective effective dates, the Company SEC Documents did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading, except to the extent that the information in such Company SEC Document has been amended or superseded by a later Company SEC Document filed prior to the date hereof.

(b) The consolidated financial statements (including all related notes and schedules) of the Company and its Subsidiaries included in the Company SEC Documents present fairly in all material respects the consolidated financial position of the Company and its Subsidiaries, as at the respective dates thereof, and the consolidated results of their operations and their cash flows for the respective periods then ended (subject, in the case of the unaudited statements, to normal year-end or period-end adjustments and to any other adjustments described therein, including the notes thereto) and were prepared in conformity with United States generally accepted accounting principles ("GAAP") (except, in the case of the unaudited statements, as permitted by the SEC) applied on a consistent basis during the periods involved (except as may be expressly indicated therein or in the notes thereto). No Subsidiary of the Company is subject to periodic reporting requirements of the Exchange Act.

(c) The Company maintains disclosure controls and procedures required by Rule 13a-15 or 15d-15 under the Exchange Act. Such disclosure controls and procedures are designed to ensure that information required to be disclosed by the Company in reports filed or submitted under the Exchange Act (i) is recorded, processed, summarized and reported, within the time periods specified in the rules and forms of the SEC and (ii) is accumulated and communicated to the Company's management, including its principal executive officer and its principal financial officer, as appropriate to allow timely decisions regarding disclosure. Since November 30, 2009, the Company has disclosed to the Company's auditors and the audit committee of the Company Board (A) any significant deficiencies and material weaknesses of which it became aware in the design or operation of its internal controls over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) that are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, of which it became aware that involves management or other employees who have a significant role in the Company's internal control over financial reporting. The Company has made available to Parent all such disclosures made by management to the Company's auditors and audit committee from November 30, 2009 to the date of this Agreement. Since November 30, 2009, none of the independent public accountants of the Company or any Subsidiary of the Company has resigned or been dismissed as independent public accountant of the Company or any Subsidiary of the Company as a result of or in connection with any disagreement with the Company or any Subsidiary of the Company on a matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure. Since November 30, 2009, neither the Company nor any of its Subsidiaries has made any prohibited loans to any executive officer of the Company (as defined in Rule 3b-7 under the Exchange Act) or director of the Company. Since November 30, 2009, subject to any applicable grace periods, the Company has been and is in compliance in all material respects with the applicable provisions of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act").

(d) Except (i) as reflected, accrued or reserved against in (x) the Company's audited consolidated balance sheet as of November 27, 2011 (or the notes thereto) included in the Company's Annual Report on Form 10-K filed prior to the date of this Agreement for the fiscal year ended November 27, 2011 and (y) the Company's consolidated balance sheet as of May 27, 2012 (or the notes thereto) included in the Company's Quarterly Report on Form 10-Q filed prior to the date of this Agreement for the fiscal quarter ended May 27, 2012, (ii) for liabilities or obligations which have been discharged or paid in full prior to the date of this Agreement, (iii) for liabilities or obligations incurred in the ordinary course of business consistent with past practice since May 27, 2012 which have not, individually or in the aggregate, had and would not reasonably be expected to have a Company Material Adverse Effect, (iv) for liabilities incurred in the ordinary course of business consistent with past practice under the terms of any Contracts (other than liabilities arising from or related to (A) any breach or default thereof or (B) the payment of liquidated damages) binding upon the Company or any of its Subsidiaries, which liabilities, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect and (v) for liabilities or obligations incurred pursuant to the transactions contemplated by this Agreement, neither the Company nor any of its Subsidiaries has any liabilities, commitments or obligations, asserted or unasserted, known or unknown, absolute or contingent, whether or not accrued, matured or un-matured, other than those which have not, individually or in the aggregate, had and would not reasonably be expected to have a Company Material Adverse Effect.

Section 3.8. Absence of Certain Changes.

(a) Since November 28, 2011 through the date hereof, the Business has been conducted, in all material respects, in the ordinary course consistent with past practice.

(b) Since November 28, 2011, there has not been any event, change, occurrence, development or effect which has had or would be reasonably expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(c) Since November 28, 2011 through the date hereof, except as set forth in Section 3.8 of the Company Disclosure Letter, neither the Company nor any of its Subsidiaries has taken any action that, if taken after the date of this Agreement, would require Parent's consent pursuant to Sections 5.1(b)(iii), 5.1(b)(v), 5.1(b)(vi), 5.1(b)(xi) or 5.1(b)(xii).

Section 3.9. Tax Matters. Except as set forth in Section 3.9 of the Company Disclosure Letter, and except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (a) all Tax Returns required to be filed by the Company and its Subsidiaries prior to the date hereof have been filed (except those under valid extension) and are true, correct and complete in all material respects, (b) all Taxes of the Company and its Subsidiaries that are due and payable (whether or not shown on such Tax Returns) have been timely paid in full or, where payment is not yet due, adequately provided for on the most recent financial statements included in the Company SEC Documents filed prior to the date hereof, (c) no deficiencies for any Taxes have been proposed or assessed in writing against or with respect to any Taxes of the Company or any of its Subsidiaries, and there is no outstanding audit, assessment, dispute or claim concerning any Tax liability of the Company or any of its Subsidiaries pending or raised by an authority in writing, (d) no written claim has ever been made by any Governmental Entity in a jurisdiction where neither the Company nor any of its Subsidiaries files Tax Returns that it is or may be subject to taxation by that jurisdiction, (e) there are no Liens for Taxes (other than Taxes not yet due and payable or Taxes being contested in good faith) upon any of the assets of the Company or any of its Subsidiaries, (f) neither the Company nor any of its Subsidiaries (i) has been a member of an affiliated group filing a consolidated federal income Tax return (other than a group the common parent of which was the Company), (ii) has any liability for the Taxes of any Person (other than the Company, or any Subsidiary of the Company) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law) or as a transferee or successor, by contract, or otherwise or (iii) is a party to or is bound by any Tax sharing, allocation or indemnification agreement or arrangement (other than such an agreement or arrangement the parties to which consist exclusively of the Company and its Subsidiaries), (g) neither the Company nor any of its Subsidiaries has been either a "distributing corporation" or a "controlled corporation" in a distribution occurring during the last two years in which the parties to such distribution treated the distribution as one to which Section 355 of the Code is applicable, (h) all Taxes required to be withheld, collected or deposited by or with respect to Company and each of its Subsidiaries have been timely withheld, collected or deposited as the case may be, and to the extent required, have been paid to the relevant taxing authority, (i) no closing agreement pursuant to Section 7121 of the Code (or any similar provision of state, local or foreign law) has been entered into by or with respect to the Company or any of its Subsidiaries, and no taxing authority has issued to the Company or any of its Subsidiaries any ruling which has continuing effect, (j) as of the date of this Agreement, neither the Company nor any of its Subsidiaries has granted any waiver of any federal, state, local or foreign statute of limitations with respect to, or any extension of a period for the assessment of, any material income Tax, in each case, that is currently in effect, (k) neither the Company nor any of its Subsidiaries has agreed or is required to make any adjustments pursuant to Section 481(a) of the Code or any similar provision of state, local or foreign law by reason of a change in accounting method initiated by it or any other relevant party and neither the Company nor any of its Subsidiaries has received any notification in writing that the IRS has proposed any such adjustment or change in accounting method, nor has any application pending with any Governmental Entity requesting permission for any changes in accounting methods that relate to the business or assets of the Company or any of its Subsidiaries, (l) neither the Company nor any of its Subsidiaries will be required to include amounts in income, or exclude items of deduction, in a taxable period beginning after the Closing Date as a result of (i) a change in method of accounting occurring prior to the Closing Date, (ii) an installment sale or open transaction arising in a taxable period (or portion thereof) ending on or before the Closing Date, (iii) a prepaid amount received, or paid, prior to the Closing Date, (iv) deferred gains arising prior to the Closing Date, or (v) election under Section 108(i) of the Code or any similar provision of state, local or foreign law, (m) neither the Company nor any of its Subsidiaries has engaged in any "listed transaction" under Section 6011 of the Code and the regulations thereunder, and (n) neither the Company nor any of its Subsidiaries has been a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(l)(A)(ii) of the Code.

Section 3.10. Assets and Properties. Except as would not, individually or in the aggregate, have a Company Material Adverse Effect, the Company or a Subsidiary of the Company owns and has good and valid

marketable fee simple title to all of their respective owned real property (if any) and to all of the buildings, structures and other improvements thereon, and good title to all of its tangible personal property and has valid leasehold interests in all of its leased properties, sufficient to conduct their respective businesses as currently conducted, free and clear of all Liens (other than Permitted Liens); *provided* that no representation is made under this Section 3.10 with respect to any Intellectual Property.

Section 3.11. Material Contracts; Customer Contracts.

(a) Except for this Agreement, except for the Contracts filed as exhibits to the Company SEC Documents filed at least three Business Days prior to the date hereof and except as set forth in Section 3.11 of the Company Disclosure Letter, as of the date hereof, neither the Company nor any of its Subsidiaries is a party to or bound by any Contract:

(i) that is a material contract (as defined in Item 601(b)(10) of Regulation S-K of the SEC) in effect on the date of this Agreement;

(ii) that is a Contract pursuant to which (x) the Company or any of its Subsidiaries is licensed to use, or granted any other rights in, any Intellectual Property (other than non-exclusive, off-the-shelf software licenses or licenses covering other software licensed pursuant to a software "shrink wrap," "click wrap," or "click-through" license) or (y) a Person, other than a distributor of the Company's products, is licensed to use, or granted any other rights in, any Intellectual Property owned by the Company or any of its Subsidiaries, in each case of clauses (x) and (y), where such agreement or Intellectual Property has a value of, or results in aggregate payments in excess of, $1 million;

(iii) that provides for borrowings, other extensions of credit or guarantees in excess of $1 million;

(iv) that contains provisions that prohibit the Company or any of its Subsidiaries (or, following the Closing, would purport to prohibit Parent or any of its Affiliates) from (A) competing either (x) in any material line of business or in any material geographic area or (y) with respect to material products, services or channels of distribution, (B) engaging in any material line of business or limiting or prohibiting the right of the Company or its Subsidiaries from distributing or offering any material products or services, or (C) levying a material fine, charge or other payment for doing any of the foregoing;

(v) that restricts or prohibits (A) the payment of dividends or distributions in respect of the capital stock of the Company or any of its Subsidiaries, (B) the pledging of capital stock of the Company or any Subsidiary of the Company, (C) the granting of a security interest and lien on the assets of the Company or any Subsidiary of the Company or (D) the issuance of guarantees by the Company or any Subsidiary of the Company;

(vi) with respect to a joint venture, partnership, limited liability company or other similar agreement or arrangement, related to the formation, creation, operation, management or control of any partnership or joint venture that is material to the business of the Company and the Subsidiaries, taken as a whole, or in which the Company or any of its Subsidiaries owns more than a twenty percent voting or economic interest (each a "Joint Venture"),

(vii) with a customer of the Company or any of its Subsidiaries that (A) involved payments to the Company and its Subsidiaries in excess of $5 million during the twelve month period ended August 31, 2012 or (b) if entered into after August 31, 2011, would, based on the payments to the Company and its Subsidiaries during the period since commencement of such Contract, result in annualized payments in excess of $5 million,

(viii) with a supplier of the Company or any of its Subsidiaries that (A) involved payments by the Company and its Subsidiaries in excess of $5 million during the twelve month period ended

August 31, 2012 or (B) that, if entered into after August 31, 2011, would, based on the payments by the Company and its Subsidiaries during the period since commencement of such Contract, result in annualized payments in excess of $5 million,

(ix) with respect to employment, compensation or indemnification with respect to a director or executive officer of the Company or any of its Subsidiaries,

(x) that provides for any "most favored nation" or equivalent pricing provisions, exclusivity or similar obligations to which the Company or any of its Subsidiaries is subject or a beneficiary thereof,

(xi) that would, or would reasonably be expected to, individually or in the aggregate, prevent materially delay or materially impede the Company's ability to consummate the transactions contemplated by this Agreement,

(xii) with respect to indemnification relating to environmental matters provided or received by the Company or any of its Subsidiaries, or

(xiii) for the lease or sublease (as leasee, lessor, sublessee or sublessor) of real property, other than with respect to any lease or sublease requiring payments of less than $1 million per year.

Each Contract of the type described in this Section 3.11(a), whether or not set forth in Section 3.11 of the Company Disclosure Letter, is referred to herein as a "Material Contract". The Company has made available to Parent, as of the date hereof, true and correct copies (subject to customary redactions) of all Material Contracts and/or such Material Contracts (including all exhibits and schedules) have been filed with the SEC since November 29, 2009 and prior to the date hereof and are publicly available.

(b) Except as set forth in Section 3.11(b) of the Company Disclosure Letter and except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (i) each Material Contract is valid and binding on the Company or one of its Subsidiaries and in full force and effect (except to the extent that any Material Contract expires in accordance with its terms), (ii) the Company and each of its Subsidiaries has performed all obligations required to be performed by it to date under each Material Contract, (iii) no event or condition exists which constitutes, or after notice or lapse of time or both would constitute, a default on the part of the Company or any of its Subsidiaries under any Material Contract and (iv) no other party to such Material Contract is, to the knowledge of the Company, in default in any respect thereunder.

Section 3.12. Litigation. Except as set forth in Section 3.12 of the Company Disclosure Letter, (a) as of the date hereof, there are no settlement agreements or similar written agreements with any Governmental Entity, and no Order, in each case, to which the Company or any of its Subsidiaries or, to the knowledge of the Company, one of its Joint Ventures is party or, to the knowledge of the Company, by which the Company or any of its Subsidiaries or Joint Ventures or any assets, rights or properties thereof are bound that is in effect, (b) there are no Actions pending against the Company or any of its Subsidiaries or, to the knowledge of the Company, any of its Joint Ventures, and (c) to the knowledge of the Company, there are no Actions threatened against the Company or any of its Subsidiaries or any of its Joint Ventures or, to the knowledge of the Company, affecting the assets, rights or properties of the Company or any of its Subsidiaries, that, in respect of clause (a), (b) or (c) above, would reasonably be expected, individually or in the aggregate, to have a Company Material Adverse Effect.

Section 3.13. Environmental Matters.

(a) Except as set forth in Section 3.13(a) of the Company Disclosure Letter or as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect: (i) the Company and each of its Subsidiaries are, and at all times since November 30, 2008 have been, in compliance with all applicable Environmental Laws, including the possession of and compliance with all applicable Environmental Permits; and (ii) the Company has not caused, and, to the knowledge of the Company, there have not been any releases or threatened releases of Hazardous Materials, at, on or from any location currently owned,

leased or operated by the Company or any of its Subsidiaries or formerly owned, leased or operated by the Company or any of its Subsidiaries during the time of such ownership, leasing or operation, in any case under circumstances that would reasonably be expected to result in liability of the Company or any of its Subsidiaries under any applicable Environmental Laws.

(b) Except as set forth in Section 3.13(b) of the Company Disclosure Letter or as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect: (i) neither the Company nor any of its Subsidiaries has received from a Governmental Entity or any other Person a written request for information pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or similar provision of any analogous state, local or foreign statute, or any written notification alleging that it is liable or potentially liable for any release or threatened release of Hazardous Materials at any location currently or formerly owned, leased or operated by the Company or any of its Subsidiaries; and (ii) neither the Company nor any of its Subsidiaries has received a written claim or written complaint that remains outstanding, or is currently subject to any Action, alleging violation by the Company or any of its Subsidiaries under applicable Environmental Laws or alleging other liabilities or obligations under applicable Environmental Laws, and to the knowledge of the Company, no such matter has been threatened in writing against the Company or any of its Subsidiaries.

Section 3.14. Compliance with Applicable Law; Permits.

(a) Except as set forth in Section 3.14(a) of the Company Disclosure Letter, neither the Company nor any of its Subsidiaries, nor to the knowledge of the Company, any Joint Venture, is, and since November 30, 2008 none have been, in violation of any Law applicable to the Company or any of its Subsidiaries or Joint Ventures by which the Company's or any of its Subsidiaries' or Joint Ventures' respective properties are bound, except for any such violation which would not, individually or in the aggregate, have a Company Material Adverse Effect.

(b) Except as set forth in Section 3.14(b) of the Company Disclosure Letter, the Company and its Subsidiaries, and, to the knowledge of the Company, its Joint Ventures, have all permits, licenses, authorizations, exemptions, orders, consents, approvals, clearances and franchises from Governmental Entities ("Company Permits") required to conduct their respective businesses as now being conducted or to own, lease or operate their properties, and all Company Permits are in full force and effect and no Action that may result in cancellation or suspension of any Company Permit is pending or has been threatened in writing, except for any such Company Permit, the failure to have or be in full force and effect or the cancellation or suspension of which, would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect.

(c) Except as would not, individually or in the aggregate, be expected to have a Company Material Adverse Effect, (i) neither the Company nor any of its Subsidiaries, and to the knowledge of the Company, its Joint Ventures, nor, to the knowledge of the Company, any Representative of the Company or any of its Subsidiaries, or any of its Joint Ventures, in such Representative's capacity as such, has violated the Foreign Corrupt Practices Act or the anticorruption laws of any jurisdiction where the Company or its Subsidiaries or Joint Ventures does business, (ii) each of the Company and its Subsidiaries and, to the knowledge of the Company, its Joint Ventures has at all relevant times complied with all Laws relating to export control and trade sanctions or embargoes, and possesses all Company Permits required in order to comply with such Laws and (iii) neither the Company nor any of its Subsidiaries, nor, to the knowledge of the Company, its Joint Ventures, has violated the antiboycott prohibitions contained in 50 U.S.C. Sections 2401 et seq. or taken any action that can be penalized under Section 999 of the Code.

(d) Neither the Company nor any of its Subsidiaries is an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations promulgated by the SEC thereunder.

(e) This Section 3.14 does not relate to employee benefit matters, which are the subject of Section 3.15, or Taxes, which are the subject of Section 3.9.

Section 3.15. Employee Benefit Plans.

(a) Section 3.15(a) and Section 3.15(f) of the Company Disclosure Letter contains a true and complete list, as of the date of this Agreement, of each material Company Plan. For purposes of this Agreement, "Company Plan" means any "employee benefit plan" (within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), including any "multiemployer plan" within the meaning of Section 3(37) of ERISA), and any other pension, retirement, stock purchase, stock option or other equity-based compensation, incentive, fringe benefit, compensation, severance, employment, change-in-control, bonus, deferred compensation, employee loan, health and welfare, vacation or sick pay or other employee benefit plan, agreement, program, policy or other arrangement, whether or not subject to ERISA or the applicable Laws of another jurisdiction, and whether formal or informal, written or oral, (i) which are contributed to, sponsored by or maintained by the Company or any of its Subsidiaries for the benefit of any active or terminated director, officer, consultant or employee, or (ii) under which the Company or any of its Subsidiaries has any present or future liability (including any Foreign Benefit Plans), including but not limited to by reason of being or having been treated as a single employer with any other person (any such person, an "ERISA Affiliate") under Section 414 of the Code or Section 4001(b) of ERISA.

(b) With respect to each Company Plan listed in Section 3.15(a) and Section 3.15(f) of the Company Disclosure Letter, the Company has provided to Parent a current, accurate and complete copy thereof (or, if a plan is not written, an accurate written description thereof) and, to the extent applicable, (i) any related trust agreement or other funding instrument, (ii) the most recent determination or opinion letter, if any, received from the Internal Revenue Service and any material governmental advisory opinions, rulings, compliance statements, closing agreements specific to such Company Plan, and pending requests for any of the foregoing, (iii) any summary plan description and other material written communications by the Company or its Subsidiaries concerning the extent of the benefits provided under a Company Plan, (iv) a summary of any material proposed amendments or changes anticipated to be made to the Company Plans at any time within the twelve months immediately following the date hereof, and (v) for the most recent plan year (A) the Form 5500 and attached schedules, (B) audited financial statements and (C) actuarial valuation reports, if applicable. With respect to each Company Plan listed in Section 3.15(a) of the Company Disclosure Letter which is a multiemployer plan, the Company has previously provided to Parent or made available copies of all material documents and other material information received by the Company or any Subsidiary or ERISA Affiliate from each multiemployer plan (or any of its agents) to which the Company or such Subsidiary or ERISA Affiliate contributes pertaining to the Company's or such Subsidiary or ERISA Affiliate's obligations under such plan, including any materials pertaining to the computation of any material liability that may be imposed upon a cessation of or reduction in contributions thereto.

(c) Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect: (i) each Company Plan other than a multiemployer plan has been established and has heretofore been maintained, operated and administered in accordance with its terms and in compliance with the applicable provisions of ERISA, the Code, and other applicable Laws and (ii) no claims or Actions (other than routine claims for benefits in the ordinary course) are pending or, to the knowledge of the Company, threatened relating to or otherwise in connection with any Company Plan, including, to the knowledge of the Company, concerning or related to any fiduciary or service provider thereof and, to the knowledge of the Company, there is no basis for any such legal action, proceeding or investigation, and (iii) no Company Plan nor, to the knowledge of the Company, any person who is a party in interest in respect of an Company Plan within the meaning of Section 3(14) of ERISA with respect thereof, has engaged in a prohibited transaction which could subject the Company directly or indirectly to liability under Section 409 or 502(i) of ERISA or Section 4975 of the Code and no Company Plan has engaged in any similar transaction which could subject the Company or its Subsidiaries directly or indirectly to liability under any other applicable Laws similar in nature to such sections of ERISA or the Code, respectively. Each Company Plan other than a multiemployer plan (and to the knowledge of the Company, each multiemployer plan), which is intended to be qualified under Section 401(a) of the Code has received a determination letter to that effect and nothing has occurred, whether by action or failure to act, that could reasonably be expected to cause the loss of such qualification. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, with respect to each Company Plan that is subject to Title IV or Section 302 of ERISA or Section 412 or 4971 of the Code: (A) no such Company Plan has failed to satisfy the minimum funding standard (within the meaning of Sections 412 and 430 of the Code or Section 302 of ERISA) applicable to such Company Plan, whether or not waived and no

application for a waiver of the minimum funding standard with respect to any Company Plan has been submitted; (B) no reportable event within the meaning of Section 4043(c) of ERISA for which the 30-day notice requirement has not been waived has occurred; (C) no liability, contingent or otherwise, (other than for premiums to the Pension Benefit Guaranty Corporation (the "PBGC")) under Title IV of ERISA has been or is expected to be incurred by the Company or any of its Subsidiaries, including in connection with the transactions contemplated by this Agreement, and further including on account of a discontinuance or reduction in contributions thereto; (D) the PBGC has not instituted proceedings to terminate any such plan or made any inquiry which would reasonably be expected to lead to termination of any Company Plan, and, no condition exists that presents a risk that such proceedings will be instituted or which would constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any such plan; (E) no such Company Plan is, or is expected to be, in "at-risk" status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code); and (F) neither the Company or any of its Subsidiaries or ERISA Affiliates has incurred a reduction in contributions such that if the current rate of contributions continues, a seventy-percent decline in contributions (as defined in Section 4205 of ERISA) will occur within the next three plan years. With respect to any multiemployer plan to which the Company or any of its Subsidiaries or ERISA Affiliates has any material liability or contributes (or has within the last six years at any time contributed or had an obligation to contribute): (A) none of the Company or any of its Subsidiaries or ERISA Affiliates has incurred any material withdrawal and/or partial withdrawal liability under Title IV of ERISA which remains unsatisfied; and (B) to the knowledge of the Company, no such multiemployer plan is in reorganization or insolvent (as those terms are defined in Sections 4241 and 4245 of ERISA, respectively). Neither the Company nor any Subsidiary has received notice with respect to any multiemployer plan of (i) any failure by such plan to satisfy the minimum funding requirements of Section 412 of the Code or its endangered or critical status under Section 432 of the Code, or (ii) any application for or receipt of a waiver of such minimum funding requirements with respect to such plan.

(d) Except as set forth in Section 3.15(d) of the Company Disclosure Letter, the execution, delivery of and performance by the Company of its obligations under this Agreement will not (either alone or upon occurrence of any additional or subsequent events) result in "excess parachute payments" within the meaning of Section 280G(b)(1) of the Code or any payments under any other applicable Laws that would be treated in such similar nature to such section of the Code.

(e) Except as set forth in Section 3.15(e) of the Company Disclosure Letter or as provided in the terms of this Agreement, no Company Plan exists that, as a result of the execution of this Agreement, stockholder approval of this Agreement, or the transactions contemplated by this Agreement (whether alone or in connection with any subsequent event(s)): (i) could entitle any current or former employee, director, or officer of the Company or any of its Subsidiaries to severance pay or any increase in severance pay upon any termination of employment after the date of this Agreement or (ii) will result in the acceleration of the time of payment or vesting or result in any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, or increase the amount payable or result in any other material obligation pursuant to, any of the Company Plans.

(f) Except as set forth in Section 3.15(f) of the Company Disclosure Letter, no material Company Plan (including any "registered pension plan" as that term is defined under the Income Tax Act (Canada)) is maintained outside the jurisdiction of the United States or covers any employee residing or working outside the United States (all such material Company Plans (including any registered pension plan) are set forth in Section 3.15(f) of the Company Disclosure Letter, "Foreign Benefit Plans"). With respect to any Foreign Benefit Plans, except as would not, individually or in the aggregate, have a Company Material Adverse Effect, (i) all Foreign Benefit Plans have been established, maintained and administered in compliance with their terms and all applicable statutes, laws, ordinances, rules, orders, decrees, judgments, writs, and regulations of any controlling governmental authority or instrumentality and (ii) all Foreign Benefit Plans that are required to be funded are fully funded, and with respect to all other Foreign Benefit Plans, adequate reserves therefore have been established on the accounting statements of the Company or applicable Subsidiary.

(g) Except as otherwise provided in Section 2.1(d) or with respect to those items set forth in Section 5.1(b)(x) of the Company Disclosure Letter, the Company and its Subsidiaries have not announced their intention, or undertaken (whether or not legally bound) to modify or terminate any Company Plan in any material respect or adopt any material arrangement or program which, once established, would come within the definition of a Company Plan.

(h) Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, the Company and its Subsidiaries have not undertaken to maintain any Company Plan for any period of time and each such Plan is terminable at the sole discretion of the sponsor thereof, subject only to such constraints as may imposed by applicable law, and without penalty or cost (other than routine administrative costs).

Section 3.16. Insurance. The Company has made available to Parent true and complete copies of all material insurance policies of the Company and its Subsidiaries or correct and complete summaries thereof. Except as would not, individually or in the aggregate, have a Company Material Adverse Effect, (a) all insurance policies of the Company and its Subsidiaries are in full force and effect and provide insurance in such amounts and against such risks as is sufficient to comply with applicable Law and (b) neither the Company nor any of its Subsidiaries is in breach or default, and neither the Company nor any of its Subsidiaries has taken any action or failed to take any action which, with notice or the lapse of time, would constitute such a breach or default, or permit termination or modification, of any of such insurance policies. None of the Company nor any of its Subsidiaries has received any notice of cancellation of any of its material insurance policies as to which the Company or such Subsidiary has not obtained replacement insurance of similar scope and amount.

Section 3.17. Intellectual Property.

(a) Section 3.17(a) of the Company Disclosure Letter sets forth a list, accurate and complete in all material respects, of all patents, domain names, registered copyrights and registered trademarks and service marks, and all pending applications with respect to any of the foregoing, that are material to the operations of the Company and that are owned by the Company or any of its Subsidiaries and used by the Company or any of its Subsidiaries in the conduct of their respective businesses as conducted as of the date hereof. All of such items are owned solely by the Company or its Subsidiaries, free and clear of all Liens (other than Permitted Liens) and, to the knowledge of the Company, such registrations are valid and enforceable and has not been abandoned or passed into the public domain, in each case, except as would not, individually or in the aggregate, have a Company Material Adverse Effect.

(b) Except as would not, individually or in the aggregate, have a Company Material Adverse Effect: (i) the Company or one its Subsidiaries owns or has the right to use all Intellectual Property that the Company or any of its Subsidiaries are using in the conduct of their respective businesses as currently conducted; (ii) except as set forth in Section 3.17(b) of the Company Disclosure Letter, there are no pending or, to the knowledge of the Company, threatened claims or Actions by any Person alleging infringement or misappropriation by the Company or any of its Subsidiaries of the Intellectual Property rights of such Person or challenging the validity, enforceability or ownership of, or the right to use, any Intellectual Property owned by the Company or any of its Subsidiaries; (iii) the conduct of the businesses of the Company and its Subsidiaries as currently conducted does not infringe, misappropriate or violate any Intellectual Property rights of any Person; (iv) to the knowledge of the Company, no Person is infringing or misappropriating any Intellectual Property owned by the Company or any of its Subsidiaries; and (v) no Intellectual Property owned by the Company or any of its Subsidiaries is subject to any outstanding Order restricting or limiting the use, licensing, transfer or enforceability thereof by the Company or any of its Subsidiaries. The Company and its Subsidiaries have taken reasonable steps to protect the confidentiality of and maintain their material trade secrets, material confidential and proprietary information, and the personally identifiable information of users of websites of the Company or any of its Subsidiaries, and to the knowledge of the Company, there has been no unauthorized access to or misuse of such personally identifiable information.

Section 3.18. Transactions with Affiliates. Except for indemnification, compensation and employment arrangements between the Company or any of its Subsidiaries, on the one hand, and any director or officer thereof, on the other hand, Section 3.18 of the Company Disclosure Letter sets forth a correct and complete list of

the Contracts that are in existence as of the date hereof under which the Company or its Subsidiaries has any existing or future liabilities between the Company or any of its Subsidiaries, on the one hand, and, on the other hand, any (a) present executive officer or director of either the Company or any of its Subsidiaries or (b) to the knowledge of the Company, record or beneficial owner of more than 5% of the Company Common Stock or any Affiliate thereof as of the date hereof (each, an "Affiliate Transaction"). The Company has made available to Parent correct and complete copies of each Contract providing for each Affiliate Transaction.

Section 3.19. Labor and Employment. As of the date of this Agreement, Section 3.19 of the Company Disclosure Letter sets forth a true and complete list of all collective bargaining agreements or other labor union contracts applicable to any employees of the Company or any of its Subsidiaries. As of the date of this Agreement, none of the Company or any of its Subsidiaries has breached or otherwise failed to comply with any provision of any collective bargaining agreement or other labor union contract applicable to any employees of the Company or any of its Subsidiaries, except for any breaches or failures to comply that, individually or in the aggregate, have not had and are not reasonably likely to have a Company Material Adverse Effect. Except for matters that, individually or in the aggregate, have not had and are not reasonably likely to have a Company Material Adverse Effect, (i) there is not any, and during the past one year there has not been any, labor strike, dispute, work stoppage or lockout pending, or, to the knowledge of the Company, threatened, against or affecting the Company or any of its Subsidiaries, (ii) to the knowledge of the Company, no union organizational campaign is in progress or threatened with respect to the employees of the Company or any of its Subsidiaries and no question concerning representation of such employees exists, (iii) there are no unfair labor practice charges or complaints against the Company or any of its Subsidiaries pending, or, to the knowledge of the Company, threatened and (iv) there are, as of the date of this Agreement, no written grievances or written complaints outstanding or, to the knowledge of the Company, threatened against the Company or any of its Subsidiaries. Except for matters that, individually or in the aggregate, have not had and are not reasonably likely to have a Company Material Adverse Effect, there are no, and since November 29, 2011, have not been any "plant closings" or "mass layoffs" (as those terms are defined in the Worker Adjustment Retraining and Notification Act or any comparable state or local law) by the Company or any of its Subsidiaries, without complying with the notice requirements of such Laws, and the Company and each of its Subsidiaries is in compliance with all Laws respecting employment and employment practices, terms and conditions of employment, wages and hours and occupational safety and health (including, without limitation, classifications of service providers as employees and/or independent contractors).

Section 3.20. Information Statement. The Information Statement will not, at the date it is first mailed to the stockholders of the Company, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Information Statement will comply as to form in all material respects with the requirements of the Exchange Act. Notwithstanding the foregoing, the Company makes no representation or warranty with respect to any information supplied by Parent or Sub or any of their respective representatives on behalf of Parent or Sub expressly for use in the Information Statement.

Section 3.21. Brokers and Other Advisors. Other than Citigroup Global Markets Inc. and Perella Weinberg Partners LP, whose fees and expenses will be paid by the Company, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Company or any of its Subsidiaries.

Section 3.22. Opinion of Financial Advisor. Citigroup Global Markets Inc. has delivered to the Company Board its written opinion (or oral opinion to be confirmed in writing), dated as of the date of this Agreement, to the effect that, as of such date, subject to the various assumptions and qualifications set forth therein, the consideration to be received by the holders of the shares of Company Common Stock in the Merger is fair, from a financial point of view, to such holders.

Section 3.23. No Additional Representations. The Company acknowledges that neither Parent, Sub, their respective officers, directors or stockholders, nor any other Person has made any representation or warranty,

express or implied, of any kind, including any representation or warranty as to the accuracy or completeness of any information regarding Parent and Sub furnished or made available to the Company and any of its Representatives, in each case except as expressly set forth in Article IV (as modified by the Parent Disclosure Letter).

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF PARENT AND SUB

Except as set forth in the disclosure letter delivered by Parent to the Company concurrently with the execution of this Agreement (the "Parent Disclosure Letter") (it being understood and agreed that disclosure of any event, item or occurrence set forth in the Parent Disclosure Letter shall apply to, qualify or modify the Section or subsection to which it corresponds and each of the other Sections or subsections of this Agreement to the extent the relevance of such disclosure to such other Section or subsection is reasonably apparent from the text and nature of such disclosure), Parent and Sub represent and warrant to the Company, jointly and severally, as set forth in this Article IV.

Section 4.1. Organization. Parent is duly incorporated, validly existing and in good standing under the Laws of the State of Delaware. Sub is duly incorporated, validly existing and in good standing under the Laws of the State of Delaware. Each of Parent and Sub has all requisite corporate or other power and authority to own, lease, license and operate its assets, rights and properties and to carry on its business as it is now being conducted. Each of Parent and Sub is duly licensed and qualified to do business and is in good standing (or equivalent status) in each jurisdiction where the character of its properties owned or leased or the nature of its activities make such qualification necessary, except where the failure to be so qualified, licensed or in good standing (or equivalent status) has not had, and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Neither Parent nor Sub is, and has not been, in material violation of its Organizational Documents.

Section 4.2. Authority.

(a) Each of Parent and Sub has all requisite corporate power and authority to enter into this Agreement and to perform all of its obligations hereunder. Except as contemplated by Section 4.11 with respect to Sub, the execution, delivery and performance by Parent and Sub of this Agreement and the consummation by each of them of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of Parent and Sub, and no further corporate proceedings on the part of Parent and Sub are necessary to authorize the execution and delivery by Parent and Sub of this Agreement and the consummation by each of them of the transactions contemplated hereby.

(b) This Agreement has been duly executed and delivered by Parent and Sub and, assuming the valid execution and delivery by the other party hereto, constitutes the legal, valid and binding obligation of Parent and Sub, enforceable against Parent and Sub in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws relating to or affecting the enforcement of creditors' rights in general and by general principles of equity (regardless of whether enforcement is sought in equity or at Law).

Section 4.3. Non-Contravention. The execution and delivery by Parent and Sub of this Agreement, the performance by them of their covenants and obligations hereunder and the consummation by them of the transactions contemplated hereby do not and will not (a) violate or conflict with any provision of the Organizational Documents of Parent or Sub, (b) violate, conflict with, or result in the breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration under, any material Contract to which Parent or Sub is bound, or (c) assuming the Consents referred to in Section 4.4 are obtained or made, violate or conflict with in any material respect any Law or Order applicable to Parent or Sub or by which any of their properties, rights or assets are bound, except, in the case of each of clauses (b) and (c) above, for such violations, conflicts, defaults, terminations or accelerations that have not had, and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

Section 4.4. Governmental Approvals. The execution and delivery by Parent and Sub of this Agreement, the performance by them of their covenants and obligations hereunder and the consummation by them of the transactions contemplated hereby do not and will not require any consent, approval, authorization or permit of, action by, filing with or notification to, any Governmental Entity, except for (a) the applicable requirements, if any, of the Exchange Act and state securities, takeover and "blue sky" laws, (b) the filing of a premerger notification and report form by Parent and Sub under the HSR Act and the filings and receipt, termination or expiration, as applicable, of such other approvals or waiting periods as may be required under any Foreign Merger Control Law, (c) the filing with the Secretary of State of the State of Delaware of the Certificate of Merger as required by the DGCL and (d) any such consent, approval, authorization, permit, action, filing or notification the failure of which to make or obtain would not, individually or in the aggregate, have a Parent Material Adverse Effect.

Section 4.5. Litigation. As of the date hereof, there are no Actions pending or, to the knowledge of Parent, threatened against or affecting Parent or Sub that would, individually or in the aggregate, prevent or materially delay the consummation by Parent and Sub of the transactions contemplated hereby or the performance by Parent and Sub of their respective covenants and obligations hereunder. Neither Parent nor Sub is subject to any outstanding Order that would, individually or in the aggregate, prevent or materially delay the consummation by Parent and Sub of the transactions contemplated hereby or the performance by Parent and Sub of their respective covenants and obligations hereunder.

Section 4.6. Information Statement. None of the information supplied or to be supplied by Parent or Sub for inclusion or incorporation by reference in the Information Statement will, at the date it is first mailed to the stockholders of the Company, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. Notwithstanding the foregoing, neither Parent nor Sub makes any representation or warranty with respect to any information supplied by the Company or its Subsidiaries or any of their respective representatives on behalf of the Company or its Subsidiaries which is contained in or incorporated by reference in the Information Statement.

Section 4.7. Ownership of Company Capital Stock. None of Parent or Sub, or any of their respective Subsidiaries beneficially owns (within the meaning of Section 13 of the Exchange Act), or will prior to the Closing Date (other than pursuant to the transactions contemplated hereby) beneficially own, any shares of Company Common Stock and none of Parent, Sub, or any of their respective Subsidiaries holds any rights to acquire or vote any shares of Company Common Stock except as contemplated by this Agreement.

Section 4.8. Financing. Parent has delivered to the Company a true, complete and correct copy of the executed Commitment Letter. The Commitment Letter has not been amended or modified prior to the date of this Agreement and, as of the date hereof, the commitments contained in the Commitment Letter have not been withdrawn, terminated or rescinded in any respect. Except for fee letters (the "Fee Letters") and engagement letters relating to the Commitment Letter, complete copies of which have been provided to the Company with only fee amounts and certain economic terms (none of which would adversely affect the amount (other than in respect of upfront fees) or availability of the Financing if so exercised by the Financing Sources party thereto) redacted, as of the date hereof, there are no other agreements, side letters or arrangements to which Parent is a party relating to the Commitment Letter that could affect the availability of the Financing. As of the date hereof, the Commitment Letter constitutes the legally valid and binding obligation of Parent, and, to the knowledge of Parent, the other parties thereto, enforceable in accordance with its terms (except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws relating to or affecting the enforcement of creditors' rights in general and by general principles of equity (regardless of whether enforcement is sought in equity or at Law)). As of the date hereof, the Commitment Letter is in full force and effect and has not been withdrawn, rescinded or terminated or otherwise amended or modified in any respect, and no such amendment or modification is contemplated. Parent is not in breach of any of the terms or conditions set forth in

the Commitment Letter, and assuming the accuracy of the representations and warranties set forth in Article III and performance by the Company of its obligations under this Agreement, as of the date hereof, no event has occurred which, with or without notice, lapse of time or both, would reasonably be expected to constitute a breach, default or failure to satisfy any condition precedent set forth therein. As of the date hereof, no Financing Source has notified Parent of its intention to terminate the Commitment Letter or not to provide the Financing. There are no conditions precedent or other contingencies related to the funding of the full amount of the Financing (including any "flex" provisions), other than as expressly set forth in the Commitment Letter and the Fee Letters. Parent and Sub will have as of the Effective Time, sufficient cash available, directly or through one or more Affiliates, to pay the aggregate Merger Consideration and Convertible Notes Consideration and all related fees and expenses on the terms contemplated in this Agreement. Parent and Sub's obligations hereunder are not subject to a condition regarding Parent's or Sub's obtaining of funds to consummate the transactions contemplated by this Agreement.

Section 4.9. Ownership and Operations of Sub. Parent owns beneficially and of record all of the outstanding capital stock of Sub. Sub was formed solely for the purpose of engaging in the transactions contemplated hereby and prior to the Effective Time will have engaged in no other business activities and will have incurred no liabilities or obligations other than as contemplated herein or as incidental thereto.

Section 4.10. Brokers. Other than Merrill Lynch, Pierce, Fenner & Smith Incorporated, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Parent or any of its Affiliates.

Section 4.11. Vote; Approval Required. No vote or consent of the holders of any class or series of capital stock of Parent is necessary to approve this Agreement or the transactions contemplated hereby, including the Merger. The vote or written consent of Parent as the sole stockholder of Sub (which shall have occurred immediately following execution of this Agreement) is the only vote or consent of the holders of any class or series of capital stock of Sub necessary to adopt this Agreement or to approve the transactions contemplated hereby, including the Merger.

Section 4.12. No Additional Representations. Each of Parent and Sub acknowledges that none of the Company or its Affiliates or any their respective officers, directors, stockholders, agents or representatives or any other Person has made any representation or warranty, express or implied, of any kind, including any representation or warranty as to the accuracy or completeness of any information furnished or made available to Parent or Sub or any of their Representatives, in each case except as expressly set forth in Article III (as modified by the Company Disclosure Letter).

ARTICLE V

COVENANTS RELATING TO THE BUSINESS

Section 5.1. Conduct of Business Pending the Merger. Except (x) as expressly permitted, contemplated or required by this Agreement or required by applicable Law, (y) as set forth in Section 5.1 of the Company Disclosure Letter or (z) with the consent in advance in writing by Parent (such consent not to be unreasonably withheld or delayed), at all times during the period commencing with the execution and delivery of this Agreement and continuing until the earlier to occur of the termination of this Agreement pursuant to Article VIII and the Closing Date:

(a) the Company shall (and shall cause each of its Subsidiaries to) to:

(i) carry on the Business as currently conducted in all material respects in the ordinary course of business consistent with past practice; and

(ii) use commercially reasonable efforts to (A) preserve (1) in all material respects its business organizations, (2) its material rights and franchises and (3) its relationships with material customers, suppliers, lessors, lessees, licensors, licensees and other third parties having significant business relationships with it and (B) keep available the services of its present officers and key employees; and

(b) the Company shall not, and shall not cause or permit any of its Subsidiaries to, do any of the following:

(i) amend its Organizational Documents;

(ii) issue, deliver, sell, pledge, dispose of or encumber any shares of capital stock, ownership interests or voting securities, or any options, warrants, convertible securities or other rights of any kind to acquire or receive any shares of capital stock, any other ownership interests or any voting securities (including stock options, stock appreciation rights, phantom stock, restricted stock units, performance shares or other similar instruments), of the Company or any of its Subsidiaries (except for (x) the issuance of shares of Company Common Stock upon the exercise of currently outstanding Company Stock Options, in accordance with the terms of any Company Stock Plan, (y) the issuance of shares of Company Common Stock upon the settlement of currently outstanding RSUs (and dividend equivalents thereon, if applicable) in accordance with the terms of such instruments or (z) the issuance of shares by a wholly-owned Subsidiary of the Company to the Company or another wholly-owned Subsidiary of the Company);

(iii) declare, authorize, set aside for payment, establish a record date for, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock or other equity interests;

(iv) reclassify, combine, split, subdivide, redeem, purchase or otherwise acquire any shares of capital stock of the Company, or reclassify, combine, split or subdivide any capital stock or other ownership interests of any of the Company's Subsidiaries;

(v) (i) acquire (whether by merger, consolidation or acquisition of stock or assets or otherwise) any corporation, partnership or other business organization or division thereof or any assets, rights or properties, in each case, other than (x) purchases of inventory and other assets in the ordinary course of business or pursuant to existing Contracts which have been made available to Parent prior to the date hereof, or (y) acquisitions of assets or properties not exceeding $5 million in the aggregate, or (ii) sell or otherwise dispose of (whether by merger, consolidation or acquisition of stock or assets or otherwise) any corporation, partnership or other business organization or division thereof or any assets, rights or properties, in each case of this clause (ii), other than (x) sales or dispositions of inventory and obsolete assets in the ordinary course of business or of other assets pursuant to existing Contracts which have been made available to Parent prior to the date hereof, or (y) sales or dispositions of assets or properties not exceeding $5 million in the aggregate;

(vi) modify or amend on terms materially adverse to the Company or terminate any Material Contract, or enter into any Contract, which if entered into prior to the date hereof would be a Material Contract other than to the extent such Contract is required to effect any action explicitly permitted by Sections 5.1(b)(i) through 5.1(b)(xiv) or change the conversion price of the Convertible Notes;

(vii) make or authorize any new capital expenditures during any fiscal quarter (including new capital expenditures made or authorized during such fiscal quarter prior to the date of this Agreement) that are in excess of the Company's capital expenditure budget for such fiscal quarter as set forth in Section 5.1(b)(vii) of the Company Disclosure Letter;

(viii) grant any licenses of Intellectual Property to third parties except in the ordinary course of business;

(ix) incur, or modify in any material respect the terms of, any indebtedness for borrowed money, or assume, guarantee or endorse, or otherwise as an accommodation become responsible for, the obligations of any Person, or make any loans, advances or capital contributions to, or investments in, any other Person (other than a wholly-owned Subsidiary of the Company), in each case, other than in the ordinary course of business (including any borrowings under the Company's existing credit facility and in respect of letters of credit) and in an amount to not exceed $10 million;

(x) except as required by applicable Law or existing Contracts or Company Plans as in effect on the date hereof, (A) increase the compensation or benefits of any of its present or former directors, officers or employees (except for increases in salary or wages for non-officer level employees in the ordinary course of business consistent with past practice), (B) grant any severance or termination pay to any present or former director, officer or employee or any retention pay (other than cash retention benefits not to exceed the amount set forth in Section 5.1(b)(x)(B) of the Company Disclosure Letter in the aggregate payable to active employees of the Company and its Subsidiaries), (C) enter into any employment, consulting or severance agreement or arrangement with any of its present or prospective directors, officers or other employees (excluding prospective employees or officers that had offers outstanding as of the date hereof which, with respect to offers of employment, are disclosed by title in Section 5.1(b)(x)(C) of the Company Disclosure Letter), except for offers of employment to prospective employees whose annual cash compensation (including any eligible bonus amounts) would not exceed the amount set forth in Section 5.1(b)(ii)(C) of the Company Disclosure Letter, in the ordinary course of business consistent with the recent past practices of the Company, (D) loan or advance any money or other property to any present or former director, officer or employee, (E) increase the funding obligation or contribution rate of any Company Plan or allow for the commencement of any new offering periods under any employee stock purchase plan, (F) grant any equity or equity-based awards, (G) establish, adopt, enter into, amend or terminate any Company Plan or (H) other than as expressly contemplated by this Agreement, use discretion to waive or accelerate any performance conditions applicable to any bonus or incentive awards or establish annual or long-term incentive targets with respect to future performance periods which are greater in amount, or otherwise have terms materially inconsistent with, the amount and terms applicable to the most recent annual and long-term awards made by the Company;

(xi) make any material change in any accounting principles or methods, except as may be required by changes in statutory or regulatory accounting rules or GAAP or regulatory requirements with respect thereto;

(xii) other than in the ordinary course of business (except with respect to clauses (B), (E) or (F)), (A) make any material Tax election, (B) enter into any material settlement or compromise of any material Tax liability, (C) file any amended Tax Return with respect to any material Tax, (D) change any method of Tax accounting or Tax accounting period, (E) enter into any closing agreement relating to any material Tax, (F) surrender any right to claim a material Tax refund, or (G) consent to any extension or waiver of the limitation period applicable to any material Tax claim or assessment relating to the Company or any of its Subsidiaries;

(xiii) settle or compromise any Action (A) described in Section 5.1(b)(xiii) of the Company Disclosure Letter, (B) with any Governmental Entity or (C) any other Action, other than, with respect to this clause (C), settlements or compromises where the amount paid in settlement or compromise, in each case, does not exceed $1 million, individually, or $5 million, in the aggregate, and which do not impose any material restrictions on the operations or businesses of the Company and its Subsidiaries, taken as a whole;

(xiv) except for this Agreement, adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization of such entity (other than with respect to or among wholly-owned Subsidiaries of the Company); or

(xv) authorize, commit or agree to take any of the foregoing actions.

(c) Other than the right to consent or withhold consent with respect to the foregoing matters (such consent not to be unreasonably withheld or delayed), nothing contained in this Agreement shall give Parent, directly or indirectly, the right to control or direct the Company's or its Subsidiaries' operations prior to the Effective Time, and nothing contained in this Agreement shall give the Company, directly or indirectly, the right to control or direct Parent's or its Subsidiaries' operations prior to the Effective Time. Prior to the Effective Time, each of the Company and Parent shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its and its Subsidiaries' respective operations.

Section 5.2. Takeover Proposals.

(a) Except as expressly permitted by this Section 5.2 (including Section 5.2(b)), at all times during the period commencing with the execution and delivery of this Agreement and continuing until the earlier to occur of the termination of this Agreement pursuant to Article VIII and the Effective Time, the Company and its Subsidiaries shall not, nor shall they authorize or knowingly permit any of their respective Representatives to, directly or indirectly, (i) solicit, initiate or induce the making, submission or announcement of, or knowingly encourage, facilitate or assist, a Takeover Proposal, (ii) furnish or otherwise make available to any Person (other than Parent, Sub or any designees of Parent or Sub) any non-public information relating to the Company or any of its Subsidiaries, or afford to any Person (other than Parent, Sub or any designees of Parent or Sub) access to the business or to the properties, assets, books, records or other non-public information, or to any personnel, of the Company or any of its Subsidiaries, in any such case that would reasonably be expected to result in the making, submission or announcement of, or for the purpose of knowingly encouraging, facilitating or assisting, (A) a Takeover Proposal, or (B) any inquiries that would reasonably be expected to lead to a Takeover Proposal, (iii) participate or engage in discussions or negotiations with any Person with respect to a Takeover Proposal, (iv) approve, endorse or recommend a Takeover Proposal, (v) enter into any letter of intent, memorandum of understanding or other Contract of any kind providing for, contemplating, intended to facilitate or otherwise relating to, a Takeover Proposal or (vi) authorize, commit, publicly propose or agree to do any of the foregoing.

(b) Notwithstanding anything to the contrary set forth in this Agreement, if at any time prior to 11:59 p.m. New York City time on the date that is thirty-five calendar days after the date hereof, (i) the Company receives a bona fide, written and unsolicited Takeover Proposal from any Person and (ii) the Company Board determines in good faith (after consultation with its financial advisor and outside legal counsel), that such Takeover Proposal constitutes or would reasonably be expected to lead to a Superior Proposal, the Company may (A) furnish non-public information with respect to the Company and its Subsidiaries, or provide access to the Business or to the properties, assets, books, records or other non-public information, or to any personnel, of the Company or any of its Subsidiaries, to the Person making such Takeover Proposal (and its Representatives) pursuant to a customary confidentiality agreement (such a confidentiality agreement, an "Acceptable Confidentiality Agreement"), and (B) participate or engage in discussions or negotiations with the Person making such Takeover Proposal (and its Representatives) regarding such Takeover Proposal; *provided*, that, in the case of any action taken pursuant to the preceding clauses (A) or (B), (1) the Company gives Parent prompt (and in any event within three Business Days following receipt) written notice of the identity of such Person and a summary of the material terms and conditions of such Takeover Proposal (including a copy, if made in writing) and of the Company's participation or engagement in discussions or negotiations with, or furnishing of non-public information to, such Person, and (2) promptly (and in any event within one Business Day) upon furnishing any non-public information to such Person, the Company furnishes such non-public information to Parent, to the extent such information has not been previously furnished by the Company to Parent. For the avoidance of doubt, in the event that a third party contacts the Company or a Representative of the Company or its Affiliates orally or in writing regarding a potential Takeover Proposal, the Company shall not be in breach of this Agreement in any respect to the extent the Company or such Representative responds to such third party that it is bound by the terms of this Agreement and is unable to discuss or respond to such matters without first complying with the procedures set forth herein with respect to any such discussions provided that the Company provides written notice of such communication to Parent within two (2) Business Days of such communication.

(c) Without limiting the generality of the foregoing, Parent, Sub and the Company acknowledge and hereby agree that any violation of the restrictions set forth in this Section 5.2 by any Representative of the

Company or any of its Subsidiaries (in the case of any such Representative who is an investment banker, financial advisor, attorney, accountant or other advisor, to the extent that such Representative is or has been engaged by the Company in connection with the transactions contemplated hereby) shall be deemed to be a breach of this Section 5.2 by the Company.

(d) In addition to the obligations of the Company set forth in paragraphs (a), (b) and (c) of this Section 5.2, the Company shall promptly (and in any event within two Business Days following receipt) notify Parent orally and in writing if the Company or any of its Subsidiaries, or any of its or their respective Representatives, receives (i) any Takeover Proposal, (ii) any request for information that would reasonably be expected to lead to a Takeover Proposal or (iii) any inquiry with respect to, or which would reasonably be expected to lead to, any Takeover Proposal, such notice to include a summary of the material terms and conditions of such Takeover Proposal, request or inquiry (including copies of all documents and written communications, and written summaries of all oral communications), and the identity of the Person making any such Takeover Proposal, request or inquiry. The Company shall keep Parent reasonably informed on a reasonably current basis on the status and terms of any such Takeover Proposal, request or inquiry, any material modifications to the terms thereof and any other material developments related thereto.

(e) The Company shall, and shall ensure that each Person that is a Representative of the Company immediately cease and cause to be terminated any existing solicitation of, or discussions or negotiations with, any Person relating to any Takeover Proposal.

(f) For purposes of this Agreement:

"Takeover Proposal" means any inquiry, proposal or offer from any Person (other than Parent and its Subsidiaries) to engage in any (i) direct or indirect acquisition or purchase, in one transaction or a series of related transactions, of assets of the Company and its Subsidiaries (including securities of Subsidiaries) equal to 20% or more of the consolidated assets of the Company and its Subsidiaries, taken as a whole, or to which 20% or more of the revenues of the Company and its Subsidiaries on a consolidated basis are attributable, (ii) acquisition of 20% or more of the outstanding shares of Company Common Stock, (iii) tender offer or exchange offer that if consummated would result in any Person beneficially owning 20% or more of the outstanding shares of Company Common Stock or (iv) merger, consolidation, share exchange, business combination, recapitalization, liquidation, dissolution, joint venture or similar transaction involving the Company (or any Subsidiary or Subsidiaries of the Company that constitute 20% or more of the consolidated assets of the Company and its Subsidiaries, taken as a whole, or that contribute 20% or more of the revenues of the Company and its Subsidiaries on a consolidated basis), in each case, other than the transactions contemplated by this Agreement.

"Superior Proposal" means a bona fide, written Takeover Proposal made by a third party, not obtained as a result of any material breach of this Section 5.2, to (A) acquire and/or cancel, directly or indirectly, a majority of the outstanding shares of Company Common Stock or (B) acquire a majority of the assets of the Company and its Subsidiaries on a consolidated basis, in the case of each of clauses (A) and (B) (as applicable), if the Company Board determines in good faith (after consultation with its financial advisor and outside legal counsel) that (i) such Takeover Proposal, if consummated, would be more favorable to the stockholders of the Company from a financial point of view than the Merger and the other transactions contemplated by this Agreement and (ii) such Takeover Proposal is reasonably likely to be consummated on the terms so proposed, taking into account all relevant financial, regulatory, legal and other aspects of such proposal, including any conditions to closing.

Section 5.3. Company Board Recommendation.

(a) Subject to Section 5.3(b) and Section 5.3(c), neither the Company Board nor any committee thereof shall (i) withhold, withdraw, amend or modify in a manner adverse to Parent, or publicly propose to withhold, withdraw, amend or modify in a manner adverse to Parent, the Company Board Recommendation, (ii) adopt, approve, recommend, endorse or otherwise declare advisable, or publicly propose to adopt, approve,

recommend, endorse or otherwise declare advisable, the adoption of any Takeover Proposal (it being understood that a "stop-look-and-listen" communication made in compliance with Rule 14d-9(f) promulgated under the Exchange Act with respect to any Takeover Proposal that is a tender offer or exchange offer shall not be considered a breach of this clause (ii)), (iii) approve or recommend, or cause or permit the Company to execute or enter into, any letter of intent, memorandum of understanding, agreement in principle, merger agreement, acquisition agreement, option agreement, joint venture agreement, partnership agreement or other similar document or contract constituting or relating directly or indirectly to, or that contemplates or is intended or could reasonably be expected to result directly or indirectly in, a Takeover Proposal or (iv) authorize, commit or agree to take any such actions (each such foregoing action or failure to act in clauses (i) through (iv) being referred to herein as a "Company Adverse Recommendation Change").

(b) Notwithstanding the foregoing or anything to the contrary set forth in this Agreement, at any time prior to the time at which the Stockholder Written Consent is executed and delivered to Parent in accordance with Section 6.1(a) (the "Written Consent Date"), the Company Board may effect a Company Adverse Recommendation Change:

(i) if the Company Board (A) receives a Takeover Proposal that it determines in good faith (after having consulted with its financial advisor and outside legal counsel) to be a Superior Proposal, (B) concludes in good faith (after consultation with its financial advisor and outside legal counsel) that the failure to effect a Company Adverse Recommendation Change would reasonably be expected to constitute a breach of the fiduciary duties of the directors of the Company to the Company's stockholders under applicable Law and (C) approves or recommends such Superior Proposal; or

(ii) in response to a fact, event, change, development or set of circumstances that affects the business, assets or operations of the Company that is unknown to the Company Board at and prior to the execution of this Agreement (such fact, event, change, development or set of circumstances, an "Intervening Event," it being understood that in no event shall the receipt, existence or terms of a Takeover Proposal constitute an Intervening Event), if the Company Board has concluded in good faith (to the extent applicable, after consultation with its financial advisor and outside legal counsel) that, in light of such Intervening Event, the failure of the Company Board to effect a Company Adverse Recommendation Change would reasonably be expected to constitute a breach of the fiduciary duties of the directors of the Company to the Company's stockholders under applicable Law.

(c) Nothing contained in this Agreement shall prohibit the Company (i) from taking and disclosing to its stockholders a position contemplated by Rule 14e-2(a) under the Exchange Act or complying with the provisions of Rule 14d-9 promulgated under the Exchange Act, or (ii) making any disclosure to the Company's stockholders that the Company Board determines to make in good faith (after consultation with its outside legal counsel) in order to fulfill its fiduciary duties or satisfy applicable state or federal securities Laws; *provided*, *however*, that any disclosure of a position contemplated by Rule 14e-2(a) of the Exchange Act other than a rejection of any applicable Takeover Proposal, a reaffirmation of the Company Board Recommendation or a "stop-look-and-listen" communication made in compliance with Rule 14d-9(f) promulgated under the Exchange Act shall be deemed to be a Company Adverse Recommendation Change and may be made only in compliance with this Section 5.3.

ARTICLE VI

ADDITIONAL AGREEMENTS

Section 6.1. Stockholder Written Consent; Preparation of the Information Statement.

(a) Immediately after the execution of this Agreement and in lieu of calling a meeting of the Company's stockholders, the Company shall submit the form of Stockholder Written Consent attached hereto as Exhibit C (the "Stockholder Written Consent") to those of the Company's stockholders listed on Exhibit D. As soon as reasonably practicable after the Stockholder Written Consent has been duly executed by the Company's

stockholders holding in the aggregate at least a majority of the outstanding shares of Company Common Stock and is delivered to the Company in accordance with Section 228 of the DGCL, the Company shall deliver to Parent a copy (including by facsimile or other electronic image scan transmission) of the Stockholder Written Consent pursuant to Section 9.2 hereof.

(b) If the Stockholder Written Consent is not executed by the stockholders of the Company holding in the aggregate at least a majority of the outstanding shares of Company Common Stock, and a copy (including by facsimile or other electronic image scan transmission) thereof is not delivered by the Company to Parent pursuant to Section 6.1(a), in each case within 48 hours after the execution and delivery of this Agreement by the parties hereto (a "Written Consent Failure"), Parent shall have the right to terminate this Agreement as set forth in Section 8.4(b).

(c) As soon as reasonably practicable following the execution and delivery of the Stockholder Written Consent pursuant to Section 6.1(a), the Company shall (i) mail to all stockholders of record on the record date for the Stockholder Written Consent the notice of action by written consent required by Section 228(e) of the DGCL and (ii), with the assistance of Parent, prepare and file with the SEC an information statement of the type contemplated by Rule 14c-2 promulgated under the Exchange Act related to the Merger and this Agreement (such information statement, including any amendment or supplement thereto, the "Information Statement"). The Information Statement shall also contain the notice of availability of appraisal rights and related disclosure required by Section 262 of the DGCL. Parent, Sub and the Company will cooperate with each other in the preparation of the Information Statement. Without limiting the generality of the foregoing, each of Parent and Sub will furnish to the Company the information relating to it required by the Exchange Act to be set forth in the Information Statement. The Company shall use its reasonable best efforts to resolve all SEC comments with respect to the Information Statement as promptly as reasonably practicable after receipt thereof and to have the Information Statement cleared by the staff of the SEC as promptly as reasonably practicable after such filing. Each of Parent, Sub and the Company agrees to correct any information provided by it for use in the Information Statement which shall have become false or misleading. The Company shall as soon as reasonably practicable notify Parent and Sub of the receipt of any comments from the SEC with respect to the Information Statement and any request by the SEC for any amendment to the Information Statement or for additional information and shall provide Parent with copies of all such comments and correspondence. Prior to filing or mailing the Information Statement (or any amendment or supplement thereto) or responding to any comments of the SEC (or the staff of the SEC) with respect thereto, the Company shall provide Parent a reasonable opportunity to review and to propose comments on such document or response and shall, in good faith, consider and incorporate the reasonable comments of Parent. Promptly after the Information Statement has been cleared by the SEC or after 10 calendar days have passed since the date of filing of the preliminary Information Statement with the SEC without notice from the SEC of its intent to review the Information Statement, the Company shall promptly file with the SEC the Information Statement in definitive form as contemplated by Rule 14c-2 promulgated under the Exchange Act substantially in the form previously cleared or filed with the SEC, as the case may be, and mail a copy of the Information Statement to its stockholders.

Section 6.2. Access to Information; Confidentiality.

(a) Subject to applicable Law, upon reasonable notice, the Company shall (and shall cause its Subsidiaries to) afford Parent's and its Subsidiaries' officers, employees and other authorized Representatives reasonable access, during normal business hours from the date of this Agreement through to the Effective Time or the termination of this Agreement, to its employees, properties, books, contracts and records and, during such period, the Company shall (and shall cause its Subsidiaries to) furnish promptly to Parent such information concerning the Business and the properties and personnel of the Company and its Subsidiaries as Parent may from time to time reasonably request, including, without limitation, the monthly "Executive Business Review" report and other similar monthly financial reports of the Company and its Subsidiaries; *provided*, *however*, that the foregoing shall not require the Company to (i) provide access to any information or documents that, in the reasonable judgment of the Company, would (A) constitute a waiver of the attorney-client privilege held by the Company, or (B) violate any applicable Laws; *provided*, *further*, *however*, that the Company will use its reasonable best efforts to obtain any required consents for the disclosure of such information or documents and

take such other action (such as entering into a joint defense agreement or other arrangement to avoid loss of the attorney-client privilege) with respect to such information or documents as is necessary to permit disclosure to Parent and Parent's Representatives or (ii) provide access to any minutes and resolutions of the Company Board (or any authorized committee thereof) adopted after the date hereof, to the extent relating to the evaluation of the transactions contemplated hereby or any alternative transactions, including any Takeover Proposal. Notwithstanding the foregoing, any investigation or consultation taken pursuant to this Section 6.2(a) shall be conducted in such a manner as not to interfere unreasonably with the business or operations of the Company or its Subsidiaries or otherwise result in any significant interference with the prompt and timely discharge by the employees of the Company and its Subsidiaries of their normal duties.

(b) Each of Parent and Sub shall, and shall cause their Representatives to, hold all information furnished to Parent or Sub by or on behalf of the Company or its Subsidiaries, directly or indirectly, in confidence in accordance with, and shall otherwise abide by and be subject to, the terms and conditions of the Non-Disclosure Agreement, dated as of February 21, 2012, between Parent and the Company (the "Confidentiality Agreement"). The Confidentiality Agreement shall survive any termination of this Agreement.

Section 6.3. Further Action; Efforts.

(a) Upon the terms and subject to the conditions of this Agreement, each of the parties shall use (x) its reasonable best efforts to (i) take, or cause to be taken, all actions and to do, or cause to be done, and cooperate with each other in order to do, all things reasonably necessary, proper or advisable (including under any Antitrust Law) to consummate the transactions contemplated by this Agreement as soon as practicable and (ii) do all things reasonably necessary, proper or advisable under applicable Law to consummate the Merger and the other transactions contemplated by this Agreement at the earliest practicable date, including: (A) causing the preparation and filing of all forms, registrations and notices required to be filed to consummate the Merger and the taking of such actions as are necessary to obtain any requisite consent or expiration of any applicable waiting period under the HSR Act and (B) defending all Actions by or before any Governmental Entity challenging this Agreement or the consummation of the Merger; and (y) reasonable best efforts to resolve any objection asserted with respect to the transactions contemplated under this Agreement under any Antitrust Law or Foreign Merger Control Law raised by any Governmental Entity and to prevent the entry of any Order, and to have vacated, lifted, reversed or overturned any Order of any Governmental Entity that would prevent, prohibit, restrict or delay the consummation of the transactions contemplated by this Agreement.

(b) In furtherance and not in limitation of the provisions of Section 6.3(a), each of the parties, as applicable, agrees to prepare and file as promptly as reasonably practicable any filings required to be made under any Antitrust Law or Foreign Merger Control Law; *provided* that, in any event, an appropriate Notification and Report Form pursuant to the HSR Act shall be prepared and filed as soon as reasonably practicable but in no event later than eight Business Days. Parent shall pay all filing fees for the filings required under any Antitrust Law or Foreign Merger Control Law by the Company and Parent. Each of Parent and the Company agrees to promptly comply with any Request for Additional Information and Documentary Materials (a "Second Request") from the relevant Governmental Entity pursuant to the HSR Act and in any event within ninety calendar days of receipt of such Second Request.

(c) The parties shall keep each other apprised of the status of significant matters relating to the completion of the transactions contemplated by this Agreement and work cooperatively in connection with obtaining the approvals of or clearances from each applicable Governmental Entity, including:

(i) cooperating with each other in connection with filings required to be made by any party under any Antitrust Law or Foreign Merger Control Law and coordinating with each other in relation to each step of the procedure before the relevant Governmental Entities and as to the contents of all material communications with such Governmental Entities. In particular, to the extent permitted by Law or Governmental Entity, no party will make any material notification to any Governmental Entity in relation to the transactions contemplated hereunder without first providing the other party with a copy of such notification in draft form and giving such other party a reasonable opportunity to discuss its content before it is filed with the relevant Governmental Entities, and such first party shall consider and take account of all reasonable comments timely made by the other party in this respect;

(ii) furnishing, to the extent permitted by Law, to the other party all necessary information that the other party may reasonably request in connection with filings required to be made by such other party under Antitrust Laws and Foreign Merger Control Laws; and

(iii) promptly notifying each other of any material communications from or with any Governmental Entity with respect to the transactions contemplated by this Agreement and ensuring to the extent permitted by Law or Governmental Entity that each of the parties is given the opportunity to attend any meetings with or other appearances before any Governmental Entity with respect to the transactions contemplated by this Agreement.

(d) In addition, each of the parties shall take, or cause to be taken, all other action and to do, or cause to be done, all other things reasonably necessary, proper or advisable under all Antitrust Laws to consummate the transactions contemplated by this Agreement, including using its reasonable best efforts to obtain the expiration of all waiting periods and obtain all other approvals and any other consents required to be obtained in order for the parties to consummate the transactions contemplated by this Agreement.

(e) Notwithstanding anything to the contrary set forth in this Agreement, including without limitation, the provisions of Section 6.3(a), Parent and its Subsidiaries shall have no obligation to: (i) sell, divest, or otherwise convey any assets, categories, portions or parts of assets or businesses of the Company or its Subsidiaries or Parent or its Subsidiaries; (ii) agree to sell, divest, or otherwise convey any asset, category, portion or part of an asset or business of the Company or its Subsidiaries or Parent or its Subsidiaries at any time; (iii) license, hold separate or enter into similar arrangements with respect to any assets of the Company, or its Subsidiaries or Parent or its Subsidiaries; or (iv) alter, modify, terminate or cancel any existing relationships, contracts, rights, obligations, policies or practices of the Company or its Subsidiaries or Parent or its Subsidiaries, as a condition to obtaining any and all expirations of waiting periods under the HSR Act or Consents from any Governmental Entity or otherwise.

(f) Any exchange of privileged and/or confidential information and materials by the parties pursuant to this Section 6.3 shall be subject to the Joint Defense, Common Interest and Confidentiality Agreement dated as of August 2, 2012 between Bingham McCutchen LLP and Simpson Thacher & Bartlett LLP.

Section 6.4. Indemnification, Exculpation and Insurance.

(a) For six years after the Effective Time, the Surviving Corporation and its Subsidiaries shall (and Parent shall cause the Surviving Corporation and its Subsidiaries to) indemnify and hold harmless, all past and present directors and officers of the Company and its Subsidiaries (in each case to the extent they acted in such capacity) (collectively, the "Indemnified Parties") against any costs, expenses (including reasonable attorneys' fees and expenses), judgments, fines, losses, claims, damages or other monetary liabilities incurred by such individual in connection with any claim or Action, whether civil, criminal, administrative or investigative, based on or arising out of, or pertaining to, in whole or in part, the fact that an Indemnified Party is or was an officer or director of the Company or any of its Subsidiaries or is or was serving at the request of the Company or any of its Subsidiaries as a director, officer, employee, fiduciary or agent of another corporation, partnership, joint venture, trust or other enterprise or non-profit entity, including matters existing or occurring at or prior to the Effective Time (including this Agreement and the transactions and actions contemplated hereby) whether asserted or claimed prior to, at or after the Effective Time, to the fullest extent permitted under applicable Law. In the event of any such claim or Action, (i) each Indemnified Party will be entitled to advancement of expenses (including reasonable fees and expenses of legal counsel) incurred in the defense of any claim or Action from the Surviving Corporation within ten Business Days following receipt by the Surviving Corporation from the Indemnified Party of a request therefor; *provided* that any Person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined that such Person is not entitled to indemnification pursuant to this Section 6.4, (ii) neither Parent nor the Surviving Corporation shall settle, compromise or consent to the entry of

any judgment in any proceeding or threatened claim or Action (and in which indemnification could be sought by such Indemnified Party hereunder), unless such settlement, compromise or consent includes a release of such Indemnified Party from all liability arising out of such claim or Action or such Indemnified Party otherwise consents and (iii) the Surviving Corporation and the Indemnified Party shall reasonably cooperate in the defense of any such matter and Parent shall have the right to assume the defense thereof at its expense with counsel selected by the independent directors of Parent and Parent shall not be liable to the Indemnified Party for any legal expenses of other counsel or any other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof, except that if Parent elects not to assume such defense or counsel or the Indemnified Party reasonably advises that there are issues which create conflicts of interest between Parent, on the one hand, and the Indemnified Party, on the other hand, the Indemnified Party may retain counsel satisfactory to them and Parent shall pay all reasonable fees and expenses of such counsel for the Indemnified Party promptly as statements therefor are received; *provided*, *however*, that notwithstanding the foregoing, Parent shall not be obligated pursuant to this paragraph to pay for more than one law firm for all Indemnified Parties in any jurisdiction unless the use of one law firm for such Indemnified Parties would present the attorneys of such law firm with a conflict of interest, in which case Parent shall only be obligated to pay for representation by the fewest number of law firms necessary to avoid such conflicts of interest.

(b) The certificate of incorporation and bylaws of the Surviving Corporation shall, to the extent permitted by Law, contain provisions no less favorable, for a period of six years following the Effective Time, with respect to indemnification, advancement of expenses and exculpation of former or present directors and officers than are presently set forth in the Company's certificate of incorporation and bylaws, which provisions shall not be amended, repealed or otherwise modified in any manner that would adversely affect the rights thereunder of any such individuals; *provided* that the certificate of incorporation and bylaws of the Surviving Corporation may be amended in any manner if Parent unconditionally assumes all obligations for such indemnification, advancement of expenses and exculpation pursuant to the provisions set forth in such certificate of incorporation and bylaws immediately prior to such amendment.

(c) If Parent does not elect to purchase a directors' and officers' liability "tail" or "runoff" insurance policy with an aggregate coverage limit over the term of such program in an amount not to exceed the unimpaired annual aggregate coverage limit under the Company's existing directors' and officers' liability policy, and in all other respects substantially comparable to such existing coverage, the Company may, at its option, prior to the Effective Time, purchase a six year "tail" policy providing at least the same coverage and amounts containing terms and conditions that are no less advantageous to the insured as the current policies of directors' and officers' liability insurance maintained by the Company; *provided*, *however*, that the Company shall not, without Parent's consent, make a premium payment for such insurance to the extent such premium exceeds 200% of the annual premiums paid as of the date hereof by the Company for such insurance, which annual premiums paid are set forth in Section 6.4(c) of the Company Disclosure Letter (such 200% amount, the "Base Premium"); *provided however*, if such insurance coverage cannot be obtained at all, or can only be obtained at a premium in excess of the Base Premium, the Company may purchase the most advantageous "tail" policy of directors' and officers' insurance reasonably available for an annual premium equal to the Base Premium

(d) Notwithstanding anything herein to the contrary, if any claim or Action is made against any Indemnified Party on or prior to the sixth anniversary of the Effective Time, the provisions and benefits of this Section 6.4 shall continue in full force and effect with respect to such claim or Action until the final disposition of such claim or Action.

(e) This covenant is intended to be for the benefit of, and shall be enforceable by, each of the Indemnified Parties and their respective heirs and legal representatives. Parent shall pay all reasonable expenses, including attorneys' fees, that may be incurred by any Indemnified Party in enforcing the indemnity and other obligations provided in this Section 6.4; *provided* that such Indemnified Parties make an undertaking to repay such expenses if it is determined that they were not entitled to indemnification or expense reimbursement under this Section 6.4. The indemnification provided for herein shall not be deemed exclusive of any other rights to which an Indemnified Party is entitled, whether pursuant to Law, contract or otherwise.

(f) In the event that Parent, the Surviving Corporation or any of their successors or assigns (i) consolidates with or merges into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) transfers or conveys all or a majority of its properties and assets to any Person, then, and in each such case, proper provision shall be made so that the successors and assigns of Parent or the Surviving Corporation, as the case may be, shall assume the obligations set forth in this Section 6.4; *provided*, *however*, that a successor or assign of a Subsidiary of Parent including the Surviving Corporation, shall not be required to assume the obligations set forth in this Section 6.4 if Parent unconditionally assumes all such obligations.

(g) This Section 6.4 is not intended to limit the rights of any Persons pursuant to any indemnification agreement listed in Section 3.11 of the Company Disclosure Letter.

Section 6.5. Public Announcements. The Company and Parent will consult with and provide each other the reasonable opportunity to review and comment upon any press release or other public statement or comment prior to the issuance of such press release or other public statement or comment relating to this Agreement or the transactions contemplated hereby and shall not issue any such press release or other public statement or comment prior to such consultation except as may be required by applicable Law or by obligations pursuant to any listing agreement with any national securities exchange. Parent and the Company agree that the initial press release announcing the execution and delivery of this Agreement shall be a joint release of Parent and the Company. Notwithstanding the foregoing, nothing in this Section 6.5 shall limit the Company's or the Company Board's rights to make public statements about its actions under Section 5.3 without prior consultation.

Section 6.6. Section 16 Matters. Prior to the Effective Time, each of Parent and the Company shall take all steps reasonably necessary to cause any dispositions of Company Common Stock (including derivative securities with respect to Company Common Stock) resulting from the transactions contemplated by this Agreement by each Person (including any Person who is deemed to be a "director by deputization" under applicable securities laws) who is subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to the Company to be exempt under Rule 16b-3 promulgated under the Exchange Act.

Section 6.7. Notification of Certain Matters; Stockholder Litigation.

(a) The Company shall give prompt notice to Parent, and Parent shall give prompt notice to the Company, of (i) any claims or Actions commenced or, to such party's knowledge, threatened against, relating to or involving or otherwise affecting such party or any of its Subsidiaries which relate to the Merger or the other transactions contemplated hereby and (ii) the discovery of any fact or circumstance that, or the occurrence or non-occurrence of any event the occurrence or non-occurrence of which, would reasonably be expected to cause or result in any of the conditions to the Merger set forth in Article VII not being satisfied or satisfaction of those conditions being materially delayed in violation of any provision of this Agreement; *provided*, *however*, that the delivery of any notice pursuant to this Section 6.7 shall not (x) cure any breach of, or non-compliance with, any other provision of this Agreement or (y) limit the remedies available to the party receiving such notice. The parties agree and acknowledge that the Company's, on the one hand, and Parent's on the other hand, compliance or failure of compliance with this Section 6.7 shall not be taken into account for purposes of determining whether the condition referred to in Section 7.2(b) or Section 7.3(b), respectively, shall have been satisfied.

(b) Without limiting the foregoing, in the event that any stockholder or derivative claim or Action related to this Agreement, the Merger or the other transactions contemplated by this Agreement is brought, or, to the knowledge of the Company, threatened in writing, against the Company and/or the members of the Company Board prior to the Effective Time, the Company shall promptly notify Parent of any such claim or Action and shall keep Parent reasonably informed with respect to the status thereof. The Company shall reasonably consult with Parent with respect to the defense or settlement of any claim, Action or threat, and no settlement thereof shall be agreed to without Parent's prior written consent.

Section 6.8. Employee Matters.

(a) Parent shall cause the Surviving Corporation and each of its Subsidiaries to maintain for current employees or officers of the Company or any of its Subsidiaries as of the Effective Time ("Company Employees"), during the period commencing at the Effective Time and (i) ending on the first anniversary of the Effective Time, annual cash compensation levels (such term to mean (A) annual rate of cash base salary and wage rates, as applicable and (B) target annual cash incentive opportunities, that are no less favorable in the aggregate than such annual rates of base salary and wage rates, as applicable and such target annual cash incentive compensation opportunities maintained for and provided to Company Employees immediately prior to the Effective Time) and (ii) ending on December 31, 2013, health and welfare benefits and retirement benefits (excluding, for the avoidance of doubt, equity compensation), that, in the aggregate are no less favorable than the health and welfare benefits, and retirement benefits (excluding, for the avoidance of doubt, equity compensation) maintained for and provided to Company Employees under the Company Plans listed in the Company Disclosure Letter immediately prior to the Effective Time; *provided*, *however*, that for those Company Employees whose terms and conditions of employment are governed by collective bargaining, Parent shall or shall cause the Surviving Corporation to comply with such agreements, and such compliance shall be deemed satisfaction of the foregoing covenant.

(b) As of and after the Effective Time, Parent will, or will cause the Surviving Corporation to, give Company Employees full credit for purposes of eligibility, participation, vesting and benefit accruals (but not for purposes of benefit accruals under any defined benefit pension plans, to the extent this credit would result in a duplication of benefits for the same period of service), under any employee compensation and incentive plans, benefit (including vacation but excluding, for purposes of any equity incentive compensation) plans, programs, policies and arrangements maintained for the benefit of Company Employees as of and after the Effective Time by Parent, its Subsidiaries or the Surviving Corporation for the Company Employees' service with the Company, its Subsidiaries and their predecessor entities (each, a "Parent Plan") to the same extent recognized by the Company immediately prior to the Effective Time. With respect to each Company Plan that is a "welfare benefit plan" (as defined in Section 3(1) of ERISA, regardless as to whether or not such Parent Plan is subject to ERISA, Parent or its Subsidiaries shall (i) cause there to be waived or deemed satisfied any pre-existing condition or eligibility limitations to the extent waived or deemed satisfied under the Company Plan immediately prior to replacement and (ii) if such a Company Plan is being replaced by a Parent Plan at any time other than the commencement of a Plan year of the Parent Plan, give effect, to the extent relevant in determining any deductible and maximum out-of-pocket limitations, to claims incurred and amounts paid by, and amounts reimbursed to, Company Employees under the relevant Company Plan in the Plan year of the Parent Plan in which the Effective Time occurs.

(c) As of and after the Effective Time, Parent will, or will cause the Surviving Corporation to, honor the Company Plans in accordance with their terms, including any severance and retention plans and agreements listed in the Company Disclosure Letter, subject to Parent's ability to amend any provisions or terminate any Company Plan consistent with the applicable Company Plan.

(d) As provided in Section 9.7, this Agreement shall inure exclusively to the benefit of and be binding upon the parties hereto and their respective successors, assigns, executors and legal representatives. Nothing in this Section 6.8, express or implied, (i) is intended to confer on any Person (including any Company Employee) or entity, other than the parties to this Agreement or their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, (ii) shall constitute an amendment to any Company Plan or Parent Plan, (iii) shall limit the ability of Parent and its Subsidiaries (including the Surviving Corporation and its Subsidiaries) to revise, amend or terminate any employee benefit plan, program, policy, or arrangement (including any Company Plan or Parent Plan) at any time or from time to time after the Effective Time, or (iv) shall limit the ability of Parent and its Subsidiaries (including the Surviving Corporation and its Subsidiaries) to terminate the employment or engagement of any Person (including any Company Employee) on or after the Effective Time.

Section 6.9. Anti-Takeover Statutes. If the restrictive provisions of any Anti-Takeover Statute are or may become applicable to this Agreement (including the Merger and the other transactions contemplated hereby), each of Parent, the Company and Sub and their respective boards of directors shall grant all such approvals and

take all such actions as are reasonably necessary so that such transactions may be consummated as promptly as practicable hereafter on the terms contemplated hereby and otherwise act to eliminate or minimize the effects of such statute or regulation on such transactions.

Section 6.10. Treatment of Certain Notes; Credit Agreement.

(a) Prior to the Effective Time, the Company shall take any necessary actions in accordance with the terms of that certain Supplemental Indenture, dated as of July 10, 2009, between the Company, Sealy Mattress Company, The Bank of New York Mellon Trust Company, N.A., as trustee, and the other parties thereto (as amended or supplemented, the "Convertible Notes Indenture"), including the giving of any notices that may be required in connection with any repurchases or conversions of Convertible Notes occurring as a result of the transactions contemplated by this Agreement, and delivery of any supplemental indentures, legal opinions, officers certificates or other documents or instruments required in connection with the consummation of the Merger. The Company shall ensure compliance with the obligations of the Company and its Subsidiaries under the Convertible Notes Indenture, including Section 4.03 thereof, in accordance with the terms thereof.

(b) At least one Business Day prior to the Effective Time, the Company shall deliver to Parent a copy of a payoff letter (subject to delivery of funds as arranged by Parent), in commercially reasonable form, from the administrative agent under the Credit Agreement and shall make arrangements for the release of all Liens and other security over the Company's and its Subsidiaries' properties and assets securing the Company's and its Subsidiaries' obligations under the Credit Agreement.

(c) With respect to the Senior Notes and the Senior Subordinated Notes, the Company shall use its reasonable best efforts to (i) take actions reasonably requested by Parent that are reasonably necessary for the redemption, satisfaction, discharge or defeasance of the Senior Notes and the Senior Subordinated Notes pursuant to the applicable provisions of the indenture and officer's certificate governing the Senior Notes and the Senior Subordinated Notes, respectively, and (ii) redeem, satisfy, discharge or defeasance, as applicable, the Senior Notes and the Senior Subordinated Notes in accordance with the terms of the indenture and officer's certificates governing the Senior Notes and the Senior Subordinated Notes, respectively, on or after the Effective Time, *provided* that no action described in clauses (i) or (ii) shall be required to be taken unless it can be conditioned on the occurrence of the Effective Time, and *provided*, *further*, that Parent shall, or shall cause to be, deposited with the trustee under the indenture governing the Senior Notes and the Senior Subordinated Notes sufficient funds to effect such redemption, defeasance, satisfaction or discharge.

(d) Parent (i) shall promptly, upon request by the Company, reimburse the Company for all reasonable and documented out-of-pocket costs (including reasonable attorneys' fees and costs) incurred by the Company, any of its Subsidiaries or its or their Representatives in connection with the actions of the Company and its Subsidiaries and its or their Representatives contemplated by this Section 6.10 and (ii) acknowledges and agrees that the Company, its Subsidiaries and its or their Representatives shall not incur any liability to any person prior to the Effective Time with respect to any redemption, satisfaction, discharge or defeasance of the Senior Notes or the Senior Subordinated Notes. Parent acknowledges and agrees that neither the pendency nor the consummation of any redemption, satisfaction, discharge or defeasance with respect to the Senior Notes and the Senior Subordinated Notes is a condition to Parent's obligations to consummate the Merger.

Section 6.11. Obligations of Sub and the Surviving Corporation. Parent shall take all action necessary to cause Sub and the Surviving Corporation to perform their respective obligations under this Agreement.

Section 6.12. Financing Cooperation. Prior to the Closing, the Company shall use its reasonable best efforts to cooperate, and to cause its Subsidiaries to cooperate, with Parent and Sub in connection with Parent and Sub obtaining the Financing, including (i) furnishing financial and other pertinent information relating to the Company and its business (including information to be used in the preparation of an information package regarding the business, operations, financial projections and prospects of the Parent and the Company customary for such financing or any prospectus or offering memorandum or otherwise reasonably necessary for the completion of the Financing by the Financing Sources) to Parent, Sub and the Financing Sources to the extent

reasonably requested by the Parent to assist in preparation of customary offering or information documents to be used for the completion of the Financing and in advance of the Marketing Period, (ii) without limiting the generality of the preceding clause (i), furnishing promptly such financial and other pertinent information regarding the Company and its Subsidiaries as may be reasonably requested by Parent to consummate the Financing, including, without limitation, information of the type required by Regulation S-X and Regulation S-K under the Securities Act (excluding information required by Regulation S-X Rule 3-10 and Regulation S-X Rule 3-16) and of the type and form customarily included in offering documents used in private placements under Rule 144A of the Securities Act and in any event the information regarding the Company and its Subsidiaries required to be delivered pursuant to paragraphs vi and ix of Annex III to the Commitment Letter (the information described in this clause (ii), the "Required Company Financing Information"), (iii) prior to and during the Marketing Period, participating in a reasonable number of meetings (including customary one-on-one meetings with the parties acting as lead arrangers or agents for, and prospective lenders and purchasers with respect to, the Financing and senior management and Representatives, with appropriate seniority and expertise, of the Company), presentations, roadshows, due diligence sessions, drafting sessions (including accounting due diligence sessions) and sessions with rating agencies in connection with the Financing, (iv) prior to the Marketing Period, assisting with the preparation of (A) any customary offering documents or memoranda, bank information memoranda, prospectuses and similar documents and (B) materials for rating agency presentations and bank information memoranda and similar documents required in connection with the Financing, (v) cooperating with the marketing efforts for any of the Financing, (vi) executing and delivering (or using reasonable best efforts to obtain from its advisors), and causing its Affiliates to execute and deliver (or use reasonable best efforts to obtain from their advisors), customary certificates, accountants' comfort letters (and consents of accountants for use of their reports in any materials relating to the Financing and in connection with any filings required to be made by Parent pursuant to the Securities Act or the Exchange Act where the Financial Statements or any of the other Required Company Financing Information is included or incorporated by reference), legal opinions or other documents and instruments relating to guarantees and other matters ancillary to the Financing as may be reasonably requested by the Parent as necessary and customary in connection with the Financing, (vii) (A) preparing and executing customary perfection certificates required in connection with the Financing, (B) obtaining pay-off letters and lien releases and instruments of discharge required to be delivered under the Commitment Letter and (C) obtaining guarantees, pledging of collateral, including taking all actions reasonably necessary to establish bank and other accounts and blocked account agreements in connection with the foregoing and executing and delivering customary pledge and security documents or other definitive financing documents and other certificates and documents as may be reasonably requested by Parent, consistent with the terms of this Agreement and the Commitment Letter, to obtain and perfect security interests in assets of the Company and its Subsidiaries that are intended to constitute collateral securing the Financing or otherwise facilitating the obtaining of guarantees, pledging of collateral from and after the Closing as may be reasonably requested by Parent; provided, that any obligations contained in all such agreements and documents shall be executed and effective no earlier than the Closing, (viii) providing authorization letters to the Financing Sources authorizing the distribution of information to prospective lenders or investors and containing a representation to the Financing Sources that the public side versions of such documents, if any, do not include material non-public information about the Company or its Subsidiaries or securities, (ix) reasonably cooperating with the Financing Sources' due diligence, providing all documentation and other information about the Company and each of its Subsidiaries as is reasonably requested in writing by Parent which is in connection with the Financing and relates to applicable "know your customer" and anti-money laundering rules and regulations including without limitation the USA PATRIOT Act and (x) taking all corporate actions, subject to the occurrence of the Closing, necessary to permit the consummation of the Financing including entering into one or more credit agreements, indentures or other instruments on terms reasonably satisfactory to Parent in connection with the Financing as of or immediately after the Effective Time to the extent direct borrowings or debt incurrence (or any guarantees thereof) by the Company is contemplated in the Financing; *provided*, *however*, that nothing herein shall require such cooperation to the extent it would interfere unreasonably with the business or operations of the Company or its Subsidiaries; *provided*, *further*, that neither the Company nor any of its Subsidiaries shall be required to commit to take any action that is not contingent upon the Closing (including the entry into any agreement) or that would be effective prior to the Effective Time and no personal liability shall be imposed on the officers or employees involved. Neither the Company nor any of its Subsidiaries shall be required to take any action that would subject it to actual or potential liability prior to the Effective Time, to bear any cost or expense or 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 Financing or any of the foregoing prior to the Effective Time. Parent shall, promptly upon request by the Company, reimburse the Company for all documented and reasonable out-of-pocket costs incurred by the Company or its Subsidiaries in connection with this Section 6.12. The Company hereby consents to the reasonable use of the Company's and its Subsidiaries' logos in connection with the Financing, *provided* that such logos are used solely in a manner that is not intended to or reasonably likely to harm or disparage the Company or any of its Subsidiaries or the reputation or goodwill of the Company or any of its Subsidiaries or any of their logos and on such other customary terms and conditions as the Company shall reasonably impose. For the avoidance of doubt and notwithstanding anything to the contrary above in this Section 6.12, Parent acknowledges and agrees that the obligations of Parent and Sub to consummate the Merger and the other transactions contemplated by this Agreement are not conditioned upon the availability or consummation of the Financing or receipt of proceeds therefrom but, in any event, without limiting the Company's obligations under this Agreement, including this Section 6.12.

Section 6.13. Financing.

(a) Parent shall use its reasonable best efforts to obtain the Financing on the terms and conditions described in the Commitment Letter, including (i) using its reasonable best efforts to negotiate and enter into definitive financing agreements with respect thereto on terms and conditions contemplated in the Commitment Letter provided to the Company pursuant to Section 4.8, (ii) fully paying any and all commitment fees or other fees required by the Commitment Letter when due pursuant to the provisions thereof, (iii) using its reasonable best efforts to satisfy all conditions applicable to Parent in the Commitment Letter and such definitive financing agreements, (iv) using its reasonable best efforts to comply with its obligations under the Commitment Letter and (v) enforcing its rights under the Commitment Letter. Parent shall keep the Company reasonably informed and in reasonable detail (including providing the Company with copies of all definitive documents related to the Financing in accordance with Section 4.8) with respect to all material developments concerning the Financing. Without limiting the generality of the foregoing, Parent shall give the Company prompt notice (x) of any material breach or default by any party to any of the Commitment Letter or definitive financing agreements related to the Financing of which Parent becomes aware, (y) of the receipt of any written notice from any Financing Party with respect to any (1) actual or potential material breach, default, termination or repudiation by any party to any of the Commitment Letter or definitive financing agreements related to the Financing of any provisions of the Commitment Letter or definitive financing agreements related to the Financing or (2) dispute or disagreement between or among any parties to any of the Commitment Letter or definitive financing agreements related to the Financing with respect to the obligation to fund the Financing or the amount of the Financing to be funded at Closing, and (z) if at any time management of Parent believes it will not be able to obtain all or any portion of the Financing on the terms and conditions, in the manner or from the sources contemplated by the Commitment Letter or definitive financing agreements related to the Financing. As soon as reasonably practicable, Parent shall provide any information reasonably requested by the Company relating to any circumstance referred to in clause (x), (y) or (z) of the immediately preceding sentence; provided, that Parent need not provide any information believed to be privileged, that is requested for purposes of litigation or that is related to fees and other economic information redacted from such agreements that is consistent with the information redacted from the Fee Letters executed in connection with the Commitment Letter and consistent with Section 4.8. Parent shall have the right from time to time to amend, replace, supplement or otherwise modify, or waive any of its rights under, the Commitment Letter, Fee Letters or definitive financing agreements, and/or substitute other debt or equity financing for all or any portion of the Financing from the same and/or alternative financing sources, *provided* that Parent shall not permit any such amendment or modification to be made to, or any waiver of any material provision or remedy under, the Commitment Letter or replace all or a portion of the Financing with alternate financing arrangements that, in each case, would reduce the aggregate amount of the Financing (other than immaterial reductions or as otherwise proved in such Commitment Letter or Fee Letters, including "flex provisions"), amend the conditions to the drawdown of the Financing in a manner adverse to the interests of the Company, or which would otherwise in any other respect reasonably be expected to impair, delay or prevent the consummation of the transactions contemplated by this Agreement without the prior written consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed). Parent shall promptly deliver to the Company copies of any such amendment, modification or replacement, provided that Parent shall

not be obligated to deliver to the Company copies of any Fee Letters or other information redacted from such agreements that is consistent with the economic information redacted from the Fee Letters entered into in connection with the Commitment Letter and consistent with Section 4.8.

(b) If all or any portion of the Financing becomes unavailable on the terms and conditions contemplated in the Commitment Letter, Parent shall use its reasonable best efforts to arrange to promptly obtain such Financing from alternative sources on terms not materially less favorable, in the aggregate, to Parent (including with respect to the conditionality thereof) in an amount sufficient, when added to the portion of the Financing that is available to pay in cash all amounts required to be paid by Parent in connection with the Merger ("Alternative Financing"), and to obtain a new financing commitment letter (the "Alternative Commitment Letter"), fee letter and a new definitive agreement with respect thereto (the "Alternative Financing Agreement") that provides for financing on terms not materially less favorable, in the aggregate, to Parent and in an amount that is sufficient, when added to the portion of the Financing that is available, to pay in cash all amounts required to be paid by Parent and the Surviving Corporation in connection with the Merger.

(c) References in this Agreement to (i) "Financing" shall include the financing contemplated under the Commitment Letter and any Alternative Commitment Letter as permitted by this Section 6.13 to be amended, modified, supplemented or replaced (including, for the avoidance of doubt, any alternate financing transactions permitted hereunder), (ii) "Commitment Letter" shall include such documents as permitted by this Section 6.13 (including any Alternative Commitment Letter) to be amended, modified or replaced, in each case from and after such amendment, modification or replacement and (ii) definitive financing agreements shall be deemed to include any Alternative Financing Agreement.

ARTICLE VII

CONDITIONS PRECEDENT

Section 7.1. Conditions to Each Party's Obligation to Effect the Merger. The respective obligations of each party hereto to effect the Merger shall be subject to the satisfaction or (to the extent permitted by applicable Law) waiver at or prior to the Closing of the following conditions:

(a) Company Stockholder Approval. The Company Stockholder Approval shall have been obtained and the Information Statement shall have been cleared by the SEC and shall have been sent to stockholders of the Company (in accordance with Regulation 14C of the Exchange Act) at least twenty calendar days prior to the Closing.

(b) Orders. No court or other Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any law, injunction, judgment or ruling (whether temporary, preliminary or permanent) (collectively, an "Order") that is in effect and restrains, enjoins or otherwise prohibits or makes illegal consummation of the Merger.

(c) Antitrust Laws. The waiting period applicable to the consummation of the Merger under the HSR Act shall have expired or been earlier terminated.

Section 7.2. Conditions to Obligations of Parent and Sub. The obligations of Parent and Sub to effect the Merger are further subject to the satisfaction or (to the extent permitted by applicable Law) waiver by Parent and Sub at or prior to the Closing of the following conditions:

(a) Representations and Warranties. (i) The representations and warranties of the Company contained in Sections 3.1, 3.2, 3.8(b), 3.21 and 3.22 shall be true and correct as of the Closing Date as though made on and as of such date, (ii) the representations and warranties of the Company set forth in Section 3.5(a), Section 3.5(b) and the first three sentences of Section 3.5(c) shall be true and correct in all respects, except for de minimis inaccuracy, as of the Closing Date, (iii) the representations and warranties of the Company set forth in Section 3.6(a) shall be true and correct in all material respects as of the Closing Date and (iv) the other representations and warranties of the Company set forth in this Agreement (without giving effect to any

materiality or "Company Material Adverse Effect" qualifications therein) shall be true and correct in all respects as of the Closing Date as though made on and as of such date (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct as of such earlier date), except, in the case of this clause (iv), where the failure to be true and correct would not, individually or in the aggregate, have or reasonably be expected to have a Company Material Adverse Effect. Parent shall have received a certificate at the Closing signed on behalf of the Company by an executive officer of the Company to the effect that the conditions set forth in this Section 7.2(a) have been satisfied.

(b) Performance of Obligations of the Company. The Company shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date, and Parent shall have received a certificate signed on behalf of the Company by an executive officer of the Company to such effect.

Section 7.3. Conditions to Obligation of the Company. The obligation of the Company to effect the Merger is further subject to the satisfaction or (to the extent permitted by Law) waiver by the Company at or prior to the Closing of the following conditions:

(a) Representations and Warranties. The representations and warranties of Parent and Sub set forth in this Agreement shall be true and correct as of the Closing Date as though made on and as of such date (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct as of such earlier date), except where the failure to be true and correct would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect . The Company shall have received at the Closing a certificate signed on behalf of Parent by an executive officer of Parent to the effect that the conditions set forth in this Section 7.3(a) have been satisfied.

(b) Performance of Obligations of Parent and Sub. Each of Parent and Sub shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date, and the Company shall have received a certificate signed on behalf of Parent and Sub by an executive officer of Parent to such effect.

ARTICLE VIII

TERMINATION, AMENDMENT AND WAIVER

Section 8.1. Termination. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time, whether before or after receipt of the Company Stockholder Approval, by mutual written consent of the Company and Parent by action of their respective boards of directors.

Section 8.2. Termination by Either Parent or the Company. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time, whether before or after receipt of the Company Stockholder Approval, by action of the respective boards of directors of either Parent or the Company (or, in the case of paragraph (c) below, by them jointly) if:

(a) the Merger shall not have been consummated by 11:59 p.m., New York City time on June 26, 2013 (such date, the "Termination Date"); *provided*, that the right to terminate this Agreement pursuant to this Section 8.2(a) shall not be available to any party whose failure to fulfill any obligation under this Agreement has primarily caused the failure of the Merger to occur on or prior to such date; *provided*, *further*, that if on the Termination Date, the condition to Closing set forth in either Section 7.1(b) or Section 7.1(c) (but for purposes of Section 7.1(b) only if such restraint, enjoinment or prohibition is attributable to an Antitrust Law) shall not have been satisfied, but all other conditions to Closing shall have been satisfied or waived (other than those conditions that by their nature cannot be satisfied other than at Closing), then the Termination Date may be extended by either Parent or the Company to a date and time not later than 11:59 p.m., New York City time on September 26, 2013; *provided*, *further*, that if the Marketing Period has commenced less than 21 calendar days prior to the Termination Date as defined above, the Termination Date shall be extended to a date which is one Business Day following the final day of the Marketing Period.

(b) any Order restraining, enjoining or otherwise prohibiting consummation of the Merger shall become final and non-appealable.

(c) by written election of both Parent and the Company delivered to each other during the five days after the occurrence of a Litigation Trigger Event.

Section 8.3. Termination by the Company. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time, whether before or after receipt of the Company Stockholder Approval, by written notice of the Company:

(a) prior to 11:59 p.m. New York City time on the Written Consent End Date, in the event that (i) the Company shall have received a Superior Proposal and shall have notified Parent in writing of such Superior Proposal prior to 11:59 p.m. New York City time on the date that is thirty-five calendar days after the date hereof, including a summary of the material terms and conditions of such Superior Proposal (a "Superior Proposal Notice"), and (ii) following delivery by the Company to Parent of such Superior Proposal Notice, (A) (1) if requested by Parent, the Company shall have made its Representatives available to discuss and negotiate in good faith with Parent's Representatives any proposed modifications to the terms and conditions of this Agreement intended by Parent to cause such Superior Proposal to no longer constitute a Superior Proposal, during the period of five calendar days immediately following delivery by the Company to Parent of such Superior Proposal Notice (the "Superior Proposal Notice Period"); *provided*, that, if Parent shall have delivered to the Company during such Superior Proposal Notice Period a written proposal capable of being accepted by the Company to alter the terms or conditions of this Agreement (the "Parent Matching Proposal"), the Company Board shall be entitled to analyze and review such Parent Matching Proposal for one Business Day immediately following receipt of such proposal (the "Superior Proposal Analysis Period"); and *provided*, *further*, that, in the event that, after delivery of a Superior Proposal Notice related to a Superior Proposal, there has been a material change or revision to the terms of such Superior Proposal, (i) the Company shall notify Parent of such material change or revision within one Business Day following such change or revision, and (ii) in connection with such material change or revision the then current Superior Proposal Notice Period shall be extended such that at least two Business Days remains in such Superior Proposal Notice Period subsequent to the time the Company so notifies Parent of any such material change or revision, and (2) the Company Board shall have determined in good faith (after consultation with its financial advisor and outside legal counsel), after considering the terms of such Parent Matching Proposal, that such third-party Superior Proposal would continue to constitute a Superior Proposal if the modifications proposed by Parent were given effect, or (B) Parent shall have notified the Company that it has elected not to negotiate with the Company with respect to any modifications to the terms and conditions of this Agreement and/or not to deliver a Parent Matching Proposal; *provided* that, as a condition to the termination of this Agreement pursuant to this Section 8.3(a), the Company pays Parent the Company Termination Fee payable to Parent pursuant to Section 8.5.

(b) if there has been a breach of any representation, warranty, covenant or agreement made by Parent or Sub in this Agreement, or any such representation and warranty shall be untrue, such that the conditions set forth in Section 7.3(a) or Section 7.3(b) would not be satisfied and such breach either (x) is not curable or (y) if curable, is not cured by the earlier of (i) the date that is 60 days from the date of receiving written notice of such breach and (ii) the Termination Date; *provided*, *however*, that the Company shall not have the right to terminate this Agreement pursuant to this Section 8.3(b) if it is then in breach of this Agreement so as to cause any of the conditions set forth in Section 7.2(a) or Section 7.2(b) not to be capable of being satisfied.

(c) if (i) all of the conditions set forth in Sections 7.1 and 7.2 have been and continue to be satisfied or waived (other than those conditions that by their nature cannot be satisfied other than at Closing), (ii) the Company has confirmed by written notice to Parent its intention to terminate this Agreement pursuant to this Section 8.3(c) if Parent and Sub fail to consummate the transactions contemplated by this Agreement when required pursuant to Section 1.2 and (iii) Parent and Sub fail to consummate the transactions contemplated by this

Agreement within three Business Days of the date the Closing should have occurred pursuant to Section 1.2 and the Company stood ready, willing and able to consummate the Merger through the end of such three Business Day period (for the avoidance of doubt, it being understood during such three Business Day period, Parent shall not be entitled to terminate this Agreement pursuant to Section 8.2(a)).

Section 8.4. Termination by Parent. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time, whether before or after receipt of the Company Stockholder Approval, by written notice of Parent if:

(a) a Company Adverse Recommendation Change has been effected by the Company Board (whether or not in compliance with Section 5.3);

(b) the Stockholder Written Consent representing the Company Stockholder Approval has not been executed and delivered to Parent and the Company within 48 hours after execution of this Agreement;

(c) the Company enters into an Alternative Acquisition Agreement;

(d) the Company or the Company Board shall have resolved or otherwise publicly announced its intention to take any of the foregoing actions in clauses (a) or (c); or

(e) there has been a breach of any representation, warranty, covenant or agreement made by the Company in this Agreement, or any such representation and warranty shall be untrue, such that the conditions set forth in Section 7.2(a) or Section 7.2(b) would not be satisfied and such breach either (x) is not curable or (y) if curable, is not cured by the earlier of (i) the date that is 60 days from the date of receiving written notice of such breach and (ii) the Termination Date; *provided*, *however*, that Parent shall not have the right to terminate this Agreement pursuant to this clause (e) if Parent is then in breach of this Agreement so as to cause any of the conditions set forth in Section 7.3(a) or Section 7.3(b) not to be capable of being satisfied.

Section 8.5. Effect of Termination.

(a) In the event of termination of this Agreement and the abandonment of the Merger pursuant to this Article VIII, this Agreement shall become void and of no effect with no liability to any Person on the part of any party hereto (or of any of its Representatives); *provided*, *however*, and notwithstanding anything in the foregoing to the contrary, that (i) except as otherwise provided herein, no such termination shall relieve any party hereto of any liability for damages to the other party hereto resulting from willful and intentional breach of this Agreement and (ii) the provisions set forth in this Section 8.5, Section 8.6 and Article IX and the Confidentiality Agreement shall survive the termination of this Agreement. For purposes of this Agreement, "willful and intentional breach" shall mean a material breach that is a consequence of an omission by, or act undertaken by or caused by, the breaching party with the actual knowledge that the omission or taking or causing of such act would, or would reasonably be expected to, cause a breach of this Agreement.

(b) In the event that:

(i) (x) (1) before obtaining the Company Stockholder Approval, this Agreement is terminated pursuant to Section 8.2(a) or Section 8.4(e) and any Person shall have made and publicly disclosed a bona fide Takeover Proposal after the date of this Agreement but prior to such termination, and such Takeover Proposal shall not have been publicly withdrawn prior to such termination or (2) this Agreement is terminated pursuant to Section 8.4(b) and any Person shall have made and publicly disclosed a bona fide Takeover Proposal after the date of this Agreement but prior to such termination and (y) within twelve months of such termination the Company shall have entered into a definitive agreement with respect to such Takeover Proposal and such Takeover Proposal or a Takeover Proposal resulting from such initial Takeover Proposal is consummated (*provided* that for purposes of this clause (y) the references to "20%" in the definition of "Takeover Proposal" shall be deemed to be references to "50%");

(ii) this Agreement is terminated by Parent pursuant to Section 8.4(a), (c) or (d); or

(iii) this Agreement is terminated by the Company pursuant to Section 8.3(a),

then the Company shall (A) in the case of clause (i) above, within three Business Days after the date on which the Company consummates the Takeover Proposal referred to in subclause (i)(y) above, (B) in the case of clause (ii) above, no later than three Business Days after the date of such termination and (C) in the case of clause (iii) above, immediately prior to or concurrently with such termination, pay Parent or its designee the Company Termination Fee (as defined below) by wire transfer of immediately available funds (it being understood that in no event shall the Company be required to pay the Company Termination Fee on more than one occasion). "Company Termination Fee" shall mean an amount equal to $25,000,000.

(c) In the event that:

(i) the Company and Parent both elect to terminate this Agreement pursuant to Section 8.2(c);

(ii) neither the Company nor Parent elect to terminate this Agreement pursuant to Section 8.2(c), and this Agreement is subsequently terminated pursuant to Section 8.2(a) or Section 8.2(b) (but for purposes of Section 8.2(b) only if such restraint, enjoinment or prohibition is attributable to an Antitrust Law);

(iii) the Company elects in writing to terminate this Agreement pursuant to Section 8.2(c) but the Parent does not elect in writing to terminate this Agreement pursuant to Section 8.2(c), and this Agreement is subsequently terminated pursuant to Section 8.2(a) or Section 8.2(b) (but for purposes of Section 8.2(b) only if such restraint, enjoinment or prohibition is attributable to an Antitrust Law); or

(iv) Parent elects in writing to terminate this Agreement pursuant to Section 8.2(c) but the Company does not elect in writing to terminate this Agreement pursuant to Section 8.2(c), and this Agreement is subsequently terminated pursuant to Section 8.2(a) or Section 8.2(b) (but for purposes of Section 8.2(b) only if such restraint, enjoinment or prohibition is attributable to an Antitrust Law);

then Parent shall (A) in the case of clause (i) above, pay to the Company a termination fee of $90 million, and (B) only if all of the conditions to Closing set forth in Article VII (other than (x) the conditions set forth in Section 7.1(b) or Section 7.1(c) (but for purposes of Section 7.1(b) only if such restraint, enjoinment or prohibition is attributable to an Antitrust Law) and (y) those other conditions that, by their nature, cannot be satisfied until the Closing, but in the case of clause (y), which conditions would be satisfied if the Closing were to occur on the date of termination) have been satisfied or waived on or prior to the date of such termination, (I) in the case of clause (ii) or (iii) above, pay to the Company a termination fee of $90 million on the Termination Date if the condition set forth in Section 7.1(c) is not satisfied by the Termination Date, and (II) in the case of clause (iv) above, pay to the Company a termination fee of $40 million on the Termination Date if the condition set forth in Section 7.1(c) is not satisfied by the Termination Date; *provided*, that in no event shall any fee be payable by Parent to the Company pursuant to this Section 8.5(c) if the Company breaches its obligations pursuant set forth in the last sentence of Section 6.3(b).

Section 8.6. Expenses. Except as otherwise specifically provided herein, each party shall bear its own expenses in connection with this Agreement and the transactions contemplated hereby. Expenses incurred in connection with the printing, filing and mailing of the Information Statement shall be paid by the Company.

Section 8.7. Amendment. This Agreement may be amended by the parties hereto by action taken by or on behalf of their respective boards of directors at any time prior to the Effective Time, whether before or after Company Stockholder Approval; *provided*, *however*, that, after adoption of this Agreement by the stockholders of the Company, no amendment may be made which by Law requires the further approval of the stockholders of the Company without such further approval. This Agreement may not be amended except by an instrument in writing signed by the parties hereto; *provided*, *further*, that any amendment to Section 9.9(c) may not be made except by an instrument in writing signed by the parties hereto and the Arranger (as such term is defined in the Commitment Letter).

Section 8.8. Extension; Waiver. At any time prior to the Effective Time, any party hereto may (a) extend the time for the performance of any of the obligations or other acts of the other parties hereto, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto and (c) subject to the requirements of applicable Law, waive compliance with any of the agreements or conditions contained herein. Any such extension or waiver shall only be valid if set forth in an instrument in writing signed by the party or parties to be bound thereby and references this Section 8.8 or a waiver under this Agreement. The failure of any party to assert any rights or remedies shall not constitute a waiver of such rights or remedies.

ARTICLE IX

GENERAL PROVISIONS

Section 9.1. Non-Survival of Representations and Warranties. None of the representations, warranties, covenants and agreements in this Agreement or in any instrument delivered pursuant to this Agreement, including any rights arising out of any breach of such representations, warranties, covenants and agreements, shall survive the Effective Time, except for (a) those covenants and agreements contained herein to the extent that by their terms apply or are to be performed in whole or in part after the Effective Time and (b) those contained in this Article IX.

Section 9.2. Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt) by delivery in person, by registered or certified mail (postage prepaid, return receipt requested), by facsimile or by electronic mail ("email") transmission (so long as a receipt of such facsimile or email is requested and received and provided that any notice received by facsimile or email on any Business Day after 5:00 p.m. (New York City time) shall be deemed to have been received at 9:00 a.m. (New York City time) on the next Business Day) to the respective parties at the following addresses (or at such other address for a party as shall be specified by like notice):

if to Parent or Sub, to:

Tempur-Pedic International Inc.
1713 Jaggie Fox Way
Lexington, Kentucky 40511
Attention: Chief Executive Officer
Facsimile: (859) 514-5680
Email: mark.sarvary@tempurpedic.com

with an additional copy (which shall not constitute notice) to:

Tempur-Pedic International Inc.
1713 Jaggie Fox Way
Lexington, Kentucky 40511
Attention: General Counsel
Facsimile: (859) 514-5794
Email: lou.jones@tempurpedic.com

and

Bingham McCutchen LLP
399 Park Avenue
New York, New York 10022
Attention: John Utzschneider

Facsimile: (212) 752-5378
Email: john.utzschneider@bingham.com

if to the Company, to:

Sealy Corporation
One Office Parkway
Sealy Drive
Attention: Chief Executive Officer
Facsimile: (336) 861-3640
Email: lrogers@sealy.com

with an additional copy (which shall not constitute notice) to:

Sealy Corporation
One Office Parkway
Sealy Drive
Attention: General Counsel
Facsimile: (336) 861-3786
Email: mmurray@sealy.com

and

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attention: Sean Rodgers
Facsimile: (212) 455-2502
Email: srodgers@stblaw.com

Section 9.3. Definitions. For purposes of this Agreement:

"Action" means any action, suit, hearing, arbitration proceeding, administrative or regulatory proceeding, mediation, citation, summons, subpoena, demand, audit, inquiry or investigation of any nature (civil, criminal, regulatory or otherwise), in law or in equity.

"Affiliate" of any Person means another Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person. The term "controlled" shall have a correlative meaning.

"Alternative Acquisition Agreement" means any letter of intent, memorandum of understanding, acquisition agreement, merger agreement or similar definitive agreement (other than any Acceptable Confidentiality Agreement) relating to any Takeover Proposal or requiring the Company to abandon, terminate, breach or fail to consummate the transactions contemplated by this Agreement.

"Anti-Takeover Statute" means any "fair price, "moratorium, "control share acquisition" or other similar anti-takeover statute or regulation enacted under state laws in the United States prior to the date hereof applicable to the Company.

"Antitrust Law" means the Sherman Antitrust Act of 1890, as amended, the Clayton Act of 1914, as amended, the HSR Act, the Federal Trade Commission Act, as amended, and all other federal, state and foreign, if any, statutes, rules, regulations, orders, decrees, administrative and judicial doctrines and other Laws, including any amendments or revisions thereto, as applicable and if any, that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

"Business" means the business of the Company and its Subsidiaries, as it is now being conducted and is currently planned to be conducted.

"Business Day" means any day that is not a Saturday, Sunday or other day on which banking institutions are required or authorized by Law to be closed in New York, New York, and shall consist of the time period from 12:00 a.m. (New York City time) through 11:59 p.m. (New York City time).

"Code" shall mean the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, or any successor statute, and regulations thereto.

"Commitment Letter" shall mean the commitment letter dated as of the date hereof among Parent, Bank of America, N.A. (the "Initial Lender") and Merrill Lynch, Pierce, Fenner & Smith Incorporated, pursuant to which the Initial Lender has committed, on the terms set forth therein, to provide to Parent up to (i) $1,770,000,000 in senior secured debt financing and (ii) up to $350,000,000 in interim bridge financing.

"Company Material Adverse Effect" means any event, change, occurrence, development or effect that would have or would reasonably be expected to have a material adverse effect on the business, financial condition or results of operations of the Company and its Subsidiaries taken as a whole, other than any event, change, occurrence, development or effect resulting from (i) changes in general economic, financial market, business or geopolitical conditions, (ii) changes or developments generally applicable to any of the industries and markets in which the Company or its Subsidiaries operate, (iii) changes in any applicable Law or GAAP (or interpretations thereof), (iv) any change in the price or trading volume of the shares of Company Common Stock, or the credit rating of the Company, in each case in and of itself (*provided*, that the facts or occurrences giving rise to or contributing to such change that are not otherwise excluded from the definition of "Company Material Adverse Effect" may be taken into account in determining whether there has been a Company Material Adverse Effect), (v) any failure by the Company to meet any published analyst estimates or expectations of the Company's revenue, earnings or other financial performance or results of operations for any period, in and of itself, or any failure by the Company to meet its internal or published projections, budgets, plans or forecasts of its revenues, earnings or other financial performance or results of operations, in and of itself (*provided*, that the facts or occurrences giving rise to or contributing to such failure that are not otherwise excluded from the definition of "Company Material Adverse Effect" may be taken into account in determining whether there has been a Company Material Adverse Effect), (vi) any outbreak or escalation of hostilities or war (whether or not declared), military actions or the escalation thereof, or any act of sabotage or terrorism or any natural disasters, (vii) the announcement of this Agreement and the transactions contemplated hereby, (viii) any action required by this Agreement or taken at the request of Parent or Sub or (ix) any stockholder or derivative Action arising from allegations of a breach of fiduciary duty relating to this Agreement or the transactions contemplated hereby, except in the case of each of clauses (i) through (iii) and (vi), to the extent such events, changes, occurrences, developments or effects have, individually or in the aggregate, a disproportionate impact on the Company and its Subsidiaries, taken as a whole, relative to other industry participants (in which case the incremental disproportionate impact or impacts may be taken into account in determining whether there has been a Company Material Adverse Effect).

"Compliant" shall mean, with respect to the Required Company Financing Information, that (i) such Required Company Financing Information does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make any offering memorandum, in the light of the circumstances under which it was made, not misleading, (ii) such Required Company Financing Information is, and remains throughout the Marketing Period, compliant in all material respects with all requirements of Regulation S-K and Regulation S-X under the Securities Act (excluding information required by Regulation S-X Rule 3-10 and Regulation S-X Rule 3-16) for offerings of debt securities on a registration statement on Form S-1 for a non-reporting company using such financial statements and financial information to be declared effective by the SEC on the last day of the Marketing Period, (iii) the Company's auditors have not withdrawn any audit opinion with respect to any financial statements contained in the Required Company Financing Information, (iv) with respect to any interim financial statements, such interim financial statements have been reviewed by the Company's auditors as provided in the procedures specified by the Public Company Accounting Oversight Board in AU 722,

and (v) the Company's auditors have delivered drafts of customary comfort letters, including as to customary negative assurances and change period, and such auditors have confirmed they are prepared to issue any such comfort letter throughout the Marketing Period.

"Consent" means any consent, waiver, approval, authorization, filing, registration or notification, whether by, with or to any Governmental Entity or any other Person.

"Contract" means any contract, agreement, indenture, note, bond, lease, sublease, mortgage, license, commitment or other legally binding arrangement (whether written or oral).

"Convertible Notes" means the 8% Senior Secured Third Lien Convertible Notes due 2016 issued pursuant to the Convertible Notes Indenture.

"Credit Agreement" means the Amended and Restated Credit Agreement, dated as of May 9, 2012, by and among Sealy Mattress Company, as Borrower, Sealy Mattress Corporation, Sealy Corporation, the several lenders from time to time parties thereto, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, and the other persons party thereto.

"Environmental Laws" means federal, state, local and foreign Laws relating to protection of, or giving rise to liability due to the degradation of, the environment, natural resources, or human or worker health and safety as relating to exposure to Hazardous Materials.

"Environmental Permits" shall mean any and all permits, licenses, registrations, approvals, and other authorizations required under applicable Environmental Laws.

"Exchange Act" means the Securities Exchange Act of 1934, as amended (including the rules and regulations promulgated thereunder).

"Financing" means the financing to be provided by the Financing Sources as set forth in the Commitment Letter.

"Financing Sources" means the entities that have committed to provide or arrange or otherwise entered into agreements in connection with the Financing, the Financing Commitments or other financings in connection with the transactions contemplated hereby, including the parties named in the definition of Commitment Letter, and the parties to any joinder agreements, indentures or credit agreements entered pursuant thereto or relating thereto, together with their respective Affiliates, and their respective Affiliates' officers, directors, employees, agents and representatives of any of the foregoing and their respective successors and assigns.

"Hazardous Material" means any and all substances or materials listed or regulated under any applicable Environmental Law as a hazardous, infectious, or toxic substance, material, waste, pollutant, or contaminant, or is otherwise listed or regulated under any applicable Environmental Law because it poses a hazard to the environment, natural resources, or human or worker health and safety.

"Intellectual Property" means all United States and foreign intellectual property rights of any kind, including all of the following (i) (a) patents, utility models, inventions, processes, developments, technology and know-how; (b) copyrights, including copyrights, moral rights and/or works of authorship, in each case, in any media, including graphics, advertising materials, labels, package designs, photographs and computer programs, source code and executable code, whether embodied in software, firmware or otherwise, (c) trademarks, service marks, trade names, brand names, domain names, logos, trade dress and other source indicators; (d) trade secrets, confidential, proprietary or non-public information and databases, data compilations and collections and technical data; and (ii) all registrations, applications, renewals, extensions, substitutions, continuations, continuations-in-part, divisions, re-issues, re-examinations, foreign counterparts thereof, all goodwill associated therewith and/or all common law rights or similar legal protections related thereto.

"knowledge" means, with respect to any matter in question, the actual knowledge of (i) with respect to the Company, those individuals listed in Section 9.3 of the Company Disclosure Letter, and (ii) with respect to Parent, those individuals listed in Section 9.3 of the Parent Disclosure Letter.

"Law" and "Laws" means all laws, principles of common law, statutes, constitutions, treaties, rules, regulations, ordinances, codes, rulings, Orders, licenses and determinations of all Governmental Entities.

"Lien" means any lien, claim, mortgage, encumbrance, pledge, security interest, equity or charge of any kind.

"Litigation Trigger Event" means the occurrence of any Governmental Entity either, in each case attributable to Antitrust Law and during the 30-calendar day period following the date Parent and the Company have substantially complied with a Second Request, (i) having commenced an Action to restrain, enjoin or otherwise prohibit the consummation of the Merger or (ii) having provided notice to Parent or the Company orally or in writing that such Governmental Entity will commence an Action to restrain, enjoin or otherwise prohibit the consummation of the Merger.

"Marketing Period" means the first period of 21 consecutive calendar days during and at the end of which (1) Parent shall have the Required Company Financing Information that is Compliant and (2) the conditions set forth in Section 7.1 and Section 7.2 have been satisfied (other than those conditions that by their terms are to be satisfied at Closing) and nothing has occurred and no condition exists that would cause any of the conditions set forth in Section 7.1 and Section 7.2 to fail to be satisfied assuming Closing were to be scheduled for any time during such 21 calendar day period; *provided* that (i) if the Marketing Period has not ended on or prior to December 17, 2012, the Marketing Period shall commence no earlier than January 7, 2013, (ii) if the Marketing Period has not ended on or prior to June 28, 2013, the Marketing Period shall commence no earlier than July 8, 2013 and (iii) if the Marketing Period has not ended on or prior to August 16, 2013, the Marketing Period shall commence no earlier than September 3, 2013; and *provided*, *further* that the Marketing Period shall not be deemed to have commenced if, (x) prior to the completion of the Marketing Period, Deloitte & Touche shall have withdrawn its audit opinion with respect to any financial statements contained in the Company SEC Documents or (y) the Required Company Financing Information is not Compliant on the first day, throughout and on the last day of such consecutive calendar day period, in which case a new 21 consecutive calendar day period shall commence upon Parent and the Financing Sources receiving updated Required Company Financing Information that is Compliant, and satisfying the other requirements described in the immediately preceding sentence (for the avoidance of doubt, it being understood that if at any time during the Marketing Period the Required Company Financing Information provided at the initiation of the Marketing Period ceases to be Compliant, then the Marketing Period shall be deemed not to have occurred). For purposes of calculating the length of the Marketing Period, a "calendar day" shall not include (A) any days in the period from November 18, 2012 through November 25, 2012 and (B) any day on which there has been (i) any general suspension of, or limitation on trading in securities on the New York Stock Exchange (other than a shortening of trading hours or any coordinated trading halt triggered solely as a result of a specified increase or decrease in a market index); (ii) a declaration of a banking moratorium or any suspension of payments in respect of banks in the United States generally or in the State of New York; or (iii) any material limitation (whether or not mandatory) by any Governmental Entity on the extension of credit by banks or other lending institutions.

"Organizational Documents" means, with respect to any Person, its certificate or articles of incorporation, its bylaws, its memorandum and articles of association, its limited liability company agreement or operating agreement, its certificate of formation, its partnership or limited partnership agreement or other documentation governing the organization or formation of such Person, but not any shareholder, registration rights, subscription or other Contract to which such Person may become a party after its formation or organization.

"Parent Material Adverse Effect" means any event, change, occurrence or effect that prevents or materially impedes the performance by Parent or Sub of its obligations under this Agreement or the consummation of the Merger or the other transactions contemplated by this Agreement.

"Permitted Liens" means any (i) Liens for Taxes not yet due or payable or which are being contested in good faith by appropriate proceedings, (ii) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other similar liens incurred in the ordinary course of business, (iii) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation, (iv) easements, covenants, rights-of-way, restrictions and other similar encumbrances affecting any premises leased by the Company or its Subsidiaries that do not materially detract from the value of the property subject thereto, or restrict or interfere with the development of the property or its continued use in the Business, (v) statutory landlords' Liens and Liens granted to landlords under any lease, (vi) purchase money security interests, (vii) intercompany Liens by and among the Company and any of its Subsidiaries, (viii) Liens securing rental payments under any capital leases, (ix) Liens expressly described in the footnotes to the consolidated financial statements of the Company and its Subsidiaries included in the Company SEC Documents (or the notes or schedules thereto) and (x) other Liens that, individually or in the aggregate, do not materially impair, and would not reasonably be expected to materially impair, the value or continued use and operation of the assets to which they relate.

"Person" means an individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization or other entity or a Governmental Entity.

"Representatives" means, with respect to any Person, such Person's Affiliates and its and their respective directors, managers, officers, employees, agents, Financing Sources and other representatives, including any investment bankers, financial advisors, attorneys, accountants or other advisors.

"Senior Notes" means the 10.875% Senior Secured Notes due 2016 issued pursuant to the indenture dated as of May 29, 2009 among the Company, Sealy Mattress Company, certain of Sealy Mattress Company's direct and indirect Subsidiaries and the Bank of New York Mellon Trust Company, N.A.

"Senior Subordinated Notes" means the 8.25% Senior Subordinated Notes due 2014 issued pursuant to the indenture dated as of April 6, 2004 among the Company, Sealy Mattress Company, certain of Sealy Mattress Company's direct and indirect Subsidiaries and The Bank of New York Trust Company, N.A.

"Subsidiary" means, with respect to any Person, any corporation, limited liability company, partnership, association, trust or other entity (i) of which securities or other ownership interests representing more than 50% of the equity and more than 50% of the ordinary voting power (or, in the case of a partnership, more than 50% of the general partnership interests) are, as of the date of determination, owned by such Person or one or more Subsidiaries of such Person, or (ii) that is a variable interest entity in which such Person is the primary beneficiary, as determined in accordance with GAAP.

"Taxes" or "Tax" means any taxes of any kind, including but not limited to those on or measured by or referred to as income, gross receipts, capital, sales, use, ad valorem, stamp, alternative or add-on minimum, franchise, profits, license, withholding, payroll, employment, unemployment, social security, goods and services, estimated, escheat, excise, severance, stamp, occupation, premium, value added, property or windfall profits taxes, customs, duties or similar fees, assessments or charges of any kind whatsoever, together with any interest, penalties or additions to tax or additional amounts imposed by any Governmental Entity, domestic or foreign.

"Tax Returns" shall mean any return, report or statement (including information returns) required to be filed with or provided to any Governmental Entity with respect to Taxes, including any schedule or attachment thereto or amendment thereof.

"Written Consent End Date" means 11:59 p.m. New York City time on the date that is thirty-five calendar days after the date hereof; *provided*, that, in the event that (i) the Company has delivered to Parent a Superior Proposal Notice pursuant to Section 8.3(a) in connection with a Superior Proposal on a date that is less than five calendar days prior to such date (*provided*, that such notice shall be delivered by the Company promptly after the applicable determination is made by the Company Board) and (ii) following delivery by the Company to Parent of such Superior Proposal Notice, Parent has requested that the Company make its Representatives available to discuss and negotiate in good faith any proposed modifications to the terms and conditions of this Agreement during the Superior Proposal Notice Period, then the Written Consent End Date (A) shall be extended by the

duration of such Superior Proposal Notice Period (as may be extended in connection with a material change or revision of such Superior Proposal; *provided*, *further*, that, in the event that a material change or revision is made to such Superior Proposal after the date that is thirty-five calendar days after the date hereof, such Superior Proposal Notice Period shall also include any extension thereof in connection with such material change or revision), and (B) shall be further extended (x) if Parent has delivered to the Company a Parent Matching Proposal pursuant to Section 8.3(a), by the duration of the Superior Proposal Analysis Period, or (y) by three Business Days following (i) the expiration of the Superior Proposal Notice Period if Parent has not delivered a Parent Matching Proposal by the expiration of such period or (ii) the receipt of written notice from Parent, delivered within the Superior Proposal Notice Period that Parent does not intend to deliver a Parent Matching Proposal.

Section 9.4. Interpretation. When a reference is made in this Agreement to an Article, a Section, an Exhibit or a Schedule, such reference shall be to an Article of, a Section of, or an Exhibit or Schedule to, this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”. 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. The word “will” shall be construed to have the same meaning and effect as the word “shall”. The word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if”. All Exhibits and Schedules annexed hereto or referred to herein, and the Company Disclosure Letter and Parent Disclosure Letter, are hereby incorporated in and made a part of this Agreement as if set forth in full herein. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Any Contract, instrument or Law defined or referred to herein means such Contract, instrument or Law as from time to time amended, modified or supplemented, including (in the case of Contracts or instruments) by waiver or consent and (in the case of Laws) by succession of comparable successor Laws and references to all attachments thereto and instruments incorporated therein. References to a Person are also to its permitted successors and assigns. This Agreement is the product of negotiation by the parties having the assistance of counsel and other advisers. It is the intention of the parties that this Agreement not be construed more strictly with regard to one party than with regard to the others.

Section 9.5. Counterparts. This Agreement may be executed and delivered (including by facsimile, “.pdf,” or other electronic transmission) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

Section 9.6. Entire Agreement; Assignment. This Agreement and the Confidentiality Agreement constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned (by operation of Law or otherwise) without the prior written consent of each of the other parties hereto. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties hereto and their respective permitted successors and assigns.

Section 9.7. Parties in Interest. Except as provided in Section 6.4 and Section 9.9(c), Parent and the Company hereby agree that their respective representations, warranties and covenants set forth herein are solely for the benefit of the other parties hereto, in accordance with and subject to the terms of this Agreement, and this Agreement is not intended to, and does not, confer upon any Person other than the parties hereto any rights or remedies hereunder, including the right to rely upon the representations and warranties set forth herein other than, if the Effective Time occurs, the right of (a) the Company’s stockholders to receive the Merger Consideration pursuant to Article II and (b) the holders of Company Stock Options, RSUs and Equity Share Units to receive the amounts specified in Section 2.1. The parties hereto further agree that the rights of third party beneficiaries under Section 6.4 shall not arise unless and until the Effective Time occurs. The representations and warranties in this

Agreement are the product of negotiations among the parties hereto and are for the sole benefit of the parties hereto. Any inaccuracies in such representations and warranties are subject to waiver by the parties hereto in accordance with Section 8.8 without notice or liability to any other Person. In some instances, the representations and warranties in this Agreement may represent an allocation among the parties hereto of risks associated with particular matters regardless of the knowledge of any of the parties hereto. Consequently, Persons other than the parties hereto may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date.

Section 9.8. Governing Law. THIS AGREEMENT OR ANY CLAIMS ARISING UNDER OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE REGARDLESS OF THE LAWS THAT MIGHT OTHERWISE GOVERN UNDER APPLICABLE PRINCIPLES OF CONFLICTS OF LAWS.

Section 9.9. Specific Enforcement; Consent to Jurisdiction.

(a) The parties agree that irreparable damage would occur and that the parties would not have any adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached, and that money damages or other legal remedies would not be an adequate remedy for such damage. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in the Court of Chancery of the State of Delaware or any federal court of competent jurisdiction located in the Borough of Manhattan in the State of New York without proof of actual damages or otherwise (and each party hereby waives any requirement for the securing or posting of any bond in connection with such remedy), this being in addition to any other remedy to which they are entitled at law or in equity. The parties further agree not to assert that a remedy of specific enforcement is unenforceable, invalid, contrary to law or inequitable for any reason, nor to assert that a remedy of monetary damages would provide an adequate remedy.

(b) Any Action arising out of this Agreement or any of the transactions contemplated by this Agreement may only be brought in the Court of Chancery of the State of Delaware or any federal court of competent jurisdiction located in the Borough of Manhattan in the State of New York, and each party hereto irrevocably consents to the jurisdiction and venue of the United States District Court for the Southern District of New York and the courts hearing appeals therefrom unless no federal subject matter jurisdiction exists, in which event, each party hereto irrevocably consents to the jurisdiction and venue of the Court of Chancery of the State of Delaware and the courts hearing appeals therefrom. Each party hereto hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any Action arising out of this Agreement or any of the transactions contemplated by this Agreement, any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason other than the failure to serve process in accordance with this Section 9.9, that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise), and to the fullest extent permitted by applicable Law, that the Action in any such court is brought in an inconvenient forum, that the venue of such Action is improper, or that this Agreement, or the subject matter of this Agreement, may not be enforced in or by such courts and further irrevocably waives, to the fullest extent permitted by applicable Law, the benefit of any defense that would hinder, fetter or delay the levy, execution or collection of any amount to which the party is entitled pursuant to the final judgment of any court having jurisdiction. Each party shall take all such action as may be necessary to continue said appointment in full force and effect or to appoint another agent so that it will at all times have an agent for service of process for the above purposes. Each party further irrevocably consents to the service of process out of any of the aforementioned courts in any Action arising out of this Agreement or any of the transactions contemplated by this Agreement by the mailing of copies thereof by registered airmail, postage prepaid, to such party at its address set forth in this Agreement, such service of process to be effective upon acknowledgement of receipt of such registered mail. Nothing herein shall affect the right of any party to serve process in any other manner permitted by Law or to commence legal proceedings or otherwise proceed against the

other party in any other jurisdiction in which the other party may be subject to suit. Each party expressly acknowledges that the foregoing waiver is intended to be irrevocable under the laws of the State of Delaware and of the United States of America; *provided* that each such party's consent to jurisdiction and service contained in this Section 9.9 is solely for any Action arising out of this Agreement or any of the transactions contemplated by this Agreement and shall not be deemed to be a general submission to said courts other than for such purpose.

(c) Notwithstanding anything herein to the contrary, the parties hereto acknowledge and irrevocably agree (i) that any Action, whether in law or in equity, whether in contract or in tort or otherwise, involving the Financing Sources arising out of, or relating to, the transactions contemplated hereby, the Financing Commitments, the Financing or the performance of services thereunder or related thereto shall be subject to the exclusive jurisdiction of any state or federal court sitting in the Borough of Manhattan, New York, New York, and any appellate court thereof and each Party hereto submits for itself and its property with respect to any such Action to the exclusive jurisdiction of such court, (ii) not to bring or permit any of their Affiliates to bring or support anyone else in bringing any such Action in any other court, (iii) that service of process, summons, notice or document by registered mail addressed to them at their respective addresses provided in Section 9.2 shall be effective service of process against them for any such Action brought in any such court, (iv) to waive and hereby waive, to the fullest extent permitted by law, any objection which any of them may now or hereafter have to the laying of venue of, and the defense of an inconvenient forum to the maintenance of, any such Action in any such court, (v) to waive and hereby waive any right to trial by jury in respect of any such Action, (vi) that a final judgment in any such Action shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law, (vii) that any such Action shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to the conflicts of law rules of such State that would result in the application of the laws of any other State, (viii) none of the Financing Sources will have any liability to the Company or its Affiliates (excluding at and after the Effective Time, Parent and its Subsidiaries) relating to or arising out of this Agreement, the Financing or otherwise, whether at law, or equity, in contract, in tort or otherwise, and neither the Company nor any of its Affiliates (excluding at and after the Effective Time, Parent and its Subsidiaries) will have any rights or claims against any of the Financing Sources hereunder or thereunder, and in no event shall the Company be entitled to seek the remedy of specific performance of this Agreement against the Financing Sources and (ix) that the Financing Sources are express third party beneficiaries of, and may enforce, any provisions in this Agreement reflecting the foregoing agreements.

Section 9.10. Waiver of Jury Trial. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION ARISING OUT OF THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. Each party hereto (a) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such party would not, in the event of any Action, seek to enforce the foregoing waiver and (b) acknowledges that it and the other parties hereto have been induced to enter into this Agreement, by, among other things, the mutual waiver and certifications in this Section 9.10.

Section 9.11. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by applicable Law in an acceptable manner to the end that the transactions contemplated by this Agreement are fulfilled to the extent possible. Notwithstanding the foregoing, the parties intend that the provisions of Article VIII, including the remedies, and limitations thereon, be construed as integral provisions of this Agreement and that such provisions, remedies and limitations shall not be severable in any manner that diminishes a party's rights hereunder or increases a party's liability or obligations hereunder.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective officers hereunto duly authorized, all as of the date first written above.

Parent:

TEMPUR-PEDIC INTERNATIONAL INC.

By: /s/ Dale E. Williams
Name: Dale E. Williams
Title: Executive Vice President and Chief Financial Officer

Sub:

SILVER LIGHTNING MERGER COMPANY

By: /s/ Dale E. Williams
Name: Dale E. Williams
Title: Treasurer

Company:

SEALY CORPORATION

By: /s/ Lawrence J. Rogers
Name: Lawrence J. Rogers
Title: President and CEO

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
BANK OF AMERICA, N.A.
One Bryant Park
New York, NY 10036

September 26, 2012

Tempur-Pedic International Inc.
1713 Jaggie Fox Way
Lexington, Kentucky 40511

Attention: Dale E. Williams,
Executive Vice President and
Chief Financial Officer

Project Silver
Commitment Letter

Ladies and Gentlemen:

Tempur-Pedic International Inc. ("***you***" or the "***Borrower***") have advised Bank of America, N.A. ("***Bank of America***") and Merrill Lynch, Pierce, Fenner & Smith Incorporated ("***MLPFS***" and, together with Bank of America, the "***Commitment Parties***", "***we***" or "***us***") that you intend to acquire (the "***Acquisition***") Sealy Corporation, a Delaware corporation (the "***Acquired Business***"). The Acquisition will be effected through the merger of a newly created wholly-owned subsidiary of yours with and into the Acquired Business, with the Acquired Business surviving such merger as your wholly-owned subsidiary. The Borrower, the Acquired Business and their respective subsidiaries are sometimes collectively referred to herein as the "***Companies***".

You have also advised us that you intend to finance the Acquisition, the repayment, the defeasance or redemption of substantially all existing indebtedness of the Companies (the "***Refinancing***"), the costs and expenses related to the Transaction (as hereinafter defined) and the ongoing working capital and other general corporate purposes of the Companies after consummation of the Acquisition from the following sources (and that no financing other than the financing described herein will be required in connection with the Transaction): (a) $1,770,000,000 in senior secured credit facilities of the Borrower (collectively, the "***Senior Credit Facilities***"), comprised of (i) a term loan A facility of $650,000,000 (the "***Term A Facility***"), (ii) a term loan B facility of $770,000,000 (the "***Term B Facility***") and (iii) a revolving credit facility of $350,000,000 (the "***Revolving Credit Facility***"); and (b) $350,000,000 in gross proceeds from the issuance and sale by the Borrower of senior unsecured notes (the "***Notes***") or, if the Notes are not issued and sold on or prior to the date of consummation of the Acquisition, $350,000,000 in senior unsecured bridge loans (the "***Bridge Loans***" and, together with any Rollover Loans and Exchange Notes (each, as defined in Annex II-A hereto) the "***Bridge Facility***" and, collectively with the Senior Credit Facilities, the "***Facilities***") made available to the Borrower as interim financing to the Permanent Securities (as defined in Annex II-A hereto). The Acquisition, the Refinancing, the entering into and funding of the Senior Credit Facilities, the issuance and sale of the Notes and/or the entering into and funding of the Bridge Loans and all related transactions are hereinafter collectively referred to as the "***Transaction***." The date of consummation of the Acquisition is referred to herein as the "***Closing Date***."

1. **Commitments.** In connection with the foregoing, (a) Bank of America is pleased to advise you of its commitment to provide the full principal amount of each of the Senior Credit Facilities (in such capacity, the "***Initial Senior Lender***") and its willingness to act as the sole and exclusive administrative agent (in such capacity, the "***Senior Administrative Agent***") for the Senior Credit Facilities, all subject to the conditions set forth in this letter and in Annexes I and III hereto (collectively, the "***Senior Financing Summary of Terms***"); (b) MLPFS is pleased to advise you of its willingness, and you hereby engage MLPFS, to act as the sole and exclusive lead arranger and sole and exclusive bookrunning manager (in such capacity, the "***Senior Lead Arranger***") for the Senior Credit Facilities, and in connection therewith to form a syndicate of lenders for the Senior Credit Facilities (collectively, the "***Senior Lenders***") reasonably acceptable to you; (c) Bank of America is pleased to advise you of its commitment to provide the full principal amount of the Bridge Loans (in such capacity, the "***Initial Bridge Lender***" and, together with the Initial Senior Lender, the "***Initial Lenders***") and its willingness to act as the sole and exclusive administrative agent (in such capacity, the "***Bridge Administrative Agent***" and, together with the Senior Administrative Agent, each, an "***Administrative Agent***" and together, the "***Administrative Agents***") for the Bridge Loans, all subject to the conditions set forth in this letter and in Annexes II and III hereto (collectively, the "***Bridge Summary of Terms***" and, together with the Senior Financing Summary of Terms, the "***Summaries of Terms***" and, together with this letter, the "***Commitment Letter***"); and (d) MLPFS is also pleased to advise you of its willingness, and you hereby engage MLPFS, to act as the sole and exclusive lead arranger and sole and exclusive bookrunning manager (in such capacity, the "***Bridge Lead Arranger***"; MLPFS acting in its capacity as Senior Lead Arranger and/or Bridge Lead Arranger is sometimes referred to herein as the "***Lead Arranger***") for the Bridge Loans, and in connection therewith to form a syndicate of lenders for the Bridge Loans (collectively, the "***Bridge Lenders***" and, together with the Senior Lenders, the "***Lenders***") reasonably acceptable to you. Notwithstanding anything to the contrary contained herein, the commitment of the Initial Lenders with respect to the initial fundings of the Facilities will be subject only to the satisfaction (or waiver by the applicable Initial Lenders) of the conditions precedent set forth in paragraph 5 hereof. All capitalized terms used and not otherwise defined herein shall have the same meanings as specified therefor in the Summaries of Terms.

You agree that no other arrangers, bookrunning managers, agents or co-agents will be appointed and no other titles will be awarded to any Lender in connection with the Facilities unless you and we shall so agree. Notwithstanding the foregoing, you may appoint up to two additional arrangers, bookrunning managers, agents or co-agents acceptable to the Lead Arranger (each, a "***Co-Agent***") within 15 business days following the date hereof and may allocate the commitments hereunder with respect to the Facilities (and corresponding compensatory economics) to such Co-Agents; *provided* that (i) MLPFS will have "lead left" placement on all marketing materials relating to the Facilities and will perform the duties and exercise the authority customarily performed and exercised by it in such role, including acting as sole manager of the physical books; (ii) such commitments shall be allocated to such Co-Agents on a pro rata basis across the Facilities; (iii) such Co-Agents assume the obligations of the Commitment Parties hereunder on terms reasonably acceptable to the Commitment Parties and the Borrower; (iv) the Initial Lenders' commitments hereunder are reduced ratably by the aggregate amount of the commitments allocated to such Co-Agents; (v) no Co-Agent shall be allocated a greater percentage of the commitments hereunder with respect to any Facility (and corresponding compensatory economics) than Bank of America; and (vi) not more than 40.0% of the commitments hereunder with respect to any Facility (and corresponding compensatory economics) shall be so allocated.

2. **Syndication.** The Lead Arranger intends to commence syndication of the Facilities promptly after your acceptance of the terms of this Commitment Letter and the Fee Letters (as hereinafter defined). Without limiting your obligations to assist with syndication efforts as set forth herein, it is understood that the Initial Lenders' commitments hereunder are not conditioned upon the syndication of, or receipt of commitments or participations in respect of, the Facilities and in no event shall the commencement or successful completion of syndication of the Facilities constitute a condition to the availability

of the Facilities on the Closing Date. You agree, prior to the Syndication Date (as hereinafter defined), to actively assist, and to use your commercially reasonable efforts to cause the Acquired Business and its subsidiaries to actively assist, the Lead Arranger in achieving a syndication of each such Facility that is satisfactory to the Lead Arranger and you; provided that, notwithstanding each Lead Arranger's right to syndicate the Facilities and receive commitments with respect thereto (but subject to the last paragraph of paragraph 1 of this Commitment Letter regarding the appointment of, and assignment of commitments, to Co-Agents), it is agreed that (i) syndication of, or receipt of commitments or participations in respect of, all or any portion of an Initial Lenders' commitments hereunder prior to the date of the consummation of the Acquisition and the date of the initial funding under the Facilities shall not be a condition to such Initial Lender's commitments and (ii) except as (x) provided in the fourth paragraph of paragraph 8 below with respect to assignments to Co-Agents or (y) as you otherwise agree in writing, (a) no Initial Lender shall be relieved, released or novated from its obligations hereunder (including its obligation to fund the Facilities on the Closing Date) in connection with any syndication, assignment or participation of the Facilities, including its commitments in respect thereof, until after the initial funding of the Facilities has occurred; (b) no assignment or novation shall become effective with respect to all or any portion of any Initial Lender's commitments in respect of the Facilities until after the initial funding of the Facilities; and (c) each Commitment Party shall retain exclusive control over all rights and obligations with respect to its commitments in respect of the Facilities, including all rights with respect to consents, modifications, supplements, waivers and amendments, until the Closing Date has occurred and the initial funding under the Facilities has been made. Such assistance shall include (a) your providing and (subject to customary non-reliance agreements) causing your advisors to provide, and using your commercially reasonable efforts to cause the Acquired Business, its subsidiaries and its advisors to provide, the Lead Arranger and the Lenders upon request with all information reasonably deemed necessary by the Lead Arranger to complete such syndication, including, but not limited to (x) information and evaluations prepared by you, the Acquired Business and your and its advisors, or on your or its behalf, relating to the Transaction (including the Projections (as hereinafter defined) and (y) customary forecasts prepared by management of the Companies of balance sheets, income statements and cash flow statements for each fiscal quarter for the first twelve months following the Closing Date and for each year commencing with the first fiscal year following the Closing Date and for each of the succeeding four fiscal years thereafter; (b) your preparation of a customary information memorandum with respect to each of the Facilities (each, an "***Information Memorandum***") and other customary materials to be used in connection with the syndication of each such Facility (collectively with the Summaries of Terms and any additional summary of terms prepared for distribution to Public Lenders (as hereinafter defined)), the "***Information Materials***"); (c) your using your commercially reasonable efforts to ensure that the syndication efforts of the Lead Arranger benefit materially from your existing lending relationships and the existing banking relationships of the Acquired Business; (d) your obtaining, prior to the launch of primary syndication, monitored public corporate credit or family ratings for you after giving effect to the Transaction and ratings of the Senior Credit Facilities and the Bridge Loans and the Notes from Moody's Investors Service, Inc. ("***Moody's***") and Standard & Poor's, a division of The McGraw-Hill Companies, Inc. ("***S&P***") (collectively, the "***Ratings***"); (e) your ensuring, and with respect to the Acquired Business, using your commercially reasonable efforts to ensure, that none of the Companies shall syndicate or issue, attempt to syndicate or issue, announce or authorize the announcement of the syndication or issuance of, or engage in discussions concerning the syndication or issuance of, any debt of the Companies (other than the Facilities and the Notes), including any renewals or refinancings of any existing debt, that, in the reasonable judgment of the Lead Arranger, could reasonably be expected to materially and adversely affect the syndication of the Facilities without the prior written consent of the Lead Arranger (it being understood and agreed that the following debt may be syndicated and issued without the prior written consent of the Lead Arranger: (i) capital leases and purchase money and equipment financing indebtedness incurred in the ordinary course of business, (ii) indebtedness incurred by the Acquired Business under Section 5.1 of the Acquisition Agreement (as in effect on the date hereof without giving effect to any amendments thereto or consents thereunder without the consent of the Lead Arranger), (iii) intercompany indebtedness and (iv) other

indebtedness in an aggregate amount not to exceed $40,000,000); and (f) your otherwise assisting the Lead Arranger in its syndication efforts, including by making your officers and advisors, and using your commercially reasonable efforts to make the officers and advisors of the Acquired Business, available from time to time upon reasonable advance notice to attend and make presentations regarding the business and prospects of the Companies and the Transaction at one or more meetings of prospective Lenders. Notwithstanding anything to the contrary contained in this Commitment Letter or the Fee Letters or any other letter agreement or undertaking concerning the financing of the Transactions to the contrary, neither the obtaining of the Ratings referenced above nor the compliance with any of the other provisions set forth in clauses (a) through (f) above or any other provision of this paragraph shall constitute a condition to the commitments hereunder or the funding of the Facilities on the Closing Date.

It is understood and agreed that the Lead Arranger will manage and control all aspects of the syndication of the Facilities in consultation with you and, as to the selection of Lenders, with your approval (such approval not to be unreasonably withheld or delayed), and, subject to the second paragraph in Section 1 above, any titles offered to prospective Lenders, when commitments will be accepted and the final allocations of the commitments among the Lenders. It is understood that no Lender participating in the Facilities will receive compensation from you in order to obtain its commitment, except on the terms contained herein and in the Summaries of Terms. It is also understood and agreed that the amount and distribution of the fees among the Lenders will be at the sole and absolute discretion of the Lead Arranger.

3. **Information Requirements.** You hereby represent, warrant and covenant (with respect to Information relating to the Acquired Business, to the best of your knowledge) that (a) all information, other than Projections (as defined below), that has been or is hereafter made available to the Lead Arranger or any of the Lenders by or on behalf of you or any of your representatives in connection with any aspect of the Transaction (including such information relating to the Acquired Business) (the "***Information***") is and will be complete and correct when taken as a whole, in all material respects, and does not and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading and (b) all financial projections concerning the Companies that have been or are hereafter made available to the Lead Arranger or any of the Lenders by or on behalf of you or any of your representatives (the "***Projections***") have been or will be prepared in good faith based upon reasonable assumptions (it being understood and agreed that the Projections are not to be viewed as a guarantee of financial performance or achievement, that the Projections are subject to significant uncertainties and contingencies, many of which are beyond your control, and that actual results may differ from the Projections and such differences may be material). You agree that if at any time prior to the later of (a) the earlier of (i) the date on which a Successful Syndication (as defined in the Facilities Fee Letter (as hereinafter defined)) is achieved and (ii) 60 days following the Closing Date (such earlier date, the "***Syndication Date***") and (b) the Closing Date any of the representations in the preceding sentence would be incorrect in any material respect if the Information and Projections were being furnished, and such representations were being made, at such time, then you will promptly supplement, or cause to be supplemented, the Information and Projections so that such representations will be correct in all material respects at such time. In issuing this commitment and in arranging and syndicating each of the Facilities, the Commitment Parties are and will be using and relying on the Information and the Projections without independent verification thereof. For the avoidance of doubt, nothing in this paragraph will constitute a condition to the availability of the Facilities on the Closing Date.

You acknowledge that (a) the Lead Arranger on your behalf will make available Information Materials to the proposed syndicate of Lenders by posting the Information Materials on IntraLinks or another similar electronic system (the "***Platform***") and (b) certain prospective Lenders (such Lenders, "***Public Lenders***"; all other Lenders, "***Private Lenders***") may have personnel that do not wish to receive

material non-public information (within the meaning of the United States federal securities laws, "***MNPI***") with respect to the Companies, their respective affiliates or any other entity, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such entities' securities. If requested, you will assist us in preparing an additional version of the Information Materials not containing MNPI (the "***Public Information Materials***") to be distributed to prospective Public Lenders.

Before distribution of any Information Materials (a) to prospective Private Lenders, you shall provide us with a customary letter authorizing the dissemination of the Information Materials; and (b) to prospective Public Lenders, you shall provide us with a customary letter authorizing the dissemination of the Public Information Materials and confirming the absence of MNPI therefrom. In addition, you hereby agree that (x) you will use commercially reasonable efforts to identify (and, at our request, shall identify) that portion of the Information Materials that may be distributed to the Public Lenders by clearly and conspicuously marking the same as "PUBLIC"; (y) all Information Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Investor"; and (z) MLPFS and Bank of America shall be entitled to treat any Information Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Investor."

You agree that the Lead Arranger on your behalf may distribute the following documents to all prospective Lenders, unless you advise the Lead Arranger in writing (including by email) within a reasonable time prior to their intended distributions that such material should only be distributed to prospective Private Lenders: (a) administrative materials for prospective Lenders such as lender meeting invitations and funding and closing memoranda, (b) notifications of changes to the terms of the Facilities and (c) other materials intended for prospective Lenders after the initial distribution of the Information Materials, including drafts approved in writing by you and us and final versions of definitive documents with respect to the Facilities. If you advise us that any of the foregoing items should be distributed only to Private Lenders, then the Lead Arranger will not distribute such materials to Public Lenders without further discussions with you. You agree that Information Materials made available to prospective Public Lenders in accordance with this Commitment Letter shall not contain MNPI.

4. **Fees and Indemnities.**

(a) You agree to reimburse the Commitment Parties for all reasonable out-of-pocket fees and expenses (including, but not limited to, the reasonable and documented fees, actual disbursements and other out-of-pocket expenses of Davis Polk & Wardwell LLP, as counsel to the Lead Arranger, the Senior Administrative Agent and the Bridge Administrative Agent, and of any special and local counsel to the Lenders retained by the Lead Arranger and reasonable due diligence expenses) incurred in connection with the Facilities, the syndication thereof, the preparation of the Credit Documentation (as defined below) therefor and the other transactions contemplated hereby, whether or not the Closing Date occurs or any of the Credit Documentation is executed and delivered or any extensions of credit are made under either of the Facilities. Such amounts shall be paid on the earlier of (i) the Closing Date or (ii) three (3) business days following the termination of this Commitment Letter as provided below. You acknowledge that we may receive a benefit, including without limitation, a discount, credit or other accommodation, from any of such counsel based on the fees such counsel may receive on account of their relationship with us including, without limitation, fees paid pursuant hereto. You agree to pay the fees set forth in (x) the separate facilities fee letter addressed to you dated the date hereof from the Commitment Parties (the "***Facilities Fee Letter***") and (y) the separate agent fee letter addressed to you dated the date hereof from the Commitment Parties (the "***Agent Fee Letter***" and, together with the Facilities Fee Letter, the "***Fee Letters***"). Upon your reasonable written request from time to time, the Commitment Parties shall provide an estimate of the aggregate amount of fees, disbursements and other out-of-pocket expenses incurred by counsel to the Commitment Parties prior to such time.

(b) You also agree to indemnify and hold harmless each of the Commitment Parties, each other Lender and each of their affiliates, successors and assigns and their respective partners, officers, directors, employees, trustees, agents and advisors (each, an "***Indemnified Party***") from and against (and will reimburse each Indemnified Party following presentation of a summary statement as the same are incurred for) any and all claims, damages, losses, liabilities and expenses (including, without limitation, the reasonable and documented fees, actual disbursements and other out-of-pocket expenses of counsel to any Indemnified Party) that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or by reason of (including, without limitation, in connection with any investigation, litigation or proceeding or preparation of a defense in connection therewith) (a) any aspect of the Transaction or any of the other transactions contemplated thereby or (b) the Facilities, or any use made or proposed to be made with the proceeds thereof (in all cases, whether or not caused or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Indemnified Party), except to the extent such claim, damage, loss, liability or expense (i) is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from (x) such Indemnified Party's gross negligence or willful misconduct or (y) a material breach of such Indemnified Party's obligations hereunder or under the Fee Letters (it being understood and agreed that each Indemnified Party shall be obligated to refund or return any and all amounts paid by you under this clause (i) to such Indemnified Party for any such claims, damages, losses, liabilities or expenses to the extent such Indemnified Party is found in a final non-appealable judgment by a court of competent jurisdiction not to be entitled to payment of such amounts in accordance with the terms hereof) or (ii) arises from a dispute solely among the Indemnified Parties (other than a dispute involving claims against us in our capacity as the Lead Arranger, the Administrative Agent, bookrunning manager, co-agent or similar capacity), and in any such event described in this clause (iii) solely to the extent that the underlying dispute does not arise as a result of any action, inaction or representation of, or information provided by or on behalf of, you or any of your subsidiaries. In the case of any claim, litigation, investigation or proceeding (any of the foregoing, a "***Proceeding***") to which the indemnity in this paragraph applies, such indemnity shall be effective whether or not such Proceeding is brought by you, your equity holders or creditors or an Indemnified Party, whether or not an Indemnified Party is otherwise a party thereto and whether or not any aspect of the Transaction is consummated. You also agree that no Indemnified Party shall have any liability (whether direct or indirect, in contract or tort or otherwise) to you or your subsidiaries arising out of, related to or in connection with any aspect of the Transaction, except to the extent of direct (as opposed to special, indirect, consequential or punitive) damages determined in a final non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence, willful misconduct or material breach of this Commitment Letter or the Fee Letters. Notwithstanding any other provision of this Commitment Letter, no Indemnified Party shall be liable for any damages arising from the use by others of information or other materials obtained through electronic telecommunications or other information transmission systems, other than for direct, actual damages resulting from the gross negligence or willful misconduct of such Indemnified Party as determined by a final non-appealable judgment of a court of competent jurisdiction. You shall not, without the prior written consent of an Indemnified Party (which consent shall not be unreasonably withheld, conditioned or delayed), effect any settlement of any pending or threatened Proceeding against an Indemnified Party in respect of which indemnity could have been sought hereunder by such Indemnified Party unless (i) such settlement includes an unconditional release of such Indemnified Party from all liability or claims that are the subject matter of such Proceeding and (ii) does not include any statement as to any admission of liability.

It is acknowledged that you and MLPFS have entered into an Engagement Letter dated August 1, 2012 (the "***Financial Advisor Engagement Letter***") whereby MLPFS has been retained by you as your financial advisor in connection with the Acquisition. You agree not to assert any claim you might allege

based on any actual or potential conflicts of interest that might be asserted to arise or result from, on the one hand, the engagement of MLPFS under the Financial Advisory Engagement Letter, and on the other hand, our and our affiliates' relationships with you as described and referred to in this Commitment Letter.

5. **Conditions to Financing**. The commitment of the Initial Senior Lender with respect to the initial funding of the Senior Credit Facilities and the commitment of the Initial Bridge Lender with respect to the initial funding of the Bridge Loans are subject solely to (a) the satisfaction (or waiver by the applicable Initial Lenders) of each of the conditions set forth under Annex III hereto and (b) subject to the Funds Certain Provisions (as defined below), the execution and delivery of definitive credit documentation with respect to each such Facility consistent with this Commitment Letter, the Fee Letters and the Documentation Standard (as defined in Annex I hereto) and, to the extent terms are not provided in the in this Commitment Letter, the Fee Letters or the Documentation Standard, otherwise satisfactory to you and us (the "***Credit Documentation***") prior to such initial funding.

Notwithstanding anything in this Commitment Letter, the Fee Letters, the Credit Documentation or any other letter agreement or other undertaking concerning the financing of the Transaction to the contrary, (a) the Credit Documentation shall be in a form such that the terms thereof do not impair availability of the Facilities on the Closing Date if the conditions in Annex III and paragraph 5 hereof shall have been satisfied, and (b) the only representations and warranties the accuracy of which shall be a condition to the availability of the Facilities on the Closing Date shall be those set forth in paragraph (ii) of Annex III hereto. The provisions of this paragraph are referred to herein as the "***Funds Certain Provisions***."

Each of the parties hereto agrees that this Commitment Letter and the Fee Letters is a binding and enforceable agreement (subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization and other similar laws relating to or affecting creditors' rights generally and general principles of equity (whether considered in a proceeding in equity or law)) with respect to the subject matter contained herein, including an agreement to negotiate in good faith the Credit Documentation by the parties hereto in a manner consistent with this Commitment Letter and, to the extent applicable, the Fee Letters, it being acknowledged and agreed that the funding of the Facilities is subject only to the conditions precedent as provided herein.

6. **Confidentiality and Other Obligations.** This Commitment Letter and the Fee Letters and the contents hereof and thereof are confidential and, may not be disclosed in whole or in part to any person or entity without our prior written consent except (i) this Commitment Letter and the Fee Letters may be disclosed (A) on a confidential basis to your directors, officers, employees, accountants, attorneys and other representatives and professional advisors who need to know such information in connection with the Transaction and are informed of the confidential nature of such information, (B) pursuant to the order of any court or administrative agency in any pending legal or administrative proceeding, or otherwise as required by applicable law or compulsory legal process based on the reasonable advice of your legal counsel (in which case you agree to inform us promptly thereof prior to such disclosure to the extent permitted by applicable law), and (C) on a confidential basis to the directors, officers, employees, accountants, attorneys and other representatives and professional advisors of the Acquired Business in connection with their consideration of the Transaction, provided that the Fee Letters are redacted in a manner reasonably satisfactory to us, (ii) Annex I and Annex II and the existence of this Commitment Letter and the Fee Letters (but not the contents of the Commitment Letter and the Fee Letters) may be disclosed to Moody's, S&P, NAIC and any other rating agency on a confidential basis, (iii) the aggregate amount of the fees (including upfront fees and original issue discount) payable under the Fee Letters may be disclosed as part of generic disclosure regarding sources and uses for closing of the Financing (but without disclosing any specific fees, market flex or other economic terms set forth therein or to whom

such fees or other amounts are owed), (iv) the Commitment Letter and the Fee Letters may be disclosed on a confidential basis to your auditors after the Closing Date for customary accounting purposes, including accounting for deferred financing costs, (v) you may disclose the Commitment Letter (but not the Fee Letters) and its contents in any proxy or other public filing relating to the Acquisition and (vi) the Commitment Letter and Fee Letters may be disclosed to a court, tribunal or any other applicable administrative agency or judicial authority in connection with the enforcement of your rights hereunder (in which case you agree to inform us promptly thereof prior to such disclosure to the extent permitted by applicable law).

The Commitment Parties shall use all confidential information provided to them by or on behalf of you hereunder solely for the purpose of providing the services which are the subject of this Commitment Letter and otherwise in connection with the Transaction and shall treat confidentially all such information; *provided*, *however*, that nothing herein shall prevent the Commitment Parties from disclosing any such information (i) pursuant to the order of any court or administrative agency or in any pending legal or administrative proceeding, or otherwise as required by applicable law or compulsory legal process (in which case the Commitment Parties agree to inform you promptly thereof to the extent not prohibited by law, rule or regulation), (ii) upon the request or demand of any regulatory authority having jurisdiction over the Commitment Parties or any of their respective affiliates, (iii) to the extent that such information becomes publicly available other than by reason of disclosure in violation of this agreement by the Commitment Parties, (iv) to the Commitment Parties' affiliates, employees, legal counsel, independent auditors and other experts, professionals or agents who need to know such information in connection with the Transaction and are informed of the confidential nature of such information, (v) for purposes of establishing a "due diligence" defense, (vi) to the extent that such information is received by the Commitment Parties from a third party that is not to the Commitment Parties' knowledge subject to confidentiality obligations to you, (vii) to the extent that such information is independently developed by the Commitment Parties, (viii) to potential Lenders, participants, assignees or any direct or indirect contractual counterparties to any swap or derivative transaction relating to you or your obligations under the Facilities, in each case, who agree to be bound by the terms of this paragraph (or language not less restrictive than this paragraph or as otherwise reasonably acceptable to you and each Commitment Party, including as may be agreed in any confidential information memorandum or other marketing material), (ix) to Moody's and S&P and to Bloomberg, LSTA and similar market data collectors with respect to the syndicated lending industry; *provided* that such information is limited to Annex I and Annex II and is supplied only on a confidential basis, or (x) with your prior written consent. This paragraph shall terminate on the earlier of (a) execution and delivery of the Credit Documentation and (b) the second anniversary of the date hereof.

You acknowledge that the Commitment Parties or their affiliates may be providing financing or other services to parties whose interests may conflict with yours. The Commitment Parties agree that they will not furnish confidential information obtained from you to any of their other customers and will treat confidential information relating to the Companies and their respective affiliates with the same degree of care as they treat their own confidential information. The Commitment Parties further advise you that they will not make available to you confidential information that they have obtained or may obtain from any other customer. In connection with the services and transactions contemplated hereby, you agree that the Commitment Parties are permitted to access, use and share with any of their bank or non-bank affiliates, agents, advisors (legal or otherwise) or representatives any information concerning the Companies or any of their respective affiliates that is or may come into the possession of the Commitment Parties or any of such affiliates.

In connection with all aspects of each transaction contemplated by this Commitment Letter, you acknowledge and agree, and acknowledge your affiliates' understanding, that: (i) each of the Facilities and any related arranging or other services described in this Commitment Letter is an arm's-length

commercial transaction between you and your affiliates, on the one hand, and the Commitment Parties, on the other hand, (ii) the Commitment Parties have not provided any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby and you have consulted your own legal, accounting, regulatory and tax advisors to the extent you have deemed appropriate, (iii) you are capable of evaluating, and understand and accept, the terms, risks and conditions of the transactions contemplated hereby, (iv) in connection with the financing transactions contemplated hereby and the process leading to such transactions, each of the Commitment Parties has been, is, and will be acting solely as a principal and has not been, is not, and will not be acting as an advisor, agent or fiduciary for you or any of your affiliates, stockholders, creditors or employees or any other party, (v) the Commitment Parties have not assumed and will not assume an advisory, agency or fiduciary responsibility in your or your affiliates' favor with respect to any of the financing transactions contemplated hereby or the process leading thereto, and the Commitment Parties have no obligation to you or your affiliates with respect to the financing transactions contemplated hereby except those obligations expressly set forth in this Commitment Letter, and (vi) the Commitment Parties and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from yours and those of your affiliates, and the Commitment Parties have no obligation to disclose any of such interests to you or your affiliates. To the fullest extent permitted by law and without limiting the provisions of paragraph 4(b), you hereby waive and release any claims that you may have against the Commitment Parties with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any financing transaction contemplated by this Commitment Letter.

The Commitment Parties hereby notify you that pursuant to the requirements of the USA PATRIOT Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001) (the "***U.S.A. Patriot Act***"), each of them is required to obtain, verify and record information that identifies you, which information includes your name and address and other information that will allow the Commitment Parties, as applicable, to identify you in accordance with the U.S.A. Patriot Act.

7. **Survival of Obligations.** The provisions of paragraphs 2, 3, 4, 6 and 8 shall remain in full force and effect regardless of whether any Credit Documentation shall be executed and delivered and notwithstanding the termination of this Commitment Letter or any commitment or undertaking of the Commitment Parties hereunder, provided that (i) the provisions of paragraphs 2 and 3 shall not survive if the commitments and undertakings of the Commitment Parties are terminated by any party hereto prior to the effectiveness of the Senior Credit Facilities and funding of the Bridge Facility, (ii) if the Facilities close and the Credit Documentation is executed and delivered (A) the provisions of paragraphs 2 and 3 shall survive only until the date a Successful Syndication is achieved and (B) the provisions under paragraph 4 and the second paragraph of Section 6 shall be superseded and deemed replaced by the terms of the Credit Documentation governing such matters (solely to the extent such provisions are set forth therein).

8. **Miscellaneous.** This Commitment Letter and the Fee Letters may be executed in multiple counterparts and by different parties hereto in separate counterparts, all of which, taken together, shall constitute an original. Delivery of an executed counterpart of a signature page to this Commitment Letter or the Fee Letters by telecopier, facsimile or other electronic transmission (e.g., a "pdf" or "tiff") shall be effective as delivery of a manually executed counterpart thereof. Headings are for convenience of reference only and shall not affect the construction of, or be taken into consideration when interpreting, this Commitment Letter or the Fee Letters.

This Commitment Letter and the Fee Letters shall be governed by, and construed in accordance with, the laws of the State of New York; provided that the interpretation of whether a Company Material Adverse Effect (as defined in Annex III hereto) has occurred shall be construed and interpreted in accordance with the laws of the State of Delaware. Each party hereto hereby irrevocably waives any

and all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to this Commitment Letter, the Fee Letters, the Transaction and the other transactions contemplated hereby and thereby or the actions of the Commitment Parties in the negotiation, performance or enforcement hereof. Each party hereto hereby irrevocably and unconditionally submits to the exclusive jurisdiction of any New York State court or Federal court of the United States of America sitting in the Borough of Manhattan in New York City in respect of any suit, action or proceeding arising out of or relating to the provisions of this Commitment Letter, the Fee Letters, the Transaction and the other transactions contemplated hereby and thereby and irrevocably agrees that all claims in respect of any such suit, action or proceeding may be heard and determined in any such court. The parties hereto agree that service of any process, summons, notice or document by registered mail addressed to you shall be effective service of process against you for any suit, action or proceeding relating to any such dispute. Each party hereto waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceedings brought in any such court, and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. A final judgment in any such suit, action or proceeding brought in any such court may be enforced in any other courts to whose jurisdiction the applicable party is or may be subject by suit upon judgment.

This Commitment Letter, together with the Fee Letters, embodies the entire agreement and understanding among the parties hereto and your affiliates with respect to the Facilities and supersedes all prior agreements and understandings relating to the subject matter hereof. No party has been authorized by the Commitment Parties to make any oral or written statements that are inconsistent with this Commitment Letter. Neither this Commitment Letter (including the attachments hereto) nor the Fee Letters may be amended or any term or provision hereof or thereof waived or modified except by an instrument in writing signed by each of the parties hereto.

This Commitment Letter may not be assigned by you without our prior written consent (and any purported assignment without such consent will be null and void), is intended to be solely for the benefit of the parties hereto and is not intended to confer any benefits upon, or create any rights in favor of, any person other than the parties hereto (and the Indemnified Parties). Each Commitment Party may assign its commitment hereunder, in whole or in part, to any of its affiliates or to any Lender; *provided* that, other than with respect to an assignment to a Co-Agent or as you otherwise agree in writing, such Commitment Party shall not be released from the portion of its commitment hereunder so assigned to the extent such assignee fails to fund the portion of the commitment assigned to it on the Closing Date notwithstanding the satisfaction of the conditions to funding set forth herein.

Please indicate your acceptance of the terms of the Facilities set forth in this Commitment Letter and the Fee Letters by returning to us executed counterparts of this Commitment Letter and the Fee Letters not later than 8:00 p.m. (New York City time) on September 27, 2012, whereupon the undertakings of the parties with respect to the Facilities shall become effective to the extent and in the manner provided hereby. This offer shall terminate with respect to the Facilities if not so accepted by you at or prior to that time. Thereafter, all commitments and undertakings of the Commitment Parties hereunder will expire on the earliest of (a) September 26, 2013, unless the Closing Date occurs on or prior thereto, (b) the closing of the Acquisition without the use of the Senior Credit Facilities and the Bridge Facility, (c) the entry into Alternative Financing (as defined in the Acquisition Agreement referred to on Annex III), (d) the entry into an Alternative Acquisition Agreement (as defined in the Acquisition Agreement referred to in Annex III), (e) the termination of the Acquisition Agreement and (f) the public announcement of the abandonment of the Acquisition by you or any of your affiliates in a public statement or filing.

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We are pleased to have the opportunity to work with you in connection with this important financing.

Very truly yours,

BANK OF AMERICA, N.A.

By: /s/ Heather Lamberton
Name: Heather Lamberton
Title: Managing Director

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

By: /s/ Heather Lamberton
Name: Heather Lamberton
Title: Managing Director

The provisions of this Commitment Letter are accepted and agreed to as of the date first written above:

TEMPUR-PEDIC INTERNATIONAL INC.

By: /s/ Dale E. Williams.
Name: Dale E. Williams
Title: Executive Vice President and Chief Financial Officer

ANNEX I

SUMMARY OF TERMS AND CONDITIONS
SENIOR CREDIT FACILITIES

Capitalized terms not otherwise defined herein have the same meanings as specified therefor in the Commitment Letter to which this Annex I is attached.

Borrower:	Tempur-Pedic International Inc. (the "***Borrower***"). The Borrower may designate one or more domestic subsidiaries as additional borrowers from time to time, subject to customary terms and conditions to be set forth in the Credit Documentation.
Guarantors:	The obligations of the Borrower and its domestic subsidiaries under the Senior Credit Facilities (as hereinafter defined) and under any treasury management, interest protection or other hedging arrangements entered into with a Senior Lender (or an affiliate thereof) will be guaranteed by each of the existing and future direct and indirect wholly-owned domestic subsidiaries of the Borrower (including, without limitation, following the Acquisition and the Merger, the Acquired Business, but excluding any wholly-owned domestic subsidiary (x) owned by a foreign subsidiary or (y) that has no material assets other than the equity interests of one or more foreign subsidiaries (each such entity, a "***Foreign Sub Holdco***"); provided that in no event shall any immaterial subsidiary of the Borrower (to be defined in the Credit Documentation with reference to individual and aggregate asset and revenue thresholds to be agreed) be obligated to guarantee the obligations (collectively, the "***Guarantors***"). All guarantees will be guarantees of payment and not of collection.
Administrative and Collateral Agent:	Bank of America, N.A. ("***Bank of America***") will act as sole and exclusive administrative and collateral agent for the Senior Lenders (the "***Administrative Agent***").
Sole Lead Arranger and Sole Bookrunning Manager:	Subject to the terms of Section 1 of the Commitment Letter, Merrill Lynch, Pierce, Fenner & Smith Incorporated ("***MLPFS***") will act as sole and exclusive lead arranger and sole and exclusive bookrunning manager for the Senior Credit Facilities (the "***Senior Lead Arranger***").
Senior Lenders:	Banks, financial institutions and institutional lenders selected by the Senior Lead Arranger and reasonably acceptable to the Borrower and, after the initial funding of the Senior Credit Facilities, subject to the restrictions set forth in the Assignments and Participations section below.
Existing Credit Agreement:	Amended and Restated Credit Agreement, dated as of June 28, 2011 (as amended prior to the Closing Date, "***Existing Credit Agreement***"), among Tempur-Pedic Management, Inc. and Dan-Foam ApS, as borrowers (the "***Existing Borrowers***"), Tempur-Pedic International Inc.,

Tempur World, LLC and certain subsidiaries and affiliates of the Existing Borrowers, as guarantors, Bank of America, N.A., as domestic administrative agent and domestic collateral agent, Nordea Bank DanMark A/S, as foreign administrative agent and foreign collateral agent, Fifth Third and JPMorgan Chase Bank, N.A., as U.S. co-agents, and Wells Fargo Bank, National Association, as syndication agent.

Senior Credit Facilities: An aggregate principal amount of up to $1,770,000,000 will be available through the following facilities (such facilities, the "***Senior Credit Facilities***"):

Term A Facility: a $650,000,000 term loan facility, all of which will be drawn on the Closing Date (the "***Term A Facility***").

Term B Facility: a $770,000,000 term loan facility, all of which will be drawn on the Closing Date (the "***Term B Facility***" and, together with the Term A Facility, the "***Term Loan Facilities***").

Revolving Credit Facility: a $350,000,000 revolving credit facility (the "***Revolving Credit Facility***"), available from time to time on or after the Closing Date until the fifth anniversary of the Closing Date, and to include a sublimit of $100,000,000 for the issuance of standby and commercial letters of credit (each, a "***Letter of Credit***") and a sublimit of $50,000,000 for swingline loans (each, a "***Swingline Loan***"). Letters of Credit will be initially issued by Bank of America (in such capacity, the "***Issuing Bank***"), and each of the Senior Lenders under the Revolving Credit Facility will purchase an irrevocable and unconditional participation in each Letter of Credit and each Swingline Loan. Borrowings under the Revolving Credit Facility on the Closing Date will be limited to not more than (x) $140,000,000 to finance the Acquisition and to pay fees and expenses incurred in connection with the Transaction and (y) $10,000,000 for working capital and other general corporate purposes. In addition, Letters of Credit may be issued on the Closing Date in order to backstop, roll over or replace letters of credit outstanding under the Existing Credit Agreement and the existing credit facility of the Acquired Business.

Swingline Option: Bank of America, N.A., in its capacity as the swingline lender (in such capacity, the "***Swingline Lender***"), will make Swingline Loans available on a same day basis. The Borrower must repay each Swingline Loan upon demand of the Swingline Lender (and in any event on the fifth anniversary of the Closing Date).

Purpose: The proceeds of the borrowings under the Senior Credit Facilities on the Closing Date, together with proceeds from the Notes and/or the Bridge Loans and cash on of the balance sheet of the Borrower and the Guarantors, shall be used (i) to finance the Acquisition and the Refinancing and (ii) to pay fees and expenses incurred in connection with the Transaction. The proceeds of the Revolving Credit Facility shall be used to provide ongoing working capital and for other general corporate purposes of the Borrower and its subsidiaries. For the avoidance of doubt, the Credit Documentation shall not require the Borrower to repatriate cash from any foreign subsidiary for purposes of financing the Acquisition.

Interest Rates:

The interest rates per annum applicable to the Senior Credit Facilities will be, at the option of the Borrower (i) LIBOR plus the Applicable Margin (as hereinafter defined) or (ii) the Base Rate plus the Applicable Margin. The Applicable Margin means (a) with respect to the Term A Facility and the Revolving Credit Facility, (i) until financial statements for the first full fiscal quarter after the Closing Date are delivered, 2.50% per annum, in the case of LIBOR advances, and 1.50% per annum, in the case of Base Rate advances, and (ii) thereafter, a percentage per annum to be determined in accordance with a pricing grid based on the Consolidated Total Net Leverage Ratio (to be defined in the Credit Documentation as total debt (net of up to $150 million of unrestricted cash and cash equivalents of the Borrower and its subsidiaries (with a discount of 40% applied to unrestricted cash and cash equivalents of foreign subsidiaries of the Borrower))/Consolidated EBITDA (as defined below)) to be agreed, and (b) with respect to the Term B Facility, 3.25% per annum, in the case of LIBOR advances, and 2.25% per annum, in the case of Base Rate advances.

"***Consolidated EBITDA***" will be defined in the Credit Documentation and include add-backs for, among others to be agreed, (i) costs, fees, expenses or premiums paid with respect to (A) the Transaction and (B) amendments, waivers, modifications of the Credit Documentation, (ii) unusual or non-recurring charges and restructuring charges or reserves (including severance, relocation costs and one-time compensation charges and other costs related to closure of facilities or impairment of facilities) (subject to a cap to be agreed), (iii) transaction costs associated with permitted acquisitions (whether or not consummated), permitted dispositions (whether or not consummated) and permitted investments (whether or not consummated), (iv) non-cash expenses, charges and losses as set forth in ASC 805, (v) non-cash charges (other than accruals of liabilities in the ordinary course of business) and (vi) deductions for minority interest expense (except to the extent of dividends to minority stockholders during the applicable period).

Each Swingline Loan shall bear interest at the Base Rate plus the Applicable Margin for Base Rate loans under the Revolving Credit Facility.

The Borrower may select interest periods of one, two, three or six months (and, if agreed to by all relevant Senior Lenders, nine or twelve months) for LIBOR advances. Interest shall be payable at the end of the selected interest period, but no less frequently than quarterly.

"***LIBOR***" and "***Base Rate***" will have meanings customary and appropriate for financings of this type; *provided* that (x) LIBOR with respect to the Term B Facility will be deemed to be not less than 1.00% per annum and (y) the Base Rate will be deemed to be not less than 100 basis points higher than one-month LIBOR.

	During the continuance of an event of default for non-payment of principal, interest or any other amount, interest will accrue on such overdue principal, interest or other amount at the Default Rate (as defined below). During the continuance of a bankruptcy event of default, the principal amount of all outstanding obligations will bear interest at the Default Rate. As used herein, "***Default Rate***" means (i) on the principal of any loan at a rate of 200 basis points in excess of the rate otherwise applicable to such loan and (ii) on any other overdue amount at a rate of 200 basis points in excess of the non-default rate of interest then applicable to Base Rate loans under the Term B Facility**.**
Commitment Fee:	For the period commencing on the Closing Date through the last day of the first fiscal quarter ending thereafter, a commitment fee of 0.50% per annum, with a step down to 0.375% per annum for any fiscal quarterly period thereafter for which the Consolidated Total Net Leverage Ratio as of the last day of the most recently completed fiscal quarter is equal to or less than a level to be agreed, shall be payable on the actual daily unused portions of the Revolving Credit Facility during each such applicable period, such fee to be payable quarterly in arrears and on the date of termination or expiration of the commitments under the Revolving Credit Facility. Swingline Loans will not be considered utilization of the Revolving Credit Facility for purposes of this calculation. No commitment fee shall be paid to any defaulting lender.
Calculation of Interest and Fees:	Other than calculations in respect of interest at the Base Rate (which shall be made on the basis of actual number of days elapsed in a 365/366 day year), all calculations of interest and fees shall be made on the basis of actual number of days elapsed in a 360-day year.
Cost and Yield Protection:	Subject to the Documentation Standard (as defined below) and customary for transactions and facilities of this type, including, without limitation, in respect of breakage or redeployment costs incurred in connection with prepayments, changes in capital adequacy and capital requirements or their interpretation, illegality, unavailability, reserves without proration or offset and payments free and clear of withholding or other taxes; *provided* that for all purposes of the Credit Documentation, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines and directives promulgated thereunder and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States regulatory authorities, in each case, pursuant to Basel III, shall be deemed introduced or adopted after the Closing Date.
Letter of Credit Fees:	Letter of Credit fees equal to the Applicable Margin from time to time on LIBOR advances under the Revolving Credit Facility on a per annum basis will be payable quarterly in arrears and shared proportionately

by the Senior Lenders under the Revolving Credit Facility. In addition, a fronting fee equal to 10 basis points per annum will be payable to the Issuing Bank for its own account, as well as reasonable customary issuance and documentary fees. Both the Letter of Credit fees and the fronting fees will be calculated on the amount available to be drawn under each outstanding Letter of Credit.

Maturity:

Term A Facility: 5 years after the Closing Date.

Term B Facility: 7 years after the Closing Date.

Revolving Credit Facility: 5 years after the Closing Date.

Amendment and Extension:

The Credit Documentation shall provide the right of individual Senior Lenders to agree to extend the maturity of their loans and commitments under the Senior Credit Facilities upon the request of the Borrower and without the consent of any other Senior Lender (and as further described under "Waivers and Amendments" below).

Incremental Facilities:

The Credit Documentation will permit the Borrower to add one or more incremental term loan facilities to the Credit Facilities (each, an "***Incremental Term Facility***") and/or increase commitments under the Revolving Credit Facility (any such increase, an "***Incremental Revolving Facility***"; the Incremental Term Facilities and the Incremental Revolving Facilities are collectively referred to as "***Incremental Facilities***") in an aggregate amount of up to the greater of (x) $350,000,000 and (y) the maximum amount at such time that could be incurred without causing the Consolidated Secured Leverage Ratio (to be defined in the Credit Documentation) to exceed 3.00:1.00 (and, for purposes of the test in this clause (y) to include all such Incremental Facilities, assuming they were fully drawn, and whether or not secured and whether secured on a first-lien or junior basis (without netting the proceeds thereof)); *provided* that (i) no Lender will be required to participate in any such Incremental Facility, (ii) no event of default or default exists or would exist after giving effect thereto, (iii) the representations and warranties in the Credit Documentation shall be true and correct in all material respects, (iv) the Borrower is in compliance with the financial covenants determined on a pro forma basis on the date of incurrence and after giving effect thereto (assuming, in the case of an Incremental Revolving Facility, the full drawing thereunder (without netting the proceeds thereof)), as of the end of the most recent fiscal quarter for which financial statements have been delivered, (v) the maturity date of any such Incremental Term Facility shall be no earlier than the maturity date for the Term B Facility, (vi) the weighted average life to maturity of any Incremental Term Facility shall be no shorter than the weighted average life to maturity of the Term B Facility, (vii) the interest margins for the Incremental Term Facility shall be determined by the Borrower and the lenders of the Incremental Term Facility; *provided* that in the event that the interest margins for any Incremental Term Facility are greater than the Applicable Margin for the Term B Facility by more than 50 basis points, then the Applicable Margin for the Term B Facility shall be

increased to the extent necessary so that the interest margins for the Incremental Term Facility are not more than 50 basis points higher than the Applicable Margin for the Term B Facility; *provided, further*, that in determining the interest margins applicable to the Term B Facility and the Applicable Margins for the Incremental Term Facility, (x) original issue discount ("***OID***") or upfront fees (which shall be deemed to constitute like amounts of OID) payable by the Borrower for the account of the Lenders of the Term B Facility or the Incremental Term Facility in the primary syndication thereof shall be included (with OID being equated to interest based on an assumed four-year life to maturity), (y) customary arrangement, structuring, underwriting, amendment or commitment fees payable solely to the Lead Arranger (or its affiliates) in connection with the Term B Facility or to one or more arrangers (or their affiliates) of the Incremental Term Facility shall be excluded, and (z) if the LIBOR or Base Rate floor for the Incremental Term Facility is greater than the LIBOR or Base Rate floor, respectively, for the existing Term B Facility, the difference between such floor for the Incremental Term Facility and the existing Term B Facility shall be equated to an increase in the Applicable Margin for purposes of this clause (vi), (viii) each Incremental Facility may be secured by either a pari passu or junior lien on the Collateral (as hereinafter defined) securing the Senior Credit Facilities in each case on terms and pursuant to documentation reasonably satisfactory to the Administrative Agent and (ix) any Incremental Revolving Facility shall be on terms and pursuant to documentation applicable to the Revolving Credit Facility and any Incremental Term Facility shall be on terms and pursuant to documentation to be determined, *provided* that, to the extent such terms and documentation are not consistent with the Term B Facility (except to the extent permitted by clause (v), (vi) or (vii) above), they shall be reasonably satisfactory to the Administrative Agent. The Borrower shall seek commitments in respect of any Incremental Facility from existing Lenders or from additional banks, financial institutions and other institutional lenders reasonably acceptable to the Administrative Agent who will become Lenders in connection therewith.

The Credit Documentation will permit the Borrower to utilize availability under the Incremental Term Facilities to issue first or junior lien secured notes (including notes issued through a private placement) or junior lien loans, with the amount of such secured notes or loans reducing the aggregate principal amount available for the Incremental Term Facilities, subject to customary terms and conditions to be agreed.

Refinancing Facilities:

The Credit Documentation will permit the Borrower to refinance loans under the Term Loan Facilities or commitments under the Revolving Credit Facility or loans or commitments under any Incremental Facility (each, "***Refinanced Debt***") from time to time, in whole or part, with (x) one or more new term facilities (each, a "***Refinancing Term Facility***") or new revolving credit facilities (each, a "***Refinancing Revolving Facility***"; the Refinancing Term Facilities and the Refinancing Revolving Facilities are collectively referred to herein as "***Refinancing Facilities***"), respectively, under the Credit Documentation with the consent of

the Borrower, the Administrative Agent and the institutions providing such Refinancing Facility or (y) one or more series of unsecured notes or loans, notes secured by the Collateral on a *pari passu* basis with the Senior Credit Facilities or notes or loans secured by the Collateral on a subordinated basis to the Senior Credit Facilities, which will be subject to customary intercreditor terms reasonably acceptable to the Administrative Agent and the Borrower (any such notes or loans, "***Refinancing Notes***" and together with the Refinancing Facilities, the "***Refinancing Indebtedness***"); provided that (i) any Refinancing Term Facility or Refinancing Notes consisting of term loans do not mature prior to the maturity date of, or have a shorter weighted average life than, the applicable Refinanced Debt, (ii) any Refinancing Notes consisting of notes do not mature prior to the maturity date of the applicable Refinanced Debt or have any scheduled amortization, (iii) the commitments under any Refinancing Revolving Facility do not terminate prior to the termination date of the revolving commitments under the applicable Refinanced Debt, (iv) there shall be no issuers, borrowers or guarantors in respect of any Refinancing Indebtedness that are not the Borrower or a Guarantor, (v) any Refinancing Notes shall not contain any mandatory prepayment provisions (other than related to customary asset sale and change of control offers or events of default) that could result in prepayments of such Refinancing Notes prior to the maturity date of the applicable Refinanced Debt, (vi) the other terms and conditions of such Refinancing Indebtedness (excluding pricing, interest rate margins, rate floors, discounts, fees and prepayment or redemption provisions) are not materially more favorable (when taken as a whole) to the lenders or investors providing such Refinancing Indebtedness than the terms of the applicable Refinanced Debt and (vii) the proceeds of such Refinancing Facility or Refinancing Notes (a) shall not be in an aggregate principal amount greater than the aggregate principal amount of the applicable Refinanced Debt plus any fees, premiums and accrued interest associated therewith, and costs and expenses related thereto and (b) shall be immediately applied to permanently prepay (or, in the case of a Refinancing Revolving Facility, replace) in whole or in part the applicable Refinanced Debt.

Documentation Standard:

The Credit Documentation (i) shall be based upon the Existing Credit Agreement with appropriate modifications to baskets and materiality thresholds to reflect the Acquisition of the Acquired Business and its subsidiaries, the structure of the Senior Credit Facilities and the leverage and ratings of the Borrower after giving effect to the Acquisition, (ii) shall contain the terms and conditions set forth in this Summary of Term and Conditions, (iii) shall reflect the operational and strategic requirements of the Borrower and its respective subsidiaries in light of their size, industries and practices, (iv) shall be consistent with the proposed business plan and financial model of the Borrower and (v) shall reflect the customary agency and operational requirements of the Administrative Agent (collectively, the "***Documentation Standard***"), in each case, subject to the Funds Certain Provisions. The Credit Documentation shall, subject to the "market flex" provisions contained in the Fee Letters, contain only those conditions to borrowing, mandatory

prepayments, representations and warranties, covenants and events of default expressly set forth in this Summary of Terms and Conditions, in each case, applicable to the Borrower and its subsidiaries and, subject to the Documentation Standard and certain other limitations as set forth herein, with standards, qualifications, exceptions and grace and cure periods consistent with the Documentation Standard.

Scheduled Amortization:

Term A Facility: Subject to quarterly amortization of principal in aggregate annual amounts as follows: (i) 5.0% of the original aggregate principal amount of the Term A Facility in each of the first two years following the Closing Date and (ii) 10.0% of the original aggregate principal amount of the Term A Facility in each year thereafter, with the balance payable at final maturity of the Term A Facility.

Term B Facility: Subject to quarterly amortization of principal equal to 0.25% per quarter of the original aggregate principal amount of the Term B Facility, with the balance payable at final maturity of the Term B Facility.

Revolving Credit Facility: None.

Mandatory Prepayments:

In addition to the amortization set forth above and subject to the Documentation Standard and the next paragraph, mandatory prepayments shall be required (i) following the receipt of net cash proceeds by any member of the Consolidated Group (as defined in the Existing Credit Agreement) from any Disposition (as defined in the Existing Credit Agreement) (other than a Disposition among the members of the Consolidated Group) by any member of the Consolidated Group and any Involuntary Disposition (as defined in the Existing Credit Agreement) by any member of the Consolidated Group, in each case, to the extent (A) such proceeds are not reinvested in assets useful in the business of the members of the Consolidated Group within twelve months of the date of such Disposition or Involuntary Disposition and (B) the aggregate amount of such proceeds that are not reinvested in accordance with clause (A) hereof exceeds $20,000,000 in any fiscal year; (ii) following the receipt of net cash proceeds from the issuance or incurrence after the Closing Date of additional debt of any member of the Consolidated Group (other than, (x) if the Bridge Loans are funded, the Rollover Loans or Exchange Notes or Permanent Securities in an initial principal amount sufficient to refinance the outstanding Bridge Facility, (y) the Incremental Facilities, and (z) any other debt permitted under the Credit Documentation); and (iii) in an amount equal to 50.0% of Excess Cash Flow (to be defined in the Credit Documentation) of the Consolidated Group, with step downs based on the Consolidated Total Net Leverage, in each case of clauses (i) - (iii), subject to the limitations set forth in the paragraph immediately following, such amounts shall be applied to the prepayment of the Term Loan Facilities on a pro rata basis.

Notwithstanding the foregoing, mandatory prepayments arising from Dispositions, Involuntary Dispositions and Excess Cash Flow of a foreign subsidiary (i) will not be required to the extent the making of any

	such mandatory prepayment from the net cash proceeds of Dispositions or Involuntary Dispositions received by any foreign subsidiary or Excess Cash Flow of a foreign subsidiary would give rise to an adverse tax consequence (as reasonably determined by the Borrower), (ii) will not be required to the extent such net cash proceeds of any such Dispositions or Involuntary Dispositions or any such Excess Cash Flow have been applied to prepay any permitted indebtedness of the applicable foreign subsidiary or to the extent such foreign subsidiary has reinvested such amounts in its business or the business of any other member of the Consolidated Group; *provided* that, if an event of default is then continuing, no prepayment of any such indebtedness (other than any prepayment required by the terms of such indebtedness) or reinvestment shall be permitted and (iii) will not be required unless otherwise permissible under local law (as reasonably determined by the Borrower). Mandatory Prepayments arising from such amounts shall be subject to additional time periods to allow for the repatriation of such cash to the extent required hereunder.
Optional Prepayments and Commitment Reductions:	The Senior Credit Facilities may be prepaid at any time in whole or in part without premium or penalty, upon written notice, at the option of the Borrower, except (x) that any prepayment of LIBOR advances other than at the end of the applicable interest periods therefor shall be made with reimbursement for any funding losses and redeployment costs of the Senior Lenders resulting therefrom and (y) as set forth in "Repayment Premium" below. Each optional prepayment of the Term Loan Facilities shall be applied as directed by the Borrower; *provided* that any Senior Lender under the Term B Facility may, so long as there is a corresponding principal amount outstanding under the Term A Facility, decline to accept any such prepayment, in which case the amount of such declined payment shall be applied as directed by the Borrower to the prepayment of outstanding Term A Facility advances. The unutilized portion of any commitment under the Revolving Credit Facilities may be reduced permanently or terminated by the Borrower at any time without penalty.
Repayment Premium:	In the event that all or any portion of the Term B Facility is (i) repaid, prepaid, refinanced or replaced or (ii) repriced or effectively refinanced through any waiver, consent or amendment (in each case, in connection with any waiver, consent or amendment to the Term B Facility directed at, or the result of which would be, the lowering of the effective interest cost or the weighted average yield of the Term B Facility or the incurrence of any debt financing having an effective interest cost or weighted average yield that is less than the effective interest cost or weighted average yield of the Term B Facility (or portion thereof) so repaid, prepaid, refinanced, replaced or repriced (a "***Repricing Transaction***")) occurring on or prior to the first anniversary of the Closing Date, such repayment, prepayment, refinancing, replacement or repricing will be made at 101.0% of the principal amount so repaid, prepaid, refinanced, replaced or repriced. If all or any portion of the Term B Facility held by any Senior Lender is repaid, prepaid, refinanced or

replaced pursuant to a "yank-a-bank" or similar provision in the Credit Documentation as a result of, or in connection with, such Senior Lender not agreeing or otherwise consenting to any waiver, consent or amendment referred to in clause (ii) above (or otherwise in connection with a Repricing Transaction), such repayment, prepayment, refinancing or replacement will be made at 101.0% of the principal amount so repaid, prepaid, refinanced or replaced.

Security:

The Borrower and each of the Guarantors shall grant the Administrative Agent (for its benefit and for the benefit of the Senior Lenders) valid and perfected first priority (subject to certain exceptions to be set forth in the Credit Documentation and subject to the Documentation Standard) liens on and security interests in all of the following (collectively, the "***Collateral***"):

(a) all present and future shares of capital stock of (or other ownership or profit interests in) each present and future domestic subsidiary and each first-tier foreign subsidiary (limited, in the case of voting stock of any such foreign subsidiary or any Foreign Sub Holdco, to 65% of such voting stock), in each case, held by the Borrower or a Guarantor;

(b) all present and future debt owed to the Borrower or any Guarantor;

(c) all of the present and future property and assets, real and personal, of the Borrower and each Guarantor, including, but not limited to, machinery and equipment, inventory and other goods, accounts receivable, owned real estate (x) constituting a manufacturing facility property with limited exceptions for any such property anticipated to be closed or sold within twelve months of closing, or (y) with a fair market value in excess of $5,000,000, leasehold mortgage on the leased property located in Albuquerque, New Mexico, fixtures, bank accounts (subject to certain customary exceptions and a basket to be mutually agreed), general intangibles, financial assets, investment property, license rights, patents, trademarks, trade names, copyrights, other intellectual property and other general intangibles, chattel paper, insurance proceeds, contract rights, hedge agreements, documents, instruments, indemnification rights, tax refunds and cash; and

(d) all proceeds and products of the property and assets described in clauses (a), (b) and (c) above.

The Collateral shall ratably secure the relevant party's obligations in respect of the Senior Credit Facilities, any interest protection or other hedging arrangements with a Senior Lender or an affiliate of a Senior Lender and treasury management agreements with a Senior Lender or an affiliate of a Senior Lender.

	All the above-described pledges, security interests and mortgages shall be created on terms, and pursuant to documentation, subject to the Documentation Standard and reasonably satisfactory to the Administrative Agent, and none of the Collateral shall be subject to any other pledges, security interests or mortgages, subject to exceptions to be agreed upon. Assets will be excluded from the Collateral in circumstances to be agreed and in circumstances where the Administrative Agent reasonably determines in consultation with the Borrower that the cost of obtaining a security interest in such assets is excessive in relation to the value afforded thereby. In addition, the Administrative Agent shall not have any right to require the Borrower or any Guarantor to take any steps to perfect any security interest noted herein in any foreign jurisdiction with respect to (x) any owned real estate or leaseholds and (y) immaterial intellectual property.
Conditions Precedent to Closing:	Limited to those conditions specified in (a) paragraph 5 of the Commitment Letter and (b) Annex III to the Commitment Letter.
Conditions Precedent to Each Borrowing Under the Senior Credit Facilities following the Closing Date:	Each borrowing or issuance or renewal of a Letter of Credit under the Senior Credit Facilities following the Closing Date will be subject to satisfaction of the following conditions precedent: (i) delivery of prior written notice of borrowing, (ii) all of the representations and warranties in the Credit Documentation shall be true and correct in all material respects as of the date of such extension of credit and (iii) no default or event of default under the Credit Documentation shall have occurred and be continuing or would result from such extension of credit.
Representations and Warranties:	Subject to the Documentation Standard, with customary exceptions, thresholds and baskets to be agreed upon, representations and warranties shall be limited to the following: (i) existence, qualification and power; (ii) authorization, and non-contravention; (iii) government authorization and other consents; (iv) binding effect; (v) financial statements; (vi) no material adverse effect; (vii) litigation; (viii) no default; (ix) ownership of properties and liens; (x) environmental compliance; (xi) insurance; (xii) taxes; (xiii) ERISA compliance; (xiv) subsidiaries; (xv) Federal Reserve margin regulations and Investment Company Act; (xvi) disclosure; (xvii) compliance with laws (including OFAC and FCPA, subject to knowledge and materiality qualifiers to be agreed upon); (xviii) security agreement, pledge agreement and mortgages; (xix) real property; and (xx) closing date solvency (defined in a manner consistent with the Solvency Certificate (as defined in Annex III hereto)).

Covenants:

Subject to the Documentation Standard, with customary exceptions, thresholds and baskets to be agreed upon, covenants shall be limited to the following:

(a) *Affirmative Covenants:* (i) financial statements; (ii) certificates; other information (iii) notification; (iv) payment of obligations; (v) preservation of existence; (vi) maintenance of properties; (vii) maintenance of insurance; (viii) compliance with laws and material obligations; ERISA compliance; (ix) books and records; (x) inspection rights; (xi) use of proceeds; (xii) joinder of subsidiaries as guarantors; (xiii) pledge of capital stock and other property; (xiv) commercially reasonable efforts to obtain landlord consents; (xv) further assurances; and (xvi) commercially reasonable efforts to maintain ratings.

(b) *Negative Covenants:* Restrictions on (i) liens (it being agreed that the negative covenant on liens will permit (A) liens on the assets of the direct or indirect foreign subsidiaries securing obligations otherwise permitted by the Credit Documentation and (B) liens securing the Convertible Notes (as defined on Annex III; it being acknowledged that the liens securing the Senior Credit Facilities shall be junior to the liens securing the Convertible Notes to the extent required under the Convertible Notes Indenture or thereunder); (ii) investments (it being agreed that the negative covenant on investments will permit (A) investments made by the Borrower and the Guarantors in foreign subsidiaries of the Borrower up to $50,000,000 at any time outstanding, (B) investments made by and among foreign subsidiaries, in each case without reference to an "Approved Jurisdiction" limitation (as defined and set forth in the Existing Credit Agreement), (C) investments existing on the Closing Date and (D) investments in joint ventures in an amount to be agreed (but in any event not less than $30,000,000)); (iii) indebtedness (it being agreed that the negative covenant on indebtedness will permit (A) foreign subsidiaries to incur indebtedness (x) owed to the Borrower or any Guarantor in an aggregate principal amount not to exceed $50,000,000 at any time outstanding, and (y) owed to any third party in an aggregate principal amount not to exceed $50,000,000 at any time outstanding), (B) guarantees by the Borrower and the other Guarantors of permitted indebtedness of the foreign subsidiaries), (C) foreign subsidiaries to incur indebtedness owed to other foreign subsidiaries and (D) the Convertible Notes, in each case without reference to an "Approved Jurisdiction" limitation); (iv) mergers and dissolutions (it being agreed that the negative covenant on mergers and dissolutions will permit mergers solely among and dissolutions of foreign subsidiaries); (v) dispositions (it being agreed that the negative covenant on dispositions will permit (A) the sale-leaseback of the new corporate offices of the Borrower in Lexington, Kentucky (subject to the application of the net cash proceeds thereof as set forth in "Mandatory Prepayments" above and the reinvestment election provided therein), (B) usual and customary dispositions by foreign subsidiaries to domestic or other foreign subsidiaries and (C) the post-closing corporate restructuring of the subsidiaries

of the Borrower (provided that, without the consent of the Lead Arranger, such restructuring shall be limited to mergers and dispositions (x) solely by and among domestic subsidiaries and (y) solely by and among foreign subsidiaries); (vi) restricted payments; (vii) change in nature of business; (viii) change in fiscal year (other than the change in the fiscal year of the Acquired Business and its subsidiaries to match the fiscal year of the Borrower); (ix) transactions with affiliates; (x) use of proceeds; (xi) prepaying, redeeming or repurchasing certain debt (it being agreed that the Credit Documentation will allow foreign subsidiaries to prepay, redeem or repurchase debt owed by them (and not by the Borrower or any of its domestic subsidiaries) without restriction from internally generated funds of the foreign subsidiaries); (xii) granting negative pledges that limit or restrict the Administrative Agent from taking or perfecting its lien in the intended Collateral, subject to exceptions to be agreed; (xiii) amending (x) organizational documents in a manner that would be materially adverse to the Lenders or (y) subordinated or junior debt instruments to the extent prohibited by applicable subordination or intercreditor terms, to permit a payment not otherwise permitted hereunder or as would otherwise be materially adverse to the Lenders; and (xiv) subsidiary distributions.

(c) *Financial Covenants:* To be limited to the following (and set at levels to be agreed that represent a non-cumulative cushion of at least 25% to EBITDA as set forth in the Borrower's financial model delivered by the Borrower on September 26, 2012) and identified as the model referred to in this Annex I:

- Maintenance of a minimum Consolidated Interest Coverage Ratio (to be defined in the Credit Documentation); and
- Maintenance of a maximum Consolidated Total Net Leverage Ratio.

All of the financial covenants will be calculated on a consolidated basis and for each consecutive four fiscal quarter period. Calculations will be made on a pro forma basis for acquisitions and dispositions outside the ordinary course of business (and incurrences and repayments of debt in connection therewith) including the Transaction, as if they had occurred at the beginning of the applicable period, in accordance with Regulation S-X under the Securities Act of 1933, as amended and otherwise in a manner reasonably satisfactory to the Senior Lead Arranger.

Events of Default: Subject to the Documentation Standard, with thresholds and grace periods to be mutually agreed, events of default shall be limited to the following: (i) nonpayment of principal, interest, fees or other amounts; (ii) any representation or warranty proving to have been inaccurate in any material respect when made or confirmed; (iii) failure to perform or

observe covenants set forth in the Credit Documentation; (iv) cross-defaults to other indebtedness in an amount to be agreed; (v) bankruptcy and insolvency defaults; (vi) monetary judgment defaults in an amount to be agreed and material non-monetary judgment defaults; (vii) actual or asserted impairment of Credit Documentation or security; (viii) Change of Control (as defined in the Existing Credit Agreement (x) modified to delete the concept of "Principals" (as defined therein) and (y) with such other modifications as are mutually agreed in light of the terms herein); and (ix) ERISA defaults.

Assignments and Participations:

Each Senior Lender will be permitted to make assignments in minimum amounts to be agreed to other entities approved by (x) the Administrative Agent (y), so long as no payment or bankruptcy event of default has occurred and is continuing, the Borrower, and (z) with respect to commitments under the Revolving Credit Facility, the Swingline Lender and the Issuing Bank, each such approval not to be unreasonably withheld or delayed; *provided, however*, that (i) no approval of the Borrower shall be required in connection with assignments to other Senior Lenders or any of their affiliates or approved funds, (ii) the Borrower shall be deemed to have given consent to an assignment if it shall have failed to respond to a written notice thereof within 5 business days and (iii) no approval of the Administrative Agent shall be required in connection with assignments (x) under the Term Loan Facilities to other Senior Lenders or any of their affiliates or approved funds or (y) under the Revolving Credit Facility to other Senior Lenders under the Revolving Credit Facility or any of their affiliates or approved funds. Each Senior Lender will also have the right, without consent of the Borrower or the Administrative Agent, to assign as security all or part of its rights under the Credit Documentation to any Federal Reserve Bank. Senior Lenders will be permitted to sell participations with voting rights limited to customary significant matters such as changes in amount, rate and maturity date. An assignment fee in the amount of $3,500 will be charged with respect to each assignment unless waived by the Administrative Agent in its sole discretion.

Assignments of loans under the Term B Facility to the Borrower or any of its subsidiaries shall be permitted subject to satisfaction of conditions to be set forth in the Credit Documentation, including that (i) no default or event of default shall exist or result therefrom, (ii) the Borrower shall be in compliance with all financial covenants on a pro forma basis, (iii) the Borrower or such subsidiary shall make an offer to all Senior Lenders under the Term B Facility in accordance with "Dutch auction" procedures to be agreed, (iv) the Borrower must provide a customary representation and warranty as to disclosure of information, (v) upon the effectiveness of any such assignment, such loans shall be retired and (vi) no borrowings under the Revolving Credit Facility shall be used to fund any such assignment.

Waivers and Amendments:

Amendments and waivers of the provisions of the Credit Documentation will require the approval of Senior Lenders holding loans and

	commitments representing more than 50% of the aggregate advances and commitments under the Senior Credit Facilities (the "***Required Lenders***"), except that (a) the consent of each Senior Lender directly and adversely affected thereby will also be required with respect to, among other things, (i) increases in commitment amount of such Senior Lender, (ii) reductions of principal, interest, or fees payable to such Senior Lender, (iii) extensions of scheduled maturities or times for payment of amounts payable to such Senior Lender, (iv) releases of all or substantially all of the Collateral or value of the guarantees, (v) changes that impose any restriction on the ability of such Senior Lender to assign any of its rights or obligations and (vi) the definition of Required Lenders and (b) tranche voting will be required for certain matters. Notwithstanding anything to the contrary set forth herein, the Credit Documentation shall provide that the Borrower may at any time and from time to time request that all or a portion of any loans under the Senior Credit Facilities be converted to extend (i) the scheduled maturity date of any payment of principal with respect to all or a portion of any principal amount of such loans and (ii) the scheduled termination date of any commitments pursuant to the Revolving Credit Facility (any such loans which have been so converted, "***Extended Loans***") and upon such request of the Borrower any individual Senior Lender shall have the right to agree to extend the maturity date of its outstanding loans or the termination date of its commitments without the consent of any other Senior Lender; *provided* that all such requests shall be made pro rata to all Senior Lenders within the applicable Senior Credit Facility. The terms of Extended Loans shall be identical to the loans of the existing class from such Extended Loans are converted except for interest rates, fees, amortization, final maturity date or final termination date, provisions requiring optional and mandatory prepayments to be directed first to the non-extended loans prior to being applied to Extended Loans and certain other customary provisions to be agreed.
Indemnification:	Consistent with the Existing Credit Agreement.
Governing Law:	New York.
Expenses:	Consistent with the Existing Credit Agreement.
Counsel to the Administrative Agent:	Davis Polk & Wardwell LLP
Miscellaneous:	Each of the parties shall (i) waive its right to a trial by jury and (ii) submit to New York jurisdiction. The Credit Documentation shall contain customary "defaulting lender" provisions.

SUMMARY OF TERMS AND CONDITIONS
BRIDGE LOANS

Capitalized terms not otherwise defined herein have the same meanings as specified therefor in the Commitment Letter to which this Annex II-A is attached.

Borrower:	Same as the Senior Credit Facilities.
Guarantors:	Same as the Senior Credit Facilities.
Bridge Administrative Agent:	Bank of America, N.A. or an affiliate thereof will act as sole and exclusive administrative agent for the Bridge Lenders (the "***Bridge Administrative Agent***").
Sole Bridge Lead Arranger and Sole Bridge Bookrunning Manager:	Merrill Lynch, Pierce, Fenner & Smith Incorporated ("***MLPFS***") will act as sole and exclusive lead arranger and sole and exclusive bookrunning manager for the Bridge Loans (in such capacity, the "***Bridge Lead Arranger***").
Bridge Lenders:	Banks, financial institutions and institutional lenders selected by the Bridge Lead Arranger and reasonably acceptable to the Borrower (the "***Bridge Lenders***").
Bridge Loans:	$350,000,000 of senior unsecured bridge loans (the "***Bridge Loans***"), less the aggregate gross proceeds of Notes or any other debt or disqualified equity securities of the Companies (collectively, "***Permanent Securities***") issued on or prior to the Closing Date. The Bridge Loans will be available to the Borrower in one drawing upon consummation of the Acquisition.
Ranking:	The Bridge Loans will be senior unsecured obligations of the Borrower and rank pari passu in right of payment with or senior to all other unsecured obligations of the Borrower. The guarantees will be senior unsecured obligations of each Guarantor, ranking pari passu in right of payment with or senior to all other unsecured obligations of such Guarantor.
Security:	None.
Purpose:	The proceeds of the Bridge Loans, together with borrowings under the Senior Credit Facilities on the Closing Date and cash on the balance sheet of the Borrower and the Acquired Business, shall be used (i) to finance the Acquisition and the Refinancing and (ii) to pay fees and expenses incurred in connection with the Transaction.
Interest Rate:	Interest shall be payable quarterly in arrears at a rate per annum equal to three-month LIBOR plus the Applicable Margin.

	"***Applicable Margin***" shall initially be 650 basis points and will increase by an additional 50 basis points at the end of each subsequent three-month period for as long as the Bridge Loans are outstanding; provided that the interest rate shall not exceed the Total Cap (as defined in the Facilities Fee Letter). "***LIBOR***" shall be deemed to be not less than 1.25% per annum. During the continuance of a payment or bankruptcy event of default, interest will accrue on the overdue principal of the Bridge Loans and on any other overdue amount at a rate of 200 basis points in excess of the rate otherwise applicable to the Bridge Loans (except that following the Rollover Date (as defined below), interest on the Bridge Loans will accrue at a per annum rate equal to 200 basis points in excess of the Total Cap), and will be payable on demand. All calculations of interest shall be made on the basis of actual number of days elapsed in a 360-day year.
Cost and Yield Protection:	Customary for transactions and facilities of this type, including, without limitation, in respect of breakage or redeployment costs incurred in connection with prepayments, changes in capital adequacy and capital requirements or their interpretation, illegality, unavailability, reserves without proration or offset and payments free and clear of withholding or other taxes; *provided* that for all purposes of the Bridge Loans, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines and directives promulgated thereunder and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States regulatory authorities, in each case, pursuant to Basel III, shall be deemed introduced or adopted after the Closing Date.
Amortization:	None.
Optional Prepayments:	The Bridge Loans may be prepaid prior to the first anniversary of the Closing Date (the "***Rollover Date***"), without premium or penalty, in whole or in part, upon written notice, at the option of the Borrower, at any time, together with accrued interest to the prepayment date.
Mandatory Prepayments:	The Borrower shall prepay the Bridge Loans without premium or penalty, together with accrued interest to the prepayment, (a) following the receipt of net cash proceeds by any member of the Consolidated Group from Dispositions and Involuntary Dispositions as set forth in the Credit Documentation for the Senior Credit Facilities (including the reinvestment rights therein) and (b) following the receipt of net cash proceeds by any member of the Consolidated Group from the issuance or incurrence after the Closing Date of additional debt of any member of the Consolidated Group (other than (x) the Incremental Facilities under the Senior Credit Facilities and (y) certain other exceptions to be mutually agreed but to include any indebtedness permitted to be

incurred by the foreign subsidiaries) or equity of the Borrower. The Borrower's obligation to prepay Bridge Loans shall be deemed to be satisfied with respect to clauses (a) and (b) above on a dollar-for-dollar basis to the extent of amounts applied to repay loans under (i) the Term Loan Facilities or (ii) the Revolving Credit Facility to the extent accompanied by a permanent reduction in commitments thereunder.

Notwithstanding the foregoing, mandatory prepayments arising from Dispositions and Involuntary Dispositions of a foreign subsidiary (i) will not be required to the extent the making of any such mandatory prepayment from the net cash proceeds of Dispositions or Involuntary Dispositions received by any foreign subsidiary would give rise to an adverse tax consequence (as reasonably determined by the Borrower), (ii) will not be required to the extent such net cash proceeds of any such Dispositions or Involuntary Dispositions have been applied to prepay any permitted indebtedness of the applicable foreign subsidiary or to the extent such foreign subsidiary has reinvested such amounts in its business or the business of any other member of the Consolidated Group; *provided* that, if an event of default is then continuing, no prepayment of any such indebtedness (other than any prepayment required by the terms of such indebtedness) or reinvestment shall be permitted and (iii) will not be required unless otherwise permissible under local law (as reasonably determined by the Borrower). Mandatory Prepayments arising from such amounts shall be subject to additional time periods to allow for the repatriation of such cash to the extent required hereunder.

Change of Control: In the event of a Change of Control (as defined in the Existing Credit Agreement (x) modified to delete the concept of "Principals" (as defined therein) and (y) with such other modifications as are mutually agreed in light of the terms herein), each Bridge Lender will have the right to require the Borrower, and the Borrower must offer, to prepay the outstanding principal amount of the Bridge Loans at the principal amount thereof, plus accrued and unpaid interest thereon to the date of prepayment. Prior to making any such offer, the Borrower will, within 30 days of the Change of Control, repay all obligations under the Senior Credit Facilities or obtain any required consent of the Senior Lenders under the Senior Credit Facilities to make such prepayment of the Bridge Loans.

Conversion into Rollover Loans: If the Bridge Loans have not been previously prepaid in full for cash on or prior to the Rollover Date, the principal amount of the Bridge Loans outstanding on the Rollover Date may, subject to the conditions precedent set forth in Annex II-B, be converted into senior unsecured rollover loans with a maturity of 8 years from the Closing Date and otherwise having the terms set forth in Annex II-B (the "***Rollover Loans***"). Any Bridge Loans not converted into Rollover Loans shall be repaid in full on the Rollover Date.

Exchange into Exchange Notes:	Each Bridge Lender that is (or will immediately transfer its Exchange Notes to) an Eligible Holder (as defined in Annex II-C) will have the right, at any time on or after the Rollover Date, to exchange Rollover Loans held by it for senior unsecured exchange notes of the Borrower having the terms set forth in Annex II-C (the "***Exchange Notes***"). Notwithstanding the foregoing, the Borrower will not be required to exchange Rollover Loans for Exchange Notes unless at least $75,000,000 of Exchange Notes would be outstanding immediately after such exchange. In connection with each such exchange, or at any time prior thereto if requested by the Initial Bridge Lender, the Borrower shall (i) deliver to the Bridge Lender that is receiving Exchange Notes, and to such other Bridge Lenders as the Initial Bridge Lender requests, an offering memorandum of the type customarily utilized in a Rule 144A offering of high yield securities covering the resale of such Exchange Notes or Bridge Loans by such Bridge Lenders, in such form and substance as reasonably acceptable to the Borrower and the Initial Bridge Lender, and keep such offering memorandum updated in a manner as would be required pursuant to a customary Rule 144A securities purchase agreement, (ii) execute an exchange agreement containing provisions customary in Rule 144A transactions (including indemnification provisions) and a registration rights agreement customary in Rule 144A offerings, in each case, if requested by the Initial Bridge Lender, (iii) deliver or cause to be delivered such opinions and accountants' comfort letters addressed to the Initial Bridge Lender and such certificates as the Initial Bridge Lender may reasonably request as would be customary in Rule 144A offerings and otherwise in form and substance reasonably satisfactory to the Initial Bridge Lender and (iv) take such other actions, and cause its advisors, auditors and counsel to take such actions, as reasonably requested by the Initial Bridge Lender in connection with issuances or resales of Exchange Notes or Bridge Loans, including providing such information regarding the business and operations of the Borrower and its subsidiaries as is reasonably requested by any prospective holder of Exchange Notes or Bridge Loans and customarily provided in due diligence investigations in connection with purchases or resales of securities.
Conditions Precedent:	Limited to those conditions specified in (a) paragraph 5 of the Commitment Letter and (b) Annex III to the Commitment Letter.
Affirmative Covenants:	Affirmative covenants that are customary for bridge facilities of borrowers of similar size and credit quality, as determined by the Bridge Lead Arranger in light of prevailing market conditions and other circumstances. In addition the Borrower will be required to comply with the Facilities Fee Letter and to use its commercially reasonable efforts to refinance the Bridge Facility with the proceeds of Permanent Securities as promptly as practicable following the Closing Date, including by taking the actions specified in paragraph (ix) of Annex III.
Negative Covenants:	Negative covenants that are customary for high yield debt securities of issuers of similar size and credit quality, as determined by the Bridge

Lead Arranger in light of prevailing market conditions and other circumstances, but no more restrictive than the negative covenants set forth in the Credit Documentation for the Senior Credit Facilities; provided that prior to the Rollover Date, the limitation on restricted payments and the limitation on debt may be more restrictive than customary high yield debt covenants and the Senior Credit Facilities.

Representations and Warranties, Events of Default, Waivers and Consents: Based on those contained in the Senior Credit Facilities.

Assignments and Participations: Each Bridge Lender will be permitted to make assignments in minimum amounts to be agreed to other entities approved by the Bridge Administrative Agent, which approval shall not be unreasonably withheld or delayed; *provided, however*, that no such approval shall be required in connection with assignments to other Bridge Lenders or any of their affiliates or approved funds; *provided further* that, prior to the Rollover Date, the consent of the Borrower shall be required with respect to any assignment if the Initial Bridge Lender (and its subsidiaries) would hold, in the aggregate after giving effect to such assignment, less than 50.1% of the Bridge Loans. Each Bridge Lender will also have the right, without any consent, to assign as security all or part of its rights under the Credit Documentation to any Federal Reserve Bank. Bridge Lenders will be permitted to sell participations with voting rights limited to significant matters such as changes in amount, rate and maturity date. An assignment fee in the amount of $3,500 will be charged with respect to each assignment unless waived by the Administrative Agent in its sole discretion.

If the Initial Bridge Lender makes an assignment of Bridge Loans at a price less than par, the assignment agreement may provide that, upon any repayment or prepayment of such Bridge Loans with the proceeds of an issuance of securities of the Borrower or any of its subsidiaries in which the Initial Bridge Lender or an affiliate thereof acted as underwriter or initial purchaser (an "***Applicable Offering***"), (i) the Borrower shall pay the holder of such Bridge Loans the price set forth in the assignment agreement as the price (which may be the price at which the Initial Bridge Lender assigned such Bridge Loans but in any event may not be greater than par) at which the holder of such Bridge Loans will be repaid by the Borrower with the proceeds of an Applicable Offering (the "***Agreed Price***") and (ii) the Borrower shall pay the Initial Bridge Lender the difference between par and the Agreed Price. Such payments by the Borrower shall be in full satisfaction of such Bridge Loans in the case of a repayment or prepayment with proceeds of an Applicable Offering. For the avoidance of doubt, the provisions of this paragraph do not apply to any repayments or prepayments other than with proceeds of an Applicable Offering.

Governing Law: New York.

Indemnification and Expenses:	Same as the Senior Credit Facilities.
Counsel to Bridge Lead Arranger:	Davis Polk & Wardwell LLP

SUMMARY OF TERMS AND CONDITIONS
SENIOR SUBORDINATED ROLLOVER LOANS

Capitalized terms not otherwise defined herein have the same meanings as specified therefor in the Commitment Letter to which this Annex II-B is attached.

Borrower:	Same as the Borrower of the Bridge Loans.
Guarantors:	Same as the Bridge Loans.
Rollover Loans:	Rollover Loans in an initial principal amount equal to 100% of the outstanding principal amount of the Bridge Loans on the Rollover Date. Subject to the conditions precedent set forth below, the Rollover Loans will be available to the Borrower to refinance the Bridge Loans on the Rollover Date. The Rollover Loans will be governed by the Credit Documentation for the Bridge Loans and, except as set forth below, shall have the same terms as the Bridge Loans.
Ranking:	Same as the Bridge Loans.
Interest Rate:	Interest shall be payable quarterly in arrears at a rate per annum equal to the Total Cap. During the continuance of a payment or bankruptcy event of default, interest will accrue on the overdue principal of the Rollover Loans and on any other overdue amount at a rate of 200 basis points in excess of the rate otherwise applicable to the Rollover Loans, and will be payable on demand. All calculations of interest shall be made on the basis of actual number of days elapsed in a 360-day year.
Maturity:	8 years after the Closing Date (the "***Rollover Maturity Date***").
Amortization:	None.
Optional Prepayments:	For so long as the Rollover Loans have not been exchanged for Exchange Notes of the Borrower as provided in Annex II-C, they may be prepaid at the option of the Borrower, in whole or in part, at any time, together with accrued and unpaid interest to the prepayment date (but without premium or penalty).
Mandatory Prepayments:	Same as the Bridge Loans.
Conditions Precedent to Rollover:	The ability of the Borrower to convert any Bridge Loans into Rollover Loans is subject to the following conditions being satisfied:

(i) at the time of any such refinancing, there shall exist no event of default or event that, with notice and/or lapse of time, could become an event of default, and there shall be no failure to comply with the Take-out Demand (as defined in the Facilities Fee Letter);

(ii) all fees due to the Bridge Lead Arranger and the Initial Bridge Lender shall have been paid in full;

(iii) the Bridge Lenders shall have received promissory notes evidencing the Rollover Loans (if requested) and such other documentation as shall be set forth in the Credit Documentation; and

(iv) no order, decree, injunction or judgment enjoining any such refinancing shall be in effect.

Covenants: From and after the Rollover Date, the covenants applicable to the Rollover Loans will conform to those applicable to the Exchange Notes, except for covenants relating to the obligation of the Borrower to refinance the Rollover Loans and others to be agreed (which shall, in no event, be more restrictive than the covenants applicable to the Bridge Loans).

Assignments and Participations: Same as the Bridge Loans.

Governing Law: New York.

Indemnification and Expenses: Same as the Bridge Loans.

SUMMARY OF TERMS AND CONDITIONS
SENIOR SUBORDINATED EXCHANGE NOTES

Capitalized terms not otherwise defined herein have the same meanings as specified therefor in the Commitment Letter to which this Annex II-C is attached.

Issuer:	Same as the Borrower of the Bridge Loans.
Guarantors:	Same as the Bridge Loans.
Exchange Notes:	The Borrower will issue the Exchange Notes under an indenture that complies with the Trust Indenture Act of 1939, as amended (the "***Indenture***"). The Borrower will appoint a trustee reasonably acceptable to the holders of the Exchange Notes. The Indenture will be in substantially the form attached as an exhibit to the Credit Documentation for the Bridge Facility. The Indenture will include provisions customary for an indenture governing publicly traded high yield debt securities, but with covenants that are more restrictive in certain respects. Except as expressly set forth above, the Exchange Notes shall have the same terms as the Rollover Loans.
Ranking:	Same as the Bridge Loans.
Security:	None.
Interest Rate:	Interest shall be payable quarterly in arrears at a per annum rate equal to the Total Cap. During the continuance of a payment or bankruptcy event of default, interest will accrue on the overdue principal of the Exchange Notes and on any other overdue amount at a rate of 200 basis points in excess of the rate otherwise applicable to the Exchange Notes, and will be payable on demand.
Maturity:	Same as the Rollover Loans.
Amortization:	None.
Optional Redemption:	Until the fourth anniversary of the Closing Date, the Exchange Notes will be redeemable at a customary "make-whole" premium calculated using a discount rate equal to the yield on comparable Treasury securities plus 50 basis points. Thereafter, the Exchange Notes will be redeemable at the option of the Issuer at a premium equal to 50% of the coupon on the Exchange Notes, declining ratably to par on the date which is two years prior to the Rollover Maturity Date. In addition, the Exchange Notes will be redeemable at the option of the Issuer prior to the third anniversary of the Closing Date with the net cash proceeds of qualified equity offerings of the Issuer at a premium

	equal to the coupon on the Exchange Notes; *provided* that after giving effect to such redemption at least 65% of the aggregate principal amount of Exchange Notes originally issued shall remain outstanding.
Mandatory Offer to Purchase:	The Issuer will be required to offer to purchase the Exchange Notes upon a Change of Control at 101% of the principal amount thereof plus accrued interest to the date of purchase. In addition, the Exchange Notes will be subject to a customary offer to purchase upon Dispositions or Involuntary Dispositions by any member of the Consolidated Group, subject to limitations on the application of net cash proceeds received by foreign subsidiaries of the Issuer substantially similar to those set forth in the Credit Documentation for the Bridge Loans. The Issuer's obligation to offer to purchase Exchange Notes in connection with any Dispositions or Involuntary Dispositions shall be deemed to be satisfied on a dollar-for-dollar basis to the extent of amounts applied to repay loans under (i) the Term Loan Facilities or (ii) the Revolving Credit Facility to the extent accompanied by a permanent reduction in commitments thereunder.
Right to Transfer Exchange Notes:	Each holder of Exchange Notes shall have the right to transfer its Exchange Notes in whole or in part, at any time to an Eligible Holder (as defined below) and, after the Exchange Notes are registered pursuant to the provisions described under "***Registration Rights***", to any person or entity; *provided* that if the Issuer or any of its affiliates holds Exchange Notes, such Exchange Notes shall be disregarded in any voting. "***Eligible Holder***" will mean (a) an institutional "accredited investor" within the meaning of Rule 501 under the Securities Act, (b) a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act, (c) a person acquiring the Exchange Notes pursuant to an offer and sale occurring outside of the United States within the meaning of Regulation S under the Securities Act or (d) a person acquiring the Exchange Notes in a transaction that is, in the opinion of counsel reasonably acceptable to the Issuer, exempt from the registration requirements of the Securities Act; *provided* that in each case such Eligible Holder represents that it is acquiring the Exchange Notes for its own account and that it is not acquiring such Exchange Notes with a view to, or for offer or sale in connection with, any distribution thereof (within the meaning of the Securities Act) that would be in violation of the securities laws of the United States or any state thereof.
Registration Rights:	The Issuer will be required to: • within 60 days after the Rollover Date, file a registration statement for an offer to exchange the Exchange Notes for publicly registered notes with identical terms; • use its reasonable best efforts to cause the registration statement to become effective under the Securities Act within 150 days after the Rollover Date;

- complete the exchange offer within 180 days after the Rollover Date; and
- file and use its reasonable best efforts to cause to become effective a shelf registration statement for the resale of the Exchange Notes if it cannot complete an exchange offer by such 180th day and in certain other circumstances, and keep such shelf registration statement effective, with respect to resales of the Exchange Notes, for as long as it is required by the holders of the Exchange Notes to resell the Exchange Notes.

Upon failure to comply with the requirements of the registration rights agreement (a "***Registration Default***"), the Issuer shall pay liquidated damages to each holder of Exchange Notes with respect to the first 90-day period immediately following the occurrence of the first Registration Default in an amount equal to 0.25% per annum on the principal amount of Exchange Notes held by such holder. The amount of the liquidated damages will increase by an additional 0.25% per annum on the principal amount of Exchange Notes with respect to each subsequent 90-day period until all Registration Defaults have been cured, up to a maximum amount of liquidated damages for all Registration Defaults of 1.00% per annum.

Governing Law: New York.

Indemnification and Expenses: Same as the Bridge Loans.

ANNEX III

CONDITIONS PRECEDENT TO CLOSING

Capitalized terms not otherwise defined herein have the same meanings as specified therefor in the Commitment Letter to which this Annex III is attached.

The initial extensions of credit under the Senior Credit Facilities and the funding of the Bridge Loans under the Bridge Facility will, subject to the Funds Certain Provisions, be subject to satisfaction (or waiver by the applicable Initial Lenders) of the following conditions precedent:

(i) The Acquisition shall have been or shall substantially concurrently be, consummated in accordance with the terms of the Agreement and Plan of Merger dated September 26, 2012 (together with all Schedules and Exhibits thereto, the "***Acquisition Agreement***") without giving effect to any amendment, change or supplement or waiver of any provision thereof (including any change in the purchase price) in any manner that is materially adverse to the interests of the Lenders or the Lead Arranger without the prior written consent of the Lead Arranger (it being understood that (A) any reduction of the purchase price in respect of the Acquisition will be materially adverse to the Lenders and the Lead Arranger, unless (x) such reduction is in the aggregate less than 10% of the purchase price payable on the date hereof and (y) there is a concurrent reduction in the aggregate principal amount of the commitments in respect of the Term Loan Facilities and the Bridge Facility in an amount equal to such reduction (to be allocated amongst such Facilities on a pro rata basis (subject to a minimum Bridge Facility size of $300,000,000) and (B) any amendment, change, supplement, waiver or consent permitting the disposition of assets of the Acquired Business or its subsidiaries having a fair market value (as determined by the board of directors of the Borrower in its reasonable judgment) of not more than $15,000,000 in the aggregate for all such dispositions shall not be materially adverse to the Lenders or the Lead Arranger).

(ii) All representations and warranties under the Credit Documentation shall be made on the Closing Date; *provided*, *however* the only representations and warranties the accuracy of which shall be a condition to the initial availability of the Facilities shall be (A) the Acquisition Agreement Representations (as defined below) and (B) the Specified Representations (as defined below) in all material respects. "***Acquisition Agreement Representations***" shall mean the representations made by or with respect to the Acquired Business and its subsidiaries in the Acquisition Agreement as are material to the interests of the Lenders, but only to the extent that the breach of any such representations results in you or any of your affiliates having the right to terminate your or its obligations under the Acquisition Agreement (after giving effect to any applicable notice and cure period) or results in the failure of a condition precedent to your obligation to consummate the Acquisition pursuant to the Acquisition Agreement. "***Specified Representations***" shall mean the representations and warranties in the Credit Documentation relating to (in each case, subject to applicable materiality qualifiers and the Documentation Standard): (i) (A) corporate status of you and the other Guarantors and (B) corporate power and authority to enter into the Credit Documentation by you and the other Guarantors, (ii) due authorization, execution, delivery and enforceability of the Credit Documentation by you and the other Guarantors, (iii) no conflicts with charter documents by you and the other Guarantors, (iv) compliance by you and the other Guarantors (other than the Acquired Business and its subsidiaries) with Federal Reserve margin regulations, U.S.A. Patriot Act and the Investment Company Act, (v) solvency of you and the other Guarantors on a consolidated basis and on a pro forma basis for the Transaction (such

representations to be substantially identical to those set forth in the Solvency Certificate attached as Annex IV to the Commitment Letter (the "***Solvency Certificate***")), and (vi) the creation, validity, priority and perfection of the security interests granted in the Collateral by you and the other Guarantors on the Closing Date substantially concurrently with the initial funding of the Facilities (it being understood that to the extent any security interest in the Collateral (other than any Collateral of the Borrower and the Guarantors the security interest in which may be perfected by the filing of a UCC financing statement, the filing of short-form security agreements with the United States Patent and Trademark Office or the United States Copyright Office or the delivery of certificates evidencing equity interests) is not perfected on the Closing Date after your use of commercially reasonable efforts to do so, the perfection of such security interest shall not constitute a condition precedent to the availability of the Facilities on the Closing Date but shall be required to be perfected not later than 90 days after the Closing Date pursuant to arrangements to be mutually agreed).

(iii) Since November 28, 2011, there shall not have been any event, change, occurrence, development or effect which has had or would be reasonably expected to have, individually or in the aggregate, a Company Material Adverse Effect (as defined below). For purposes hereof, "***Company Material Adverse Effect***" means any event, change, occurrence, development or effect that would have or would reasonably be expected to have a material adverse effect on the business, financial condition or results of operations of the Company and its Subsidiaries taken as a whole, other than any event, change, occurrence, development or effect resulting from (i) changes in general economic, financial market, business or geopolitical conditions, (ii) changes or developments generally applicable to any of the industries and markets in which the Company or its Subsidiaries operate, (iii) changes in any applicable Law or GAAP (or interpretations thereof), (iv) any change in the price or trading volume of the shares of Company Common Stock, or the credit rating of the Company, in each case in and of itself (provided, that the facts or occurrences giving rise to or contributing to such change that are not otherwise excluded from the definition of "Company Material Adverse Effect" may be taken into account in determining whether there has been a Company Material Adverse Effect), (v) any failure by the Company to meet any published analyst estimates or expectations of the Company's revenue, earnings or other financial performance or results of operations for any period, in and of itself, or any failure by the Company to meet its internal or published projections, budgets, plans or forecasts of its revenues, earnings or other financial performance or results of operations, in and of itself (provided, that the facts or occurrences giving rise to or contributing to such failure that are not otherwise excluded from the definition of "Company Material Adverse Effect" may be taken into account in determining whether there has been a Company Material Adverse Effect), (vi) any outbreak or escalation of hostilities or war (whether or not declared), military actions or the escalation thereof, or any act of sabotage or terrorism or any natural disasters, (vii) the announcement of the Agreement and the transactions contemplated hereby, (viii) any action (A) required by the Agreement or (B) taken at the request of the Borrower or Sub (with the prior written consent of the Lead Arranger) or (ix) any stockholder or derivative Action arising from allegations of a breach of fiduciary duty relating to the Agreement or the transactions contemplated thereby, except in the case of each of clauses (i) through (iii) and (vi), to the extent such events, changes, occurrences, developments or effects have, individually or in the aggregate, a disproportionate impact on the Company and its Subsidiaries, taken as a whole, relative to other industry participants (in which case the incremental disproportionate impact or impacts may be taken into account in determining whether there has been a Company Material Adverse Effect) (it being understood and agreed that capitalized terms used in this definition (other than references to the Borrower and the Lead Arranger) have the meanings specified therefor in the Acquisition Agreement in effect on the date hereof without giving effect to any amendments thereto or consents thereunder).

(iv) The Lead Arranger shall have received the Solvency Certificate from the chief financial officer of the Borrower.

(v) The Lead Arranger under each Facility shall have received (A) customary opinions of counsel to the Borrower and the Guarantors (which shall cover authority, legality, validity, binding effect and enforceability of the credit documents for such Facility, non-contravention of organizational documents, specified material agreements and applicable law and, in the case of the Senior Credit Facilities, creation and perfection of the liens granted thereunder on the Collateral on the Closing Date), (B) customary corporate resolutions, customary closing date officer's certificates certifying as to the satisfactions of the conditions precedent to the Facilities, customary secretary's certificates appending such resolutions, charter documents and incumbency certificate and information necessary for the Lead Arranger to perform customary UCC lien searches at the State level prior to closing and (C) subject to the Documentation Standard, a customary borrowing notice.

(vi) The Lead Arranger shall have received: (A) the audited consolidated balance sheets and related consolidated statements of operations, cash flows and shareholders' equity of each of the Borrower and the Acquired Business for the three most recently completed fiscal years of the Borrower and the Acquired Business, respectively, ended at least 90 days before the Closing Date, accompanied by an unqualified report thereon by their respective independent registered public accountants; (B) the unaudited consolidated balance sheets and related statements of operations and cash flows of each of the Borrower and the Acquired Business for each subsequent fiscal quarter of the Borrower and the Acquired Business, respectively, ended at least 45 days before the Closing Date (the "***Quarterly Financial Statements***") (it is acknowledged and agreed by the Lead Arranger that to the extent the balance sheets and statements identified in clause (A) and clause (B) have been filed with the Securities Exchange Commission, the Lead Arranger shall be deemed to have received the same and such filed balance sheets and statements shall be deemed to be "Information" delivered by or on behalf of the Borrower for all purposes of the Commitment Letter); and (C) pro forma balance sheet and related statement of operations of the Borrower and its subsidiaries (including the Acquired Business) as of and for the twelve-month period ending with the latest quarterly period of the Borrower covered by the Quarterly Financial Statements, in each case after giving effect to the Transaction (the "***Pro Forma Financial Statements***"), all of which financial statements shall be prepared in accordance with generally accepted accounting principles in the United States and comply with in all material respects the requirements of Regulation S-X under the Securities Act and all other accounting rules and regulations of the Securities and Exchange Commission promulgated thereunder applicable to a registration statement under the Securities Act on Form S-1 (except that it is understood and agreed that the Pro Forma Financial Statements may not comply with Regulation S-X only insofar that Regulation S-X contemplates fiscal year and interim period pro forma financial statements rather than "last twelve-month" ("LTM") pro forma financial statements).

(vii) The Lead Arranger shall have received a completed Information Memorandum not later than 21 consecutive calendar days prior to the Closing Date; *provided* that such 21 consecutive day period shall (i) either end on or prior to December 17, 2012 or begin no earlier than January 7, 2013, (ii) either end on or prior to June 28, 2013 or begin no earlier than July 8, 2013, (iii) either end on or prior to August 16, 2013 or begin no earlier than September 3, 2013 and (iv) exclude November 18, 2012 through November 25, 2012, which for purposes of such calculation shall not constitute calendar days; and such Information Memorandum shall be in customary complete form or which, with respect to the description of the Facilities and any other parts thereof for which the Lead Arrangers' or their advisors cooperation or approval is required, the Borrower shall have used its commercially reasonable efforts to cause to be complete.

(viii) All fees due to the Administrative Agents, the Lead Arranger and the Lenders under the Fee Letters and the Commitment Letter to be paid, and all expenses to be paid or reimbursed under the Commitment Letter to the Administrative Agents and the Lead Arranger that have been invoiced at least three business days prior to the Closing Date, shall have been paid, in each case, from the proceeds of the initial funding under the applicable Facilities.

(ix) With respect to the Bridge Facility, (a) one or more investment banks reasonably satisfactory to the Lead Arrangers (collectively, the "***Investment Bank***") shall have been engaged to privately place the Take-out Financing (as defined in the Facilities Fee Letter), (b) the Lead Arrangers and the Investment Bank each shall have received (i) a prospectus, offering memorandum or private placement memorandum (an "***Offering Memorandum***") which shall be in customary complete form or which, with respect to the description of the Take-out Financing and any other parts thereof for which the Investment Bank's or its advisors' cooperation or approval is required for them to be complete, the Borrower shall have used its commercially reasonable efforts to cause it to be complete, and in either case, which Offering Memorandum shall contain information regarding the Borrower and the Acquired Business of the type and form customarily included in private placements under Rule 144A of the Securities Act and including, to the extent customary in such private placements, financial statements, pro formas, business and other financial data of the type required in a registered offering by Regulation S-X and Regulation S-K under the Securities Act (excluding, for the avoidance of doubt, information required by Item 3-10 or 3-16 of Regulation S-X) and, in the case of the annual financial statements, the auditors' reports thereon, which information shall, at all times during the Marketing Period (as defined below), be sufficient for an offering of debt securities on Form S-1 by a non-reporting company to be declared effective by the Securities and Exchange Commission and (ii) drafts of customary "comfort" letters (including "negative assurance" comfort) that independent accountants of the Borrower and the Acquired Business would be prepared to deliver upon completion of customary procedures in connection with the offering of the Take-out Financing, (c) the Borrower shall have provided access to the senior management and other representatives of the Borrower, and used its commercially reasonable efforts to cause the Acquired Business to provide access to the senior management and other representatives of the Acquired Business, in each case, to participate in a customary high-yield "road show" during the Marketing Period and (d) the Investment Bank shall have been afforded a period of at least 21 consecutive calendar days (or such shorter period reasonably acceptable to the Lead Arrangers) following the (x) satisfaction of the condition set forth in clause (b) above and (y) the satisfaction or (to the extent permitted by applicable law and the Acquisition Agreement) waiver by the applicable parties thereto of those conditions set forth in Section 7.1 and Section 7.2 of the Acquisition Agreement (other than those conditions that by their nature are to be satisfied at the closing thereof) to seek to offer and sell or privately place the Take-out Financing with qualified purchasers thereof (the "***Marketing Period***"); *provided* that such 21 consecutive day period shall (i) either end on or prior to December 17, 2012 or begin no earlier than January 7, 2013, (ii) either end on or prior to June 28, 2013 or begin no earlier than July 8, 2013, (iii) either end on or prior to August 16, 2013 or begin no earlier than September 3, 2013 and (iv) exclude November 18, 2012 through November 25, 2012, which for purposes of calculating the Marketing Period shall not constitute calendar days.

(x) The Refinancing shall have been, or shall concurrently with the initial funding of the Facilities be, consummated or arrangements for such Refinancing (reasonably satisfactory to the Lead Arranger) shall have been established substantially concurrently with the initial funding of the Facilities; *provided* that with respect to the Acquired Business's Senior Secured Third Lien Convertible Notes due 2016 (the "***Convertible Notes***"), (x) the Borrower shall have paid the Convertible Note Consideration to the Paying Agent (each as defined in the Acquisition Agreement in effect on the date hereof without giving effect to any amendments thereto or consents thereunder)

substantially concurrently with the initial funding of the Facilities and (y) (1) certain stockholders of the Acquired Business shall have entered into a letter agreement with the Borrower (the "***Support Agreement***"), as required pursuant to the Acquisition Agreement, and performed all obligations required to be performed by them thereunder on or prior to the Closing Date with respect to the Convertible Notes held by them, including (A) providing consent to a supplemental indenture to the Convertible Notes Indenture (as defined in the Acquisition Agreement in effect on the date hereof without giving effect to any amendments thereto or consents thereunder) to eliminate all of the negative and restrictive covenants set forth therein that are capable of being amended by the approval of a majority of the holders of the Convertible Notes (for avoidance of doubt, such supplemental indenture shall not include any item for which consent of all holders of the Convertible Notes are required pursuant to Section 9.02(h) of the Convertible Notes Indenture), including, without limitation, those negative and restrictive covenants set forth on Exhibit B to the Support Agreement (in effect on the date hereof without giving effect to any amendments thereto or consents thereunder) and (B) exercising the conversion right with respect to all such Convertible Notes (in each of clause (A) and (B) to the extent required by the Support Agreement (in effect on the date hereof without giving effect to any amendments thereto or consents thereunder)) and (2) the trustee thereto shall have entered into a supplemental indenture to the Convertible Notes Indenture effective as of the Closing Date giving effect to the amendments specified in clause (y)(1)(A) above (clauses (x) and (y), collectively, the "***Specified Convertible Notes Actions***"). The Senior Administrative Agent and the Bridge Administrative Agent shall have received reasonably satisfactory evidence of (A) the repayment, defeasance or call for redemption (together with concurrent discharge thereof) of (i) the Existing Credit Facility, (ii) the Amended and Restated Credit Agreement, dated as of May 9, 2012 among the Acquired Business, affiliates of the Acquired Business, as guarantors, and JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, (iii) the Acquired Business's 10.875% Senior Secured Notes due 2016 and (iv) the Acquired Business's 8.25% Senior Subordinated Notes due 2014 (collectively, the "***Refinanced Debt***"), as applicable, in each case, the termination of any commitments under the Refinanced Debt, to the extent applicable, in each case, the release of any guarantees of the Refinanced Debt and, to the extent applicable, in each case, the discharge of all liens and security interests securing the Refinanced Debt other than liens permitted to remain outstanding under the Credit Documentation and (B) the occurrence of the Specified Convertible Notes Actions.

(xi) To the extent the Lead Arranger shall have made a written request to the Borrower, at least 10 business days prior to the Closing Date, for the same, the Borrower and each of the Guarantors shall have provided the documentation and other information to the Administrative Agents that are required by regulatory authorities under applicable "know-your-customer" rules and regulations, including the Patriot Act, at least five business days prior to the Closing Date.

(xii) On the Closing Date, after giving effect to the Transaction, the Borrower and its subsidiaries shall have no outstanding indebtedness or preferred stock other than (a) the loans and other extensions of credit under the Facilities, (b) capital leases and purchase money and equipment financing indebtedness incurred in the ordinary course of business, (c) indebtedness of the Acquired Business existing as of the date hereof not being repaid or retired, or is being discharged or redeemed in connection with the Refinancing, (d) other indebtedness incurred by the Acquired Business under Section 5.1 of the Acquisition Agreement (as in effect on the date hereof without giving effect to any amendments thereto or consents thereunder unless otherwise consented to by the Lead Arranger), (e) the Convertible Notes, (f) intercompany indebtedness, (g) other indebtedness in an aggregate principal amount not to exceed $40,000,000 and (h) such other indebtedness to be mutually agreed. For purposes of this clause (xii), ordinary course hedging arrangements shall not constitute indebtedness.

(xiii) From the date hereof through the Closing Date, (a) neither the Borrower nor any of its subsidiaries (which, for the avoidance of doubt, shall not include the Acquired Business and its subsidiaries) shall have consummated any merger, acquisition or disposition of assets and (b) the Borrower shall not have paid any dividend or effected any share buybacks (or entered into an agreement to consummate any of the foregoing) (each a "***Specified Transaction***"), other than (1) the Transaction, (2) dispositions in the ordinary course of business, (3) Specified Transactions that, in the aggregate, involve consideration of not more than $40,000,000 and (4) Specified Transactions that are approved by the Lead Arranger in its reasonable discretion.

ANNEX IV

SOLVENCY CERTIFICATE[1]

[ ], 2012

This SOLVENCY CERTIFICATE (this "Certificate") is delivered in connection with that certain Credit Agreement dated as of [ ], 201[ ] (as amended, supplemented, amended and restated, replaced, or otherwise modified from time to time, the "Credit Agreement") among Tempur-Pedic International Inc., a Delaware corporation (the "Borrower"), BANK OF AMERICA, N.A., as administrative agent and collateral agent, and the financial institutions from time to time party thereto as lenders. Capitalized terms used herein without definition have the same meanings as in the Credit Agreement.

In my capacity as a Responsible Officer of Company (as defined below), and not in my individual capacity, I believe that:

1. Company (as used herein "Company" means the Borrower and its subsidiaries, taken as a whole) is not now, nor will the incurrence of the obligations under the Credit Agreement [and the consummation of the Acquisition][2] on the Closing Date, on a pro forma basis, render Company "insolvent" as defined in this paragraph; in this context, "insolvent" means that (i) the fair value of assets is less than the amount that will be required to pay the total liability on existing debts as they become absolute and matured and (ii) the present fair salable value of assets is less than the amount that will be required to pay the probable liability on existing debts as they become absolute and matured. The term "debts" as used in this Certificate includes any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent.

2. As of the date hereof, after giving effect to the incurrence of the obligations under the Credit Agreement [and the consummation of the Acquisition], Company is able to pay its debts as they become absolute and mature.

3. The incurrence of the obligations under the Credit Agreement [and the consummation of the Acquisition] on the Closing Date, on a pro forma basis, will not leave Company with property remaining in its hands constituting "unreasonably small capital." I understand that "unreasonably small capital" depends upon the nature of the particular business or businesses conducted or to be conducted, and I have reached my conclusion based on my current assumptions regarding the needs and anticipated needs for capital of the businesses conducted or anticipated to be conducted by Company in light of projected financial statements and available credit capacity, which current assumption I do not believe to be unreasonable in light of the circumstances applicable thereto.

[Signature page follows]

[1] Defined terms to be aligned with those in the definitive Credit Agreement.

[2] Bracketed language to be included if Acquisition takes place on the closing date of the Senior Credit Facilities.

I represent the foregoing information is provided to the best of my knowledge and belief and execute this Certificate as of the date first above written.

[ ]

By: _____
Name:
Title:

FOR IMMEDIATE RELEASE

TEMPUR-PEDIC TO ACQUIRE SEALY

- ***Unites Two Highly Complementary Companies with Iconic Brands***
- ***Delivers a Global Footprint that is Well Positioned in Key Growth Markets***
- ***Combination Expected to Deliver Meaningful Synergies***

LEXINGTON, KY. & TRINITY, NC., September 27, 2012 – Tempur-Pedic International Inc. ("Tempur-Pedic" or the "Company") (NYSE: TPX), the leading manufacturer, marketer and distributor of premium mattresses and pillows worldwide, and Sealy Corporation (NYSE: ZZ), a leading global bedding manufacturer, today announced that they have signed a definitive agreement to create a $2.7 billion global bedding provider.

The combination brings together two highly complementary companies with iconic brands and significant opportunities for global innovation and growth. Founded in 1992, Tempur-Pedic is the leading manufacturer, marketer and distributor of premium mattresses and pillows made from its proprietary TEMPUR® pressure-relieving material in over 80 countries under the Tempur® and Tempur-Pedic® brand names. Sealy, with roots dating back to 1881 is a leader in the manufacturing and marketing of a broad range of high quality mattresses and foundations with a portfolio of well-known bedding brands, including Sealy®, Sealy Posturepedic®, and Stearns & Foster®.

The transaction has been approved by the Boards of Directors of both companies. Stockholders holding approximately 51% of Sealy's outstanding common stock have executed a written consent approving the transaction. No additional shareholder approvals are required to complete the transaction. Tempur-Pedic will acquire all of the outstanding common stock of Sealy for $2.20 per share, representing a premium of approximately 23 percent to Sealy's 30-day average closing price on Wednesday, September 26, 2012. In addition, Tempur-Pedic will assume or repay all of Sealy's outstanding convertible and non-convertible debt, for a total transaction value of approximately $1.3 billion. The transaction, which is subject to customary closing conditions, including regulatory approvals, is expected to close during the first half of 2013.

Tempur-Pedic Chief Executive Officer Mark Sarvary commented, "This is a transformational deal that brings together two great companies, each with globally recognized brands. Tempur-Pedic and Sealy together will have products for almost every consumer preference and price point, distribution through all key channels, in-house expertise on most key bedding technologies, and a world-class research and development team. In addition, our global footprint will span over 80 countries. The shared know-how and improved efficiencies of the combined company will result in tremendous value for our consumers, retailers and shareholders."

Tempur-Pedic and Sealy will operate independently. Larry Rogers, Chief Executive Officer of Sealy, who has been with Sealy for 33 years, will remain CEO of Sealy and report to Mr. Sarvary.

Sealy Chief Executive Officer Larry Rogers, said, "The complementary product and market fit of these two companies deliver a unique opportunity to create the first full spectrum, global bedding company that addresses all market segments and consumer preferences. Together, we believe that we can deliver more value than either business could on its own by leveraging our strong combined assets."

Strategic Rationale

Tempur-Pedic and Sealy have highly complementary products, brands, technologies, and geographic footprints. Their combination will provide significant opportunity for both entities to leverage each other's capabilities to grow beyond their current footprints, and to increase efficiencies across the entire supply chain.

- ***Comprehensive Portfolio of Iconic Brands.*** Together, Tempur-Pedic and Sealy will have the strongest brand portfolio in the industry with the most highly recognized brands including Tempur®, Tempur-Pedic®, Sealy®, Sealy Posturepedic®, and Stearns & Foster®. The combined company's brand portfolio will have some of the best known brands in North America, South America, Europe, Asia and Australia.
- ***Complementary Product Offering.*** The combination creates the most comprehensive suite of bedding products available in the market. Sealy's strength and expertise in innerspring and hybrid innerspring mattress technologies fit seamlessly with Tempur-Pedic's position in visco-elastic mattress, adjustable base and pillow technologies. Further, the company will be able to invest more in R&D to strengthen existing products as well as develop innovative new offerings to better meet the needs and preferences of consumers and retailers.
- ***A Truly Global Company.*** Tempur-Pedic and Sealy have a highly complementary global footprint with distribution in over 80 countries. The combination provides both companies access to countries that represent future growth opportunities. Tempur-Pedic has a strong presence around the world, and particularly in North America, Europe, and Asia while Sealy is represented in a meaningful way in North America, Argentina and Asia. The Sealy brand is also well-recognized in many other key global markets through its international licensees and joint ventures.
- ***Significant Shareholder Value Creation.*** The combination is expected to be accretive in the first full year of operations, with annual cost synergies from the combined operations expected to be in excess of $40 million by the third year. These will be primarily realized through purchasing, supply chain and increased efficiencies. In addition, the combination has the potential for revenue synergies as a result of a broader product offering and access to more channels, including international expansion.
- ***Strong Financial Characteristics.*** Together, Tempur-Pedic and Sealy had combined pro forma adjusted EBITDA of $504 million based on the 12-months ended June 30, 2012 for Tempur-Pedic and May 27, 2012 for Sealy. The combined company will have strong cash flow characteristics that will enable rapid debt reduction and continued investment in growth initiatives.
- ***Combination of Two Strong Management Teams.*** The combination pairs two strong management teams with extensive industry and global consumer products experience. Tempur-Pedic and Sealy have a shared corporate culture focused on consumer-driven product innovation to deliver the best quality of sleep and building strong retailer relationships.

Tempur-Pedic intends to finance the acquisition through debt financings, for which BofA Merrill Lynch has already provided customary commitment letters.

BofA Merrill Lynch is acting as Tempur-Pedic's exclusive financial advisor and Citigroup as lead financial advisor to Sealy. Perella Weinberg Partners acted as the financial advisor and Blank Rome LLP as the legal advisor to an independent committee of Sealy's Board. Bingham McCutchen LLP is acting as legal advisor to Tempur-Pedic and Simpson Thacher & Bartlett LLP as legal advisor to Sealy.

Conference Call Information

There will be a live conference call to discuss the proposed transaction today, September 27, 2012 at 8:00 a.m. Eastern Time. The dial-in number for the conference call is (877)303-6913. The dial-in number for international callers is (224)357-2188. The call is also being webcast and can be accessed on the investor relations section of both companies' websites, http://www.tempurpedic.com or www.sealy.com. After the conference call, a webcast replay will remain available on the respective investor relations sections of both companies' website for 30 days.

About Tempur-Pedic International

Tempur-Pedic International Inc. (NYSE: TPX) manufactures and distributes mattresses and pillows made from its proprietary TEMPUR® pressure-relieving material. It is the worldwide leader in premium and specialty sleep. The company is focused on developing, manufacturing and marketing advanced sleep surfaces that help improve the quality of life for people around the world. The company's products are currently sold in over 80 countries under the TEMPUR® and Tempur-Pedic® brand names. World headquarters for Tempur-Pedic International is in Lexington, KY. For more information, visit http://www.tempurpedic.com or call 800-805-3635.

About Sealy

Sealy owns one of the largest bedding brands in the world, with sales of $1.2 billion in fiscal 2011. The company manufactures and markets a broad range of mattresses and foundations under the Sealy®, Sealy Posturepedic®, Sealy Embody™, Optimum™ by Sealy Posturepedic®, Stearns & Foster®, and Bassett® brands. Sealy operates 25 plants in North America, and has the largest market share and highest consumer awareness of any bedding brand on the continent. In the United States, Sealy sells its products to approximately 3,000 customers with more than 11,000 retail outlets. Sealy is also a leading supplier to the hospitality industry. For more information, please visit www.sealy.com.

Forward-looking Statements

This release contains "forward-looking statements," within the meaning of federal securities laws, which include information concerning one or more of Tempur-Pedic's or Sealy's plans, objectives, goals, strategies, and other information that is not historical information. When used in this release, the words "estimates," "expects," "anticipates," "projects," "plans," "intends," "believes," and variations of such words or similar expressions are intended to identify forward-looking statements. These forward-looking statements include, without limitation, statements relating to Tempur-Pedic's or Sealy's expectations regarding the opportunities and strengths of the combined company, anticipated cost and revenue synergies, the strategic rationale for the combination, including expectations regarding product offerings, growth opportunities, value creation, and financial strength, and the timing of the closing. All forward looking statements are based upon current expectations and beliefs and various assumptions. There can be no assurance that Tempur-Pedic or Sealy will realize these expectations or that these beliefs will prove correct.

There are a number of risks and uncertainties that could cause actual results to differ materially from the forward-looking statements contained in this release. Numerous factors, many of which are beyond

Tempur-Pedic's or Sealy's control, could cause actual results to differ materially from those expressed as forward-looking statements. These risk factors include the ability of the parties to complete the proposed merger in a timely manner or at all; satisfaction of the conditions precedent to the proposed merger, including the ability to secure regulatory approvals; the possibility of litigation (including relating to the merger itself); successful completion of acquisition financing arrangements; the ability to successfully integrate Sealy into Tempur-Pedic's operations and realize synergies from the proposed transaction; general economic, financial and industry conditions, particularly in the retail sector, as well as consumer confidence and the availability of consumer financing; uncertainties arising from global events; the effects of changes in foreign exchange rates on the combined company's reported earnings; consumer acceptance of the combined company's products; industry competition; the efficiency and effectiveness of the combined company's advertising campaigns and other marketing programs; the combined company's ability to increase sales productivity within existing retail accounts and to further penetrate the combined company's domestic retail channel, including the timing of opening or expanding within large retail accounts; the combined company's ability to address issues in certain underperforming international markets; the combined company's ability to continuously improve and expand its product line, maintain efficient, timely and cost-effective production and delivery of its products, and manage its growth; changes in foreign tax rates, including the ability to utilize tax loss carry forwards; rising commodity costs; and the effect of future legislative, regulatory or tax changes. Additional information concerning these and other risks and uncertainties are discussed in each of the companies' respective filings with the Securities and Exchange Commission, including without limitation annual reports on Form 10-K under the headings "Special Note Regarding Forward-Looking Statements" and/or "Risk Factors." Any forward-looking statement speaks only as of the date on which it is made, and neither the Company nor Sealy undertakes any obligation to update any forward-looking statements for any reason, including to reflect events or circumstances after the date on which such statements are made or to reflect the occurrence of anticipated or unanticipated events or circumstances.

Use of Non-GAAP Financial Measures

The Company and Sealy have presented the following non-GAAP financial measures in this press release: adjusted EBITDA of each of the Company and Sealy, and pro forma adjusted EBITDA and net sales of the combined company. The Company and Sealy each define its non-GAAP adjusted EPS to exclude the following: (i) interest expense, net; (2) provision for income taxes; (3) depreciation and amortization expense. Sealy also excludes certain unusual items and other adjustments permitted in calculating its respective debt covenants in its senior debt agreements. The reconciliation of these historical non-GAAP measures to each of Tempur-Pedic's and Sealy's GAAP financial measures for the periods presented are set forth below.

The Company and Sealy believe the use of these non-GAAP financial measures is useful to investors in comparing the results of operations for comparable periods by eliminating certain of the more significant effects of adjusted EBITDA. These measures also reflect how the Company and Sealy manage their businesses internally. In addition to the adjustments included in the calculation of Sealy's non-GAAP adjusted EBITDA eliminates the effects of financing, income taxes and the accounting effects of capital spending and acquisitions. As with the items eliminated in its calculation of non-GAAP adjusted EBITDA, these items may vary for different companies for reasons unrelated to the overall operating performance of a company's business. When analyzing Tempur-Pedic's, Sealy's and the pro forma combined company's operating performance, investors should not consider these non-GAAP financial measures as a substitute for comparable measures in accordance with GAAP.

	Tempur-Pedic Twelve Months ended June 30, 2012	Sealy Twelve Months ended May 27, 2012	Pro Forma Consolidated
EBITDA			
GAAP Net income (loss)	$ 203,605	$ (5,695)	$ 197,910
Interest expense	14,996	88,994	103,990
Income taxes	98,008	8,546	106,554
Depreciation & Amortization	51,737	24,172	75,909
EBITDA	$ 368,346	$ 116,017	$ 484,363
Adjustments for debt covenants:			
Refinancing charges	—	2,911	2,911
Non-cash compensation	—	12,237	12,237
Discontinued operations	—	3,580	3,580
Other	—	1,112	1,112
Adjusted EBITDA	$ 368,346	$ 135,857	$ 504,203

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