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Counsel to the Debtors
and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	**Chapter 11**
FAIRPOINT COMMUNICATIONS, INC., *et al.*,	:	**Case No. 09-16335 (BRL)**
Debtors.	:	**(Jointly Administered)**

NOTICE OF FILING OF AMENDED PLAN SUPPLEMENT

PLEASE TAKE NOTICE THAT FairPoint Communications, Inc. and its affiliated debtors, as debtors in possession, have filed the annexed Amended Plan Supplement to the Plan of Reorganization in accordance with section 16.6 of the Debtors' Third Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, dated December 29, 2010

PLEASE TAKE FURTHER NOTICE THAT the Amended Plan Supplement has been filed solely to set forth the amended terms of Item 2 (Form of Warrant Agreement), Item 3 (New Board Members/Litigation Trustee), Item 4 (Form of Registration Rights Agreement), Item 5 (Success Bonus Plan), Item 6 (Long Term Incentive Plan), Item 7 (Form of Credit Agreement), Item 9 (Form of Amended Certificate of Incorporation) and Item 10 (Form of Amended Bylaws) of the Plan Supplement, dated April 23, 2010 [Docket No. 1098].

Dated: December 29, 2010
New York, New York

/s/ James T. Grogan

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Debtors.	**(Jointly Administered)**

AMENDED PLAN SUPPLEMENT TO DEBTORS' PLAN OF REORGANIZATION

TABLE OF CONTENTS[1]

[1] These documents are in draft form and may be amended or amended prior to the hearing to consider confirmation of FairPoint's plan of reorganization.

ITEM 1

Schedules of Contracts/Leases to be Rejected

See Docket Nos. 1098, 1404, 1551 & 1761

ITEM 2

WARRANT AGREEMENT

(Common Stock Warrants)

by and between

FairPoint Communications, Inc.

and

The Bank of New York Mellon,

as Warrant Agent

Dated as of _____ __, 2011

Table of Contents

This Table of Contents does not constitute a part of this Warrant Agreement or have any bearing upon the interpretation of any of its terms or provisions.

This WARRANT AGREEMENT (this "**Warrant Agreement**"), entered into on _____ __, 2011, between FairPoint Communications, Inc., a Delaware corporation (the "**Company**"), and The Bank of New York Mellon, a New York banking corporation, as Warrant Agent (the "**Warrant Agent**").

R E C I T A L S

Pursuant to the terms and conditions of the restructuring contemplated under the Third Amended Joint Plan of Reorganization of FairPoint Communications, Inc. and its Subsidiaries under Chapter 11 of the Bankruptcy Code (the "**Bankruptcy Code**") filed on _____, 2010 (as may be amended or supplemented from time to time, the "**Plan**"), the holders of Allowed Unsecured Claims (defined in the Plan) are to be issued warrants (the "**Warrants**") exercisable until the Expiration Date (as defined below), to purchase an aggregate of up to 3,582,402 shares of common stock, par value $0.01 per share, of the Company ("**Common Stock**") (as such amount may be adjusted from time to time pursuant to this Warrant Agreement) at an exercise price of $48.81 per share of Common Stock (as may be adjusted from time to time pursuant to Section 13 of this Warrant Agreement, the "**Exercise Price**").

The Warrants are being issued pursuant to, and upon the terms and conditions set forth in, the Plan in an offering in reliance on the exemption afforded by section 1145 of the Bankruptcy Code from the registration requirements of the Securities Act of 1933, as amended (the "**Securities Act**"), and of any applicable state securities or "blue sky" laws.

The Company desires the Warrant Agent to act on behalf of the Company, and the Warrant Agent is willing so to act, in connection with the issuance of Warrant certificates and other matters as provided herein; and

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein set forth, the parties hereto agree as follows:

Section 1. Definitions.

The terms defined in this Section 1, whenever used in this Warrant Agreement, shall, unless the context otherwise requires, have the following respective meanings:

"**Board of Directors**" means the board of directors of the Company.

"**business day**" means any day other than a Saturday, Sunday or any other day on which banking institutions in New York City, the State of New York or the State of New Jersey are authorized or obligated by law, regulation or executive order to close or remain closed.

"**Commission**" means the U.S. Securities and Exchange Commission.

"**Effective Date**" means the effective date of the Plan.

"**Market Price**" means, as to the relevant securities and averaged as provided in the last sentence of this definition, (i) the closing price of a share of such securities as reported on the principal national securities exchange on which the shares of such securities are listed or admitted for trading or, if no such closing price on such date is reported, the average of the closing bid and asked prices on such date, as so reported; or (ii) if not then listed or admitted to trading on any securities exchange but it is designated as a national market system security by the National Association of Securities Dealers, Inc., the last trading price of a share of such security on such date; or (iii) if the security is not so designated, the average of the reported closing bid and asked prices of such security on such date as shown by the National Market System of the National Association of Securities Dealers, Inc. Automated Quotations System and reported by any member firm of the New York Stock Exchange selected by the Company; or (iv) if not so reported and shown by the National Market System of the National Association of Securities Dealers, Inc. Automated Quotations System, the average of the reported closing bid and asked prices of such security on such date in the over-

the-counter market or comparable system as shown by a system of automated dissemination of quotations of securities prices then in common use comparable to the National Association of Securities Dealers, Inc. Automated Quotations System; or (v) if a Warrant Exercise Notice is delivered in connection with an initial public offering, the “Market Price” shall be as specified in the final prospectus relating to such offering; or (vi) if none of (i), (ii), (iii), (iv) or (v) is applicable, the "**Market Price**" shall be the fair value thereof, determined by the Board of Directors, in good faith (without regard to illiquidity or minority discount). In each case under clauses (i) through (iv) above, the “Market Price” shall be the average price over a period of 20 consecutive trading days consisting of the day immediately preceding the trading day on which the “Market Price” is being determined and the 19 consecutive trading days prior to such day, provided that a day shall be deemed to be a "trading day" only if such security actually traded on such day.

"**person**” **or** "**Person**” means any individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, limited liability partnership, national banking association, trust, trustee, estate, unincorporated organization, government, governmental unit, agency, or political subdivision thereof, or other entity and shall include any successor (by merger or otherwise) of such entity.

"**Required Holders**" means, at any date, the holders of the Warrants exercisable into a majority of the shares of Common Stock then issuable upon exercise of the Warrants then outstanding (excluding Warrants held by the Company or any of its controlled affiliates).

"**Settlement Date**" means the date that is three business days after a Warrant Exercise Notice is delivered.

Section 2. Appointment of Warrant Agent.

The Company hereby appoints the Warrant Agent to act as warrant agent for the Company in respect of the Warrants upon the express terms and subject to the conditions herein set forth (and no implied terms), and the Warrant Agent hereby accepts such appointment, upon the terms and conditions hereinafter set forth.

Section 3. Issuance of Warrants.

On the Effective Date or a date that is as soon as reasonably practicable after the Effective Date, Warrants will be issued by the Company in the amounts and to the recipients specified in the Plan. In accordance with Section 6 hereof and the Plan, the Company will cause to be issued to the Depository (as defined below), one or more Global Warrant Certificates (as defined below) evidencing a portion of the Warrants. The remainder of the Warrants shall be issued by book-entry registration on the books of the Warrant Agent ("**Book-Entry Warrants**") and shall be evidenced by statements issued by the Warrant Agent from time to time to the registered holder of book-entry Warrants reflecting such book-entry position (the "**Warrant Statement**"). Each Warrant evidenced thereby entitles the holder, upon proper exercise and payment of the applicable Exercise Price, to receive from the Company, as adjusted as provided herein, one share of Common Stock at the Exercise Price. The shares of Common Stock or (as provided pursuant to Section 13 or Section 14 hereof) other shares of capital stock deliverable upon proper exercise of the Warrants are referred to herein as the "**Warrant Shares**." The words "**holders**" or "**holder**," as used herein in respect of any Warrants or Warrant Shares, shall mean the beneficial holder or beneficial holders of Global Warrant Certificates and the registered holder or registered holders of Book-Entry Warrants. The maximum number of shares of Common Stock issuable pursuant to this Warrant Agreement shall be 3,582,402 shares, as such amount is adjusted from time to time pursuant to Section 13 or Section 14 hereof.

Section 4. Warrant Certificates.

Subject to Section 7 of this Warrant Agreement, the Warrants shall be issued (1) via book-entry registration on the books and records of the Warrant Agent and evidenced by the Warrant Statements, in substantially the form set forth in Exhibit A attached hereto, and/or (2) in the form of one or more global certificates (the "**Global Warrant Certificates**"), the forms of election to exercise and of assignment to be

printed on the reverse thereof, in substantially the form set forth in Exhibit B attached hereto. The Warrant Statements and Global Warrant Certificates may bear such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Warrant Agreement, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules and regulations of the Depository (as hereinafter defined), any law or with any rules made pursuant thereto or with any rules of any securities exchange or as may, consistently herewith, be determined by (i) in the case of Global Warrant Certificates, the Appropriate Officers (as hereinafter defined) executing such Global Warrant Certificates, as evidenced by their execution of the Global Warrant Certificates, or (ii) in the case of a Warrant Statement, any Appropriate Officer, and all of which shall be reasonably acceptable to the Warrant Agent. The Global Warrant Certificates shall be deposited on or after the date hereof with, or with The Bank of New York Mellon as custodian for, The Depository Trust Company (the "**Depository**") and registered in the name of Cede & Co., as the Depository's nominee. Each Global Warrant Certificate shall represent such number of the outstanding Warrants as specified therein, and each shall provide that it shall represent the aggregate amount of outstanding Warrants from time to time endorsed thereon and that the aggregate amount of outstanding Warrants represented thereby may from time to time be reduced or increased, as appropriate, in accordance with the terms of this Warrant Agreement.

Section 5. Execution of Global Warrant Certificates.

Global Warrant Certificates shall be signed on behalf of the Company by its Chairman of the Board, its Chief Executive Officer, Chief Financial Officer, Treasurer or any vice president (each, an "**Appropriate Officer**"), and by the Secretary or any Assistant Secretary. Each such signature upon the Global Warrant Certificates may be in the form of a facsimile signature of any such Appropriate Officer, Secretary, and any Assistant Secretary and may be imprinted or otherwise reproduced on the Global Warrant Certificates and for that purpose the Company may adopt and use the facsimile signature of any Appropriate Officer, Secretary, and any Assistant Secretary who shall have been an Appropriate Officer, Secretary, or an Assistant Secretary at the time of entering into this Warrant Agreement. If any Appropriate Officer, Secretary, or any Assistant Secretary who shall have signed any of the Global Warrant Certificates shall cease to be such Appropriate Officer, Secretary, or an Assistant Secretary before the Global Warrant Certificates so signed shall have been countersigned by the Warrant Agent or disposed of by the Company, such Global Warrant Certificates nevertheless may be countersigned and delivered or disposed of as though such Appropriate Officer, Secretary, or Assistant Secretary had not ceased to be such Appropriate Officer, Secretary, or Assistant Secretary of the Company; and any Global Warrant Certificate may be signed on behalf of the Company by any person who, at the actual date of the execution of such Global Warrant Certificate, shall be a proper Appropriate Officer, Secretary, or Assistant Secretary of the Company to sign such Global Warrant Certificate, although at the date of the execution of this Warrant Agreement any such person was not such Appropriate Officer, Secretary, or Assistant Secretary.

Global Warrant Certificates shall be dated the date of countersignature by the Warrant Agent and shall represent one or more whole Warrants.

Section 6. Registration and Countersignature.

Upon receipt of a written order of the Company, the Warrant Agent, on behalf of the Company, shall (i) register in the Warrant Register (as defined below) the Book-Entry Warrants and/or (ii) upon receipt of the Global Warrant Certificates duly executed on behalf of the Company, countersign one or more Global Warrant Certificates evidencing Warrants and shall deliver such Global Warrant Certificates to or upon the written order of the Company. Such written order of the Company shall specifically state the number of Warrants that are to be issued as Book-Entry Warrants and the number of Warrants that are to be issued as a Global Warrant Certificate. Each Warrant (including the Book-Entry Warrants and each Global Warrant Certificate) shall be, and shall remain, subject to the provisions of this Warrant Agreement until such time as all of the Warrants evidenced thereby shall have been duly exercised or shall have expired or been canceled in accordance with the terms hereof. Each holder of Warrants shall be bound by all of the terms and

provisions of the Warrant Agreement (a copy of which is available on request to the Secretary of the Company) and any amendments thereto as fully and effectively as if such holder had signed the same.

No Global Warrant Certificate shall be valid for any purpose, and no Warrant evidenced thereby shall be exercisable, until such Global Warrant Certificate has been countersigned by the manual or facsimile signature of the Warrant Agent. Such signature by the Warrant Agent upon any Global Warrant Certificate executed by the Company shall be conclusive evidence that such Global Warrant Certificate so countersigned has been duly issued hereunder.

The Warrant Agent shall keep, at an office designated for such purpose, books (the "**Warrant Register**") in which, subject to such reasonable regulations as it may prescribe, it shall register the Book-Entry Warrants as well as any Global Warrant Certificates and exchanges and transfers of outstanding Warrants in accordance with the procedures set forth in Section 7 of this Warrant Agreement, all in form satisfactory to the Company and the Warrant Agent. No service charge shall be made for any exchange or registration of transfer of the Warrants, but the Company may require payment of a sum sufficient to cover any stamp or other tax or other governmental charge that may be imposed on the holder of the Warrant in connection with any such exchange or registration of transfer. The Warrant Agent shall have no obligation to effect an exchange or register a transfer unless and until any payments required by the immediately preceding sentence have been made.

Prior to due presentment for registration of transfer or exchange of any Warrant in accordance with the procedures set forth in this Warrant Agreement, the Warrant Agent and the Company may deem and treat the person in whose name any Warrant is registered as the absolute owner of such Warrant (notwithstanding any notation of ownership or other writing made in a Global Warrant Certificate by anyone), for the purpose of any exercise thereof, any distribution to the holder of the Warrant thereof and for all other purposes, and neither the Warrant Agent nor the Company shall be affected by notice to the contrary.

Section 7. Registration of Transfers and Exchanges.

(a) Transfer and Exchange of Global Warrant Certificates or Beneficial Interests Therein. The transfer and exchange of Global Warrant Certificates or beneficial interests therein shall be effected through the Depository, in accordance with this Warrant Agreement and the procedures of the Depository therefor.

(b) Exchange of a Beneficial Interest in a Global Warrant Certificate for Book-Entry Warrants.

(i) Any holder of a beneficial interest in a Global Warrant Certificate may, upon request, exchange such beneficial interest for a Book-Entry Warrant. Upon receipt by the Warrant Agent from the Depository or its nominee of written instructions or such other form of instructions as is customary for the Depository on behalf of any person having a beneficial interest in a Global Warrant Certificate, the Warrant Agent shall cause, in accordance with the standing instructions and procedures existing between the Depository and the Warrant Agent, the number of Warrants represented by the Global Warrant Certificate to be reduced by the number of Warrants to be represented by the Book-Entry Warrants to be issued in exchange for the beneficial interest of such person in the Global Warrant Certificate and, following such reduction, the Warrant Agent shall register in the name of the holder a Book-Entry Warrant and deliver to said Warrant holder a Warrant Statement.

(ii) Book-Entry Warrants issued in exchange for a beneficial interest in a Global Warrant Certificate pursuant to this Section 7(b) shall be registered in such names as the Depository, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Warrant Agent. The Warrant Agent shall deliver such Warrant Statements to the persons in whose names such Warrants are so registered.

(c) Transfer and Exchange of Book-Entry Warrants. Book-Entry Warrants surrendered for exchange or for registration of transfer pursuant to clause (i) of this Section 7(c) or Section 7(h)(v) hereof shall be cancelled by the Warrant Agent. When Book-Entry Warrants are presented to or deposited with the Warrant Agent with a written request:

(i) to register the transfer of the Book-Entry Warrants; or

(ii) to exchange such Book-Entry Warrants for an equal number of Book-Entry Warrants of other authorized denominations;

the Warrant Agent shall register the transfer or make the exchange as requested if its requirements for such transactions are met, provided that the Warrant Agent has received a written instruction of transfer in form satisfactory to the Warrant Agent, duly executed by the holder thereof or the duly appointed legal representative thereof or by his attorney, duly authorized in writing.

(d) Restrictions on Exchange or Transfer of a Book-Entry Warrant for a Beneficial Interest in a Global Warrant Certificate. A Book-Entry Warrant may not be exchanged for a beneficial interest in a Global Warrant Certificate except upon satisfaction of the requirements set forth in this Section 7(d). Upon receipt by the Warrant Agent of appropriate instruments of transfer with respect to a Book-Entry Warrant, in form satisfactory to the Warrant Agent, together with written instructions directing the Warrant Agent to make, or to direct the Depository to make, an endorsement on the Global Warrant Certificate to reflect an increase in the number of Warrants represented by the Global Warrant Certificate equal to the number of Warrants represented by such Book-Entry Warrant (such instruments of transfer and instructions to be duly executed by the holder hereof or the duly appointed legal representative thereof or by his attorney, duly authorized in writing, such signatures to be guaranteed by an eligible guarantor institution), then the Warrant Agent shall cancel such Book-Entry Warrant on the Warrant Register and cause, or direct the Depository to cause, in accordance with the standing instructions and procedures existing between the Depository and the Warrant Agent, the number of Warrants represented by the Global Warrant Certificate to be increased accordingly. If no Global Warrant Certificates are then outstanding, the Company shall issue, and the Warrant Agent shall countersign, a new Global Warrant Certificate representing the appropriate number of Warrants.

(e) Restrictions on Transfer and Exchange of Global Warrant Certificates. Notwithstanding any other provisions of this Warrant Agreement (other than the provisions set forth in Section 7(f)), unless and until it is exchanged in whole for a Book-Entry Warrant, a Global Warrant Certificate may not be transferred as a whole except by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository.

(f) Book-Entry Warrants. If at any time:

(i) the Depository for the Global Warrant Certificates notifies the Company that the Depository is unwilling or unable to continue as Depository for the Global Warrant Certificates and a successor Depository for the Global Warrant Certificates is not appointed by the Company within 90 days after delivery of such notice; or

(ii) the Company, in its sole discretion, notifies the Warrant Agent in writing that it elects to exclusively cause the issuance of Book-Entry Warrants under this Warrant Agreement;

then the Warrant Agent, upon written instructions signed by an Appropriate Officer of the Company and receipt of all other information reasonably requested by the Warrant Agent, shall register Book-Entry Warrants, in an aggregate number equal to the number of Warrants represented by the Global Warrant Certificates, in exchange for such Global Warrant Certificates, in such names and in such amounts as directed by the Depository or, in the absence of instructions from the Depository, the Company.

(g) Cancellation of Global Warrant Certificate. At such time as all beneficial interests in Global Warrant Certificates have either been exchanged for Book-Entry Warrants, exchanged for Common Stock in accordance herewith, redeemed, repurchased or cancelled, all Global Warrant Certificates shall be returned to, or cancelled and retained pursuant to applicable law by, the Warrant Agent, upon written instructions from the Company reasonably satisfactory to the Warrant Agent.

(h) Obligations with Respect to Transfers and Exchanges of Warrants.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Warrant Agent is hereby authorized to countersign, in accordance with the provisions of Section 4 hereof and this Section 7, Global Warrant Certificates, if applicable, or register Book-Entry Warrants, if applicable, as required pursuant to the provisions of this Section 7 and for the purpose of any distribution of additional Global Warrant Certificates contemplated by Section 13 or Section 14 hereof.

(ii) All Book-Entry Warrants and Global Warrant Certificates issued upon any registration of transfer or exchange of Book-Entry Warrants or Global Warrant Certificates shall be the valid obligations of the Company, entitled to the same benefits under this Warrant Agreement as the Book-Entry Warrants or Global Warrant Certificates surrendered upon such registration of transfer or exchange.

(iii) No service charge shall be made to a holder of Warrants for any registration, transfer or exchange but the Company may require payment of a sum sufficient to cover any stamp or other tax or other charge that may be imposed on the holder in connection with any such exchange or registration of transfer.

(iv) So long as the Depository, or its nominee, is the registered owner of a Global Warrant Certificate, the Depository or such nominee, as the case may be, will be considered the sole owner or holder of the Warrants represented by such Global Warrant Certificate for all purposes under this Warrant Agreement. Except as provided in Section 7(b) and Section 7(f) hereof, upon the exchange of a beneficial interest in a Global Warrant Certificate for Book-Entry Warrants, owners of beneficial interests in a Global Warrant Certificate will not be entitled to have any Warrants registered in their names, and will not receive or be entitled to receive physical delivery of any such Warrants and will not be considered the owners or holders thereof under the Warrants or this Warrant Agreement. Neither the Company nor the Warrant Agent, in its capacity as registrar for such Warrants, will have any responsibility or liability for any aspect of the records relating to beneficial interests in a Global Warrant Certificate or for maintaining, supervising or reviewing any records relating to such beneficial interests.

(v) Subject to Section 7(b), Section 7(c), Section 7(d) hereof and this Section 7(h), the Warrant Agent shall, upon receipt of all information required to be delivered hereunder, from time to time register the transfer of any outstanding Warrants in the Warrant Register, upon surrender of Global Warrant Certificates, if applicable, representing such Warrants at the Warrant Agent Office referred to in Section 23 hereof (the "**Warrant Agent Office**"), duly endorsed, and accompanied by a completed form of assignment substantially in the form attached as Exhibit C hereto (or with respect to a Book-Entry Warrant, only such completed form of assignment substantially in the form attached as Exhibit C hereto), duly signed by the holder thereof or by the duly appointed legal representative thereof or by his attorney, duly authorized in writing, such signature to be guaranteed by a participant in a Medallion Signature Guarantee Program at a guarantee level acceptable to the Company's transfer agent. Upon any such registration of transfer, a new Global Warrant Certificate or a Warrant Statement, as the case may be, shall be issued to the transferee.

Section 8. Securities Law Compliance.

The Warrants (including any Warrant Shares issued upon exercise thereof) were issued pursuant to an exemption from the registration requirement of Section 5 of the Securities Act provided by Section 1145 of the Bankruptcy Code, and to the extent that a Warrant holder is an "underwriter" as defined in Section 1145(b)(1) of the Bankruptcy Code, such holder may not be able to sell or transfer any Warrants or Warrant

Shares in the absence of an effective registration statement under the Securities Act or an exemption from registration thereunder.

Section 9. Terms of Warrants; Exercise of Warrants.

(a) Subject to the terms of this Warrant Agreement, each Warrant holder shall have the right, which may be exercised in whole or in part, at any time and from time to time, beginning on the date of original issuance of the Warrant pursuant to the terms of this Warrant Agreement and ending at 5:00 p.m., New York City time, on the date that is the seven year anniversary of the Effective Date (the "**Expiration Date**"), to exercise each Warrant and receive from the Company the number of fully paid and nonassessable Warrant Shares which the holder may at the time be entitled to receive on exercise of such Warrants upon payment of the aggregate Exercise Price then in effect for such Warrant Shares. The Company shall promptly provide the Warrant Agent with written notice of the Expiration Date. After 5:00 p.m., New York City time, on the Expiration Date, the Warrants will become wholly void and of no value. Prior to the delivery of any shares of Common Stock that the Company shall be obligated to deliver upon proper exercise of the Warrants, the Company shall comply with all applicable federal and state laws, rules and regulations which require action to be taken by the Company. Subject to the terms and conditions set forth herein, the holder may exercise the Warrants by:

(i) providing written notice of such election ("**Warrant Exercise Notice**") to exercise the Warrant to the Company and the Warrant Agent at the addresses set forth in Section 23 no later than 5:00 p.m., New York City time, on the Expiration Date, which Warrant Exercise Notice shall be substantially in the form set forth either (x) in Exhibit A hereto for holders who hold Book-Entry Warrants, properly completed and executed by the holder, or (y) in Exhibit B hereto for holders who hold interest in Warrants through the book-entry facilities of the Depository, by or through persons that are direct participants in the Depository;

(ii) delivering no later than 5:00 p.m., New York City time, on the business day immediately prior to the Settlement Date, such Warrants to the Warrant Agent by book-entry transfer through the facilities of the Depository, if such Warrants are represented by a Global Warrant Certificate; and

(iii) paying to the Company (x) the applicable Exercise Price multiplied by the number of shares of Common Stock in respect of which any Warrants are being exercised or (y) in the case of a Cashless Exercise, paying the required consideration in the manner set forth in Section 9(b), in each case, together with any applicable taxes and charges.

To the extent a Warrant Exercise Notice is delivered in respect of a Warrant no later than 5:00 p.m., New York City time, on the Expiration Date, but the deliveries and payments specified in clause (ii) and (iii) above are effected thereafter but no later than 5:00 p.m., New York City time, on the business day immediately prior to the Settlement Date, the Warrants shall nonetheless be deemed exercised prior to the Expiration Date for the purposes of this Warrant Agreement.

(b) Provided the Common Stock is then listed or admitted for trading on a national securities exchange or an over-the-counter market or comparable system, and subject to the provisions of this Warrant Agreement, the holder shall have the right, in lieu of paying the Exercise Price in cash, to instruct the Company to reduce the number of shares of Common Stock issuable pursuant to the exercise of the Warrants (the "**Cashless Exercise**") in accordance with the following formula:

$$N = \frac{P}{M}$$

where:

N = the number of shares of Common Stock to be subtracted from the aggregate number of shares of Common Stock issuable upon exercise of the Warrants;

P = the aggregate Exercise Price which would otherwise be payable in cash for all of the shares of Common Stock for which the Warrants are being exercised; and

M = the Market Price of a share of Common Stock determined as of the day immediately preceding the day the Warrant Exercise Notice is delivered to the Warrant Agent.

If the Exercise Price exceeds the Market Price at the time of exercise, then no shares of Common Stock will be issuable via the Cashless Exercise. The number of shares of Common Stock to be issued on such exercise will be determined by the Company (with written notice thereof to the Warrant Agent) using the formula set forth in this Section 9(b). The Warrant Agent shall have no duty or obligation to investigate or confirm whether the Company's determination of the number of shares of Common Stock to be issued on such exercise, pursuant to this Section 9(b), is accurate or correct, nor shall the Warrant Agent have any duty or obligation to take any action with regard to such warrant exercise prior to being notified by the Company of the relevant number of shares of Common Stock to be issued.

(c) Subject to the adjustments set forth in Section 13 and Section 14 hereof, each Warrant, when exercised, will entitle the holder thereof to purchase one share of Common Stock at the Exercise Price then in effect for such share of Common Stock. Each Warrant not exercised pursuant to this Warrant Agreement prior to the Expiration Date shall become void and all rights thereunder and all rights in respect thereof under this Warrant Agreement shall cease as of 5:00 p.m., New York City time, on the Expiration Date.

(d) Unless exercised pursuant to a Cashless Exercise, the Exercise Price shall be payable to the Company in lawful money of the United States of America either by certified or official bank or bank cashier's check made payable to the order of the Company (or if agreed to in the sole and absolute discretion of the Company, by wire transfer in immediately available funds to an account arranged with the Company prior to exercise).

(e) Any exercise of a Warrant pursuant to the terms of this Warrant Agreement shall be irrevocable and shall constitute a binding agreement between the holder and the Company, enforceable in accordance with its terms.

(f) The Warrant Agent shall:

(i) examine all Warrant Exercise Notices and all other documents delivered to it by or on behalf of holders as contemplated hereunder to ascertain whether, on their face, such Warrant Exercise Notices and any such other documents have been executed and completed in accordance with their terms;

(ii) inform the Company of and cooperate with and assist the Company in resolving any reconciliation problems between the Warrant Exercise Notices received and delivery of Warrants to the Warrant Agent's account;

(iii) advise the Company, no later than two business days after receipt of a Warrant Exercise Notice, of (x) the receipt of such Warrant Exercise Notice and the number of Warrants exercised in accordance with the terms and conditions of this Warrant Agreement, (y) the instructions with respect to delivery of the shares of Common Stock of the Company deliverable upon such exercise, subject to the timely receipt from the Depository of the necessary information, and (z) such other information as the Company shall reasonably require;

(iv) subject to the Common Stock being made available to the Warrant Agent by or on behalf of the Company for delivery to the Depository, liaise with the Depository and endeavor to effect such delivery to the relevant accounts at the Depository in accordance with its requirements; and

(v) pay to the Company all funds received by the Warrant Agent in payment of the aggregate Exercise Price.

(g) All questions as to the validity, form and sufficiency (including time of receipt) of a Warrant exercise shall be determined by the Company in its sole discretion, which determination shall be final and binding. The Warrant Agent shall incur no liability for or in respect of and, except to the extent such liability arises from the Warrant Agent's negligence, willful misconduct or bad faith (each as determined by a final, non-appealable judgment of a court of competent jurisdiction), shall be indemnified and held harmless by the Company for acting or refraining from acting upon, or as a result of such determination by the Company. The Company reserves the right to reject any and all Warrant Exercise Notices not in proper form or for which any corresponding agreement by the Company to exchange would, in the opinion of the Company, be unlawful. Such determination by the Company shall be final and binding on the holders, absent manifest error. Moreover, the Company reserves the absolute right to waive any of the conditions to the exercise of Warrants or defects in Warrant Exercise Notices with regard to any particular exercise of Warrants. Neither the Company nor the Warrant Agent shall be under any duty to give notice to the holders of the Warrants of any irregularities in any exercise of Warrants, nor shall it incur any liability for the failure to give such notice.

(h) As soon as reasonably practicable after the exercise of any Warrant (and in any event not later than 10 business days thereafter), the Company shall issue, or otherwise deliver, in authorized denominations to or upon the order of the holder of the Warrants, either:

(i) if such holder holds the Warrants being exercised through the Depository's book-entry transfer facilities, by same-day or next-day credit to the Depository for the account of such holder or for the account of a participant in the Depository the number of shares of Common Stock to which such holder is entitled, in each case registered in such name and delivered to such account as directed in the Warrant Exercise Notice by such holder or by the direct participant in the Depository through which such holder is acting; or

(ii) if such holder holds the Warrants being exercised in the form of Book-Entry Warrants, a book-entry interest in the shares of Common Stock registered on the books of the transfer agent for the Company's Common Stock (such agent, in such capacity, as may from time to time be appointed by the Company, the "**Transfer Agent**") or, at the Company's option, by delivery to the address designated by such holder in its Warrant Exercise Notice of a physical certificate or certificates representing the number of Warrant Shares to which such holder is entitled, in fully registered form, registered in such name or names as may be directed by such holder. Such Warrant Shares shall be deemed to have been issued and any person so designated to be named therein shall be deemed to have become a holder of record of such Warrant Shares as of the close of business on the date of the delivery thereof.

If fewer than all of the Warrants evidenced by a Global Warrant Certificate surrendered upon the exercise of Warrants are exercised at any time prior to the Expiration Date, the Warrant Agent shall cause a notation to be made to the records maintained by the Depository, and, to the extent the Global Warrant Certificate is being held by The Bank of New York Mellon, as custodian for the Depository, the Warrant Agent will cause such custodian to make an appropriate notation on the Global Warrant Certificate to reflect such reduction in Warrants represented by the Global Warrant Certificate. The Person in whose name any certificate or certificates for the Warrant Shares are to be issued (or such Warrant Shares are to be registered, in the case of a book-entry transfer) upon exercise of a Warrant shall be deemed to have become the holder of record of such Warrant Shares on the date such Warrant Exercise Notice is delivered.

(i) As provided in Section 16 hereof, no fractional shares of Common Stock shall be issued upon exercise of any Warrants.

(j) If all of the Warrants evidenced by a Global Warrant Certificate have been exercised, such Global Warrant Certificate shall be cancelled by the Warrant Agent. Such cancelled Global Warrant Certificate shall then be disposed of by or at the direction of the Company in accordance with applicable law. The Warrant Agent shall (x) advise an authorized representative of the Company as directed by the Company by the end of each day or on the next business day following each day on which Warrants were exercised, of (i) the number of shares of Common Stock issued upon exercise of a Warrant, (ii) the notation to the records of the Depository reflecting the balance, if any, of the shares of Common Stock issuable after such exercise of the Warrant and (iii) such other information as the Company shall reasonably require and (y) concurrently pay to the Company all funds received by the Warrant Agent in payment of the aggregate Exercise Price. The Warrant Agent shall confirm such information to the Company in writing as promptly as practicable.

(k) The Warrant Agent shall keep copies of this Warrant Agreement and any notices given or received hereunder.

Section 10. Payment of Taxes.

No service charge shall be made to any holder of a Warrant for any exercise, exchange or registration of transfer of Warrants, and the Company will pay all documentary stamp taxes attributable to the initial issuance of Warrant Shares upon the exercise of Warrants; provided, however, that neither the Company nor the Warrant Agent shall be required to pay any tax or taxes which may be payable in respect of any transfer involved in the issuance of Warrants or any certificates for Warrant Shares in a name other than that of the registered holder of a Warrant surrendered upon the exercise of a Warrant, and the Company shall not be required to issue or deliver such Warrants or the certificates representing the Warrant Shares unless or until the person or persons requesting the issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid. The Warrant Agent shall have no duty under to deliver such Warrants or the certificates representing such Warrant Shares unless and until it is satisfied that all such taxes and charges have been paid.

Section 11. Mutilated or Missing Global Warrant Certificates.

On receipt of evidence reasonably satisfactory to the Company and the Warrant Agent of the loss, theft, destruction or mutilation of a Global Warrant Certificate and, in the case of loss, theft or destruction, on delivery of an affidavit or an indemnity agreement reasonably satisfactory in form and substance to the Company and the Warrant Agent and, if requested by either the Company or the Warrant Agent, the posting of an indemnity or a bond, also reasonably satisfactory to them, or, in the case of mutilation, on surrender and cancellation of a Global Warrant Certificate, the Company shall issue and the Warrant Agent shall countersign and deliver, in lieu of the Global Warrant Certificate, a new warrant certificate of like tenor and amount.

Section 12. Reservation of Shares of Common Stock.

The Company will at all times through the Expiration Date reserve and keep available, free from preemptive rights, out of the aggregate of its authorized but unissued shares of Common Stock, for the purpose of enabling it to satisfy any obligation to issue shares of Common Stock upon exercise of Warrants, the maximum number of shares of Common Stock that may then be deliverable upon the exercise of all outstanding Warrants, and the Transfer Agent is hereby irrevocably authorized and directed at all times to reserve such number of authorized and unissued or treasury shares of Common Stock as shall be required for such purpose. The Company will keep a copy of this Warrant Agreement on file with such Transfer Agent and with every transfer agent for any Shares issuable upon the exercise of Warrants pursuant to Section 9. The Warrant Agent is hereby irrevocably authorized to requisition from time to time from such Transfer Agent stock certificates issuable upon exercise of outstanding Warrants, and the Company will supply such Transfer Agent with duly executed stock certificates for such purpose. The Company covenants that all shares of Common Stock that may be issued upon exercise of Warrants will be, upon payment of the aggregate Exercise Price and issuance thereof (in the case of an exercise), fully paid, nonassessable, free of

preemptive rights and free from all taxes, liens, charges and security interests with respect to the issue thereof (other than any liens, charges and security interests created by the Warrant holder or the person to which the shares of Common Stock are to be issued).

Section 13. Adjustment of Exercise Price and Number of Shares of Common Stock Issuable.

The Exercise Price and the number of shares of Common Stock issuable upon the exercise of each Warrant are subject to adjustment from time to time upon the occurrence of the events enumerated in this Section 13, without duplication.

(a) Adjustment for Change in Capital Stock. If the Company, at any time or from time to time while any Warrant is outstanding:

(i) pays a dividend in respect of its Common Stock in shares of Common Stock or makes a distribution on its Common Stock in shares of Common Stock;

(ii) subdivides its outstanding shares of Common Stock into a greater number of shares (other than upon a reclassification to which clause (v) of this Section 13(a) or Section 13(i) hereof applies);

(iii) combines its outstanding shares of Common Stock into a smaller number of shares (other than upon a reclassification to which clause (v) of this Section 13(a) or Section 13(i) hereof applies);

(iv) makes a distribution on its Common Stock in shares of its capital stock other than Common Stock; or

(v) issues by reclassification of its Common Stock any shares of its capital stock (including any such reclassification in connection with a consolidation or merger of the Company in which the Company is the surviving entity but excluding any reclassification in which property other than shares of capital stock is issued (in which event Section 14 hereof shall apply));

then the number of shares of Common Stock or other shares of capital stock of the Company receivable upon exercise of each Warrant immediately prior thereto shall be adjusted so that the holder of each Warrant shall be entitled upon exercise to receive the kind and number of shares of Common Stock or other shares of capital stock of the Company that such holder would have been entitled to receive upon the happening of any of the events described above, had such Warrant been exercised immediately prior to the happening of such event or any record date with respect thereto. An adjustment made pursuant to this subsection (a) shall become effective immediately after the effective date of such event.

(b) Adjustment of Exercise Price. Whenever the number of shares of Common Stock or other shares of capital stock of the Company receivable upon the exercise of any Warrant is otherwise required to be adjusted as herein provided, the Exercise Price payable per share of Common Stock upon exercise of such Warrant shall be adjusted by multiplying such Exercise Price immediately prior to such adjustment by a fraction, of which the numerator shall be the number of shares of Common Stock receivable upon the exercise of such Warrant immediately prior to such adjustment, and of which the denominator shall be the number of shares of Common Stock (or, where clause (iv) or (v) of Section 13(a) hereof applies and shares of capital stock (other than solely Common Stock) become so receivable, the number of shares of Common Stock equivalent to such shares of capital stock based on the relative Market Price thereof) so receivable immediately thereafter.

If, after an adjustment, a holder of a Warrant upon exercise thereof may receive shares of two or more classes or series of capital stock of the Company, the Board of Directors, in good faith, shall determine as the adjusted Exercise Price for each share of capital stock (other than Common Stock) so receivable an amount equal to the Exercise Price per share of Common Stock, as adjusted pursuant to the preceding

paragraph, multiplied by a fraction the denominator of which is the Market Price of a share of Common Stock and the numerator of which is the Market Price of such share of other capital stock. After such allocation, the exercise privilege and the Exercise Price of each class or series of capital stock shall thereafter again be subject to adjustment on terms comparable to those applicable to shares of Common Stock in this Section 13 and Section 14.

(c) Adjustments for Distributions of Assets, Etc. If the Company, at any time or from time to time while any Warrant is outstanding, shall distribute to all holders of Common Stock (including any such distribution made to the stockholders of the Company in connection with a consolidation or merger in which the Company is the continuing corporation) evidences of its indebtedness or assets (other than distributions and dividends payable in cash or shares of Common Stock or shares of capital stock other than Common Stock), then, in each case, the Exercise Price shall be adjusted by multiplying the Exercise Price in effect immediately prior to the record date for the determination of stockholders entitled to receive such distribution by a fraction, the numerator of which shall be the Market Price per share of Common Stock on the ex-dividend date for such distribution (or if there is no such ex-dividend date, on such record date), less the fair market value on such date (as determined in good faith by the Board of Directors) of the portion of the evidences of indebtedness or assets so to be distributed, applicable to one share of Common Stock, and the denominator of which shall be such Market Price per share of Common Stock.

(d) When De Minimis Adjustment May Be Deferred. No adjustment in the Exercise Price need be made unless the adjustment would require an increase or decrease of at least one percent (1.00%) in the Exercise Price. Any adjustments that are not made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 13 shall be made to the nearest cent or to the nearest 1/100th of a share, as the case may be.

(e) When No Adjustment Required.

(i) No adjustment need be made pursuant to Section 13(a) or Section 13(b) hereof for a transaction referred to in Section 13(a) hereof if Warrant holders participate in such transaction on a basis and with notice that the Board of Directors determines in good faith to be fair and appropriate in light of the basis and notice on which holders of Common Stock participate in the transaction and provided that the Warrant holders are entitled to receive the economic benefits as if such Warrant holders had exercised the Warrants (but without duplication of any such benefit upon exercise of the Warrants).

(ii) No adjustment need be made for any issuance of securities by the Company on the Effective Date of the Plan or pursuant to the Plan.

(iii) No adjustment need be made for a change in the par value or no par value of the Common Stock.

(iv) Notwithstanding anything else contained herein, no adjustment to the Exercise Price shall result in an Exercise Price of zero or that is a negative number. To the extent the Warrants become exercisable into cash, no adjustment need be made thereafter as to the cash. Interest will not accrue on the cash.

(v) No adjustment need be made pursuant to Section 13 if the Company, at any time or from time to time while the Warrant is outstanding, makes a distribution on its Common Stock that is a right to acquire shares of capital stock, so long as the same right will apply generally to all shares of Common Stock, including the shares issuable upon exercise of the Warrant.

(f) Notice of Certain Transactions. If:

(i) the Company takes any action that would require an adjustment to the Exercise Price or the number of shares of Common Stock or other shares of capital stock receivable upon exercise of Warrants pursuant to this Section 13 or Section 14;

(ii) the Company determines to adjust the number of Warrants pursuant to Section 13(i) hereof; or

(iii) there is a liquidation or dissolution of the Company;

then the Company shall mail to Warrant holders a notice stating the proposed record date for a distribution or the proposed effective date of a subdivision, combination, reclassification, consolidation, merger, liquidation or dissolution or other transaction resulting in an adjustment hereunder. The Company shall mail the notice at least 10 days before such date. Failure to mail the notice or any defect in it shall not affect the validity of the transaction.

Whenever the Exercise Price is adjusted, the Company also shall provide the notices to the holders in accordance with Section 23 hereof.

(g) Company Determination Final. Any determination that the Company or the Board of Directors must make pursuant to this Section 13 is (absent manifest error) conclusive if such determination is made in good faith and in accordance with the provisions of this Warrant Agreement.

(h) Warrant Agent's Disclaimer. The Company shall promptly provide the Warrant Agent with written notice of any adjustment pursuant to this Section 13. The Warrant Agent shall be fully protected in relying on such written notice and on any adjustment or statement contained therein. The Warrant Agent (if not the Company) has no duty to determine when an adjustment under this Section 13 should be made (if at all), how it should be made or what it should be. The Warrant Agent makes no representation as to the validity or value of any securities or assets issued upon exercise of Warrants. The Warrant Agent shall not be responsible for the Company's failure to comply with this Section 13. The Warrant Agent shall have no duty or liability with respect to, and shall not be deemed to have knowledge of, any adjustment under this Section 13 until it has received written notice thereof pursuant to this Section 13.

(i) Optional Tax Adjustment. The Company may at its option, at any time prior to the Expiration Date, increase the number of shares of Common Stock or other shares of capital stock into which each Warrant is exercisable, or decrease the Exercise Price, in addition to those changes required by Section 13(a) and Section 13(b) hereof, as deemed advisable by the Board of Directors, in order that any event treated for federal income tax purposes as a dividend of stock or stock rights shall not be taxable to the recipients.

Section 14. Organic Change.

(a) Any recapitalization, reclassification, reorganization, consolidation, merger, sale of all or substantially all of the Company's assets or other similar transaction, in each case which is effected at any time after the date hereof and prior to the Expiration Date in such a way that the holders of Common Stock are entitled to receive (either directly or upon subsequent liquidation) stock, securities and/or assets (including cash but specifically excluding ordinary cash dividends) with respect to Common Stock or in exchange for Common Stock is referred to herein as an "**Organic Change**." Prior to the consummation of any Organic Change, the Company shall make appropriate provision to ensure that each of the registered holders of Warrants shall thereafter have the right to acquire and receive upon exercise of such holder's Warrant, in lieu of or addition to (as the case may be) the shares of Common Stock immediately theretofore acquirable and receivable upon the exercise of such holder's Warrant, such shares of stock, securities and/or assets (including cash) as may be issued or payable in the Organic Change with respect to or in exchange for the number of shares of Common Stock immediately theretofore acquirable and receivable upon exercise of such holder's Warrant had such Organic Change not taken place, in each case, net of the aggregate applicable Exercise Price payable by each holder and net of any consideration such holder would have had to surrender if it had held the shares of Common Stock immediately prior to the Organic Change. The Company shall not effect any Organic Change unless, prior to the consummation thereof, the successor entity (if other than the Company) resulting from such consolidation or merger or the entity purchasing such assets assumes by written instrument the obligation to deliver to each such Warrant holder such shares of

stock, securities or assets as, in accordance with the foregoing provisions, such Warrant holder may be entitled to acquire. In any case, the Company shall make appropriate provision with respect to such Warrant holders' rights and interests to insure that the provisions of this Section 14 shall thereafter be applicable to the Warrants.

(b) If adjustments have been made under Section 14(a) with respect to an event, the adjustments provided in Section 13 shall not apply to such event, and such event shall be deemed not to be an Organic Change. The provisions of this Section 14 shall apply to any successive Organic Change to the extent there are any outstanding Warrants.

Section 15. Priority Adjustments, Further Actions.

(a) If any single action would require adjustment of the Exercise Price pursuant to more than one subsection of Section 13 or Section 14 hereof, only one adjustment shall be made and such adjustment shall be the amount of adjustment that has the highest, relative to the rights and interests of the registered holders of the Warrants then outstanding, absolute value.

(b) The Company will not, by amendment of its certificate of incorporation or through any consolidation, merger, reorganization, transfer of assets, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of the Warrants, but will at all times in good faith assist in the carrying out of all such terms. Without limiting the generality of the foregoing, the Company (i) will take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable shares of Common Stock on the exercise of the Warrants from time to time outstanding and (ii) will not take any action which results in any adjustment of the Exercise Price if the total number of shares of Common Stock issuable after the action upon the exercise of all of the Warrants would exceed the total number of shares of Common Stock then authorized by the Company's certificate of incorporation, as may be amended and in effect from time to time and available for the purposes of issue upon such exercise. Notwithstanding the previous sentences, the Company shall not be prohibited from effecting a consolidation, merger, reorganization or transfer of assets by this Section 15.

Section 16. Fractional Interests.

The Company shall not be required to issue fractional shares of Common Stock on the exercise of Warrants. If more than one Warrant shall be presented for exercise at the same time by the same holder, the number of full shares of Common Stock that shall be issuable upon the exercise thereof shall be computed on the basis of the aggregate number of shares of Common Stock purchasable on exercise of all of the Warrants so presented. If any fraction of a share of Common Stock would, except for the provisions of this Section 16, be issuable on the exercise of any Warrants (or specified portion thereof), the Company shall notify the Warrant Agent in writing of the amount to be paid in lieu of the fraction of a share of Common Stock and concurrently pay or provide to the Warrant Agent for repayment to the Warrant holder an amount in cash equal to the product of (i) such fraction of a share of Common Stock and (ii) the excess of (x) the Market Price of a share of Common Stock over (y) the Exercise Price. The Warrant Agent shall be fully protected in relying on such notice and shall have no duty with respect to, and shall not be deemed to have knowledge of, any payment for shares under this Section 16 unless and until the Warrant Agent shall have received such notice and sufficient monies.

Section 17. Stock Exchange Listings.

So long as any Warrants remain outstanding, the Company will use its commercially reasonable efforts to have the Warrants and the Warrant Shares, immediately upon their issuance upon exercise of Warrants, (i) listed on each national securities exchange on which the Common Stock is then listed or (ii) if the Common Stock is not then listed on any national securities exchange, listed for quotation on the Nasdaq National Market System or such other over-the-counter quotation system, if any, on which the Common Stock may then be listed.

Section 18. Warrant Holders Not Stockholders.

Nothing contained in this Warrant Agreement or in any of the Global Warrant Certificates shall be construed as conferring upon the holders of any Warrant (i) the right to vote or to consent or to receive notice as stockholders in respect of the meetings of stockholders or the election of Directors of the Company or any other matter or to attend any such meetings or any other proceedings of the holders of Common Stock; (ii) the right to receive any cash dividends distributable to the holders of Common Stock prior to, or for which the relevant record date precedes, the date of the exercise of such Warrant; or (iii) or any other rights whatsoever as stockholders of the Company. The Warrant Agent shall have no duty to monitor or enforce compliance with this provision.

Section 19. Merger, Consolidation or Change of Name of Warrant Agent.

Any person into which the Warrant Agent may be merged or converted or with which it may be consolidated, or any person resulting from any merger, conversion or consolidation to which the Warrant Agent shall be a party, or any person succeeding to all or substantially all of the shareholder services business of the Warrant Agent or any successor Warrant Agent, shall be the successor to the Warrant Agent hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, if such person would be eligible for appointment as a successor Warrant Agent under the provisions of Section 22. If, at the time such successor to the Warrant Agent by merger or consolidation succeeds to the agency created by this Warrant Agreement, any of the Global Warrant Certificates shall have been countersigned but not delivered, any such successor to the Warrant Agent may adopt the countersignature of the original Warrant Agent; and if, at that time any of the Global Warrant Certificates shall not have been countersigned, any such successor to the Warrant Agent may countersign such Global Warrant Certificates either in the name of the predecessor Warrant Agent or in the name of the successor Warrant Agent; and in all such cases such Global Warrant Certificates shall have the full force and effect provided in the Global Warrant Certificates and in this Warrant Agreement.

If at any time the name of the Warrant Agent is changed and at such time any of the Global Warrant Certificates have been countersigned but not delivered, the Warrant Agent whose name has changed may adopt the countersignature under its prior name; and if at that time any of the Global Warrant Certificates have not been countersigned, the Warrant Agent whose name has changed may countersign such Global Warrant Certificates either in its prior name or in its changed name; and in all such cases such Global Warrant Certificates shall have the full force and effect provided in the Global Warrant Certificates and in this Warrant Agreement.

Section 20. Warrant Agent.

(a) The Warrant Agent undertakes only the duties and obligations expressly imposed by this Warrant Agreement and the Global Warrant Certificates, in each case upon the terms and conditions set forth below, by all of which the Company and the holders of Warrants, by their acceptance thereof, shall be bound:

(b) The statements contained herein and in the Global Warrant Certificates shall be deemed to be statements of the Company. The Warrant Agent assumes no responsibility for the accuracy or correctness of any such statements and is not required to verify such statements.

(c) Whenever in the performance of its duties under this Warrant Agreement the Warrant Agent deems it necessary or desirable that any fact or matter be proved or established by the Company prior to taking, suffering or omitting to take any action hereunder, the Warrant Agent is hereby authorized and directed to accept instructions with respect to the performance of its duties hereunder from an Appropriate Officer and to apply to the Appropriate Officers for advice or instructions in connection with its duties, and such instructions shall be full authorization and protection to the Warrant Agent and, absent gross negligence, bad faith or willful misconduct (each as determined by a final, non-appealable judgment of a court of competent jurisdiction), the Warrant Agent shall not be liable for any action taken, suffered to be

taken, or omitted to be taken by it in accordance with the instructions of any such Appropriate Officer or in reliance upon any statement signed by any one of such Appropriate Officers with respect to any fact or matter which may be deemed to be conclusively proved and established by such signed statement. In the event the Warrant Agent reasonably believes any ambiguity or uncertainty exists hereunder or in any notice, instruction, direction, request or other communication, paper or document received by the Warrant Agent hereunder, or is uncertain of any action to take hereunder, the Warrant Agent, may, following prior written notice to the Company, in its discretion, refrain from taking any action, and shall be fully protected and shall not be liable in any way to the Company or any other person or entity for refraining from taking such action, unless the Warrant Agent receives written instructions signed by the Company which eliminates such ambiguity or uncertainty to the reasonable satisfaction of the Warrant Agent.

(d) The Warrant Agent shall not be responsible for any failure of the Company to comply with any of the covenants contained in this Warrant Agreement (including, without limitation, any adjustment of the Exercise Price pursuant to Section 13 hereof, the authorization or reservation of shares of Common Stock pursuant to Section 12 hereof, the due execution and delivery by the Company of this Warrant Agreement or any Global Warrant Certificate) or in the Global Warrant Certificates to be complied with by the Company.

(e) The Warrant Agent may consult at any time with counsel satisfactory to it (who may be outside counsel for the Company or in-house counsel of the Warrant Agent), and the advice and opinion of such counsel will be full and complete authorization and protection to the Warrant Agent as to, and the Warrant Agent shall incur no liability or responsibility to the Company or to any holder of any Warrant in respect of, any action taken, suffered or omitted by it hereunder in accordance with the opinion or the advice of such counsel, absent gross negligence, bad faith or willful misconduct (each as determined by a final, non-appealable judgment of a court of competent jurisdiction) in the selection and continued retention of such counsel and the reliance on such counsel's advice or opinion.

(f) The Warrant Agent shall incur no liability or responsibility to the Company or to any holder of any Warrant or any other person for any action taken in reliance on any Global Warrant Certificate, Book-Entry Statement, certificate representing shares of Common Stock, notice, resolution, waiver, consent, order, certificate, or other paper, document or instrument believed by it to be genuine and to have been signed, sent or presented by the proper party or parties. The Warrant Agent shall not be bound by any notice or demand, or any waiver, modification, termination or revision of this Warrant Agreement or any of the terms hereof, unless evidenced by a writing between and signed by, the Company and the Warrant Agent. The Warrant Agent shall not be required to take instructions or directions except those given in accordance with this Warrant Agreement.

(g) The Warrant Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys, accountants, agents or other experts, and the Warrant Agent will not be answerable or accountable for any act, default, neglect or unintentional misconduct of any such attorneys or agents or for any loss to the Company or the holders of the Warrants resulting from any such act, default, neglect or unintentional misconduct, absent gross negligence, willful misconduct or bad faith (as each is determined by a final non-appealable judgment of a court of competent jurisdiction) in the selection and continued employment thereof. Notwithstanding anything contained herein to the contrary, the Warrant Agent's aggregate liability during any term of this Warrant Agreement with respect to, arising from, or arising in connection with this Warrant Agreement, or from all services provided or omitted to be provided under this Warrant Agreement, whether in contract, or in tort, or otherwise, is limited to, and shall not exceed, the amounts paid hereunder by the Company to Warrant Agent as fees and charges, but not including reimbursable expenses.

(h) The Warrant Agent will not be under any duty or responsibility to insure compliance with any applicable federal or state securities laws in connection with the issuance, transfer or exchange of Global Warrant Certificates.

(i) The Warrant Agent shall not incur any liability for not performing any act, duty, obligation or responsibility by reason of any occurrence beyond the control of the Warrant Agent (including without limitation any act or provision of any present or future law or regulation or governmental authority, any act of God, war, civil disorder or failure of any means of communication).

(j) The Company agrees to pay to the Warrant Agent reasonable compensation for all services rendered by the Warrant Agent under this Warrant Agreement, to reimburse the Warrant Agent upon demand for all reasonable out-of-pocket expenses (including counsel fees and other disbursements), taxes (including withholding taxes) and governmental charges and other charges of any kind and nature actually incurred by the Warrant Agent in the preparation, administration, execution, delivery and amendment of this Warrant Agreement and performance of its duties and responsibilities under this Warrant Agreement and to indemnify the Warrant Agent and save it harmless against any and all losses, liabilities and expenses, including judgments, damages, fines, penalties, claims, demands, costs and counsel fees and expenses, for any action taken or omitted to be taken by the Warrant Agent, or any person acting on behalf of the Warrant Agent, in the arising out of or in connection with this Warrant Agreement except as a result of its gross negligence, bad faith or willful misconduct (each as determined by a final, non-appealable judgment of a court of competent jurisdiction). The costs and expenses incurred by the Warrant Agent in enforcing the right to indemnification shall be paid by the Company except to the extent that it is determined by a final, non-appealable judgment of a court of competent jurisdiction that the Warrant Agent is not entitled to indemnification due to its gross negligence, bad faith or willful misconduct. Notwithstanding the foregoing, the Company shall not be responsible for any settlement made without its written consent.

(k) The Warrant Agent, shall be under no obligation to institute any action, suit or legal proceeding or to take any other action likely to involve expense or liability unless the Company or one or more registered holders of Warrants shall furnish the Warrant Agent with security and indemnity commercially reasonably satisfactory to the Warrant Agent for any costs and expenses which may be incurred. All rights of action under this Warrant Agreement or under any of the Warrants may be enforced by the Warrant Agent without the possession of any of the Warrants or the production thereof at any trial or other proceeding relative thereto, and any such action, suit or proceeding instituted by the Warrant Agent shall be brought in its name as Warrant Agent and any recovery of judgment shall be for the ratable benefit of the registered holders of the Warrants, as their respective rights or interests may appear.

(l) Except as otherwise prohibited by applicable law, the Warrant Agent, and any member, stockholder, affiliate, director, officer or employee of the Warrant Agent, may buy, sell or deal in any of the Warrants or other securities of the Company or become pecuniarily interested in any transaction in which the Company may be interested, or contract with or lend money to the Company or otherwise act as fully and freely as though it were not Warrant Agent under this Warrant Agreement, or a member, stockholder, affiliate, director, officer or employee of the Warrant Agent, as the case may be. Nothing herein shall preclude the Warrant Agent from acting in any other capacity for the Company or for any other legal entity.

(m) The Warrant Agent shall act hereunder solely as agent for the Company, and its duties shall be determined solely by the express provisions hereof. The Warrant Agent shall not be liable for anything which it may do or refrain from doing in connection with this Warrant Agreement, except for its own gross negligence, bad faith or willful misconduct (each as determined by a final, non-appealable judgment of a court of competent jurisdiction), provided that notwithstanding anything in this Warrant Agreement to the contrary, in no event shall the Warrant Agent be liable for punitive, special, indirect, incidental or consequential loss or damage of any kind whatsoever (including, without limitation, lost profits).

(n) The Warrant Agent shall not at any time be under any duty or responsibility to any holder of any Warrant to make or cause to be made any adjustment of the Exercise Price or number of the shares of Common Stock or other securities or property deliverable as provided in this Warrant Agreement, or to determine whether any facts exist which may require any of such adjustments, or with respect to the nature or extent of any such adjustments, when made, or with respect to the method employed in making the same. The Warrant Agent shall not be accountable with respect to the validity or value or the kind or amount

of any shares of Common Stock or of any securities or property which may at any time be issued or delivered upon the exercise of any Warrant or with respect to whether any such shares of Common Stock or other securities will when issued be validly issued and fully paid and nonassessable, and makes no representation with respect thereto. The Warrant Agent shall not be accountable to confirm or verify the accuracy or necessity of any calculation.

(o) The Warrant Agent shall have no duties, responsibilities or obligations as the Warrant Agent except those which are expressly set forth herein, and in any modification or amendment hereof to which the Warrant Agent has consented in writing, and no duties, responsibilities or obligations shall be implied or inferred. Without limiting the foregoing, unless otherwise expressly provided in this Warrant Agreement, the Warrant Agent shall not be subject to, nor be required to comply with, or determine if any Person has complied with, the Warrants or any other agreement between or among the parties hereto, even though reference thereto may be made in this Warrant Agreement, or to comply with any notice, instruction, direction, request or other communication, paper or document other than as expressly set forth in this Warrant Agreement.

(p) The Warrant Agent may rely conclusively and shall be protected in acting upon any order, judgment, instruction, notice, demand, certificate, opinion or advice of counsel (including counsel chosen by or who may be an employee of the Warrant Agent or one of its affiliates), statement, instrument, report or other paper or document (not only as to its due execution and the validity and effectiveness of its provisions, but also as to the truth and acceptability and of information therein contained) which is believed by the Warrant Agent, in good faith, to be genuine and to be signed or presented by the proper person or persons as set forth in Section 20(c).

(q) The Company agrees to perform, execute and acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further and other acts, instruments, and assurances as many reasonably be required by the Warrant Agent for the carrying out or performing of the provisions of this Warrant Agreement.

(r) All rights and obligations contained in this Section 20 and Section 22 hereof shall survive the termination of this Warrant Agreement and the resignation, replacement or removal of the Warrant Agent.

(s) Any limitation on liability, duty to investigate or any other similar duty or obligation provided herein with respect to the Warrant Agent shall not be applicable to the Company if it is acting as Warrant Agent.

(t) The Warrant Agent shall not be under any responsibility or liability in respect of the validity of this Warrant Agreement or the execution and delivery hereof (except the due and validly authorized execution hereof by the Warrant Agent) or in respect of the validity or execution of any Global Warrant Certificate (except its due and validly authorized countersignature thereof), nor shall the Warrant Agent be responsible for any breach by the Company of any covenant or condition contained in this Warrant Agreement or in any Warrant, nor shall it be responsible to make or liable for any adjustments required under any provision hereof, including but not limited to Section 13 hereof, or responsible for the manner, method, amount of any such adjustment or the ascertaining of the existence of facts that would require any such adjustments, nor shall the Warrant Agent by any act hereunder be deemed to make any representation or warranty as to the authorization or reservation of the Shares to be issued pursuant to this Warrant Agreement or any Warrant or as to whether the Shares will when issued be validly issued, fully paid and nonassessable or as to the Exercise Price or the number of Shares issuable upon exercise of any warrant.

(u) No provision of this Warrant Agreement shall require the Warrant Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of its rights.

(v) If the Warrant Agent shall receive any notice or demand (other than notice of or demand for exercise of Warrants) addressed to the Company by any holder pursuant to the provisions of the Warrants, the Warrant Agent shall forward such notice or demand to the Company as promptly as practicable.

Section 21. Expenses.

All expenses incident to the Company's performance of or compliance with this Warrant Agreement will be borne by the Company, including without limitation: (i) all expenses of printing Global Warrant Certificates; (ii) messenger and delivery services and telephone calls; (iii) all fees and disbursements of counsel for the Company; (iv) all fees and disbursements of independent certified public accountants or knowledgeable experts selected by the Company; and (v) the Company's internal expenses (including, without limitation, all salaries and expenses of their officers and employees performing legal or accounting duties).

Section 22. Change of Warrant Agent.

(a) If the Company terminates the Warrant Agent or the Warrant Agent shall become incapable of acting as Warrant Agent or shall resign as provided below, the Company shall appoint a successor to such Warrant Agent. If the Company shall fail to make such appointment within a period of 30 days after it has terminated the Warrant Agent or it has been notified in writing of a resignation or incapacity by the Warrant Agent, then the registered holder of any Warrant Certificate may apply to any court of competent jurisdiction for the appointment of a successor to the Warrant Agent. Pending appointment of a successor to such Warrant Agent, either by the Company or by such a court, the duties of the Warrant Agent shall be carried out by the Company. After appointment, the successor to the Warrant Agent shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named as Warrant Agent without further act or deed, however, the former Warrant Agent shall deliver and transfer to the successor to the Warrant Agent any property at the time held by it hereunder and execute and deliver any further assurance, conveyance, act or deed necessary for the purpose. As soon as practicable after appointment of the successor Warrant Agent, the Company shall cause written notice of the change in the Warrant Agent to be given to each of the holders at such holder's address appearing on the Warrant Register. Failure to give any notice provided for in this Section 22, however, or any defect therein, shall not affect the legality or validity of the appointment of a successor to the Warrant Agent.

(b) The Warrant Agent may resign at any time and be discharged from the obligations hereby created by so notifying the Company in writing at least 30 days in advance of the proposed effective date of its resignation. If no successor Warrant Agent accepts the engagement hereunder by such time, the Company shall act as Warrant Agent.

Section 23. Notices to the Company and Warrant Agent.

Any notice or demand authorized or permitted by this Warrant Agreement to be given or made by the Warrant Agent or by the registered holder of any Warrant Certificate to or on the Company shall be sufficiently given or made when and if deposited in the mail, first class or registered, postage prepaid, addressed (until another address is filed in writing by the Company with the Warrant Agent), or by facsimile transmission with receipt confirmed, as follows:

FairPoint Communications, Inc.
521 East Morehead Street
Suite 500
Charlotte, NC 28202
Attn: General Counsel
Tel: (704) 344-8150
Fax: (704) 344-1594

with a copy to:

Paul, Hastings, Janofsky & Walker LLP
Park Avenue Tower
75 East 55th Street
First Floor
New York, NY 10022
Attn: Jeffrey J. Pellegrino
Tel: 212-318-6000
Fax: 212-319-4090

Any notice pursuant to this Warrant Agreement to be given by the Company or by the registered holder(s) of any Warrant Certificate to the Warrant Agent shall be sufficiently given when and if deposited in the mail, first-class or registered, postage prepaid, addressed (until another address is filed in writing by the Warrant Agent with the Company), or by facsimile transmission with receipt confirmed, to the Warrant Agent at the Warrant Agent Office as follows:

The Bank of New York Mellon
Newport Office Center VII
480 Washington Boulevard
Jersey City, NJ 07310
Attn: Relationship Manager

with a copy to:

The Bank of New York Mellon
Newport Office Center VII
480 Washington Boulevard
Jersey City, NJ 07310
Attn: General Counsel

Notwithstanding anything contained herein to the contrary, all notices which are required to be delivered to a holder or holders hereunder shall be deemed delivered upon either (i) delivery of such information to the Warrant Agent for notification to the beneficial holders of Global Warrant Certificates in accordance with the procedures of the Depository and/or (ii) to the holders of Book-entry Warrants in accordance with the procedures of the Warrant Agent.

Section 24. Supplements and Amendments.

The Company and the Warrant Agent may from time to time supplement or amend this Warrant Agreement without the approval of any holders of Warrants in order to cure any ambiguity, manifest error or other mistake in this Warrant Agreement or the Warrants, or to correct or supplement any provision contained herein that may be defective or inconsistent with any other provision herein, or to make any other provisions in regard to matters or questions arising hereunder that the Company and the Warrant Agent may deem necessary or desirable and that shall not affect the rights or interests of the holders of Warrants. Any amendment or supplement to this Warrant Agreement that has an effect on the rights or interests of holders of the Warrants shall require the written consent of the Required Holders. The consent of each holder of a Warrant affected shall be required for any amendment of this Warrant Agreement pursuant to which the Exercise Price would be increased or the number of shares of Common Stock purchasable upon exercise of the Warrants would be decreased; provided, however, that such consent shall not be required for any adjustment to the Exercise Price or the number of shares purchasable, if made pursuant to the provisions of Section 13 or Section 14 hereof. The Warrant Agent shall have no duty to determine whether any such amendment would have an effect on the rights or interests of the holders of the Warrants. The Warrant

Agent may, but shall not be obligated to, execute any amendment or supplement which affects the rights or changes or increases the duties or obligations of the Warrant Agent.

Section 25. Successors.

(a) All the covenants and provisions of this Warrant Agreement by or for the benefit of the Company or the Warrant Agent shall bind and inure to the benefit of their respective successors and assigns hereunder and the registered holders from time to time of the Warrants.

(b) So long as Warrants remain outstanding, the Company will not enter into any transaction resulting in Organic Change resulting in the Company not being the surviving entity, unless the acquirer shall expressly assume by a supplemental agreement, executed and delivered to the Warrant Agent, in form reasonably satisfactory to the Warrant Agent, the due and punctual performance of every covenant of this Warrant Agreement on the part of the Company to be performed and observed and shall have provided for exercise rights in accordance with Section 14 hereof. Upon the consummation of such transaction, the acquirer shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Warrant Agreement with the same effect as if such acquirer had been named as the Company herein.

Section 26. Termination.

This Warrant Agreement shall terminate at 5:00 p.m., New York City time, on the Expiration Date (or, if later, the Settlement Date with respect to any Warrant Exercise Notice delivered prior to 5:00 p.m., New York City time, on the Expiration Date). Notwithstanding the foregoing, this Warrant Agreement will terminate on such earlier date on which all outstanding Warrants have been exercised. The provisions of Section 9, Section 20 and Section 22 shall survive such termination and the resignation or removal of the Warrant Agent. Termination of the Warrant Agreement shall not relieve the Company or the Warrant Agent of any of their respective obligations arising prior to the date of such termination, and which have not been completed prior to the date of such termination, or in connection with the settlement of any Warrant exercised prior to the Expiration Date.

Section 27. Governing Law; Jurisdiction.

This Warrant Agreement and each Warrant issued hereunder shall be deemed to be a contract made under the laws of the State of New York and for all purposes shall be governed by and construed in accordance with the laws of the State of New York (including New York General Obligations Law § 5-1401). The parties hereto irrevocably consent to the jurisdiction of the courts of the State of New York and any federal court located in such state in connection with any action, suit or proceeding arising out of or relating to this Warrant Agreement.

Section 28. Benefits of this Warrant Agreement.

This Warrant Agreement shall be for the sole and exclusive benefit of the Company, the Warrant Agent, and the registered holders of the Warrants, and nothing in this Warrant Agreement shall be construed to give to any person other than the Company, the Warrant Agent, and the registered holders of the Warrants any legal or equitable right, remedy or claim under this Warrant Agreement. Each holder, by acceptance of a Warrant Certificate, agrees to all of the terms and provisions of this Warrant Agreement applicable thereto.

Section 29. Counterparts.

This Warrant Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

Section 30. Further Assurances.

From time to time on and after the date hereof, the Company shall deliver or cause to be delivered to the Warrant Agent such further documents and instruments and shall do and cause to be done such further acts as the Warrant Agent shall reasonably request (it being understood that the Warrant Agent shall have no obligation to make such request) to carry out more effectively the provisions and purposes of this Warrant Agreement, to evidence compliance herewith or to assure itself that it is protected hereunder.

Section 31. Entire Agreement.

This Warrant Agreement and the Global Warrant Certificates constitute the entire agreement of the Company, the Warrant Agent and the holders of the Warrants with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, among the Company, the Warrant Agent and the holders of the Warrants with respect to the subject matter hereof.

Section 32. Severability.

Wherever possible, each provision of this Warrant Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Warrant Agreement; *provided, however*, that if such excluded or added provision shall materially affect rights, immunities, duties or obligations of the Warrant Agent, the Warrant Agent shall be entitled to resign upon not less than 10 days written notice to the Company.

Section 33. Force Majeure.

In no event shall the Warrant Agent or the Company be responsible or liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused by, directly or indirectly, forces beyond its control, including without limitation strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services.

[Remainder of the page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Agreement to be duly executed, as of the day and year first above written.

FAIRPOINT COMMUNICATIONS, INC.

By:_____
Name:
Title:

THE BANK OF NEW YORK MELLON,
as Warrant Agent

By:_____
Name:
Title:

EXHIBIT A

FORM OF WARRANT STATEMENT

FairPoint Communications, Inc.

DRS Warrant Distribution Statement

CUSIP Number
_____
Issuance Date
_____ __, 2011

Account Number
INVESTOR ID #
Distribution
Warrants
Ticker Symbol
_____

_____
Holder's Name

_____
Holder's Address

Book-Entry Warrant Position of FairPoint Communications, Inc. Warrants:
Total Book-Entry Warrants:

_____

PLEASE RETAIN THIS STATEMENT FOR YOUR RECORDS

These Warrants are maintained for you under the Direct Registration System, which means they are held for you in an electronic, book-entry account maintained by The Bank of New York Mellon. Please retain this statement for your permanent record.

NO ACTION IS REQUIRED if you choose to keep Warrants in book-entry form.

Questions? Contact The Bank of New York Mellon
To access your account, use your Investor ID Number that is located in the box above on the top right hand corner of this statement. You can contact **The Bank of New York Mellon** by one of the following ways:

***By Internet*:** Visit **www.bnymellon.com** for access to your account. You will be able to certify your Taxpayer Identification Number/Social Security Number, change your address or sell Warrants.

***By Phone*:**
Toll Free Number 1-800-777-3674
Outside the U.S. (Collect) 201-680-6579
Hearing Impaired 1-800-231-5469
IVR system available 24 hours/7 days a week
Representatives are available 9 a.m. to 7 p.m. Eastern Time weekdays

***By Mail*:**
FairPoint Communications, Inc.
c/o **The Bank of New York Mellon**
480 Washington Blvd
Jersey City, NJ 07310
27th Floor

[Insert Text Below When Holder Is Not Using Voice Recognition]
REQUEST FOR TAXPAYER IDENTIFICATION AND CERTIFICATION

Our records indicate that we do not have a certified Taxpayer Identification Number ("TIN") on file. Without a certified TIN, we may be required by law to withhold 28% from any sale transaction that you request. Logon to www.bnymellon.com to certify your TIN, or contact us by phone to request a Substitute Form W-9.

If you are exempt from backup withholding, remember to indicate that when completing the certification.

OVER THE PHONE
- Dial the toll-free number shown above
- Key your menu selections
- Request a Substitute Form W-9

THROUGH THE INTERNET
- Go to www bnymellon.com
- Logon to Investor ServiceDirect®
- Select the account name
- Choose ***Manage Account Info*** and select ***Certify Tax ID***
- Confirm your certification

[Insert Text Below When Holder Is Not Using Voice Recognition]
REQUEST FOR TAXPAYER IDENTIFICATION AND CERTIFICATION

Our records indicate that we do not have a certified Taxpayer Identification Number ("TIN") on file. Without a certified TIN, we may be required by law to withhold 28% from any sale transaction that you request. Logon to www.bnymellon.com to certify your TIN, or contact us by phone to request a Substitute Form W-9.

If you are exempt from backup withholding, remember to indicate that when completing the certification.

OVER THE PHONE
- Dial the toll-free number shown above
- Say "*Certify my TIN*" when prompted
- Enter your TIN or Investor ID
- Speak your answers at the prompt

THROUGH THE INTERNET
- Go to www.bnymellon.com
- Logon to Investor ServiceDirect®
- Select the account name
- Choose ***Manage Account Info*** and select ***Certify Tax ID***
- Confirm your certification

SEE REVERSE SIDE FOR IMPORTANT INFORMATION

FairPoint Communications, Inc.

This statement is your record that the FairPoint Communications, Inc. Warrants have been credited to your account on the books of FairPoint Communications, Inc. maintained by **The Bank of New York Mellon**, under the Direct Registration System. Please verify all information on the reverse side of this statement. This statement is neither a negotiable instrument nor a security, and delivery of this statement does not itself confer any rights on the recipient. Nevertheless, it should be kept with your important documents as a record of your ownership of these securities.

Transfer ownership of your Book-Entry Warrants at any time by submitting the appropriate Warrant transfer documents to The Bank of New York Mellon. Visit The Bank of New York Mellon online at www.bnymellon.com or call to request transfer documents.

Transfer of your Book-Entry Warrants to your broker can be accomplished in one of two ways:

(1) The fastest and easiest way - provide your broker with your Personal Account Information and request that your broker initiate an electronic transfer of your Warrants, or

(2) Obtain a "Broker-Dealer Authorization Form" by visiting www.bnymellon.com or by calling

To sell any or all of your Book-Entry Warrants in your account at The Bank of New York Mellon, visit www.bnymellon.com phone toll free 1-800-777-3674 and say "*sell Warrants*" using our Speech Recognition technology, or simply check the appropriate "sell" box, sign and date the attached sales coupon and mail it in the envelope provided. By conducting a sale through this program, you agree that this constitutes immediate enrollment in the program. Any sales of Book-Entry Warrants are subject to The Bank of New York Mellon's Terms and Conditions.

WARRANT AGREEMENT

The Warrant Agreement, dated [ ] (the "Warrant Agreement"), between FairPoint Communications, Inc. (the "Company") and The Bank of New York Mellon, a New Jersey limited liability company, as Warrant Agent (the "Warrant Agent") is incorporated by reference into and made a part of this statement and this statement is qualified in its entirety by reference to the Warrant Agreement. A copy of the Warrant Agreement may be inspected at the Warrant Agent's office at 480 Washington Blvd Jersey City, NJ 07310 and is also available on the Company's website at www.fairpoint.com. All capitalized terms used but not defined herein are defined in the Warrant Agreement shall have the meanings assigned to them therein.

Book-Entry Warrants may be exercised to purchase shares of Common Stock from the Company from the date of the Warrant Agreement through 5:00 p.m. New York City time on the date that is the seven year anniversary of the Effective Date (the "Expiration Date"), at an initial exercise price of $48.81 (the "Exercise Price") multiplied by the number of shares of Common Stock set forth above. The Exercise Price and the number of shares of Common Stock purchasable upon exercise of the Warrants are subject to adjustment upon the occurrence of certain events as set forth in the Warrant Agreement. Subject to the terms and conditions set forth in the Warrant Agreement, each holder of a Book-Entry Warrant may exercise such Book-Entry Warrant by: (1) providing written notice of such election (the "Warrant Exercise Notice") to exercise the Book-Entry Warrant to the Warrant Agent in accordance with the instructions below, no later than 5:00 p.m., New York City time, on the Expiration Date, and (2) paying the applicable Exercise Price, together with any applicable taxes and governmental charges.

In lieu of paying the Exercise Price as set forth in the preceding paragraph, subject to the provisions of the Warrant Agreement, each Book-Entry Warrant shall entitle the holder thereof, at the election of such holder, to exercise the Book-Entry Warrant by authorizing the Company to withhold from issuance a number of shares of Common Stock issuable upon exercise of the Book-Entry Warrant which when multiplied by the Market Price of the Common Stock is equal to the aggregate Exercise Price, and such withheld shares of Common Stock shall no longer be issuable under the Book-Entry Warrant.

The Company shall not be required to issue fractional shares of Common Stock.

(DETACH SALES COUPON HERE)
SELL MY WARRANTS

By signing and returning this form, I am authorizing the sale of FairPoint Communications, Inc. Warrants held by The Bank of New York Mellon in book-entry form in my name. Please mail me a check for the proceeds of the sale less applicable fees. The fees to be charged are included in the enclosed Warrant Sale Program sheet. THIS FORM MUST BE SIGNED BY THE REGISTERED HOLDER(S) EXACTLY AS THEIR NAME(S) APPEAR(S) ON THIS STATEMENT.

FULL SALE:
☐ SELL ALL WARRANTS.

PARTIAL SALE:
☐ SELL _____ WARRANTS.

Taxpayer ID or Social Security Number
_____

_____ _____
SIGNATURE DATE

_____ _____
SIGNATURE DATE

_____
Name

_____
Address

FORM OF ELECTION TO EXERCISE WARRANT FOR WARRANT HOLDERS HOLDING BOOK-ENTRY WARRANTS (TO BE EXECUTED UPON EXERCISE OF THE WARRANT)

The undersigned hereby irrevocably elects to exercise the right, represented by this Warrant Statement, to purchase _____ newly issued shares of Common Stock of FairPoint Communications, Inc. (the "Company") at the Exercise Price of $_____ per share.

The undersigned represents, warrants and promises that it has the full power and authority to exercise and deliver the Warrants exercised hereby. The undersigned represents, warrants and promises that it has delivered or will deliver in payment for such shares $_____ by certified or official bank or bank cashier's check payable to the order of "FairPoint Communications, Inc.", or through a cashless exercise (as described below), no later than 5:00 p.m., New York City time, on the business day immediately prior to the settlement date, which Settlement Date is three business days after a Warrant Exercise Notice is delivered.

☐ Please check if the Common Stock is listed or admitted for trading on a national securities exchange or an over-the-counter market or comparable system and, subject to the provisions of this Warrant Agreement, the holder, in lieu of paying the Exercise Price as set forth in the preceding paragraph, elects to exercise the Warrant by authorizing the Company to withhold from issuance a number of shares of Common Stock issuable upon exercise of the Warrant which when multiplied by the Market Price of the Common Stock is equal to the aggregate Exercise Price for the number of Shares for which the Warrant is being exercised (assuming the Exercise Price for all such Shares was being paid in cash), and such withheld shares of Common Stock shall no longer be issuable under the Warrant.

The undersigned requests that a certificate representing the shares of Common Stock be delivered as follows:

_____
Name

_____
Address

_____
Delivery Address (if different)

If such number of shares of Common Stock is less than the aggregate number of shares of Common Stock purchasable hereunder, the undersigned requests that a new Book-Entry Warrant representing the balance of such Warrants shall be registered, with the appropriate Warrant Statement delivered as follows:

_____
Name

_____
Address

_____
Delivery Address (if different)

_____
Social Security or Other Taxpayer Identification Number of Holder

_____
Signature

Note: The above signature must correspond with the name as written upon the Warrant Statement in every particular, without alteration or enlargement or any change whatsoever. If the certificate representing the shares of Common Stock or any Warrant Statement representing Warrants not exercised is to be registered in a name other than that in which this Warrant Statement is registered, the signature of the holder hereof must be guaranteed.

SIGNATURE GUARANTEED

BY: _____

Signatures must be guaranteed by a participant in a Medallion Signature Guarantee Program at a guarantee level acceptable to the Company's transfer agent.

Definitions
For more definitions, please visit our Glossary on-line through Investor ServiceDirect

Account Number:	The number needed by your broker to effect a transaction on your behalf.	Personal Account Information:	Your Account Number at [ ], your Taxpayer Identification Number and your account registration information.
CUSIP:	A unique number used to identify Company Name and the class of securities represented by this statement.	DRS or Direct Registration System:	A system established by the securities industry that allows investors to hold their warrants in electronic form on the books of the Issuer rather than in the form of a physical warrant certificate.
Investor ID:	The number used by Mellon Investor Services to identify your account on the records of Company Name via the Internet.	Book-Entry Warrants:	Warrants for securities that are recorded and maintained electronically by the plan administrator or transfer agent and evidenced by a statement rather than a physical certificate.

FORM OF ASSIGNMENT

(TO BE EXECUTED BY THE REGISTERED HOLDER IF SUCH HOLDER DESIRES TO TRANSFER A WARRANT)

FOR VALUE RECEIVED, the undersigned registered holder hereby sells, assigns and transfers unto

_____
Name of Assignee

_____
Address of Assignee

Warrants to purchase _____ shares of Common Stock held by the undersigned, together with all right, title and interest therein, and does irrevocably constitute and appoint Warrant Agent attorney, to transfer such Warrants on the books of the Warrant Agent, with full power of substitution.

_____ _____
Dated Signature

_____
Social Security or Other Taxpayer Identification Number of Assignee

SIGNATURE GUARANTEED BY:

_____

Signatures must be guaranteed by a participant in a Medallion Signature Guarantee Program at a guarantee level acceptable to the Company's transfer agent.

EXHIBIT B

FORM OF FACE OF GLOBAL WARRANT CERTIFICATE

VOID AFTER _____ __, 2017

This Global Warrant Certificate is held by The Depository Trust Company (the "Depository") or its nominee in custody for the benefit of the beneficial owners hereof, and is not transferable to any person under any circumstances except that (i) this Global Warrant Certificate may be delivered to the Warrant Agent for cancellation pursuant to Section 7(g) of the Warrant Agreement and (iii) this Global Warrant Certificate may be transferred to a successor Depository with the prior written consent of the Company.

Unless this Global Warrant Certificate is presented by an authorized representative of the Depository to the Company or the Warrant Agent for registration of transfer, exchange or payment and any certificate issued is registered in the name of Cede & Co. or such other entity as is requested by an authorized representative of the Depository (and any payment hereon is made to Cede & Co. or to such other entity as is requested by an authorized representative of the Depository), any transfer, pledge or other use hereof for value or otherwise by or to any person is wrongful because the registered owner hereof, Cede & Co., has an interest herein.

Transfers of this Global Warrant Certificate shall be limited to transfers in whole, but not in part, to nominees of the Depository or to a successor thereof or such successor's nominee, and transfers of portions of this Global Warrant Certificate shall be limited to transfers made in accordance with the restrictions set forth in Section 6 of the Warrant Agreement.

No registration or transfer of the securities issuable pursuant to the exercise of the Warrant will be recorded on the books of the Company until such provisions have been complied with.

To the extent that any provision hereof conflicts with any provision of the Warrant Agreement, the provision in the Warrant Agreement shall control.

No. CUSIP No. _____

WARRANT TO PURCHASE

SHARES OF COMMON STOCK

FAIRPOINT COMMUNICATIONS, INC.

GLOBAL WARRANT TO PURCHASE COMMON STOCK

FORM OF FACE OF WARRANT CERTIFICATE
VOID AFTER _____ __, 2017

This Warrant Certificate ("Warrant Certificate") certifies that or its registered assigns is the registered holder of a Warrant (the "Warrant") of FairPoint Communications, Inc. a Delaware corporation (the "Company"), to purchase the number of shares (the "Shares") of common stock, par value $0.01 per share (the "Common Stock"), of the Company set forth above. This warrant expires on the date that is the seven year anniversary of the Effective Date (such date, the "Expiration Date"), and entitles the holder to purchase from the Company the number of fully paid and non-assessable Shares set forth above at the exercise price (the "Exercise Price") multiplied by the number of Shares set forth above, payable to the Company either by certified or official bank or bank cashier's check payable to the order of the Company, or by wire transfer in immediately available funds of the aggregate Exercise Price to an account of the Warrant Agent specified in writing by the Warrant Agent for such purpose, no later than 5:00 p.m., New York City time, on the business day immediately prior to the settlement date, which settlement date is three business days after a Warrant Exercise Notice is delivered (the "Settlement Date"). The initial Exercise Price shall be $48.81.

In lieu of paying the Exercise Price as set forth in the preceding paragraph, subject to the provisions of the Warrant Agreement (as defined on the reverse hereof), each Warrant shall entitle the holder thereof, at the election of such holder, to exercise the Warrant by authorizing the Company to withhold from issuance a number of Shares issuable upon exercise of the Warrant which when multiplied by the Market Price of the Common Stock is equal to the aggregate Exercise Price for the number of Shares for which the Warrant is being exercised (assuming the Exercise Price for all such Shares was being paid in cash), and such withheld Shares shall no longer be issuable under the Warrant.

The Exercise Price and the number of Shares purchasable upon exercise of this Warrant are subject to adjustment upon the occurrence of certain events as set forth in the Warrant Agreement.

To the extent that any provision hereof conflicts with any provision of the Warrant Agreement, the provision in the Warrant Agreement shall control.

No Warrant may be exercised prior to the date of the Warrant Agreement or after the Expiration Date. After the Expiration Date, the Warrants will become wholly void and of no value.

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS WARRANT CERTIFICATE SET FORTH ON THE REVERSE HEREOF. SUCH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH FULLY SET FORTH AT THIS PLACE.

This Warrant Certificate shall not be valid unless countersigned by the Warrant Agent.

IN WITNESS WHEREOF, the Company has caused this Warrant Certificate to be executed by its duly authorized officer.

Dated: _____

FAIRPOINT COMMUNICATIONS, INC.

By:_____
Name:
Title:

THE BANK OF NEW YORK MELLON,
as Warrant Agent

By:_____
Name:
Title:

FORM OF REVERSE OF GLOBAL WARRANT CERTIFICATE
FAIRPOINT COMMUNICATIONS, INC.

The Warrant evidenced by this Warrant Certificate is a part of a duly authorized issue of Warrants to purchase shares of Common Stock issued pursuant to that certain Warrant Agreement, dated as of the Effective Date of the Plan (the "Warrant Agreement"), duly executed and delivered by the Company and The Bank of New York Mellon, as Warrant Agent (the "Warrant Agent"). The Warrant Agreement hereby is incorporated by reference in and made a part of this instrument and is hereby referred to for a description of the rights, limitation of rights, obligations, duties and immunities thereunder of the Warrant Agent, the Company and the holders (the words "holders" or "holder" meaning the registered holders or registered holder) of the Warrants. A copy of the Warrant Agreement may be inspected at the Warrant Agent office and is available upon written request addressed to the Company. All capitalized terms used on the face of this Warrant Certificate herein but not defined that are defined in the Warrant Agreement shall have the meanings assigned to them therein.

Warrants may be exercised to purchase Warrant Shares from the Company from the date of the Warrant Agreement through 5:00 p.m., New York City time, on the Expiration Date, at the Exercise Price set forth on the face hereof, subject to adjustment as described in the Warrant Agreement. Subject to the terms and conditions set forth herein and in the Warrant Agreement, the holder of the Warrant evidenced by this Warrant Certificate may exercise such Warrant by:

(i) providing written notice of such election ("Warrant Exercise Notice") to exercise the Warrant to the Company and the Warrant Agent at the addresses set forth in the Warrant Agreement, by hand or by facsimile, no later than 5:00 p.m., New York City time, on the Expiration Date, which Warrant Exercise Notice shall substantially be in the form of an election to purchase shares of Common Stock set forth herein, properly completed and executed by the holder;

(ii) delivering no later than 5:00 p.m., New York City time, on the business day immediately prior to the Settlement Date, the Warrant Certificates evidencing such Warrants to the Warrant Agent; and

(iii) paying the applicable Exercise Price, together with any applicable taxes and governmental charges.

In lieu of paying the Exercise Price as set forth in the preceding paragraph, subject to the provisions of the Warrant Agreement, each Warrant shall entitle the holder thereof, at the election of such holder, to exercise the Warrant by authorizing the Company to withhold from issuance a number of shares of Common Stock issuable upon exercise of the Warrant which when multiplied by the Market Price of the Common Stock is equal to the aggregate Exercise Price for the number of Shares for which the Warrant is being exercised (assuming the Exercise Price for all such Shares was being paid in cash), and such withheld shares shall no longer be issuable under the Warrant.

In the event that upon any exercise of the Warrant evidenced hereby the number of shares of Common Stock actually purchased shall be less than the total number of shares of Common Stock purchasable upon exercise of the Warrant evidenced hereby, there shall be issued to the holder hereof, or such holder's assignee, a new Warrant Certificate evidencing a Warrant to purchase the shares of Common Stock not so purchased. No adjustment shall be made for any cash dividends on any shares of Common Stock issuable upon exercise of this Warrant. After the Expiration Date, unexercised Warrants shall become wholly void and of no value.

The Company shall not be required to issue fractional shares of Common Stock or any certificates that evidence fractional Shares.

Warrant Certificates, when surrendered by book-entry delivery through the facilities of the Depository, may be exchanged, in the manner and subject to the limitations provided in the Warrant Agreement, but without payment of any service charge, for another Warrant Certificate or Warrant Certificates of like tenor evidencing a Warrant to purchase in the aggregate a like number of shares of Common Stock.

No Warrants may be sold, exchanged or otherwise transferred in violation of the Securities Act or state securities laws.

The Company and Warrant Agent may deem and treat the registered holder hereof as the absolute owner of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone) for the purpose of any exercise hereof and for all other purposes, and neither the Company nor the Warrant Agent shall be affected by any notice to the contrary.

[Balance of page intentionally remains blank]

[TO BE ATTACHED TO GLOBAL WARRANT CERTIFICATE]

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL WARRANT CERTIFICATE

The following increases or decreases in this Global Warrant have been made:

Date	Amount of decrease in the number of shares issuable upon exercise of the Warrants represented by this Global Warrant	Amount of increase in number of shares issuable upon exercise of the Warrants represented by this Global Warrant	Number of shares issuable upon exercise of the Warrants represented by this Global Security following such decrease or increase	Signature of authorized officer of the Depositary

FORM OF ELECTION TO EXERCISE WARRANT FOR
WARRANT HOLDERS HOLDING WARRANTS THROUGH
THE DEPOSITORY TRUST COMPANY

TO BE COMPLETED BY DIRECT PARTICIPANT
IN THE DEPOSITORY TRUST COMPANY
FAIRPOINT COMMUNICATIONS, INC.

Warrants to Purchase _____ Shares of Common Stock
(TO BE EXECUTED UPON EXERCISE OF THE WARRANT)

The undersigned hereby irrevocably elects to exercise the right, represented by Warrants to purchase shares of Common Stock of FairPoint, Communications, Inc. (the "Company") held for its benefit through the book-entry facilities of The Depository Trust Company (the "Depository"), to purchase _____ newly issued shares of Common Stock of the Company at the Exercise Price of $_____ per share.

The undersigned represents, warrants and promises that it has the full power and authority to exercise and deliver the Warrants exercised hereby. The undersigned represents, warrants and promises that it has delivered or will deliver in payment for such shares $_____ by certified or official bank or bank cashier's check payable to the order of the Company, or by wire transfer in immediately available funds of the aggregate Exercise Price to an account of the Warrant Agent specified in writing by the Warrant Agent for such purpose or through a cashless exercise (as described below), no later than 5:00 p.m., New York City time, on the business day immediately prior to the Settlement Date.

☐ Please check if the Common Stock is listed or admitted for trading on a national securities exchange or an over-the-counter market or comparable system and the undersigned, in lieu of paying the Exercise Price as set forth in the preceding paragraph, elects to exercise the Warrant by authorizing the Company to withhold from issuance a number of shares of Common Stock issuable upon exercise of the Warrant which when multiplied by the Market Price of the Common Stock is equal to the aggregate Exercise Price for the number of Shares for which the Warrant is being exercised (assuming the Exercise Price for all such Shares was being paid in cash), and such withheld shares of Common Stock shall no longer be issuable under the Warrant.

The undersigned requests that the shares of Common Stock purchased hereby be in registered form in the authorized denominations, registered in such names and delivered, all as specified in accordance with the instructions set forth below, provided that if the shares of Common Stock are evidenced by global securities, the shares of Common Stock shall be registered in the name of the Depository or its nominee.

Dated: _____

NOTE: THIS EXERCISE NOTICE MUST BE DELIVERED TO THE WARRANT AGENT, PRIOR TO 5:00 P.M., NEW YORK CITY TIME, ON THE EXPIRATION DATE. THE WARRANT AGENT SHALL NOTIFY YOU (THROUGH THE CLEARING SYSTEM) OF (1) THE WARRANT AGENT'S ACCOUNT AT THE DEPOSITORY TO WHICH YOU MUST DELIVER YOUR WARRANTS ON THE EXERCISE DATE AND (2) THE ADDRESS, PHONE NUMBER AND FACSIMILE NUMBER WHERE YOU CAN CONTACT THE WARRANT AGENT AND TO WHICH WARRANT EXERCISE NOTICES ARE TO BE SUBMITTED.

NAME OF DIRECT PARTICIPANT IN THE DEPOSITORY: _____

(PLEASE PRINT)
ADDRESS: _____

CONTACT NAME: _____

ADDRESS: _____

TELEPHONE (INCLUDING INTERNATIONAL CODE):

FAX (INCLUDING INTERNATIONAL CODE):

SOCIAL SECURITY OR OTHER TAXPAYER IDENTIFICATION NUMBER (IF APPLICABLE):

ACCOUNT FROM WHICH WARRANTS ARE BEING DELIVERED:

DEPOSITORY ACCOUNT NO."

WARRANT EXERCISE NOTICES WILL ONLY BE VALID IF DELIVERED IN ACCORDANCE WITH THE INSTRUCTIONS SET FORTH IN THIS NOTIFICATION (OR AS OTHERWISE DIRECTED), MARKED TO THE ATTENTION OF "WARRANT EXERCISE". WARRANT HOLDER DELIVERING WARRANTS, IF OTHER THAN THE DIRECT DTC PARTICIPANT DELIVERING THIS WARRANT EXERCISE NOTICE:

NAME: _____
(PLEASE PRINT)

CONTACT NAME: _____

TELEPHONE (INCLUDING INTERNATIONAL CODE): _____

FAX (INCLUDING INTERNATIONAL CODE): _____

SOCIAL SECURITY OR OTHER TAXPAYER IDENTIFICATION NUMBER (IF APPLICABLE):

ACCOUNT TO WHICH THE SHARES OF COMMON STOCK ARE TO BE CREDITED:

DEPOSITORY ACCOUNT
NO.: _____

FILL IN FOR DELIVERY OF THE COMMON STOCK, IF OTHER THAN TO THE PERSON DELIVERING THIS WARRANT EXERCISE NOTICE:

NAME:_____
(PLEASE PRINT)

ADDRESS: _____

CONTACT
NAME:_____

TELEPHONE (INCLUDING INTERNATIONAL CODE):

FAX (INCLUDING INTERNATIONAL CODE):

SOCIAL SECURITY OR OTHER TAXPAYER IDENTIFICATION NUMBER (IF APPLICABLE):

_____

NUMBER OF SHARES OF COMMON STOCK FOR WHICH WARRANT IS BEING EXERCISED

(ONLY ONE EXERCISE PER WARRANT EXERCISE NOTICE)

Signature: _____

Name: _____

Capacity in which Signing: _____

Signature Guaranteed BY: _____

Signatures must be guaranteed by a participant in a Medallion Signature Guarantee Program at a guarantee level acceptable to the Company's transfer agent.

EXHIBIT C

FORM OF ASSIGNMENT

(TO BE EXECUTED BY THE REGISTERED HOLDER IF SUCH HOLDER DESIRES TO TRANSFER A WARRANT)

FOR VALUE RECEIVED, the undersigned registered holder hereby sells, assigns and transfers unto

_____
Name of Assignee

_____
Address of Assignee

Warrants to purchase _____ shares of Common Stock held by the undersigned, together with all right, title and interest therein, and does irrevocably constitute and appoint attorney, to transfer such Warrants on the books of the Warrant Agent, with full power of substitution.

_____ _____
Dated Signature

_____
Social Security or Other Taxpayer Identification Number of Assignee

SIGNATURE GUARANTEED BY:

_____

Signatures must be guaranteed by a participant in a Medallion Signature Guarantee Program at a guarantee level acceptable to the Company's transfer agent.

ITEM 3

PART A

LIST OF NEW BOARD MEMBERS

Todd Arden joined Angelo, Gordon in 2000, and currently is a Managing Director in its distressed securities group. Prior to joining Angelo, Gordon, Mr. Arden served as a Portfolio Manager/Analyst within AIG/SunAmerica's High Yield Group from 1998 to 2000. Previously, he was a Senior Equity Analyst at Troubh Partners from 1995 to 1997. Mr. Arden began his career as a Manager in Arthur Andersen's Financial Consulting Services practice from 1989 to 1995, concentrating in the distressed/litigation support area. He is a Chartered Financial Analyst and holds a B.A. from Northwestern University and an MBA from the Columbia University School of Business.

Dr. Dennis J Austin has served as an independent telecommunications consultant since 2002. Dr. Austin previously served as a consultant at Bearing Point, formerly KPMG Consulting and formerly KPMG LLP, from 1995 to 2002, and as Vice President at San Francisco Consulting Group ("SFCG") from 1985 to 1995. Prior to joining SFCG, Dr. Austin was Vice President of Engineering with DataSpeed Inc. from 1983 to 1985 and Director of Switch Engineering, Network Planning and Design at GTE Sprint from 1977 to 1983. Prior to joining GTE Sprint, Dr. Austin served as a member of the technical staff with Bell Telephone Labs from 1966 to 1977. Dr. Austin holds a Ph.D in Electrical Engineering from Stanford University.

Edward D. Horowitz currently serves as the Chairman of Edslink, LLC, which he founded in 2000. Mr. Horowitz will serve as serve as Chairman of the Board upon emergence. Mr. Horowitz also served as the President and Chief Executive Officer, SES–Americom and as a member of the SES–Global Executive Committee of SES Luxembourg from 2005 to 2008, and was employed at Citigroup from 1997 to 2000, where he was the founder and Chairman of e-Citi and served as an Executive Vice President. Mr. Horowitz serves as a director of On Line Resources, the New York March of Dimes and the Kenan Institute of Ethics at Duke University and is a trustee of the New York Hall of Science. He received a B.S. in physics from the City College of New York and an MBA from the Columbia University School of Business.

Michael J. Mahoney previously served as President and Chief Executive Officer of Commonwealth Telephone Enterprises ("Commonwealth Telephone") from 2000 to 2007. Prior to joining Commonwealth Telephone, Mr. Mahoney served as President and Chief Operating Officer of RCN Corporation from 1997 to 2000 and as President and Chief Operating Officer of C-TEC Corporation from 1993 to 1997. Mr. Mahoney currently serves as a director of Level 3 Communications and as a trustee of Wilkes University. He received a B.S. in accounting from Villanova University.

Michael K. Robinson has served as President, Chief Executive Officer and as a director of Broadview Networks since 2005. Mr. Robinson previously served as Executive Vice President and Chief Financial Officer of US LEC (which is now part of PAETEC) from 1998 to 2005. Mr. Robinson received a B.A. in Business and Economics from Emory & Henry College and an MBA from Wake Forest University.

Paul H. Sunu is the current Chief Executive Officer of FairPoint. Mr. Sunu previously served as Chief Financial Officer of Hargray Communications Group from 2008 to 2010. Mr. Sunu previously served as Chief Financial Officer of Hawaiian Telcom from 2007 to 2008 and as Managing Director and Chief Financial Officer of Madison River Communications from 1996 to 2007. He currently serves as a director of Integra Telecom and Merscom, is a former board member of Madison River Communications, Centennial Communications, Hawaii Public Radio, the Honolulu Chamber of Commerce and the Love School of Business at Elon University, and has been nominated to serve as a director of Hawaiian Telcom upon its exit from Chapter 11. Mr.

Sunu also served as an Adjunct Professor of Business at Elon University in 2007. He received a B.A. in public administration from the University of Illinois and a J.D. from the University of Illinois College of Law.

David L. Treadwell has served as EaglePicher Corporation's President and Chief Executive Officer since 2006. He previously served as Chief Operating Officer of EaglePicher Incorporated from 2005 to 2006, as President of EaglePicher Incorporated's Hillsdale division in 2005 and as Chief Executive Officer of Oxford Automotive from 2004 to 2005. Mr. Treadwell currently serves as a director of Flagstar Bank and previously served as a director of Fifth Third Bank-Michigan East Region. He received a B.B.A. from the University of Michigan, Ann Arbor.

Wayne Wilson, a New Hampshire resident, has been an independent business advisor since 2002. From 1995 to 2002, Mr. Wilson served in various roles as President, Chief Operating Officer and Chief Financial Officer of PC Connection, Inc., a Fortune 1000 direct marketer of information technology products and services. From 1986 to 1995, Mr. Wilson was a partner in the assurance and advisory services practice of Deloitte & Touche LLP. Mr. Wilson currently serves as a director of ARIAD Pharmaceuticals, Inc., Edgewater Technology, Inc. and Hologic, Inc. He previously served as a director of Cytyc Corporation. Mr. Wilson received an A.B. in political science from Duke University, and an MBA from the University of North Carolina at Chapel Hill. He is a certified public accountant in New Hampshire and North Carolina.

PART B

LITIGATION TRUSTEE

Mark E. Holliday is President of Goshawk Capital Corp., an investment firm which he founded, and has been a partner in Camden Asset Management LP, a hedge fund focused on convertible arbitrage since 2003. Prior to joining Camden, Mr. Holliday was a portfolio manager at Deephaven Capital Management and a principal at Heartland Capital Corp. from 1995 to 2000. Mr. Holliday has served as a director and Audit Committee Chairman of FiberTower Corporation since November 2008, a director and Audit Committee Chairman of Movie Gallery Inc., the second largest video rental company in the United States, since May 2008, and has served as Chairman of the Board since Movie Gallery filed for Chapter 11 in February 2010, and as a director of MCAR (Mirant Litigation Trust) since January 2006. Mr. Holliday previously served as a director of Clear One Health Plans from January 2009 until its acquisition in June 2010, as Audit Committee Chairman for Assisted Living Concepts, Inc., which operated, owned and leased assisted living residences, from 2002 until its acquisition in 2005, and was Chairman of the Board and a member of the Audit Committee for Reptron Electronics from 2004 until new equity ownership in July 2005. Mr. Holliday also was an Audit Committee member for TELETRAC, Inc. from 1999 to 2001. Mr. Holliday earned a B.A. in economics from Northwestern University.

ITEM 4

REGISTRATION RIGHTS AGREEMENT

This REGISTRATION RIGHTS AGREEMENT, dated as of **[**insert Effective Date**]**, 2011 (this "Agreement") is made among (i) FairPoint Communications, Inc., a Delaware corporation (the "Company"), and (ii) each[1] person that, together with beneficial holdings of all affiliates of such person, is the beneficial holder of at least 10% of the Common Stock, each such holder being listed on Schedule I hereto (collectively, the "Ten Percent Holders"). Capitalized terms used herein without definition shall have the meanings set forth in Section 10.

Pursuant to the Plan of Reorganization, as approved by the Bankruptcy Court, the Company has agreed to grant the Ten Percent Holders certain registration rights with respect to the Registrable Securities held by such Ten Percent Holders.

NOW, THEREFORE, the parties hereto agree as follows:

1. Demand Registrations.

(a) Requests for Registration. At any time following the date that is one hundred eighty (180) days after the date hereof, the Required Holders may request in writing that the Company effect the registration of all or any part of the Registrable Securities held by such Required Holders (a "Registration Request"); *provided*, *however*, that each such Ten Percent Holder must confirm to the Company that such Ten Percent Holder (together with its affiliates) is the beneficial holder of an aggregate of at least 7.5% of the then outstanding Common Stock, and that such Ten Percent Holder (together with its affiliates) has beneficially held an aggregate of at least 7.5% of the then outstanding Common Stock, continuously since the date hereof. Promptly after its receipt of any Registration Request, but in any event within five business days, the Company will give written notice of such request to all other Ten Percent Holders, and will use its reasonable best efforts to register, in accordance with the provisions of this Agreement, all Registrable Securities that have been requested to be registered by the Required Holders in the Registration Request or by any other Ten Percent Holders by written notice to the Company, which notice (i) is received within 30 days after the date the Company has given such Ten Percent Holders notice of the Registration Request and (ii) is accompanied by a statement confirming that such Ten Percent Holder (together with its affiliates) is the beneficial holder of an aggregate of at least 7.5% of the then outstanding Common Stock, and that such Ten Percent Holder (together with its affiliates) has beneficially held an aggregate of at least 7.5% of the then outstanding Common Stock, continuously since the date hereof. The Company will pay all

[1] Note: This draft assumes that there will be only one Ten Percent Holder. Modifications will be required if there are two or more Ten Percent Holders.

Registration Expenses incurred in connection with any registration pursuant to this Section 1, including with respect to any underwritten takedown from a Shelf Registration, whether or not such registration becomes effective.

(b) Limitation on Demand Registrations. The Company will not be obligated to effect more than two (2) registrations pursuant to Section 1(a) or underwritten takedowns under a Shelf Registration Statement pursuant to Section 1(c) (each, a "Demand Registration"); *provided, however*, that a request for registration will not count for the purposes of this limitation if (i) the Required Holders determine in good faith to withdraw (prior to the effective date of the Registration Statement relating to such request) the proposed registration, (ii) the Registration Statement relating to such request is not declared effective within the earlier of (x) 130 days of the receipt by the Company of the related Registration Request and (y) 90 days of the date such registration statement is first filed with the Commission, (iii) prior to the sale of all of the Registrable Securities included in the registration relating to such request, such registration is adversely affected by any stop order, injunction or other order or requirement of the Commission or other governmental agency or court for any reason, (iv) any of the Registrable Securities requested by the Required Holders to be included in the registration are not so included pursuant to Section 1(f), (v) the conditions to closing specified in any underwriting agreement entered into in connection with the registration relating to such request are not satisfied (other than as a result of a material default or breach thereunder by the Required Holders), or (vi) the Company has breached any of its obligations hereunder with respect to such Demand Registration. Notwithstanding the foregoing, the Company will pay all Registration Expenses in connection with any request for registration pursuant to Section 1(a) regardless of whether or not such request counts toward the limitations set forth in this paragraph.

(c) Shelf Registration. The Required Holders will be entitled to request the Company to file and thereafter use its reasonable efforts to continuously maintain a Registration Statement relating to the resale of any Registrable Securities pursuant to Rule 415 under the Securities Act (the "Shelf Registration Statement"), if and to the extent the Company is qualified to file a registration statement on Form S-3 (a "Shelf Registration"); *provided, however,* that each such Ten Percent Holder must confirm to the Company that such Ten Percent Holder (together with its affiliates) is the beneficial holder of an aggregate of at least 7.5% of the then outstanding Common Stock, and that such Ten Percent Holder (together with its affiliates) has beneficially held an aggregate of at least 7.5% of the then outstanding Common Stock, continuously since the date hereof. Promptly after its receipt of a request to file the Shelf Registration Statement, but in any event within five business days, the Company will give written notice of such request to all other Ten Percent Holders, and will use its reasonable best efforts to register pursuant to the Shelf Registration Statement, in accordance with the provisions of this Agreement, all Registrable Securities that have been requested to be registered by the Required Holders in the Registration Request made pursuant to this Section 1(c) or by

any other Ten Percent Holders by written notice to the Company, which notice (i) is received within 30 days after the date the Company has given such Ten Percent Holders notice of the Registration Request made pursuant to this Section 1(c) and (ii) is accompanied by a statement confirming that such Ten Percent Holder (together with its affiliates) is the beneficial holder of an aggregate of at least 7.5% of the then outstanding Common Stock, and that such Ten Percent Holder (together with its affiliates) has beneficially held an aggregate of at least 7.5% of the then outstanding Common Stock, continuously since the date hereof. The Company will pay all Registration Expenses incurred in connection with a Shelf Registration Statement, whether or not such registration becomes effective. A Registration Request made pursuant to this Section 1(c) will not count for the purposes of the limitation set forth in Section 1(b) until such time as an underwritten takedown is effected pursuant to the applicable Shelf Registration Statement and at least 50% of the Registrable Securities contemplated to be sold by the Ten Percent Holder pursuant to such underwritten offering have been sold pursuant to such offering.

(d) Restrictions on Demand Registrations. The Company may postpone for a reasonable period of time, not to exceed 60 days, the filing of a prospectus or the effectiveness of a Registration Statement for a Demand Registration or the use of a prospectus relating to a Shelf Registration Statement if the Company furnishes to the Ten Percent Holders covered by such prospectus or Registration Statement a certificate signed by the Chief Executive Officer, Chief Financial Officer or President of the Company stating that such officers, in their good faith judgment, have determined that any registration of Registrable Securities should not be made or continued because it would materially interfere with any bona fide and reasonably imminent material financing, acquisition, corporate reorganization or other transaction involving the Company; *provided, however*, that the Company may not effect such a postponement more than once in any 365 day period. If the Company so postpones the filing of a prospectus or the effectiveness of a Registration Statement relating to a Demand Registration, the Required Holders will be entitled to withdraw the applicable Registration Request and, if such request is withdrawn, such Registration Request will not count for the purposes of the limitation set forth in Section 1(b). The Company will pay all Registration Expenses incurred in connection with any such aborted registration or prospectus.

(e) Selection of Underwriters. If the Required Holders intend to distribute the Registrable Securities covered by their Registration Request by means of an underwritten offering, they will so advise the Company as a part of the Registration Request (or as part of a request for an underwritten takedown from a Shelf Registration), and the Company will include such information in the notice sent by the Company to the other Ten Percent Holders with respect to such Registration Request. In such event, the Required Holders will have the right to select the investment banker(s) and manager(s) to administer the offering, which shall be reasonably satisfactory to the Company. If the offering is underwritten, the right of any Ten Percent Holder to registration pursuant to this Section

1 will be conditioned upon such Ten Percent Holder's participation in such underwriting and the inclusion of the Ten Percent Holder's Registrable Securities that it wishes to sell in the underwriting (unless otherwise agreed by the Required Holders), and the Company and each such Ten Percent Holder, as applicable, will (together with the other Ten Percent Holders distributing their securities through such underwriting) enter into an underwriting agreement, in a customary form satisfactory to the Required Holders, with the underwriter or underwriters selected for such underwriting. If any Ten Percent Holder disapproves of the terms of the underwriting, such Ten Percent Holder may elect to withdraw therefrom by written notice to the Company, the managing underwriter and the Required Holders.

(f) Priority on Demand Registrations. The Company will not include in any underwritten registration pursuant to Sections 1(a) or 1(c) any securities that are not Registrable Securities without the prior written consent of the Required Holders. If the managing underwriter advises the Company in writing that in its opinion the number of Registrable Securities (and, if permitted hereunder, other securities requested to be included in such offering) exceeds the number of securities that can be sold in such offering without adversely affecting the marketability of the offering, the Company will include in such offering only such number of securities that in the opinion of such underwriters can be sold without adversely affecting the marketability of the offering, which securities will be so included in the following order of priority: (i) first, Registrable Securities, *pro rata* among the respective Ten Percent Holders thereof on the basis of the aggregate number of Registrable Securities owned by each such Holder, and (ii) second, any other securities of the Company that have been requested to be so included.

(g) Method of Distribution. Any registration pursuant to this Section 1 shall be effected by means of a Registration Statement in accordance with the plan of distribution set forth therein and in the prospectus and prospectus supplement related thereto, as applicable. The Registration Statement shall specify the types of sale or distribution transactions pursuant to which the Ten Percent Holders may from time to time sell Registrable Securities, which shall include, without limitation, sales to underwriters for resale to the public or to institutional investors, sales on stock exchanges or in the over-the-counter market (at prevailing market prices, at prices related to such prevailing market prices or at negotiated prices), block trades, purchases by a broker or dealer as principal and resale by that broker or dealer for its own account, ordinary broker's transactions and transactions in which the broker solicits purchasers, privately negotiated transactions and such other methods of sale by the Ten Percent Holders as the Required Holders may (but shall not be required to) elect and specify in their Registration Request.

2. Piggyback Registrations.

(a) Right to Piggyback. Whenever the Company proposes to register any of its securities, whether for the Company's own account or for the account of any stockholders of the Company, other than, without limitation, pursuant to Section 1 (other than a registration on Form S-4 or a registration relating to (x) any employee stock options or other employee benefit plans or (y) the sale of debt or convertible debt instruments ("Exempted Securities")), the Company shall give prompt written notice, but in any event within five business days, to all Ten Percent Holders of its intention to effect such a registration and shall include in such registration all Registrable Securities with respect to which the Company has received written requests for inclusion therein, which request is received within 30 days after the date of the Company's notice (a "Piggyback Registration"). Any Ten Percent Holder that has made such a written request may withdraw its Registrable Securities from such Piggyback Registration by giving written notice to the Company and the managing underwriter, if any, on or before the 30th day prior to the planned effective date of such Piggyback Registration. The Company may terminate or withdraw any registration under this Section 2 prior to the effectiveness of such registration, whether or not any Ten Percent Holder has elected to include Registrable Securities in such registration, and except for the obligation to pay Registration Expenses pursuant to Section 2(c), the Company will have no liability to any Ten Percent Holder in connection with such termination or withdrawal.

(b) Underwritten Registration. If the registration referred to in Section 2(a) is proposed to be underwritten, the Company will so advise the Ten Percent Holders as a part of the written notice given pursuant to Section 2(a), and the Ten Percent Holders shall be permitted to include all Registrable Securities requested to be included in such registration in such offering on the same terms and conditions as any other securities of the Company included therein. In such event, the right of any Ten Percent Holder to registration pursuant to this Section 2 will be conditioned upon such Ten Percent Holder's participation in such underwriting and the inclusion of such Ten Percent Holder's Registrable Securities in the underwriting, and each such Ten Percent Holder will (together with the Company and the other Ten Percent Holders distributing their securities through such underwriting) enter into an underwriting agreement, in customary form, with the underwriter or underwriters selected for such underwriting by the Company. If any Ten Percent Holder disapproves of the terms of the underwriting, such Ten Percent Holder may elect to withdraw therefrom by written notice to the Company and the managing underwriter.

(c) Piggyback Registration Expenses. The Company will pay all Registration Expenses in connection with any Piggyback Registration, whether or not any registration or prospectus becomes effective.

(d) Priority on Registrations. If a Piggyback Registration relates to an underwritten offering that is not a Demand Registration pursuant to Section 1 hereof, and

the managing underwriters advise the Company in writing that in their opinion the number of securities requested to be included in such registration exceeds the number which can be sold without adversely affecting the marketability of such offering, the Company will include in such registration or prospectus only such number of securities that in the opinion of such underwriters can be sold without adversely affecting the marketability of the offering, which securities will be so included in the following order of priority: (i) first, the securities the Company proposes to sell, (ii) second, the Registrable Securities requested to be included in such registration, *pro rata* among the Ten Percent Holders of such Registrable Securities on the basis of the number of Registrable Securities so requested to be included therein by each such Ten Percent Holder, and (iii) third, any other securities requested to be included in such registration.

3. Registration Procedures.

(a) Subject to Section 1(d), whenever the Required Holders have requested that any Registrable Securities be registered (or an underwritten takedown from a Shelf Registration be effected) pursuant to this Agreement, the Company will use its reasonable best efforts to effect the registration and sale of such Registrable Securities in accordance with the intended method of disposition thereof. Without limiting the generality of the foregoing, the Company will:

(i) prepare and as soon as practicable (and in any event within ten days after the end of the thirty-day period within which requests for registration may be given to the Company pursuant hereto (for avoidance of doubt, such ten-day period shall begin to run on the thirtieth day following the applicable notice sent by the Company pursuant to Section 1(a), 1(c) or 2(a))) file with the Commission a Registration Statement with respect to such Registrable Securities on any form for which the Company then qualifies or which counsel for the Company shall deem appropriate and which form shall be available for the sale of such Registrable Securities in accordance with the intended method of distribution thereof, make all required filings with FINRA and thereafter use its reasonable best efforts to cause such Registration Statement to become effective as promptly as practicable but in any event within the earlier of (x) 130 days of the receipt by the Company of the related Registration Request and (y) 90 days of the date such registration statement is first filed with the Commission; *provided, however*, that (A) before filing a Registration Statement or any amendments or supplements thereto (including any documents incorporated by reference therein, or any prospectuses or prospectus supplements), or before using any Free Writing Prospectus, the Company will furnish to Holders' Counsel copies of all such documents proposed to be filed, which documents will be subject to review and comment of Holders' Counsel at the Company's expense, (B) the Company will not file such Registration Statement, amendment or supplement, prospectus or prospectus supplement, or use such Free Writing Prospectus, prior to the date that is five business days from the date that Holders' Counsel received such document

unless such counsel earlier informs the Company that it has no objections to the filing of such Registration Statement, amendment or supplement, prospectus or prospectus supplement, or the use of such Free Writing Prospectus, and (C) the Company will not file any Registration Statement, amendment or supplement to such Registration Statement, or any prospectuses or prospectus supplements, or use any Free Writing Prospectus, to which Holders' Counsel will have reasonably objected in writing on the grounds that (and explaining why) such Registration Statement, amendment or supplement, prospectus or prospectus supplement or Free Writing Prospectus does not comply in all material respects with the requirements of the Securities Act or of the rules or regulations thereunder;

(ii) prepare and file with the Commission such amendments and supplements to such Registration Statement as may be necessary to keep such Registration Statement and the prospectus used in connection therewith effective for a period of either (A) not less than 12 months (plus the period of any postponement under Section 1(d)) or, if such Registration Statement relates to an underwritten offering, such longer period as in the reasonable opinion of counsel for the underwriters a prospectus is required by law to be delivered in connection with sales of Registrable Securities by an underwriter or dealer or (B) such period as will terminate when all of the securities covered by such Registration Statement have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof set forth in such Registration Statement (as between the time periods in clauses (A) or (B), whichever is the shorter for a Demand Registration under Section 1(a) or a Piggyback Registration, and whichever is the longer for a Shelf Registration, but in any event not before the expiration of any longer period required under the Securities Act), and to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such Registration Statement until such time as all of such securities have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof set forth in such Registration Statement;

(iii) furnish to each seller of Registrable Securities such number of copies, without charge, of such Registration Statement, each amendment and supplement thereto, including each preliminary prospectus, final prospectus, Free Writing Prospectus, all exhibits and other documents filed therewith and such other documents as such seller may reasonably request, including in order to facilitate the disposition of the Registrable Securities owned by such seller; the Company hereby consents to the use of the final prospectus and each preliminary prospectus by seller or sellers of Registrable Securities, and each underwriter of an underwritten offering of Registrable Securities;

(iv) use its reasonable best efforts to register or qualify such Registrable Securities, no later than the time the applicable Registration Statement is declared effective by the Commission, under such other securities or blue sky

laws of such jurisdictions as any seller requests, use its reasonable best efforts to keep each such registration or qualification effective during the period such Registration Statement is required to be kept effective, and do any and all other acts and things that may be necessary or reasonably advisable to enable such seller to consummate the disposition in such jurisdictions of the Registrable Securities owned by such seller (provided that the Company will not be required to (A) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this subsection, (B) subject itself to taxation in any such jurisdiction or (C) consent to general service of process in any such jurisdiction);

(v) use its reasonable best efforts to cause all Registrable Securities covered by such Registration Statement to be registered with or approved by such other governmental agencies, authorities or self-regulatory bodies as may be necessary or reasonably advisable in light of the business and operations of the Company to enable the seller or sellers thereof to consummate the disposition of such Registrable Securities in accordance with the intended method or methods of disposition thereof;

(vi) promptly notify each seller of such Registrable Securities, at any time when a prospectus relating thereto is required to be delivered under the Securities Act, upon discovery that, or upon the discovery of the happening of any event as a result of which, the Registration Statement, prospectus or Free Writing Prospectus or any document incorporated or deemed to be incorporated therein by reference contains an untrue statement of a material fact or omits any fact necessary to make the statements therein not misleading (in the case of the Registration Statement) or not misleading in the light of the circumstances under which they were made (in the case of a prospectus or Free Writing Prospectus), and, as promptly as practicable, prepare and furnish to such seller a reasonable number of copies of a supplement or amendment to such Registration Statement, related prospectus or Free Writing Prospectus as may be necessary so that, as thereafter delivered to the purchasers of such Registrable Securities, in the case of the Registration Statement, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and that in the case of such prospectus or Free Writing Prospectus, it will not contain an untrue statement of a material fact or omit to state any fact necessary to make the statements therein not misleading in the light of the circumstances under which they were made;

(vii) notify each seller of any Registrable Securities covered by such Registration Statement (A) when the prospectus, any prospectus supplement, any Free Writing Prospectus or post-effective amendment has been filed and, with respect to such Registration Statement or any post-effective amendment, when the same has become effective, (B) of any request by the Commission or any other

federal or state governmental authority for amendments or supplements to such Registration Statement or to amend or to supplement such prospectus or Free Writing Prospectus or for additional information, (C) of the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of such Registration Statement or the initiation or threatening of any proceedings for any of such purposes; (D) the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction or the initiation or threatening of any proceedings for such purpose; and (E) of the determination by counsel of the Company that a post-effective amendment to a Registration Statement is advisable, including, for purposes of clauses (B), (C) and (D) above, by furnishing each seller of any Registrable Securities covered by such Registration Statement a copy of any such request or notification;

(viii) cause all such Registrable Securities to be listed on each securities exchange on which the same class of securities issued by the Company are then listed, if any;

(ix) provide a transfer agent and registrar for all such Registrable Securities not later than the effective date of such Registration Statement;

(x) enter into and perform such customary agreements, including underwriting agreements with customary provisions (including, but not limited to, customary indemnification and contribution agreements with the underwriter, provisions for the delivery of officer's certificates, opinions of counsel, Rule 10b-5 negative assurance letters and accountants' "comfort" letters) and take all such other actions as the Required Holders or the underwriters, if any, reasonably request in order to expedite or facilitate the disposition of such Registrable Securities;

(xi) furnish or make available (and cause the Company's officers, directors, employees and independent public accountants to furnish or make available) for inspection by any seller of Registrable Securities, any underwriter participating in any disposition pursuant to such Registration Statement and any attorney, accountant or other agent retained by any such seller or underwriter (collectively the "Inspectors"), such information and assistance as such Inspector may reasonably request in connection with any "due diligence" effort that such Inspector deems appropriate in connection with such Registration Statement, including, but not limited to, all financial and other records, pertinent corporate documents and documents relating to the business of the Company. Records that the Company determines, in good faith, to be confidential and which it notifies the Inspectors are confidential shall not be disclosed by the Inspectors (and the Inspectors shall confirm their agreement in writing in advance to the Company if

the Company shall so request) unless (A) the disclosure of such Records is necessary, in the Inspector's judgment, to avoid or correct a misstatement or omission in the Registration Statement, (B) the release of such Records is ordered pursuant to a subpoena or other order from a court of competent jurisdiction after compliance with the last sentence of this clause (xi) or (C) the information in such Records was known to the Inspectors on a non-confidential basis prior to its disclosure by the Company or has been made generally available to the public. Each seller of Registrable Securities agrees that it shall, upon learning that disclosure of such Records is sought in a court of competent jurisdiction, give notice to the Company and allow the Company, at the Company's expense, to undertake appropriate action to prevent disclosure of the Records deemed confidential;

(xii) otherwise use its reasonable best efforts to comply with all applicable rules and regulations of the Commission, and make available to its security holders, as soon as reasonably practicable, an earnings statement covering the period of at least twelve months beginning with the first day of the Company's first full calendar quarter after the effective date of the Registration Statement, which earnings statement will satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder;

(xiii) in the event any stop order suspending the effectiveness of a Registration Statement is threatened or issued, or any order suspending or preventing the use of any related prospectus or Free Writing Prospectus or ceasing trading of any securities included in such Registration Statement for sale in any jurisdiction is threatened or issued, promptly give notice to each seller of Registrable Securities pursuant to such Registration Statement and Holders' Counsel and use its reasonable best efforts promptly to prevent the entry of such order or to obtain the withdrawal of such order;

(xiv) enter into and perform such agreements and take such other actions as the sellers of Registrable Securities or the underwriters reasonably request in order to expedite or facilitate the disposition of such Registrable Securities, including, without limitation, preparing for and participating in such number of "road shows" and all such other customary selling efforts as the underwriters reasonably request in order to expedite or facilitate such disposition;

(xv) in connection with any underwritten offering, make such representations and warranties to the underwriters in form, substance, and scope as are customarily made by issuers to underwriters in similar underwritten offerings;

(xvi) in connection with any underwritten offering, obtain one or more comfort letters, addressed to underwriters in any underwritten offering, dated the

date of the closing under the underwriting agreement for such offering (and to the extent permitted by accounting rules and guidance, the sellers of Registrable Securities, dated the effective date of such Registration Statement), signed by the Company's independent public accountants in customary form and covering such matters of the type customarily covered by comfort letters as underwriters reasonably request;

(xvii) provide legal opinions and negative assurance letters of the Company's outside counsel, addressed to underwriters in connection with any underwritten offering, dated the effective date of such Registration Statement, each amendment and supplement thereto (and, if such registration includes an underwritten public offering, dated the date of the closing under the underwriting agreement), with respect to the Registration Statement, as amended and supplemented, and such other documents relating thereto, in each case that are customary for the applicable transaction, in customary form and covering such matters as sellers may reasonably request and are customarily covered by legal opinions and negative assurance letters of such nature;

(xviii) with respect to each Free Writing Prospectus or other materials deemed, under Rule 159 promulgated under the Securities Act, to have been conveyed to purchase securities at the time of sale of such securities (including a contract of sale) ensure that no Registrable Securities be sold "by means of" (as defined in Rule 159A(b), promulgated under the Securities Act) such Free Writing Prospectus or other materials without the prior written consent of the Holders of the Registrable Securities covered by such Registration Statement, which Free Writing Prospectuses or other materials shall be subject to the review of Holders' Counsel;

(xix) within the deadlines specified by the Securities Act, make all required filings of all prospectuses and Free Writing Prospectuses with the Commission;

(xx) within the deadlines specified by the Securities Act, make all required filing fee payments in respect of any Registration Statement or prospectus used under this Agreement (and any offering covered thereby);

(xxi) keep Holders' Counsel advised in writing as to the initiation and, as appropriate, of the progress of any registration under Section 1 or Section 2 and provide Holders' Counsel with all correspondence with the Commission in connection with any such Registration Statement;

(xxii) cooperate with each seller of Registrable Securities and each underwriter participating in the disposition of such Registrable Securities and

their respective counsel in connection with any filings required to be made with FINRA;

(xxiii) if such registration is pursuant to a Shelf Registration Statement, include in the body of the prospectus included in such Registration Statement such additional information for marketing purposes as any applicable managing underwriter reasonably requests;

(xxiv) cooperate with the sellers of Registrable Securities and the underwriters of an underwritten offering of Registrable Securities, if any, to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any restrictive legends; and enable such Registrable Securities to be in such denominations (consistent with the provisions of the governing documents thereof) and registered in such names as the sellers of Registrable Securities or the underwriters of an underwritten offering of Registrable Securities, if any, may reasonably request at least three business days prior to any sale of Registrable Securities; and

(xxv) use its reasonable best efforts to take or cause to be taken all other actions, and do and cause to be done all other things, necessary or reasonably advisable in the opinion of any seller of Registrable Securities to effect the registration of such Registrable Securities contemplated hereby.

(b) The Company may require each Ten Percent Holder of Registrable Securities as to which any registration is being effected to furnish the Company with such information regarding such Ten Percent Holder and pertinent to the disclosure requirements relating to the registration and the distribution of such securities as the Company may from time to time reasonably request in writing.

4. Registration Expenses.

(a) Except with respect to the Selling Expenses, all expenses incidental to the Company's performance of or compliance with this Agreement, including, without limitation, (i) all Commission, stock exchange, FINRA and other registration and filing fees, (ii) all fees and expenses of compliance with securities or blue sky laws (including reasonable fees, charges and disbursements of counsel to any underwriter incurred in connection with blue sky qualifications of Registrable Securities as may be set forth in any underwriting agreement), (iii) all word processing, duplicating and printing expenses, messenger and delivery expenses, (iv) fees and disbursements of counsel for the Company and all independent public accountants, (v) fees paid to other Persons retained by the Company, (vi) the Company's internal expenses (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), (vii) the expenses of any annual audit or quarterly review, (viii) the expenses (including premiums) of any liability or other insurance, and (ix) the expenses and fees

for listing the securities to be registered on each securities exchange on which the same class of securities issued by the Company are then listed (all such expenses, "Registration Expenses"), will be borne by Company. All Selling Expenses will be borne by the holders of the securities so registered *pro rata* on the basis of the number of their shares so registered.

(b) In connection with each registration pursuant to Section 1, the Company will reimburse the Ten Percent Holders covered by such registration or qualification (including each aborted or terminated registration) for the reasonable fees and disbursements of one United States counsel, who will be chosen by the Ten Percent Holders of a majority of the Registrable Securities covered by the applicable Registration Request ("Holders' Counsel").

5. Indemnification.

(a) The Company agrees to indemnify and hold harmless, and hereby does indemnify and hold harmless, each Ten Percent Holder participating in a registration, its affiliates, each Person that controls such Ten Percent Holder (within the meaning of the Securities Act), and their respective officers and directors, partners, members, managers, employees, agents and trustees (collectively, "Holder Indemnified Parties"), against, and shall pay and reimburse such Holder Indemnified Party for, any losses, claims, damages, liabilities and expenses, joint or several, to which such Person may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages, liabilities or expenses (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon (i) any untrue or alleged untrue statement of material fact contained in any Registration Statement, prospectus or preliminary prospectus, or any Free Writing Prospectus, or any amendment thereof or supplement thereto, (ii) any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any prospectus or Free Writing Prospectus, in light of the circumstances under which they were made), not misleading, or (iii) any violation by the Company of any rule or regulation promulgated under the Securities Act or any state securities laws applicable to the Company and relating to action or inaction required of the Company in connection with any such registration, and the Company will pay and reimburse such Holder Indemnified Party for any reasonable legal or any other out of pocket fees and expenses actually and reasonably incurred by them in connection with investigating, defending or settling any such loss, claim, liability, action or proceeding; *provided*, *however*, that the Company will not be liable in any such case (i) to the extent that any such loss, claim, damage, liability (or action or proceeding in respect thereof) or expense arises out of or is based upon an untrue statement or alleged untrue statement, or omission or alleged omission, made in such Registration Statement, any such prospectus or preliminary prospectus or any amendment or supplement thereto, or any Free Writing Prospectus, or in any application, in each case in reliance upon, and in conformity with, written information prepared and furnished to the Company by such Ten Percent Holder expressly for use therein, or (ii) if

(A) such untrue statement or alleged untrue statement, or omission or alleged omission, is corrected in an amendment or supplement to such Registration Statement or prospectus and (B) such Ten Percent Holder thereafter fails to deliver such Registration Statement or prospectus, as so amended or supplemented, after the Company has furnished such Ten Percent Holder with a copy of such amendment or supplement in a manner and within a reasonable time to permit delivery of such amendment or supplement to the Person or Persons asserting such loss, claim, damage, liability or expense. In connection with an underwritten offering, the Company, if requested, will indemnify such underwriters, as reasonably requested by such underwriters.

(b) In connection with any Registration Statement in which a Ten Percent Holder is participating, each such Ten Percent Holder will furnish to the Company in writing such information as the Company reasonably requests for use in connection with any such Registration Statement or prospectus and, will indemnify and hold harmless the Company, its directors and officers, each underwriter and each other Person who controls the Company (within the meaning of the Securities Act) and each such underwriter against any losses, claims, damages, liabilities, joint or several, to which the Company or any such director or officer, any such underwriter or controlling person (within the meaning of the Securities Act) may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon (i) any untrue or alleged untrue statement of material fact contained in the Registration Statement, prospectus or preliminary prospectus or any amendment thereof or supplement thereto, or any Free Writing Prospectus, or in any application or (ii) any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any prospectus, in light of the circumstances under which they were made), not misleading, but only to the extent that such untrue statement or omission is made in such Registration Statement, any such prospectus or preliminary prospectus or any amendment or supplement thereto, or any Free Writing Prospectus, or in any application, in reliance upon and in conformity with written information prepared and furnished to the Company by such Ten Percent Holder expressly for use therein, and such Ten Percent Holder will reimburse the Company and each such director, officer, underwriter and controlling Person for any reasonable legal or any other expenses actually and reasonably incurred by them in connection with investigating, defending or settling any such loss, claim, liability, action or proceeding; *provided, however*, that the obligation to indemnify and hold harmless will be individual and several and not joint to each Ten Percent Holder and will be limited to the net amount of proceeds (after deducting Selling Expenses) received by such Ten Percent Holder from the sale of Registrable Securities pursuant to such Registration Statement.

(c) Any Person entitled to indemnification hereunder will (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification and (ii) unless in such indemnified party's reasonable judgment a

conflict of interest between such indemnified and indemnifying parties may exist with respect to such claim, permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party. If such defense is assumed, the indemnifying party will not be subject to any liability for any settlement made by the indemnified party without its consent (but such consent will not be unreasonably withheld or delayed) or for any fees or expenses of counsel of the indemnified party. An indemnifying party who is not entitled to, or elects not to, assume the defense of a claim will be obligated to pay the fees and expenses of one (but no more than one) firm of attorneys (in addition to any local counsel) for all parties indemnified by such indemnifying party with respect to such claim, unless in the reasonable judgment of any indemnified party a conflict of interest may exist between such indemnified party and any other of such indemnified parties with respect to such claim, in which case the indemnifying party shall be obligated to pay the fees and expenses of each party for whom such conflict exists.

(d) No indemnifying party shall, without the written consent of such indemnified party, effect any settlement of any pending or threatened proceeding in respect of which such indemnified party is a party and indemnity has been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability for claims that are the subject matter of such proceeding.

(e) The indemnification provided for under this Agreement will remain in full force and effect regardless of any investigation made by or on behalf of the indemnified party or any officer, director or controlling Person of such indemnified party and will survive the registration and sale of any securities by any Person entitled to any indemnification hereunder and the expiration or termination of this Agreement.

(f) If the indemnification provided for in this Section 5 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any loss, liability, claim, damage or expense referred to herein, then the indemnifying party, in lieu of indemnifying such indemnified party thereunder, will contribute to the amount paid or payable by such indemnified party as a result of such loss, liability, claim, damage or expense in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other hand in connection with the statements or omissions which resulted in such loss, liability, claim, damage or expense as well as any other relevant equitable considerations. The relevant fault of the indemnifying party and the indemnified party will be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. Notwithstanding the foregoing, the amount any Ten Percent Holder will be obligated to contribute pursuant to this Section 5(e) will be limited to an amount equal to

the net proceeds (after deducting Selling Expenses) to such Ten Percent Holder of the Restricted Securities sold pursuant to the Registration Statement which gives rise to such obligation to contribute (less the aggregate amount of any damages and expenses (including legal or other fees incurred in connection with any investigation or proceeding) which the Ten Percent Holder has incurred or otherwise been required to pay in respect of such loss, claim, damage, liability or action or any substantially similar loss, claim, damage, liability or action arising from the sale of such Restricted Securities).

(g) The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 5 were determined by *pro rata* allocation or by any other method of allocation which does not take account of the equitable considerations referred to in Section 5(f). No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

6. Participation in Registrations.

(a) No Ten Percent Holder may participate in any registration hereunder that is underwritten unless such Ten Percent Holder (i) agrees to sell its Registrable Securities on the basis provided in any underwriting arrangements approved by the Person or Persons entitled hereunder to approve such arrangements (including, without limitation, pursuant to the terms of any over-allotment or "green shoe" option requested by the managing underwriter(s); *provided*, *however*, that no Ten Percent Holder will be required to sell more than the number of Registrable Securities that such Ten Percent Holder has requested the Company to include in any registration), (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements, and (iii) cooperates with the Company's reasonable requests in connection with such registration or qualification (it being understood that the Company's failure to perform its obligations hereunder, which failure is caused by such Ten Percent Holder's failure to cooperate, will not constitute a breach by the Company of this Agreement). Notwithstanding the foregoing, no Ten Percent Holder will be required to agree to any indemnification obligations on the part of such Ten Percent Holder that are greater than its obligations pursuant to Section 5(b).

(b) Each Ten Percent Holder that is participating in any registration hereunder agrees that, upon receipt of any notice from the Company of the happening of any event described in Section 1(d), subsection (vi) of Section 3(a) or subsection (xiii) of Section 3(a) (each, a "Suspension Event"), such Ten Percent Holder will forthwith discontinue the disposition of its Registrable Securities pursuant to the Registration Statement until the date such Ten Percent Holder receives, as applicable, (i) copies of a supplemented or amended prospectus as contemplated by subsection (vi) or (vii) of Section 3(a) or (ii) a notice stating that the applicable Suspension Event is no longer in effect (such date, the "Suspension Termination Date"). In the event the Company gives notice of a Suspension

Event, the applicable time period during which a Registration Statement is to remain effective pursuant to this Agreement will be extended by the number of days during the period from and including the date of the giving of such notice to and including the Suspension Termination Date.

7. Rule 144 and 144A Reporting.

(a) With a view to making available the benefits of certain rules and regulations of the Commission which may permit the sale of the Restricted Securities to the public without registration, the Company agrees to:

(i) make and keep current public information available as those terms are understood and defined in Rule 144 under the Securities Act, and

(ii) file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange.

(b) For purposes of facilitating sales pursuant to Rule 144A, so long as the Company is not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, each Ten Percent Holder and any prospective purchaser of such Ten Percent Holder's securities will have the right to obtain from the Company, upon request of the Ten Percent Holder prior to the time of sale, a copy of the documents and information described in Rule 144A(d)(4) of the Securities Act.

8. Lock-Up Agreements.

(a) Demand Registration. With respect to any Demand Registration, the Company shall not (except as part of such Demand Registration) effect any transfer of Common Stock, or any securities convertible into or exchangeable or exercisable for Common Stock (except Exempted Securities), during the period beginning on the date that is seven days prior to and ending 180 days after the effective date of any Registration Statement (or in the case of an underwritten takedown from a Shelf Registration, the effective date of the relevant prospectus supplement) in which the Ten Percent Holders are participating. In connection with any underwritten offering, upon request by the underwriters, the Company shall, from time to time, enter into customary lock-up agreements ("Lock-Up Agreements") on terms consistent with the preceding sentence.

(b) Additional Lock-Up Agreements. With respect to each relevant offering pursuant to a Demand Registration, each Ten Percent Holder who is not participating in such offering shall, and the Company shall use its reasonable best efforts to cause all of its executive officers and directors to, execute lock-up agreements that contain restrictions that are consistent with the restrictions contained in the Lock-Up Agreement executed by the Company; *provided*, *however*, that nothing herein will prevent any Ten Percent Holder that is a partnership, limited liability company or corporation from

making a distribution of Registrable Securities to the partners, members or shareholders thereof that is otherwise in compliance with applicable securities laws, so long as such distributees agree to be so bound.

(c) Third Party Beneficiaries in Lock-Up Agreements. Any Lock-Up Agreements executed by the Company, its executive officers, its directors or Ten Percent Holders pursuant to this Section 8 shall contain provisions naming the selling stockholders in the relevant offering that are Ten Percent Holders as intended third-party beneficiaries thereof and requiring the prior written consent of such stockholders holding a majority of the Registrable Securities for any amendments thereto or waivers thereof.

(d) Ten Percent Holders. In consideration for the Company agreeing to its obligations under this Agreement, each Ten Percent Holder agrees in connection with any underwritten registration of the Company's securities in which such Ten Percent Holder is participating upon the reasonable request of the Company and the underwriters managing any underwritten offering of the Company's securities, not to effect (other than pursuant to such registration) any public sale or distribution of Registrable Securities, including, but not limited to, any sale pursuant to Rule 144 or Rule 144A, or make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any Registrable Securities, any other equity securities of the Company or any securities convertible into or exchangeable or exercisable for any equity securities of the Company without the prior written consent of the Company or such underwriters, as the case may be, for such period of time (not to exceed 180 days) from the effective date of such registration as the Company and the underwriters may reasonably request; *provided*, *however*, that nothing herein will prevent any Ten Percent Holder that is a partnership, limited liability company or corporation from making a distribution of Registrable Securities to the partners, members or shareholders thereof that is otherwise in compliance with applicable securities laws, so long as such distributees agree to be so bound; *provided*, *further*, that the obligations of each Ten Percent Holder under this Section 8(d) shall apply only to the extent that each of the Company's executive officers, directors and other Ten Percent Holders agree to enter into Lock-Up Agreements with restrictions that are no more favorable to such executive officers, directors or Ten Percent Holders than those contained in this Section 8(d).

9. Term/Termination.

(a) Term. This Agreement will be effective as of the date hereof and will continue in effect thereafter until the earliest of (a) its termination by the consent of each of the parties hereto or their respective successors in interest, (b) the date on which no Registrable Securities remain outstanding, and (c) following the dissolution, liquidation or winding up of the Company, provided that there are no Successor Securities outstanding.

(b) Termination. If a Ten Percent Holder is no longer (together with its affiliates) the beneficial holder of Registrable Securities, such Ten Percent Holder's rights and obligations under this Agreement shall terminate automatically and such rights and obligations shall be of no further force or effect, without any further action by any of the parties hereto; provided however, that Section 5 and Section 11 of this Agreement shall survive such termination and shall remain in full force and effect and, in the case of Section 5, such survival shall be solely with respect to any Registration Statement, prospectus, preliminary prospectus, Free Writing Prospectus (or, in each case, any amendment or supplement thereto) or registration covered or contemplated by the terms of this Agreement.

10. Defined Terms. Capitalized terms when used in this Agreement have the following meanings:

"Agreement" has the meaning set forth in the Preamble.

"Bankruptcy Court" means the United States Bankruptcy Court for the Southern District of New York having jurisdiction over the Chapter 11 Cases.

"Chapter 11 Cases" means the cases commenced under title 11 of the United States Code, as amended from time to time, by the Company and all of its direct and indirect subsidiaries before the Bankruptcy Court, as referenced by lead Case No. 09-16335 (BRL).

"Commission" means the Securities and Exchange Commission or any other federal agency administering the Securities Act.

"Common Stock" means the common stock, par value $0.01 per share, of the Company, after giving effect to the Company's chapter 11 reorganization, which the Company is authorized to issue pursuant to the Plan of Reorganization, and any securities issued in respect thereof, or in substitution therefor, in connection with any stock split, dividend or combination, or any reclassification, recapitalization, merger, consolidation, exchange or other similar reorganization.

"Company" has the meaning set forth in the Preamble.

"Demand Registration" has the meaning set forth in Section 1(b).

"Exchange Act" means the Securities Exchange Act of 1934, as amended, or any similar federal statute and the rules and regulations thereunder, as in effect from time to time.

"Exempted Securities" has the meaning set forth in Section 2(a).

"Free Writing Prospectus" means any "free writing prospectus" as defined in Rule 405 promulgated under the Securities Act.

"Holders' Counsel" has the meaning set forth in Section 4(b).

"Inspectors" has the meaning set forth in Section 3(a)(xi).

"Lock-Up Agreements" has the meaning set forth in Section 8(a).

"Person" means an individual, a partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization or a government or department or agency thereof.

"Plan of Reorganization" means the Third Amended Joint Plan of Reorganization of FairPoint Communications, Inc. and its Subsidiaries under Chapter 11 of the Bankruptcy Code, filed on _____, 2010 (as may be amended from time to time).

"Register," "registered" and "registration" refers to a registration effected by preparing and filing a Registration Statement in compliance with the Securities Act, and the declaration or ordering of the effectiveness of such Registration Statement, and compliance with applicable state securities laws of such states in which Ten Percent Holders notify the Company of their intention to offer Registrable Securities.

"Registrable Securities" means any shares of Common Stock beneficially held by a Ten Percent Holder or any of its affiliates owned on or after the date of this Agreement (irrespective of when acquired); *provided*, *however*, that as to any shares of Common Stock constituting Registrable Securities, such securities will cease to be Registrable Securities when (i) they have been effectively registered or qualified for sale by a prospectus filed under the Securities Act and disposed of in accordance with the Registration Statement covering them; or (ii) the Ten Percent Holder of such Registrable Securities ceases to beneficially hold (together with its affiliates) an aggregate of at least 7.5% of the then outstanding Common Stock.

"Registration Expenses" has the meaning set forth in Section 4.

"Registration Request" has the meaning set forth in Section 1(a) and includes, where appropriate, a Shelf Registration Statement request made pursuant to Section 1(c).

"Registration Statement" means a registration statement (including the prospectus and other documents filed with the Commission) pursuant to the Securities Act to effect a registration under the Securities Act.

"Required Holders" means Ten Percent Holders beneficially holding in the aggregate more than 50% of the outstanding Registrable Securities at any time of determination.

"Rule 144" means Rule 144 under the Securities Act or any successor or similar rule as may be enacted by the Commission from time to time, as in effect from time to time.

"Rule 144A" means Rule 144A under the Securities Act or any successor or similar rule as may be enacted by the Commission from time to time, as in effect from time to time.

"Securities Act" means the Securities Act of 1933, as amended, or any similar federal statute and the rules and regulations thereunder, as in effect from time to time.

"Selling Expenses" means all underwriting discounts, selling commissions and transfer taxes applicable to the sale of Registrable Securities hereunder.

"Shelf Registration" has the meaning set forth in Section 1(c).

"Shelf Registration Statement" has the meaning set forth in Section 1(c).

"Successor Securities" has the meaning set forth in Section 11(b).

"Suspension Event" has the meaning set forth in Section 6(b).

"Suspension Termination Date" has the meaning set forth in Section 6(b).

"Ten Percent Holders" has the meaning set forth in the Preamble.

11. Miscellaneous.

(a) No Inconsistent Agreements. As of the date hereof, the Company represents and warrants that is not a party to any agreement with respect to its securities that is inconsistent with or would violate the rights granted to the Ten Percent Holders under this Agreement. The Company will not hereafter enter into any such agreement with respect to its securities that is inconsistent with or would violate the rights granted to the Ten Percent Holders in this Agreement or grant any additional registration rights to any Person or with respect to any securities which are not Registrable Securities which are prior in right to or inconsistent with the rights granted in this Agreement.

(b) Recapitalizations, Exchanges, etc. The provisions of this Agreement shall apply to the full extent set forth herein with respect to (i) the shares of Common Stock and (ii) any and all securities of the Company or any successor or assign of the Company (whether by merger, consolidation, sale of assets, recapitalization, reorganization or otherwise) which may be issued in respect of, in conversion of, in exchange for or in substitution of, the shares of Common Stock and shall be appropriately adjusted for any stock dividends, splits, reverse splits, combinations, recapitalizations and the like occurring after the date hereof ("Successor Securities"). The Company shall cause any

successor or assign (whether by merger, consolidation, sale of assets, recapitalization, reorganization or otherwise, including the issuer(s) of any such Successor Securities) to assume this Agreement or enter into a new registration rights agreement with the Ten Percent Holders on terms substantially the same as this Agreement as a condition of any such transaction.

(c) Enforcement. Each party hereto acknowledges that money damages would not be an adequate remedy in the event that any of the covenants or agreements in this Agreement are not performed in accordance with its terms, and it is therefore agreed that in addition to and without limiting any other remedy or right it may have, the non-breaching party will have the right to an injunction, temporary restraining order or other equitable relief in any court of competent jurisdiction enjoining any such breach and enforcing specifically the terms and provisions hereof.

(d) Amendment; Waivers, etc. No modification or amendment of any provision of this Agreement shall be effective without the consent in writing of the Company and each Ten Percent Holder. The failure of any party to enforce any of the provisions of this Agreement shall in no way be construed as a waiver of such provisions and shall not affect the right of such party thereafter to enforce each and every provision of this Agreement in accordance with its terms. No waiver by any of the Ten Percent Holders shall be effective against such Ten Percent Holder unless in set forth in a writing referring to the provision alleged to have been waived.

(e) Successors and Assigns. This Agreement will be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns. In addition, and whether or not any express assignment will have been made, the provisions of this Agreement which are for the benefit of the Ten Percent Holders of the Registrable Securities (or any portion thereof) as such will be for the benefit of and enforceable by any subsequent holder of any Registrable Securities (or of such portion thereof), subject to the provisions respecting the minimum numbers or percentages of shares of Registrable Securities (or of such portion thereof) required in order to be entitled to certain rights, or take certain actions, contained herein, and the other terms and conditions set forth herein.

(f) Severability. Any term or provision of this Agreement which is invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without rendering invalid, illegal or unenforceable the remaining terms and provisions of this Agreement or affecting the validity, illegality or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, the provision shall be interpreted to be only so broad as is enforceable. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable

manner in order that the transactions contemplated herein are consummated as originally contemplated to the fullest extent possible.

(g) Headings. The headings contained in this Agreement are for purposes of convenience only and shall not affect the meaning or interpretation of this Agreement.

(h) Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles or rules of conflicts of law to the extent such principles or rules are not mandatorily applicable by statute and would require the application of the laws of another jurisdiction).

(i) Certain Disputes.

(i) Notwithstanding anything to the contrary in this Agreement, any suit, action or other proceeding with respect to the interpretation or enforcement of the provisions of Section 5 shall be brought in the Supreme Court of the State of New York, New York County, or the United States District Court for the Southern District of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the Supreme Court of the State of New York, New York County, and the United States District Court for the Southern District of New York for the purposes of any such suit, action or other proceeding, agrees not to commence any such suit, action or other proceeding other than in such courts and irrevocably and unconditionally waives any objection to the laying of venue of any such suit, action or other proceeding in the Supreme Court of the State of New York, New York County, and the United States District Court for the Southern District of New York, or that any such suit, action or other proceeding brought in any such court has been brought in an inconvenient forum. Each party further agrees that service of any process, summons, notice or document by U.S. registered mail to such party's respective address set forth or referred to in Section 11(j) shall be effective service of process for any such suit, action or other proceeding.

(ii) Each party hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or other proceeding with respect to the interpretation or enforcement of the provisions of Section 5. Each party hereby (A) certifies and acknowledges that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the foregoing waiver, and (B) acknowledges that it understands and has considered the implications of this wavier and makes this wavier voluntarily, and that it and the other parties have been induced to enter into the Agreement by, among other things, the mutual waivers and certifications in this Section 11(i).

(j) Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number provided for below prior to 5:00 p.m. (New York City time) on a trading day, (ii) the trading day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number provided for below later than 5:00 p.m. (New York City time) on any date and earlier than 11:59 p.m. (New York City time) on such date, (iii) the trading day following the date of mailing, if sent by nationally recognized overnight courier service or (iv) upon actual receipt by the party to whom such notice is required to be given. The address and facsimile number for such notices and communications shall be as forth on the signature pages attached hereto for each of the Ten Percent Holders. If to the Company, such notices and communications shall be delivered to the following:

FairPoint Communications, Inc.
521 East Morehead Street, Suite 500
Charlotte, North Carolina 28202
Attention: General Counsel
Facsimile: (704) 344-1594

(k) Counterparts; Facsimile Signatures. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. This Agreement may be executed by facsimile signature(s) or via electronic transmission in PDF format.

[*Signature pages follow****]***

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement by their authorized representatives as of the date first above written.

FAIRPOINT COMMUNICATIONS, INC.

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement by their authorized representatives as of the date first above written.

TEN PERCENT HOLDER:

[ ]

By: _____
Name:
Title:

Address for Notices:
[ ]
[ ]
[ ]
[ ]
[Facsimile Number:]

Schedule I

Ten Percent Holders

ITEM 5

FAIRPOINT COMMUNICATIONS, INC.

2010 Success Bonus Plan
(as amended and restated effective October 13, 2010

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1. Effective Date. This 2010 Success Bonus Plan (the "Plan") of FairPoint Communications, Inc. (the "Company") is effective as of the "Effective Date" (within the meaning of the joint plan of reorganization that the Company and each of its direct and indirect subsidiaries have filed under chapter 11 of title 11 of the United States Code). The Plan shall remain in effect until the payment of all benefits earned and payable hereunder.

2. General. The Plan shall consist of a single cash bonus payment to be made to each Participant (as defined in Section 3 below) on or about the Effective Date. The compensation provided under the Plan is intended to be in addition to bonus compensation payable to Participants under the Annual Incentive Plan ("AIP"); however no other bonus shall be payable to such Participants on or prior to the Effective Date other than the AIP and this 2010 Success Bonus Plan.

3. Participants Covered. Each person listed on ***Exhibit A*** (subtitled "*Success Bonus as a Percent of Base Salary*") shall become a participant in the Plan as of the Effective Date (each such person, a "Participant"). The Company's Board of Directors (the "Board") or the Board's Compensation Committee (the "Committee") may elect to add additional participants in the Plan after approval of the Plan by the Board on March 3, 2010 (the "Adoption Date") with the prior consent of the Lender Steering Committee (as defined in the joint plan of reorganization referenced in Section 1 above), and any such individual shall be considered to be a Participant as of the date specified by the Board in a written notice setting forth for the individual the terms and conditions associated with his or her participation in the Plan.

4. The Success Bonus Program. The Plan offers a one-time cash incentive payment to Participants to motivate and reward them for achieving specified financial and operating goals in connection with the Company's financial restructuring.

a. Bonus Formula. ***Exhibit B*** sets forth the "Success Bonus Performance Measures" and the "Scaler" according to which the Committee will determine the cash bonuses payable to Participants pursuant to the Plan; provided that in all events, the total amounts awarded, and paid, pursuant to the Plan shall be capped at one million eight hundred thousand dollars ($1,800,000) in the aggregate; and provided further that the relative weighting of each performance measure shall be 67% for Cumulative EBITDAR (Consolidated EBITDAR minus Consolidated Capital Expenditures, each as defined in the Debtor-in-Possession Credit Agreement dated as of October 27, 2009, as amended), and 11% for each of (i) "Calls answered within 20 seconds"; (ii) "Monthly Average of Installation

Appointments Not Met for Company Reasons"; and (iii) "Monthly Average of Repair Appointments met on time"; and provided further that the Committee may make its determinations by taking into account or disregarding any extraordinary natural events relevant to any performance measures or results. Notwithstanding the references in Exhibit B to the "Success Bonus Scaler", it shall be eighty percent (80%) regardless of the month and year hereafter in which the Effective Date occurs. Further, the accrual of Success Bonuses will cease to increase after December 31, 2010.

b. Individual Bonus Amounts. The actual amount payable to a Participant (the "Bonus") shall be determined by the Committee according to the table set forth in Exhibit A. Further, the Committee shall have the right to increase, reduce or eliminate all or part of a Participant's Bonus prior to payment thereof based on individual performance or any other factors that the Committee, in its discretion, shall deem appropriate; provided that, subject to Section 4.d. hereof, no employee who was awarded a portion of the Success Bonus pool before March 4, 2010 will receive less than the amount originally earned by such employee under the Success Bonus Plan, and any additional amounts may be awarded by the Company's Chief Executive Officer in his discretion (subject to the approval of the pre-emergence Board of Directors) to new and existing employees (other than Paul Sunu, who is eligible to receive 25% of the amount that David L. Hauser would have been eligible to receive under the Success Bonus Plan, it being understood that David L. Hauser shall not receive any amount under the Success Bonus Plan).

c. Vesting. A Participant shall vest in the right to receive a Bonus on the earliest to occur of (i) the occurrence of the Effective Date, or (ii) the date of the "Qualifying Termination" as defined in Section 4(e) below (the first such date to occur, the "Vesting Date"). Notwithstanding the foregoing, a Participant shall forfeit any right to any Bonus if, prior to the Effective Date, the Participant's employment with the Company and its direct and indirect subsidiaries is terminated for any reason other than a Qualifying Termination.

d. Payment of Bonus. Except as provided in Section 4.b. and herein, the Company shall pay each Participant who has vested in the right to receive a Bonus pursuant to Section 4.c. an amount equal to 100% of the Participant's Bonus (as determined under Section 4.b.) in a cash lump sum within 30 days following the Effective Date; provided that if the Participant's employment has been terminated due to a Qualifying Termination before the Effective Date, the Participant's Bonus shall be determined by substituting, for 100%, a lesser percentage determined on a pro rated basis by comparing the Participant's days of employment between November 1, 2009 and the Qualifying Termination date, to the total days from November 1, 2009 through the Effective Date.

e. "Qualifying Termination" means the Participant's termination of employment with the Company and its direct and indirect subsidiaries (i) due to the Participant's death or disability, or (ii) "Involuntary Termination" meaning termination of a Participant's continuous service with the Company without "Cause" (as defined in Section

4(f) below) by the Company or an affiliate or successor thereto, as appropriate, occurring on or after the Adoption Date.

f. "Cause" means (i) the refusal or neglect of the Participant to perform substantially his or her employment related duties, (ii) the Participant's personal dishonesty, incompetence, willful misconduct or breach of fiduciary duty, (iii) the Participant's conviction of a crime constituting a felony (or a crime or offense of equivalent magnitude in any jurisdiction) or his or her willful violation of any other law, rule, or regulation (other than a traffic violation or other offense or violation outside of the course of employment which in no way adversely affects the Company or its reputation or the ability of the Participant to perform his or her employment related duties or to represent the Company) or (iv) the material breach by the Participant of any applicable written policy of the Company or any Subsidiary; provided that, with respect to any Participant who is party to an employment agreement with the Company or a Subsidiary, "Cause" shall have the meaning specified in such Participant's employment agreement. The determination as to whether "Cause" has occurred shall be made by the Committee, which shall have the authority to waive the consequences under the Plan of the existence or occurrence of any of the events, acts or omissions constituting "Cause." The foregoing definition does not in any way limit the Company's ability to terminate a Participant's employment or consulting relationship at any time, and the term "Company" will be interpreted herein to include any affiliate or successor thereto, if appropriate. Furthermore, a Participant's employment shall be deemed to have terminated for Cause within the meaning hereof if, at any time (whether before, on, or after termination of the Participant's employment), facts or circumstances are discovered that would have justified a termination for Cause.

5. Section 409A. Each payment due under this Plan shall be considered to be a separate payment for purposes of Section 409A of the Code, and all such payments are intended to be short-term deferrals that are exempt from Section 409A. The Committee shall interpret and administer the Plan accordingly, and shall have complete discretion to make any determination and to take any determination that avoids any violation of Section 409A.

6. Miscellaneous.

a. Withholding. Any amounts payable under this Plan shall be reduced by all required withholdings for state, federal and local employment, income, payroll or other taxes.

b. No Right to Continued Employment. Nothing contained in this Plan shall be construed as a guarantee or right of any Participant to be continued as an employee of the Company or its subsidiaries or as a limitation of the right of the Company or its subsidiaries to terminate the employment of the Participant for any or no reason.

c. Governing Law. This Plan shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, without reference to conflict of law principles which would require application of the law of another jurisdiction (except to the minimum extent that the law of the State of Delaware specifically and mandatorily requires otherwise).

d. Dispute Resolution. Each of the parties agrees that any dispute between the parties regarding this Agreement shall be resolved only in the courts of the State of Delaware or the United States District Court for Delaware, and the appellate courts having jurisdiction of appeals in such courts. Without limiting the generality of the foregoing, each of the Company and the Participants hereto irrevocably and unconditionally (a) submits for himself or itself in any proceeding relating to this Plan, or for the recognition and enforcement of any judgment in respect thereof (a "Proceeding"), to the exclusive jurisdiction of the courts of the State of Delaware, the court of the United States of America for the District of Delaware, and appellate courts having jurisdiction of appeals from any of the foregoing, and agrees that all claims in respect of any such Proceeding shall be heard and determined in such courts; and (b) consents that any such Proceeding may and shall be brought in such courts and waives any objection that he or it may now or thereafter have to the venue or jurisdiction of any such Proceeding in any such court or that such Proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

e. Notice. All notices, requests, demands and other communications required or permitted to be given under this Plan shall be in writing and shall be deemed given (i) when personally delivered to the recipient (provided a written acknowledgement of receipt is obtained), (ii) one (1) business day after being sent by a nationally recognized overnight courier (provided that a written acknowledgement of receipt is obtained by the overnight courier) or (iii) four (4) business days after mailing by certified or registered mail, postage prepaid, return receipt requested, to the party concerned at the address indicated below (or such other address as the recipient shall specify by ten (10) days' advance written notice given in accordance with this paragraph (e):

To the Company:

FairPoint Communications, Inc.
Attention: General Counsel
521 East Morehead Street
Suite 500
Charlotte, North Carolina 28202

To the Participant: The last address shown in the Company's records.

f. Successors and Assigns. This Plan shall be binding upon and shall inure to the benefit of the Company, its successors and assigns. The term "Company" as used herein shall include such successors and assigns.

g. Anti-alienation Clause. No benefit, distribution or payment under the Plan may be anticipated, assigned (either at law or in equity), alienated or subject to attachment, garnishment, levy, execution or other legal or equitable process whether pursuant to a "qualified domestic relations order" as defined in Section 414(p) of the Code or otherwise.

h. Beneficiary Designation. A Participant may from time to time designate, in the manner specified by the Company, a beneficiary to receive in the event of the Participant's death any payment due under the Plan. In the event that there is no properly designated beneficiary living at the time of a Participant's death, his benefit hereunder shall be paid to his or her estate.

i. Amendment. The Board or the Committee may amend this Plan from time to time with the prior consent of the Lender Steering Committee; provided that any amendment that adversely and materially affects a Participant will be subject to the Participant's written consent thereto.

j. Representation. The Company represents and warrants that no amounts were paid or will be payable pursuant to the 2009 Annual Incentive Plan or under any other plan for performance in 2009.

IN WITNESS WHEREOF, the Company's Board has caused this Plan to be adopted as of the Effective Date.

Exhibit A

FAIRPOINT COMMUNICATIONS, INC.

2010 Success Bonus Plan:

"Success Bonus as a Percent of Base Salary"

NOTE: Actual payments will be calculated based on emergence date and other parameters of the plan

Exhibit B

FAIRPOINT COMMUNICATIONS, INC.

2010 Success Bonus Plan:

Success Bonus Performance Measures and Scaler

Success Bonus Performance Measures

EBITDAR less Capital Expense

	Nov-Dec 2009	Q1	Q2	Q3	Q4
Maximum @ 150%	4,419	41,512	76,492	129,139	185,146
Target at 100%	1,903	35,224	66,431	115,305	167,539
Threshold @ 50%	(913)	28,812	55,165	99,814	147,824

Operations

Maximum @ 150%	>=78.75%	<=11.5%	>=92.5%
Target at 100%	77.5%	12.0%	90.0%
Threshold @ 50%	75.0%	13.0%	85.0%

Awards will be calculated by interpolating between results
Maximum achievement under all goals will be capped at 150%

Success Bonus Scaler for Emergence in 2010

Month of Emergence	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec *
Percent of Bonus	120%	120%	120%	120%	120%	120%	100%	100%	100%	90%	80%	80%

* December 2010 and thereafter.

ITEM 6

[Long Term Incentive Plan – Plan Document]

FAIRPOINT COMMUNICATIONS, INC.
2010 LONG TERM INCENTIVE PLAN

Plan Document
as amended and restated effective October 13, 2010

1. **Introduction.**

(a) *Purpose.* FairPoint Communications, Inc. (the "**Company**") has previously established and is hereby amending and restating this equity-based incentive compensation plan known as the "FairPoint Communications, Inc. 2010 Long Term Incentive Plan" (as amended and restated, the "**Plan**"), for the following purposes: (i) to enhance the Company's ability to attract highly qualified personnel; (ii) to strengthen its retention capabilities; (iii) to enhance the long-term performance and competitiveness of the Company; and (iv) to align the interests of Plan participants with those of the Company's shareholders. This Plan is intended to serve as the sole source for all future equity-based awards to those eligible for Plan participation.

(b) *Effective Date.* Pursuant to Section 8.14 of the Plan of Reorganization, this Plan shall automatically become effective on the "Effective Date" as defined in the Plan of Reorganization (the "**Effective Date**").

(c) *Definitions*. Terms in the Plan and any Appendix that begin with an initial capital letter have the defined meaning set forth in *Appendix I* or elsewhere in this Plan, in either case unless the context of their use clearly indicates a different meaning.

(d) *Effect on Other Plans, Awards, and Arrangements*. This Plan is currently the sole plan under which the Company makes awards of equity-based compensation.

(e) *Appendices*. Incorporated by reference, and thereby part of this Plan, are the terms set forth in Appendix I (Definitions).

2. **Types of Awards**. The Plan permits the granting of the following types of Awards according to the Sections of the Plan listed below, subject to the terms and conditions set forth in Section 3 below that limit the types of Awards that may occur, the maximum number of Shares that may be subject to different types of Awards and certain other restrictions:

Section 5	Stock Options
Section 6	Restricted Shares, Restricted Share Units and Performance Awards

3. **Shares Available for Awards.**

(a) *Generally*, Subject to Section 9 below, a total number of Shares, as determined by the Committee under Section 6.1.1(b) of the Plan of Reorganization, shall be available for issuance under the Plan pursuant to Awards. Specifically, if "Class 7" (within the meaning of the Plan of Reorganization) receives a distribution on account of their claims under the Plan of Reorganization, three million one hundred thirty-four thousand six hundred three (3,134,603) Shares will be reserved for issuance pursuant to Awards, which shall only be made with respect to such Shares in the form of (i) Options to members of management, other Employees of the Company and its subsidiaries, Investor Director Providers and Directors, and (ii) Restricted Share Awards to members of management and other Employees of the Company and/or its subsidiaries, to independent contractors and consultants to the Company (with such Awards authorized to be made without restrictions, in accordance with Section 6(a) of the Plan), and to Investor Director Providers and Directors as provided herein. If Class 7 does not receive a distribution on account of their claims under the Plan of Reorganization, then three million one hundred ninety-seven

thousand one hundred six (3,197,106) Shares will be reserved for issuance pursuant to Options and Restricted Share Awards. The Shares deliverable pursuant to Awards shall be authorized but unissued Shares, or Shares that the Company otherwise holds in treasury or in trust.

(b) *Awards on the Effective Date.*

(i) Pursuant to the Plan of Reorganization, the Committee shall make the following Awards with a Grant Date of the Effective Date:

(x) (I) four hundred sixty-one thousand fifty-five (461,055) Restricted Shares (or four hundred thirty-three thousand three hundred fifty-five (433,355) Restricted Shares if Class 7 does not receive a distribution on account of their claims under the Plan of Reorganization) will be granted to members of management and other Employees of the Company and/or its subsidiaries, and to independent contractors and consultants to the Company (with such Awards to independent contractors and consultants being authorized to be made without restrictions, in accordance with Section 6(a) of the Plan)*plus (II)* up to fifteen thousand four hundred ninety-three (15,493) Restricted Shares (or seventeen thousand four hundred seventy two (17,472) Shares if Class 7 does not receive a distribution on account of their Claims under the Plan), at the sole discretion of the Company's Chief Executive Officer, acting on behalf of the Company in his sole discretion, may be granted to members of management and other Employees of the Company and/or its subsidiaries who are first hired by the Company or its Affiliates between March 4, 2010 and the Effective Date;

(y) Options to purchase (I) eight hundred sixty-two thousand sixteen (862,016) Shares (or eight hundred ninety-two thousand eighty-three (892,083) Shares if Class 7 does not receive a distribution on account of their claims under the Plan of Reorganization) will be granted to members of management and other Employees of the Company and/or its subsidiaries, (II) one hundred thirty-two thousand fifteen (132,015) Shares (or one hundred forty-nine thousand five hundred sixty-four (149,564) Shares if Class 7 does not receive a distribution on account of their claims under the Plan of Reorganization) will be granted to Investor Director Providers and Directors, *plus*, (III) at the sole discretion of the Board, up to an additional one hundred fifty-six thousand seven hundred thirty (156,730) Shares (or one hundred sixty-two thousand one hundred ninety-seven (162,197) Shares if Class 7 does not receive a distribution on account of their Claims under the Plan of Reorganization) may be granted to members of management and other Employees of the Company and/or its subsidiaries.

Any Awards that are subject to the discretion of the Board, as provided in clauses (x) and (y), and are not awarded with a Grant Date of the Effective Date shall increase the number of Shares available for future Awards in accordance with Section 3(c)(i) and (c)(ii), below, as appropriate.

(ii) All Awards with a Grant Date of the Effective Date shall be 25% vested on the Effective Date, and the remainder of these Awards shall vest in three equal annual installments, commencing on the first anniversary of the Effective Date, with accelerated vesting on (x) a Change in Control, or (y) a termination of the Participant's Continuous Service either (I) without Cause, but only to the extent that vesting becomes at least 50%, plus an additional 25% for each completed year of the Participant's Continuous Service beyond the first year after the Effective Date (up to 100% in the aggregate), (II) in the case of Options only, due to the Participant's death or Disability, but only to the extent vesting would have

otherwise occurred within the one-year period following termination of the Participant's Continuous Service, or (III) in the case of Restricted Shares or RSU Awards only, due to the Participant's death or Disability.

(iii) The exercise price for Shares subject to Options awarded with a Grant Date of the Effective Date shall be the lesser of (x) U.S. $36.03 per Share and (y) the weighted average trading price of a Share of Company Stock for the first 20 trading days following the Effective Date, but in no event less than $19.28 per Share.

(c) *Awards after the Effective Date*.

(i) One million four hundred thirty-five thousand two hundred eighty-seven (1,435,287) Shares will be available for future Awards if Class 7 receives a distribution on account of their claims under the Plan of Reorganization; *provided, however*, that if the consolidated enterprise value of the Company and its subsidiaries does not equal or exceed $2.3 billion on or prior to the expiration date of the New Warrants (as defined in the Plan of Reorganization), then the aggregate number of Shares that are available for issuance pursuant to future Awards (other than those authorized under Section 3(c)(y) below, which shall be independently allowed under all circumstances) will be automatically reduced by three hundred ten thousand three hundred twenty-six (310,326) shares. In the event that Class 7 does not receive a distribution on account of their claims under the Plan of Reorganization, one million four hundred seventy-two thousand four hundred seven (1,472,407) Shares will be available for issuance pursuant to future Awards. For purposes of this clause (c), "consolidated enterprise value" of the Company and its subsidiaries means, as of any date, the following as determined in good faith by the Board: (A) (1) the amount of shares of Company Stock outstanding less Restricted Shares that are not vested plus Options which are vested and which have an exercise price which is less than the WAVP (as defined below) multiplied by (2) the weighted average (based on the volume of shares traded) Fair Market Value of the Company Stock for the immediately preceding twenty consecutive trading days (on which the Company Stock actually is traded) (the "WAVP") plus (B) the current value of any investments by the Company or any of its subsidiaries in a person other than the Company or any of its subsidiaries, to the extent applicable, *plus* (C) the current value of all preferred stock of the Company, to the extent applicable, plus (D) the current outstanding value of the consolidated indebtedness of the Company and its subsidiaries *minus* (E) any cash and cash equivalents of the Company and its subsidiaries; *provided*, that the amounts referred to in subclauses (B), (C), (D) and (E) shall be as reflected on the Company's most recent regularly prepared balance sheet.

(ii) Notwithstanding anything to the contrary in this Plan, the aggregate number of Shares that may be issued pursuant to Restricted Share Awards after the Effective Date under this Section 3(c) of the Plan may not exceed three hundred ninety one thousand eight hundred twenty-five (391,825)(or four hundred five thousand four hundred ninety-two (405,492) if Class 7 does not receive a distribution on account of their claims under the Plan of Reorganization), reduced by those Shares issued pursuant to the Restricted Share Awards contemplated by Section 3(b)(i)(x)(II); provided that, regardless of and in addition to the limitations set forth in Sections 3(b) and 3(c) above, eighty-seven thousand five hundred (87,500) Shares shall be separately reserved for Restricted Share Awards that the Board may make, on or after the Effective Date, in its sole discretion, to any Eligible Persons.

(d) *Replenishment; Counting of Shares.* Any Shares reserved for Plan Awards will again be available for future Awards if the Shares for any reason will never be issued to a Participant or Beneficiary pursuant to an Award due to the Award's forfeiture, cancellation, expiration, or net settlement without the issuance of Shares. Further, if and to the extent determined by the Board of Directors in its sole discretion in connection with a particular acquisition and to the extent permitted under Applicable Law, the maximum number of Shares available for delivery under the Plan shall not be reduced by any Shares issued under the Plan through the settlement, assumption, or substitution of outstanding awards or obligations to grant future awards as a condition of the Company's or an Affiliate's acquiring another entity. On the other hand, Shares that a Person owns and tenders in payment of all or part of the exercise price of an Award or in satisfaction of applicable Withholding Taxes shall not increase the number of Shares available for future issuance under the Plan.

4. **Eligibility.**

(a) *General Rule*. Subject to the express provisions of the Plan, the Committee shall determine from the class of Eligible Persons those Persons to whom Awards may be granted. Each Award shall be evidenced by an Award Agreement that sets forth its Grant Date and all other terms and conditions of the Award, that is signed on behalf of the Company (or delivered by an authorized agent through an electronic medium), and that, if required by the Committee, is signed by the Eligible Person as an acceptance of the Award. The grant of an Award shall not obligate the Company or any Affiliate to continue the employment or service of any Eligible Person, or to provide any future Awards or other remuneration at any time thereafter.

(b) *Option Limits per Person.* During the term of the Plan, no Participant may receive Options that relate to more than 60% of the maximum number of Shares issuable under the Plan as of the Effective Date, as such number may be adjusted pursuant to Section 9 below.

(c) *Replacement Awards*. Subject to Applicable Law (including any associated shareholder approval requirements), the Committee may, in its sole discretion and upon such terms as it deems appropriate, require as a condition of the grant of an Award to a Participant that the Participant, with the Participant's consent, surrender for cancellation some or all of the Awards or other grants that the Participant has received under this Plan or otherwise. An Award conditioned upon such surrender may or may not be the same type of Award, may cover the same (or a lesser or greater) number of Shares as such surrendered Award, may have other terms that are determined without regard to the terms or conditions of such surrendered Award, and may contain any other terms that the Committee deems appropriate. In the case of Options, these other terms may not involve an exercise price that is lower than the exercise price of the surrendered Option unless the Company's shareholders approve the grant itself or the program under which the grant is made pursuant to the Plan.

5. **Stock Options.**

(a) *Grants.* Subject to the limitations set forth in Section 3, the Committee may grant Options to Eligible Persons pursuant to Award Agreements setting forth terms and conditions that are not inconsistent with the Plan, that may be immediately exercisable or that may become exercisable in whole or in part based on future events or conditions, that may include vesting or other requirements for the right to exercise the Option, and that may differ for any reason between Eligible Persons or classes of Eligible Persons, *provided* in all instances that:

(i) the exercise price for Shares subject to purchase through exercise of an Option shall not be less than 100% of the Fair Market Value of the underlying Shares on the Grant Date; and

(ii) no Option shall be exercisable for a term ending more than ten years after its Grant Date.

(b) *Method of Exercise.* Each Option may be exercised, in whole or in part (*provided* that the Company shall not be required to issue fractional shares) at any time and from time to time prior to its expiration, but only pursuant to the terms of the applicable Award Agreement, and subject to the times, circumstances and conditions for exercise contained in the applicable Award Agreement. Exercise shall occur by delivery of both written notice of exercise to the secretary of the Company, and payment of the full exercise price for the Shares being purchased. The methods of payment that the Committee may in its discretion accept or commit to accept in an Award Agreement include:

(i) cash or check payable to the Company (in U.S. dollars);

(ii) other Shares that (A) are owned by the Participant who is purchasing Shares pursuant to an Option, (B) have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which the Option is being exercised, (C) are all, at the time of such surrender, free and clear of any and all claims, pledges, liens and encumbrances, or any restrictions which would in any manner restrict the transfer of such shares to or by the Company (other than such restrictions as may have existed prior to an issuance of such Shares by the Company to such Participant), and (D) are duly endorsed for transfer to the Company;

(iii) a net exercise by surrendering to the Company Shares otherwise receivable upon exercise of the Option;

(iv) a cashless exercise program that the Committee may approve, from time to time in its discretion, pursuant to which a Participant may elect to concurrently provide irrevocable instructions (A) to such Participant's broker or dealer to effect the immediate sale of the purchased Shares and remit to the Company, out of the sale proceeds available on the settlement date, sufficient funds to cover the exercise price of the Option plus all applicable taxes required to be withheld by the Company by reason of such exercise, and (B) to the Company to deliver the certificates for the purchased Shares directly to such broker or dealer in order to complete the sale; or

(v) any combination of the foregoing methods of payment.

The Company shall not be required to deliver Shares pursuant to the exercise of an Option until the Company has received sufficient funds to cover the full exercise price due and all applicable Withholding Taxes required by reason of such exercise.

Notwithstanding any other provision of the Plan to the contrary, no Participant who is a Director or an "executive officer" of the Company within the meaning of Section 13(k) of the Exchange Act shall be permitted to make payment with respect to any Awards granted under the Plan, or continue any extension of credit with respect to such payment with a loan from the Company or a loan arranged by the Company, in violation of Section 13(k) of the Exchange Act.

(c) *Termination of Continuous Service*. The Committee may establish and set forth in the applicable Award Agreement the terms and conditions on which an Option shall remain exercisable, if at all, following termination of a Participant's Continuous Service. The Committee may waive or modify these provisions at any time. To the extent that a Participant is not entitled to exercise an Option at the date of his or her termination of Continuous Service, or if the Participant (or other person entitled to exercise the Option) does not exercise the Option to the extent so entitled within the time specified in the Award Agreement or below (as applicable), the Option shall terminate and the Shares underlying the unexercised portion of the Option shall revert to the Plan and become available for future Awards.

The following provisions shall apply to the extent an Award Agreement does not specify the terms and conditions upon which an Option shall terminate when there is a termination of a Participant's Continuous Service:

Reason for terminating Continuous Service	Option Termination Date
(I) By the Company for Cause, or what would have been Cause if the Company had known all of the relevant facts.	Termination of the Participant's Continuous Service, or when Cause first existed if earlier.
(II) Disability of the Participant.	Within one year after termination of the Participant's Continuous Service.
(III) Retirement of the Participant.	Within one year after termination of the Participant's Continuous Service.
(IV) Death of the Participant during Continuous Service or within 90 days thereafter.	Within one year after termination of the Participant's Continuous Service.
(V) By the Company without Cause and without what would have been Cause if the Company had known all of the relevant facts.	Within 90 days after termination of the Participant's Continuous Service.
(VI) Other than as set forth above.	Within 90 days after termination of the Participant's Continuous Service.

If there is a Securities and Exchange Commission blackout period (or a Committee-imposed blackout period) that prohibits the buying or selling of Shares or the exercise of Options during any part of the ten day period before the expiration of any Option based on the termination of a Participant's Continuous Service (as described above), the period for exercising the Options shall be extended until ten days beyond when such blackout period ends. Notwithstanding any provision hereof or within an Award Agreement, no Option shall ever be exercisable after the expiration date of its original term as set forth in the Award Agreement.

(d) *Buyout*. The Committee may at any time offer to buy out an Option, in exchange for a payment in cash or Shares, based on such terms and conditions as the Committee shall establish and communicate to the Participant at the time that such offer is made. In addition, but subject to Applicable Law, if the Fair Market Value for Shares subject to any Option or Options is more than 70% below their exercise price for more than 30 consecutive business days, the Committee may unilaterally declare such Option to be terminated, effective on the date on which the Committee provides written notice to the Participant or other Option holder. The Committee may take such action with respect to any or all Options granted under the Plan and with respect to any individual Option holder or class or classes of Option holders, and the Committee shall not have any obligation to be uniform, consistent, or nondiscriminatory between classes of similarly-situated Option holders, except as required by Applicable Law.

6. **Restricted Shares, Restricted Share Units and Performance Awards.**

(a) *Grant.* Subject to the limitations set forth in Section 3, the Committee may grant Restricted Share Awards and/or Restricted Share Unit ("**RSU**") Awards to Eligible Persons, in each and all cases pursuant to Award Agreements setting forth terms and conditions that are not inconsistent with the Plan. The Committee shall establish as to each Restricted Share or RSU Award the number of Shares deliverable or subject to the Award (which number may be determined by a written formula), and the period or periods of time (the "**Restriction Period**") at the end of which all or some restrictions specified in the Award Agreement shall lapse, and the Participant shall receive unrestricted Shares in settlement of the Award. Such restrictions may include, without limitation, restrictions concerning voting rights and transferability, and such restrictions may lapse separately or in combination at such times and pursuant to such circumstances or based on such criteria as selected by the Committee, including, without limitation, criteria based on the Participant's duration of employment, directorship or consultancy with the Company, individual, group, or divisional performance criteria, Company performance, or other criteria selection by the Committee. The Committee may make Restricted Share or RSU Awards with or without the requirement for payment of cash or other consideration. In addition, the Committee may grant

Awards hereunder in the form of unrestricted Shares that shall vest in full upon the Grant Date or such later date as the Committee may determine and specify in writing.

(b) *Vesting and Forfeiture.* The Committee shall set forth, in an Award Agreement granting Restricted Shares (or RSUs), the terms and conditions under which the Participant's interest in the Restricted Shares (or Shares subject to RSUs) will become vested and non-forfeitable. Except as set forth in the applicable Award Agreement or as the Committee otherwise determines, upon termination of a Participant's Continuous Service for any reason, the Participant shall forfeit his or her Restricted Shares and RSUs to the extent the Participant's interest therein has not vested on or before such termination date; *provided* that if a Participant purchases Restricted Shares and forfeits them for any reason, the Company shall return the purchase price to the Participant to the extent either set forth in an Award Agreement or required by Applicable Laws.

(c) *Certificates for Restricted Shares.* Unless otherwise provided in an Award Agreement, the Company shall hold certificates representing Restricted Shares (and dividends if in Shares) that accrue with respect to them until the restrictions lapse, and the Participant shall provide the Company with appropriate stock powers endorsed in blank. The Participant's failure to provide such stock powers within ten days after a written request from the Company shall entitle the Committee to unilaterally declare a forfeiture of all or some of the Participant's Restricted Shares.

(d) *Section 83(b) Elections*. A Participant may make an election under Code Section 83(b) (the "**Section 83(b) Election**") with respect to Restricted Shares.

(e) *Issuance of Shares upon Vesting*. As soon as practicable after vesting of a Participant's Restricted Shares (or of the Participant's right to receive the Shares underlying RSUs), the Company shall deliver to the Participant, free from vesting restrictions, one Share for each surrendered and vested Restricted Share (or deliver one Share, free from vesting restrictions, for each Share subject to a vested RSU), unless an Award Agreement provides otherwise and subject to Section 7 regarding Withholding Taxes. No fractional Shares shall be distributed, and cash shall be paid in lieu thereof.

(f) *Performance Awards*. Subject to the limitations set forth in this Section, the Committee may, at the time of grant of a Restricted Share or RSU Award, designate such Award as a "**Performance Award**" (that shall be settled only in Shares) in order that such Award constitutes, and has terms and conditions that are designed to qualify as, "qualified performance-based compensation" under Code Section 162(m). With respect to each Performance Award, the Committee shall establish, in writing within the time required under Code Section 162(m), a "**Performance Period**," "**Performance Measure(s)**", and "**Performance Formula(e)**" (each such term being defined below). Once established for a Performance Period, the Performance Measure(s) and Performance Formula(e) shall not be amended or otherwise modified to the extent such amendment or modification would cause the compensation payable pursuant to the Award to fail to constitute qualified performance-based compensation under Code Section 162(m).

(i) A Participant shall be eligible to receive Shares in respect of a Performance Award only to the extent that the Performance Measure(s) for such Award is achieved and the Performance Formula(e) as applied against such Performance Measure(s) determines that all or some portion of such Participant's Award has been earned for the Performance Period. As soon as practicable after the close of each Performance Period, the Committee shall review and certify in writing whether, and to what extent, the Performance Measure(s) for the Performance Period has been achieved and, if so, determine and certify in writing the amount of the Performance Award to be paid to the Participant and, in so doing, may use negative discretion to decrease, but not increase, the amount of the Award otherwise payable to the Participant based upon such performance.

(ii) The maximum Performance Award that any one Participant may receive for any one Performance Period, without regard to time of vesting or exercisability, shall

not exceed the limitation set forth in Section 4(b) above, as adjusted pursuant to Section 9 below.

(iii) *Definitions*.

(I) "**Performance Formula**" means, for a Performance Period, one or more objective formulas or standards established by the Committee for purposes of determining whether or the extent to which an Award has been earned based on the level of performance attained or to be attained with respect to one or more Performance Measure(s). Performance Formulae may vary from Performance Period to Performance Period and from Participant to Participant and may be established on a stand-alone basis, in tandem or in the alternative.

(II) "**Performance Measure**" means one or more of the following selected by the Committee to measure Company, Affiliate, and/or business unit performance for a Performance Period, whether in absolute or relative terms (including, without limitation, terms relative to a peer group or index): basic, diluted, or adjusted earnings per share; sales or revenue; earnings before interest, taxes, and other adjustments (in total or on a per share basis); basic or adjusted net income; returns on equity, assets, capital, revenue or similar measure; economic value added; working capital; total shareholder return; and product development, product market share, research, licensing, litigation, human resources, information services, mergers, acquisitions, sales of assets of Affiliates or business units. Each such measure shall be, to the extent applicable, determined in accordance with generally accepted accounting principles as consistently applied by the Company (or such other standard applied by the Committee) and, if so determined by the Committee, and in the case of a Performance Award, to the extent permitted under Code Section 162(m), adjusted to omit the effects of extraordinary items, gain or loss on the disposal of a business segment, unusual or infrequently occurring events and transactions and cumulative effects of changes in accounting principles. Performance Measures may vary from Performance Period to Performance Period and from Participant to Participant, and may be established on a stand-alone basis, in tandem or in the alternative.

(III) "**Performance Period**" means one or more periods of time (of not less than one fiscal year of the Company), as the Committee may designate, over which the attainment of one or more Performance Measure(s) will be measured for the purpose of determining a Participant's rights in respect of an Award.

7. **Taxes; Withholding.**

(a) *General Rule.* Participants are solely responsible and liable for the satisfaction of all taxes and penalties that may arise in connection with Awards, and neither the Company, nor any Affiliate, nor any of their employees, directors, or agents shall have any obligation to mitigate, indemnify, or to otherwise hold any Participant harmless from any or all of such taxes. The Company's obligation to deliver Shares (or to pay cash) to Participants pursuant to Awards is at all times subject to their prior or coincident satisfaction of all required Withholding Taxes. If authorized by the Committee in its sole discretion, the Committee may permit a Participant to satisfy required Withholding Taxes that the Participant has not otherwise arranged to settle before the due date thereof –

(i) from withholding the cash otherwise payable to the Participant pursuant to the Award;

(ii) by withholding and cancelling the Participant's rights with respect to a number of Shares that (A) would otherwise have been delivered to the Participant pursuant to the Award, and (B) have an aggregate Fair Market Value equal to the

Withholding Taxes (such withheld Shares to be valued on the basis of the aggregate Fair Market Value thereof on the date of the withholding); or

(iii) withholding the cash otherwise payable to the Participant by the Company.

The number of Shares withheld and cancelled to pay a Participant's Withholding Taxes will be rounded up to the nearest whole Share sufficient to satisfy such taxes, with cash being paid to the Participant in an amount equal to the amount by which the Fair Market Value of such Shares exceeds the Withholding Taxes.

Notwithstanding the foregoing, for any period during which the Company does not generally permit Participants to satisfy their Withholding Taxes through the cashless method described in clause 7(a)(ii) hereof, the Company shall use reasonable commercial efforts to operate a cashless exercise program pursuant to which each Participant may, before or concurrently with the recognition of income pursuant to an Award, provide irrevocable instructions (A) to a broker or dealer designated by the Company (but individually selected and engaged by the Participant if the Participant is a reporting person under Section 16 of the Exchange Act) to effect the immediate sale of any Shares that would otherwise be issued to the Participant pursuant to an Award, and to remit to the Company, out of the sale proceeds available on the settlement date, sufficient funds to cover all Withholding Taxes and/or the exercise price of the Option being exercised (if applicable) by reason of such exercise, and (B) to the Company to deliver the certificates for the purchased Shares directly to such broker or dealer in order to complete the cashless transaction.

(b) *U.S. Code Section 409A.* To the extent that the Committee determines that any Award granted under the Plan is subject to Code Section 409A, the Award Agreement evidencing such Award shall incorporate the terms and conditions required by Code Section 409A. To the extent applicable, the Plan and Award Agreements shall be interpreted in accordance with Code Section 409A and Department of Treasury regulations and other interpretive guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued after the Effective Date. Notwithstanding any provision of the Plan to the contrary, the Committee may adopt such amendments to the Plan and the applicable Award Agreement or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, that the Administrator determines are necessary or appropriate (i) to exempt the Award from Code Section 409A and/or preserve the intended tax treatment of the benefits provided with respect to the Award, or (ii) to comply with the requirements of Code Section 409A and related Department of Treasury guidance and thereby avoid the application of any penalty taxes under such Section.

(c) *Unfunded Tax Status.* The Plan is intended to be an "unfunded" plan for incentive compensation. With respect to any payments not yet made to a Person pursuant to an Award, nothing contained in the Plan or any Award Agreement shall give the Person any rights that are greater than those of a general creditor of the Company or any Affiliate, and a Participant's rights under the Plan at all times constitute an unsecured claim against the general assets of the Company for the collection of benefits as they come due. Neither the Participant nor the Participant's duly-authorized transferee or Beneficiaries shall have any claim against or rights in any specific assets, Shares, or other funds of the Company.

8. **Non-Transferability of Awards.**

(a) *General.* Except as set forth in this Section, or as otherwise approved by the Committee, Awards may not be sold, pledged, assigned, hypothecated, transferred or disposed of in any manner other than by will or by the laws of descent or distribution. The designation of a death Beneficiary by a Participant will not constitute a transfer. An Award may be exercised, during the lifetime of the holder of an Award, only by such holder, by the duly-authorized legal representative of a holder who is Disabled, or by a transferee permitted by this Section.

(b) *Limited Transferability Rights.* The Committee may in its discretion provide in an Award Agreement that an Award may be transferred, on such terms and conditions as the Committee deems appropriate, either (i) by instrument to the Participant's "Immediate Family" (as defined below), (ii) by instrument to an inter vivos or testamentary trust (or other entity) in which the Award is to be passed to the Participant's designated beneficiaries, or (iii) by gift to charitable institutions. Any transferee of the Participant's rights shall succeed and be subject to all of the terms of the applicable Award Agreement and the Plan. "Immediate Family" means any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, and shall include adoptive relationships.

(c) *Death*. In the event of the death of a Participant, any outstanding Awards issued to the Participant shall automatically be transferred to the Participant's Beneficiary (or, if no Beneficiary is designated or surviving, to the person or persons to whom the Participant's rights under the Award pass by will or the laws of descent and distribution).

9. **Change in Capital Structure; Change in Control; Etc.**

(a) *Changes in Capitalization.* The Committee shall equitably adjust the number of Shares covered by each outstanding Award, and the number of Shares that have been authorized for issuance under the Plan but as to which no Awards have yet been granted or that have been returned to the Plan upon cancellation, forfeiture, or expiration of an Award, as well as the exercise or other price per Share covered by each such outstanding Award, to reflect any increase or decrease in the number of issued Shares resulting from a stock-split, reverse stock-split, stock dividend, combination, recapitalization or reclassification of the Shares, merger, consolidation, change in form of organization, or any other increase or decrease in the number of issued Shares effected without receipt of consideration by the Company. In the event of any such transaction or event, the Committee may provide in substitution for any or all outstanding Awards such alternative consideration (including cash or securities of any surviving entity) as it may in good faith determine to be equitable under the circumstances and may require in connection therewith the surrender of all Awards so replaced. In any case, such substitution of cash or securities shall not require the consent of any person who is granted Awards pursuant to the Plan. Except as expressly provided herein, or in an Award Agreement, if the Company issues for consideration shares of stock of any class or securities convertible into shares of stock of any class, the issuance shall not affect, and no adjustment by reason thereof shall be required to be made with respect to the number or price of Shares subject to any Award.

(b) *Dissolution or Liquidation*. In the event of the dissolution or liquidation of the Company other than as part of a Change of Control, each Award will terminate immediately prior to the consummation of such dissolution or liquidation, subject to the ability of the Committee to exercise any discretion authorized in the case of a Change in Control.

(c) *Change in Control.* In the event of a Change in Control but subject to the terms of any Award Agreements or employment-related agreements between the Company or any Affiliates and any Participant, each outstanding Award shall be assumed or a substantially equivalent award shall be substituted by the surviving or successor company or a parent or subsidiary of such successor company (in each case, the "**Successor Company**") upon consummation of the transaction. Notwithstanding the foregoing, instead of having outstanding Awards be assumed or replaced with equivalent awards by the Successor Company, the Committee may in its sole and absolute discretion and authority, without obtaining the approval or consent of the Company's shareholders or any Participant with respect to his or her outstanding Awards, take one or more of the following actions (with respect to any or all of the Awards, and with discretion to differentiate between individual Participants and Awards for any reason):

(i) accelerate the vesting of Awards so that Awards shall vest (and, to the extent applicable, become exercisable) as to the Shares that otherwise would have been unvested and provide that repurchase rights of the Company with respect to Shares issued pursuant to an Award shall lapse as to the Shares subject to such repurchase right;

(ii) arrange or otherwise provide for the payment of cash or other consideration to Participants in exchange for the satisfaction and cancellation of outstanding Awards (with the Committee determining the amount payable to each Participant based on the Fair Market Value, on the date of the Change in Control, of the Award being cancelled, based on any reasonable valuation method selected by the Committee);

(iii) terminate all or some Awards upon the consummation of the transaction, provided that the Committee shall provide for vesting of such Awards in full as of a date immediately prior to consummation of the Change in Control. To the extent that an Award is not exercised prior to consummation of a transaction in which the Award is not being assumed or substituted, such Award shall terminate upon such consummation;

(iv) make such other modifications, adjustments or amendments to outstanding Awards or this Plan as the Committee deems necessary or appropriate, subject however to the terms of Section 9 above.

Notwithstanding the above and unless otherwise provided in an Award Agreement or in any employment-related agreement between the Company or any Affiliate and the Participant, in the event a Participant is Involuntarily Terminated on or within 12 months (or other period set forth in an Award Agreement) following a Change in Control, then any Award that is assumed or substituted pursuant to this Section above shall accelerate and become fully vested (and become exercisable in full in the case of Options), and any repurchase right applicable to any Shares shall lapse in full, unless an Award Agreement provides for a more restrictive acceleration or vesting schedule or more restrictive limitations on the lapse of repurchase rights or otherwise places additional restrictions, limitations and conditions on an Award. The acceleration of vesting and lapse of repurchase rights provided for in the previous sentence shall occur immediately prior to the effective date of the Participant's Involuntary Termination, unless an Award Agreement provides otherwise.

10. **Termination, Rescission and Recapture of Awards.**

(a) Each Award under the Plan is intended to align the Participant's long-term interests with those of the Company. Accordingly, to the extent provided in an Award Agreement, the Company may terminate any outstanding, unexercised, unexpired, unpaid, or deferred Awards ("**Termination**"), rescind any exercise, payment or delivery pursuant to the Award ("**Rescission**"), or recapture any Shares (whether restricted or unrestricted) or proceeds from the Participant's sale of Shares issued pursuant to the Award ("**Recapture**"), if the Participant does not comply with the conditions of subsections (b), (c), and (e) hereof (collectively, the "**Conditions**").

(b) A Participant shall not, without the Company's prior written authorization, disclose to anyone outside the Company, or use in other than the Company's business, any proprietary or confidential information or material, as those or other similar terms are used in any applicable patent, confidentiality, inventions, secrecy, or other agreement between the Participant and the Company with regard to any such proprietary or confidential information or material.

(c) Pursuant to any agreement between the Participant and the Company with regard to intellectual property (including but not limited to patents, trademarks, copyrights, trade secrets, inventions, developments, improvements, proprietary information, confidential business and personnel information), a Participant shall promptly disclose and assign to the Company or its designee all right, title, and interest in such intellectual property, and shall take all reasonable steps necessary to enable the Company to secure all right, title and interest in such intellectual property in the United States and in any foreign country.

(d) Upon exercise, payment, or delivery of cash or Common Stock pursuant to an Award, the Participant shall certify on a form acceptable to the Company that he or she is in compliance with the terms and conditions of the Plan and, if a severance of Continuous Service has occurred for any reason, shall state the name and address of the Participant's then-current employer or any entity for which the

Participant performs business services and the Participant's title, and shall identify any organization or business in which the Participant owns a greater-than-five-percent equity interest.

(e) If the Company determines, in its sole and absolute discretion, that (i) a Participant has violated any of the Conditions or (ii) during his or her Continuous Service, or within one year after its termination for any reason, a Participant (x) has rendered services to or otherwise directly or indirectly engaged in or assisted, any organization or business that, in the judgment of the Company in its sole and absolute discretion, is or is working to become competitive with the Company; (y) has solicited any non-administrative employee of the Company to terminate employment with the Company; or (z) has engaged in activities which are materially prejudicial to or in conflict with the interests of the Company, including any breaches of fiduciary duty or the duty of loyalty, then the Company may, in its sole and absolute discretion, impose a Termination, Rescission, and/or Recapture with respect to any or all of the Participant's relevant Awards, Shares, and the proceeds thereof.

(f) Within ten days after receiving notice from the Company of any such activity described in Section 10(e) above, the Participant shall deliver to the Company the Shares acquired pursuant to the Award, or, if Participant has sold the Shares, the gain realized, or payment received as a result of the rescinded exercise, payment, or delivery; *provided*, that if the Participant returns Shares that the Participant purchased pursuant to the exercise of an Option (or the gains realized from the sale of such Common Stock), the Company shall promptly refund the exercise price, without earnings, that the Participant paid for the Shares. Any payment by the Participant to the Company pursuant to this Section shall be made either in cash or by returning to the Company the number of Shares that the Participant received in connection with the rescinded exercise, payment, or delivery. It shall not be a basis for Termination, Rescission or Recapture if after termination of a Participant's Continuous Service, the Participant purchases, as an investment or otherwise, stock or other securities of such an organization or business, so long as (i) such stock or other securities are listed upon a recognized securities exchange or traded over-the-counter, and (ii) such investment does not represent more than a five percent (5%) equity interest in the organization or business.

(g) Notwithstanding the foregoing provisions of this Section, the Company has sole and absolute discretion not to require Termination, Rescission and/or Recapture, and its determination not to require Termination, Rescission and/or Recapture with respect to any particular act by a particular Participant or Award shall not in any way reduce or eliminate the Company's authority to require Termination, Rescission and/or Recapture with respect to any other act or Participant or Award. Nothing in this Section shall be construed to impose obligations on the Participant to refrain from engaging in lawful competition with the Company after the termination of employment that does not violate subsections (b), (c), or (e) of this Section, other than any obligations that are part of any separate agreement between the Company and the Participant or that arise under Applicable Law.

(h) All administrative and discretionary authority given to the Company under this Section may be exercised by the most senior human resources executive of the Company or such other person or committee (including without limitation the Committee) as the Committee may designate from time to time.

(i) If any provision within this Section is determined to be unenforceable or invalid under any Applicable Law, such provision will be applied to the maximum extent permitted by Applicable Law, and shall automatically be deemed amended in a manner consistent with its objectives and any limitations required under Applicable Law. Notwithstanding the foregoing, but subject to any contrary terms set forth in any Award Agreement, this Section shall not be applicable to any Participant from and after his or her termination of Continuous Service after a Change in Control.

11. **Recoupment of Awards.** Unless otherwise specifically provided in an Award Agreement, and to the extent permitted by Applicable Law, the Committee may in its sole and absolute discretion, without obtaining the approval or consent of the Company's shareholders or of any Participant, require that any Participant reimburse the Company for all or any portion of any Awards granted under this Plan

("**Reimbursement**"), or the Committee may require the Termination or Rescission of, or the Recapture associated with, any Award, if and to the extent:

(a) the granting, vesting, or payment of such Award was predicated upon the achievement of certain financial results that were subsequently the subject of a material financial restatement;

(b) in the Committee's view the Participant either benefited from a calculation that later proves to be materially inaccurate, or engaged in fraud or misconduct that caused or partially caused the need for a material financial restatement by the Company or any Affiliate; and

(c) a lower granting, vesting, or payment of such Award would have occurred based upon the conduct described in clause (b) of this Section.

In each instance, the Committee will, to the extent practicable and allowable under Applicable Laws, require Reimbursement, Termination or Rescission of, or Recapture relating to, any such Award granted to a Participant; provided that the Company will not seek Reimbursement, Termination or Rescission of, or Recapture relating to, any such Awards that were paid or vested more than three years prior to the first date of the applicable restatement period.

12. **Relationship to other Benefits**. No payment pursuant to the Plan shall be taken into account in determining any benefits under any pension, retirement, savings, profit sharing, group insurance, welfare or other benefit plan of the Company or any Affiliate except to the extent otherwise expressly provided in writing in such other plan or an agreement thereunder.

13. **Administration of the Plan.** The Committee shall administer the Plan in accordance with its terms, provided that the Board may act in lieu of the Committee on any matter. The Committee shall hold meetings at such times and places as it may determine and shall make such rules and regulations for the conduct of its business as it deems advisable. In the absence of a duly appointed Committee, the Board shall function as the Committee for all purposes of the Plan.

(a) *Committee Composition*. The Board shall appoint the members of the Committee. If and to the extent permitted by Applicable Law, the Committee may authorize one or more executive officers to make Awards to Eligible Persons other than themselves. The Board may at any time appoint additional members to the Committee, remove and replace members of the Committee with or without Cause, and fill vacancies on the Committee however caused.

(b) *Powers of the Committee*. Subject to the provisions of the Plan, the Committee shall have the authority, in its sole discretion:

(i) to grant Awards and to determine Eligible Persons to whom Awards shall be granted from time to time, and the number of Shares, units, or dollars to be covered by each Award;

(ii) to determine, from time to time, the Fair Market Value of Shares;

(iii) to determine, and to set forth in Award Agreements, the terms and conditions of all Awards, including any applicable exercise or purchase price, the installments and conditions under which an Award shall become vested (which may be based on performance), terminated, expired, cancelled, or replaced, and the circumstances for vesting acceleration or waiver of forfeiture restrictions, and other restrictions and limitations;

(iv) to approve the forms of Award Agreements and all other documents, notices and certificates in connection therewith which need not be identical either as to type of Award or among Participants;

(v) to construe and interpret the terms of the Plan and any Award Agreement, to determine the meaning of their terms, and to prescribe, amend, and rescind rules and procedures relating to the Plan and its administration;

(vi) to the extent consistent with the purposes of the Plan and without amending the Plan, to modify, to cancel, or to waive the Company's rights with respect to any Awards, to adjust or to modify Award Agreements for changes in Applicable Law, and to recognize differences in foreign law, tax policies, or customs;

(vii) to require, as a condition precedent to the grant, vesting, exercise, settlement, and/or issuance of Shares pursuant to any Award, that a Participant agree to execute a general release of claims (in any form that the Committee may require, in its sole discretion, which form may include any other provisions, *e.g.* confidentiality and restrictions on competition, that are found in general claims release agreements that the Company utilizes or expects to utilize);

(viii) in the event that the Company establishes, for itself or using the services of a third party, an automated system for the documentation, granting, settlement, or exercise of Awards, such as a system using an internet website or interactive voice response, to implement paperless documentation, granting, settlement, or exercise of Awards by a Participant may be permitted through the use of such an automated system; and

(ix) to make all interpretations and to take all other actions that the Committee may consider necessary or advisable to administer the Plan or to effectuate its purposes.

Subject to Applicable Law and the restrictions set forth in the Plan, the Committee may delegate administrative functions to individuals who are Directors or Employees.

(c) *Local Law Adjustments and Sub-plans.* To facilitate the making of any grant of an Award under this Plan, the Committee may adopt rules and provide for such special terms for Awards to Participants who are located within the United States, foreign nationals, or who are employed by the Company or any Affiliate outside of the United States of America as the Committee may consider necessary or appropriate to accommodate differences in local law, tax policy or custom. Without limiting the foregoing, the Company is specifically authorized to adopt rules and procedures regarding the conversion of local currency, taxes, withholding procedures and handling of stock certificates which vary with the customs and requirements of particular countries. The Company may adopt sub-plans and establish escrow accounts and trusts, and settle Awards in cash in lieu of shares, as may be appropriate, required or applicable to particular locations and countries.

(d) *Action by Committee*. Unless otherwise established by the Board or in any charter of the Committee, a majority of the Committee shall constitute a quorum and the acts of a majority of the members present at any meeting at which a quorum is present, and acts approved in writing by all members of the Committee in lieu of a meeting, shall be deemed the acts of the Committee. Each member of the Committee is entitled to, in good faith, rely or act upon any report or other information furnished to that member by an officer or other employee of the Company or any Affiliate, the Company's independent certified public accountants, or any executive compensation consultant or other professional retained by the Company to assist in the administration of the Plan.

(e) *Deference to Committee Determinations*. The Committee shall have the discretion to interpret or construe ambiguous, unclear, or implied (but omitted) terms in any fashion it deems to be appropriate in its sole discretion, and to make any findings of fact needed in the administration of the Plan or Award Agreements. The Committee's prior exercise of its discretionary authority shall not obligate it to exercise its authority in a like fashion thereafter. The Committee's interpretation and construction of any provision of the Plan, or of any Award or Award Agreement, and all determinations the Committee makes pursuant to the Plan shall be final, binding, and conclusive. The validity of any such interpretation, construction, decision or finding of fact shall not be given de novo review if challenged in court, by

arbitration, or in any other forum, and shall be upheld unless clearly made in bad faith or materially affected by fraud.

(f) *No Liability; Indemnification*. Neither the Board nor any Committee member, nor any Person acting at the direction of the Board or the Committee, shall be liable for any act, omission, interpretation, construction or determination made in good faith with respect to the Plan, any Award or any Award Agreement. The Company and its Affiliates shall pay or reimburse any member of the Committee, as well as any Director or Employee who in good faith takes action on behalf of the Plan, for all expenses incurred with respect to the Plan, and to the full extent allowable under Applicable Law shall indemnify each and every one of them for any claims, liabilities, and costs (including reasonable attorney's fees) arising out of their good faith performance of duties on behalf of the Plan. The Company and its Affiliates may, but shall not be required to, obtain liability insurance for this purpose.

(g) *Expenses***.** The expenses of administering the Plan shall be borne jointly and severally by the Company and its Affiliates.

14. **Modification of Awards and Substitution of Options.** Within the limitations of the Plan, the Committee may modify an Award to accelerate the rate at which an Option may be exercised, to accelerate the vesting of any Award, to extend or renew outstanding Awards, to accept the cancellation of outstanding Awards to the extent not previously exercised, or to make any change that the Plan would permit for a new Award. Notwithstanding the foregoing, no modification of an outstanding Award may materially and adversely affect a Participant's rights thereunder unless either (i) the Participant provides written consent to the modification, or (ii) before a Change in Control, the Committee determines in good faith that the modification is not materially adverse to the Participant.

15. **Plan Amendment and Termination**. The Board may amend or terminate the Plan as it shall deem advisable; provided that no change shall be made that increases the total number of Shares reserved for issuance pursuant to Awards (except pursuant to Section 9 above) unless such change is authorized by the shareholders of the Company. A termination or amendment of the Plan shall not materially and adversely affect a Participant's vested rights under an Award previously granted to him or her, unless the Participant consents in writing to such termination or amendment. Notwithstanding the foregoing, the Committee may amend the Plan to comply with changes in tax or securities laws or regulations, or in the interpretation thereof.

16. **Term of Plan**. If not sooner terminated by the Board, this Plan shall terminate at the close of business on the date ten years after its Effective Date as determined under Section 1(b) above. No Awards shall be made under the Plan after its termination.

17. **Governing Law**. The terms of this Plan shall be governed by the laws of the State of Delaware, within the United States of America, without regard to the State's conflict of laws rules.

18. **Laws and Regulations.**

(a) *General Rules.* This Plan, the granting of Awards, the exercise of Options, and the obligations of the Company hereunder (including those to pay cash or to deliver, sell or accept the surrender of any of its Shares or other securities) shall be subject to all Applicable Law. In the event that any Shares are not registered under any Applicable Law prior to the required delivery of them pursuant to Awards, the Company may require, as a condition to their issuance or delivery, that the persons to whom the Shares are to be issued or delivered make any written representations and warranties (such as that such Shares are being acquired by the Participant for investment for the Participant's own account and not with a view to, for resale in connection with, or with an intent of participating directly or indirectly in, any distribution of such Shares) that the Committee may reasonably require, and the Committee may in its sole discretion include a legend to such effect on the certificates representing any Shares issued or delivered pursuant to the Plan.

(b) *Black-out Periods.* Notwithstanding any contrary terms within the Plan or any Award Agreement, the Committee shall have the absolute discretion to impose a "blackout" period on the exercise of any Option, as well as the settlement of any Award, with respect to any or all Participants (including those whose Continuous Service has ended) to the extent that the Committee determines that doing so is either desirable or required in order to comply with applicable securities laws.

(c) *Severability; Blue Pencil*. In the event that any one or more of the provisions of this Plan shall be or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby. If, in the opinion of any court of competent jurisdiction such covenants are not reasonable in any respect, such court shall have the right, power and authority to excise or modify such provision or provisions of these covenants as to the court shall appear not reasonable and to enforce the remainder of these covenants as so amended.

19. **No Shareholder Rights**. Neither a Participant nor any transferee or Beneficiary of a Participant shall have any rights as a shareholder of the Company with respect to any Shares underlying any Award until the date of issuance of a share certificate to such Participant, transferee, or Beneficiary for such Shares in accordance with the Company's governing instruments and Applicable Law. Prior to the issuance of Shares or Restricted Shares pursuant to an Award, a Participant shall not have the right to vote or to receive dividends or any other rights as a shareholder with respect to the Shares underlying the Award (unless otherwise provided in the Award Agreement for Restricted Shares), notwithstanding its exercise in the case of Options. No adjustment will be made for a dividend or other right that is determined based on a record date prior to the date the stock certificate is issued, except as otherwise specifically provided for in this Plan or an Award Agreement.

Appendix I: Definitions

As used in the Plan, the following terms have the meanings indicated when they begin with initial capital letters within the Plan:

"**Affiliate**" means, with respect to any Person, any other Person that directly or indirectly controls or is controlled by or under common control with such Person. For the purposes of this definition, "control," when used with respect to any Person, means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person or the power to elect directors, whether through the ownership of voting securities, by contract or otherwise; and the terms "affiliated," "controlling" and "controlled" have meanings correlative to the foregoing.

"**Applicable Law**" means the legal requirements relating to the administration of options and share-based plans under any applicable laws of the United States, any other country, and any provincial, state, or local subdivision, any applicable stock exchange or automated quotation system rules or regulations, as such laws, rules, regulations and requirements shall be in place from time to time.

"**Award**" means any award made pursuant to the Plan, including awards made in the form of an Option, a Restricted Share, a Restricted Share Unit or a Performance Award.

"**Award Agreement**" means any written document setting forth the terms of an Award that has been authorized by the Committee. The Committee shall determine the form or forms of documents to be used, and may change them from time to time for any reason.

"**Beneficiary**" means the person or entity designated by the Participant, in a form approved by the Company, to exercise the Participant's rights with respect to an Award or receive payment or settlement under an Award after the Participant's death.

"**Board**" means the Board of Directors of the Company.

"**Cause"** means, unless otherwise provided in an Award, (i) the refusal or neglect of the Participant to perform substantially his or her employment related duties, (ii) the Participant's personal dishonesty, incompetence, willful misconduct or breach of fiduciary duty, (iii) the Participant's conviction of a crime constituting a felony (or a crime or offense of equivalent magnitude in any jurisdiction) or his or her willful violation of any other law, rule, or regulation (other than a traffic violation or other offense or violation outside of the course of employment which in no way adversely affects the Company or its reputation or the ability of the Participant to perform his or her employment related duties or to represent the Company) or (iv) the material breach by the Participant of any applicable written policy of the Company or any Subsidiary; *provided* that, with respect to any Participant who is party to an employment agreement with the Company or a Subsidiary, "Cause" shall have the meaning specified in such Participant's employment agreement. The determination as to whether "Cause" has occurred shall be made by the Committee, which shall have the authority to waive the consequences under the Plan of the existence or occurrence of any of the events, acts or omissions constituting "Cause." The foregoing definition does not in any way limit the Company's ability to terminate a Participant's employment or consulting relationship at any time, and the term "Company" will be interpreted herein to include any Affiliate or successor thereto, if appropriate. Furthermore, a Participant's Continuous Service shall be deemed to have terminated for Cause within the meaning hereof if, at any time (whether before, on, or after termination of the Participant's Continuous Service), facts or circumstances are discovered that would have justified a termination for Cause.

"**Change in Control**" means, unless another definition is set forth in an Award Agreement, the first of the following to occur after the Effective Date:

(i) the members of the Board (the "**Incumbent Directors**") cease for any reason other than due to death to constitute at least a majority of the members of the Board, *provided* that any director whose election, or nomination for election by the Company's stockholders, was approved by a vote of at least a majority of the members of the Board other than as a result of a proxy contest, or any agreement arising out of an actual or threatened proxy contest, shall be treated as an Incumbent Director;

(ii) the acquisition by any person, entity or "group" (as defined in Section 13(d) of the Act), other than the Company, the Subsidiaries, any employee benefit plan of the Company or the Subsidiaries of more than 50% of the combined voting power of the Company's then outstanding voting securities;

(iii) the merger or consolidation of the Company, as a result of which persons who were stockholders of the Company immediately prior to such merger or consolidation, do not, immediately thereafter, own, directly or indirectly, more than 50% of the combined voting power entitled to vote generally in the election of directors of the merged or consolidated company;

(iv) the liquidation or dissolution of the Company other than a liquidation of the Company into any Subsidiary; and

(v) the sale, transfer or other disposition of all or substantially all of the assets of the Company to one or more persons or entities that are not, immediately prior to such sale, transfer or other disposition, Affiliates of the Company.

Notwithstanding the foregoing, a "Change in Control" shall not be deemed to occur (I) in the event the Company files for bankruptcy, liquidation or reorganization under the United States Bankruptcy Code, or (II) by virtue of the consummation of any transaction or series of integrated transactions immediately following which the record holders of the common stock of the Company immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in any entity which owns all or substantially all of the assets of the Company immediately following such transaction or series of transactions.

"**Class 7**" has the meaning set forth in the Plan of Reorganization.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Committee**" means the Compensation Committee of the Board or its successor, *provided* that the term "Committee" means (i) the Board when acting at any time in lieu of the Committee, (ii) with respect to any decision involving an Award intended to satisfy the requirements of Code Section 162(m), a committee consisting of two or more Directors of the Company who are "outside directors" within the meaning of Code Section 162(m), and (iii) with respect to any decision relating to a Reporting Person, a committee consisting of solely two or more Directors who are disinterested within the meaning of Rule 16b-3.

"**Company**" means FairPoint Communications, Inc., a Delaware corporation; *provided* that in the event the Company reincorporates in another jurisdiction, all references to the term "Company" shall refer to the Company in such new jurisdiction.

"**Company Stock**" means common stock of the Company. In the event of a change in the capital structure of the Company affecting the common stock (as provided in Section 9), the Shares resulting from such a change in the common stock shall be deemed to be Company Stock within the meaning of the Plan.

"**Continuous Service**" means a Participant's period of service in the absence of any interruption or termination, as an Employee or Director or Investor Director Provider. Continuous Service shall not be considered interrupted in the case of: (i) sick leave; (ii) military leave; (iii) any other leave of absence approved by the Committee, *provided* that such leave is for a period of not more than 90 days, unless reemployment upon the expiration of such leave is guaranteed by contract or statute, or unless provided otherwise pursuant to Company policy adopted from time to time; (iv) changes in status from Director to advisory director or emeritus status; or (iv) transfers between locations of the Company or between the Company and its Affiliates. Changes in status between service as an Employee and Director will not constitute an interruption of Continuous Service if the individual continues to perform bona fide services for the Company. The Committee shall have the discretion to determine whether and to what extent the vesting of any Awards shall be tolled during any paid or unpaid leave of absence; *provided*, *however*, that in the absence of such determination, vesting for all Awards shall be tolled during any such unpaid leave (but not for a paid leave). Notwithstanding anything to the contrary contained in the Plan, an Investor Director Provider shall be deemed to have Continuous Service for so long as the Investor Director Provider has an employee who serves as a Director.

"**Director**" means a member of the Board.

"**Disabled"** or **"Disability"** means, unless otherwise provided in an Award, a long-term disability within the meaning of the Company's long-term disability or other similar program then applicable to a Participant or, in the absence of any such program, as determined by the Committee in accordance with Section 409A of the Code; *provided* that with respect to any Participant who is a party to an employment agreement with the Company or a Subsidiary, "Disability" shall have the meaning, if any, specified in such agreement.

"**Eligible Person**" means any Investor Director Provider, Director or Employee and includes non-Employees to whom an offer of employment has been or is being extended.

"**Employee**" means any person whom the Company or any Affiliate classifies as an employee (including an officer) for employment tax purposes, whether or not that classification is correct. The payment by the Company of a director's fee to a Director shall not be sufficient to constitute "employment" of such Director by the Company.

"**Employer**" means the Company and each Subsidiary and Affiliate that employs one or more Participants.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"**Fair Market Value**" means the fair market value of the Company Stock as of such date based on the then prevailing closing prices of the Company Stock on the New York Stock Exchange, NASDAQ or such other stock exchanges as the Company Stock is then listed for trading (and, if none, as determined by the Committee in good faith based on relevant facts and circumstances).

"**Grant Date**" means the date designated as the "Grant Date" within an Award Agreement.

"Investor Director Provider" means any investor in the Company (or Affiliate of such investor) for which (a) an employee of such investor or Affiliate serves as a Director, and (b) with respect to which investor or Affiliate, such Director and such investor (or Affiliate) agree that the investor (or Affiliate) will receive any Awards that such Director otherwise would receive hereunder.

"Involuntary Termination" means termination of a Participant's Continuous Service under the following circumstances occurring on or after a Change in Control:

(i) termination without Cause by the Company or an Affiliate or successor thereto, as appropriate; or

(ii) voluntary resignation by the Participant through the following actions: (1) the Participant provides the Company with written notice of the existence of one of the events, arising without the Participant's consent, listed in clauses (A) through (C) below within thirty (30) days of the initial existence of such event; (2) the Company fails to cure such event within thirty (30) days following the date such notice is given; and (3) the Participant elects to voluntarily terminate employment within the ninety (90) day period immediately following such event. The events include: (A) a material reduction in the Participant's authority, duties, and responsibilities without Cause, (B) the Participant being required to relocate his or her place of employment, other than a relocation within fifty (50) miles of the Company's office that was immediately beforehand the Participant's primary workplace, or (C) a material reduction in the Participant's base salary other than any such reduction consistent with a general reduction of pay across the executive staff as a group, as an economic or strategic measure due to poor financial performance by the Company.

"**Option**" means a right to purchase Company Stock granted under the Plan, at a price determined in accordance with the Plan.

"**Participant**" means any Eligible Person who holds an outstanding Award.

"**Performance Award**" means an Award of Restricted Shares or RSUs pursuant to Section 6(f) of the Plan.

"**Person**" means any natural person, association, trust, business trust, cooperative, corporation, general partnership, joint venture, joint-stock company, limited partnership, limited liability company, real estate investment trust, regulatory body, governmental agency or instrumentality, unincorporated organization or organizational entity.

"**Plan**" means this FairPoint Communications, Inc. 2010 Long Term Incentive Plan.

"Plan of Reorganization" means the joint plan of reorganization of the Company and its Affiliates, including, without limitation, the plan supplement and the exhibits and schedules thereof, as the same may be amended or modified from time to time in accordance with the provisions of the Bankruptcy Code and the terms hereof.

"**Recapture**" and "**Rescission**" have the meaning set forth in Section 10 of the Plan.

"**Reimbursement**" has the meaning set forth in Section 11 of the Plan.

"Reporting Person" means an Employee or Director who is subject to the reporting requirements set forth under Rule 16b-3.

"**Restricted Share**" means a Share awarded with restrictions imposed under Section 6 of the Plan.

"**Restricted Share Unit**" or "**RSU**" means a right granted to a Participant to receive Shares upon the lapse of restrictions imposed under Section 6 of the Plan.

"**Retirement**" means a Participant's termination of employment after age 62 and after completing at least five years of Continuous Service.

"Rule 16b-3" means Rule 16b-3 promulgated under the Exchange Act, as amended from time to time, or any successor provision.

"**Share**" means a share of Common Stock of the Company, as adjusted in accordance with Section 9 of the Plan.

"**Withholding Taxes**" means the aggregate minimum amount of federal, state, local and foreign income, payroll and other taxes that the Company and any Affiliates are required to withhold in connection with any Award.

FAIRPOINT COMMUNICATIONS, INC.

2010 LONG TERM INCENTIVE PLAN

As approved by the Board of Directors on April 21, 2010, August 16, 2010, and October 7, 2010.

[Long Term Incentive Plan – Restricted Share Award Agreement]

FAIRPOINT COMMUNICATIONS, INC.
2010 LONG TERM INCENTIVE PLAN
as amended and restated effective October 13, 2010

Restricted Share Award Agreement

You (the "Participant") are hereby awarded Restricted Shares subject to the terms and conditions set forth in this Award Agreement (the "Award Agreement" or "Award") and in the FairPoint Communications, Inc. 2010 Long Term Incentive Plan ("Plan"). A copy of the Plan is attached as **Exhibit A**, and a copy of the Prospectus summarizing the Plan's material terms is attached as **Exhibit B**. Terms beginning with initial capital letters within this Agreement have the special meaning defined in the Plan (or in this Agreement, if defined herein).

This Award is conditioned on your execution of this Award Agreement within five (5) days after the Grant Date specified in Section 1 below. By executing this Award Agreement, you will be irrevocably agreeing that all of your rights under this Award will be determined solely and exclusively by reference to the terms and conditions of the Plan, subject to the provisions set forth below. As a result, you should not execute this Award Agreement until you have (i) carefully considered the terms and conditions of the Plan and this Award, and (ii) consulted with your personal legal and tax advisors about all of these documents.

1. **Specific Terms**. Your Restricted Shares have the following terms:

Name of Participant	
Number of Restricted Shares Being Awarded	_____
Purchase Price per Share (if applicable)	Not applicable.
Grant Date	_____ __, 2011.
Vesting	Your Award will vest with respect to twenty-five percent (25%) of the number of Restricted Shares designated above on the Grant Date and on each of the first three annual anniversary dates of the Grant Date (each a "Vesting Date"), provided that your Continuous Service has not ended before the particular Vesting Date (subject to the terms of any employment agreement between you and the Company).
Accelerated Vesting	You will become 100% vested in this Award upon the first to occur of (i) a Change in Control or (ii) termination of your Continuous Service due to your death or your Disability. If your Continuous Service terminates without Cause, vesting will accelerate to the extent necessary so that you become at least 50% vested in the total number of Restricted Shares designated above, plus an additional 25% of such number for each completed year of your Continuous Service beyond the first year after the Effective Date (up to 100% in the aggregate).
§83(b) Elections	Allowed using the Election attached as **Exhibit C**.
Deferral Elections	Not allowed.
Recapture and Recoupment	Plan §10 shall apply re Termination, Rescission, and Recapture. Plan §11 shall apply re Recoupment of this Award.

2. **Termination of Continuous Service**. Subject to the terms of any employment agreement between you and the Company and/or any of its subsidiaries then in effect, this Award shall be canceled and become automatically null and void (and you will forfeit all right to any unvested Restricted Shares) immediately after termination of your Continuous Service for any reason, but only to the extent you have not become vested in your Restricted Shares, pursuant to the terms of Section 1 above regarding vesting or accelerated vesting, on or before your Continuous Service ends.

3. **Voting Rights**. As the owner of record of any Restricted Shares you qualify to receive pursuant to this Award Agreement, you will be entitled to vote such Restricted Shares, provided you hold them on the particular record date for determining shareholders of record entitled to vote.

4. **Settlement through Issuance of Unrestricted Shares**. Pursuant to Section 6 of the Plan, the Company will issue to you or your duly-authorized transferee, free from vesting restrictions (but subject to such legends as the Company determines to be appropriate), one unrestricted Share for each vested Restricted Share, as soon as practicable after the date on which your Restricted Shares vest in whole or in part; provided that the number of Shares issued to you shall be reduced by a number of Shares having a Fair Market Value equal to the sum of (I) the par value per Share issued (as payment thereof), plus (II) the minimum statutory tax withholding required in connection with the settlement of your Restricted Shares, provided such action has been authorized by the Committee through written notice to you before the applicable vesting date. Otherwise, you must arrange to settle the tax liability for such vesting of this Award through a cash payment or salary reduction, with cash being withheld from your pay for any additional withholding and employment taxes that applicable tax laws may require. Certificates for unrestricted Shares shall not be delivered to you unless and until all applicable conditions of this Award have been satisfied, including all employment and tax-withholding obligations.

5. **Dividends**. You shall have the right to collect any cash dividends or Share dividends on your Restricted Shares whenever they are declared and paid to the holders of Shares between the Grant Date and each vesting date upon which you are entitled to receive unrestricted Shares to settle this Award; provided that any cash dividends you receive shall be vested when paid, and that any Share dividends on your Restricted Shares shall be issued as additional Restricted Shares that have the same vesting terms and conditions as the underlying Restricted Shares to which the Share dividends relate. To the extent that your Continuous Service ends before full vesting of your Restricted Shares, you will forfeit all Share-based dividends that are attributable to all of your non-vested Restricted Shares.

6. **Designation of Beneficiary**. Notwithstanding anything to the contrary contained herein or in the Plan, following the execution of this Award Agreement, you may expressly designate a death beneficiary (the "Beneficiary") to your interest, if any, in this Award and any underlying Shares. You shall designate the Beneficiary by completing and executing a designation of beneficiary agreement substantially in the form attached hereto as **Exhibit D** (the "Designation of Death Beneficiary") and delivering an executed copy of the Designation of Beneficiary to the Company. To the extent you do not duly designate a beneficiary who survives you, your estate will automatically be your beneficiary.

7. **Restrictions on Transfer of Award**. Your rights under this Award Agreement may not be sold, pledged, or otherwise transferred without the prior written consent of the Committee.

8. **Taxes**. Except to the extent otherwise specifically provided in an employment agreement between you and the Company, by signing this Award Agreement, you acknowledge that you shall be solely responsible for the satisfaction of any applicable taxes that may arise pursuant to this Award, including taxes arising under Code Section 409A (regarding deferred compensation) or 4999 (regarding golden parachute excise taxes), and that neither the Company nor the Committee shall have any obligation whatsoever to pay such taxes or to otherwise indemnify or hold you harmless from any or all of such taxes. The Committee shall have the sole discretion to interpret the requirements of the Code, including Section 409A, for purposes of the Plan and this Award Agreement.

9. **Not a Contract of Employment**. By executing this Award Agreement you acknowledge and agree that (i) nothing in this Award Agreement or the Plan confers on you any right to continue an employment, service or consulting relationship with the Company, nor shall it affect in any way your right or the Company's right to terminate your employment, service, or consulting relationship at any time, with or without Cause; and (ii) the Company would not have granted this Award to you but for these acknowledgements and agreements.

10. **Investment Purposes**. By executing this Award, you represent and warrant to the Company that any Restricted Shares issued to you will be for investment for your own account and not with a view to, for resale in connection with, or with an intent of participating directly or indirectly in, any distribution of such Shares within the meaning of the Securities Act of 1933, as amended.

11. **Securities Law Restrictions**. Regardless of whether the offering and sale of Shares under the Plan have been registered under the Securities Act of 1933, as amended (the "Securities Act"), or have been registered or qualified under the securities laws of any state, the Company at its discretion may impose restrictions upon the sale, pledge or other transfer of such Shares (including the placement of appropriate legends on stock certificates or the imposition of stop-transfer instructions) if, in the judgment of the Company, such restrictions are necessary or desirable in order to achieve compliance with the Securities Act or the securities laws of any state or any other law or to enforce the intent of this Award.

12. **Headings**. Section and other headings contained in this Award Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope or intent of this Award Agreement or any provision hereof.

13. **Severability**. Every provision of this Award Agreement and of the Plan is intended to be severable. If any term hereof is illegal or invalid for any reason, such illegality or invalidity shall not affect the validity or legality of the remaining terms of this Award Agreement.

14. **Counterparts**. This Award Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

15. **Notices**. All notices, requests, demands and other communications required or permitted to be given under the Plan or this Award Agreement shall be in writing and shall be deemed given (i) when personally delivered to the recipient in writing or by electronic mail (provided in either case that a written or e-mail acknowledgement of receipt is obtained), (ii) one (1) business day after being sent by a nationally recognized overnight courier (provided that a written acknowledgement of receipt is obtained by the overnight courier) or (iii) four (4) business days after mailing by certified or registered mail, postage prepaid, return receipt requested, to the party concerned at the address indicated below (or such other address as the recipient shall specify by ten (10) days' advance written notice given in accordance with this Section 15:

To the Company:

FairPoint Communications, Inc.
Attention: General Counsel
521 East Morehead Street
Suite 500
Charlotte, North Carolina 28202

To the Participant: The last address shown in the Company's records.

16. **Binding Effect**. Except as otherwise provided in this Award Agreement or in the Plan, every covenant, term, and provision of this Award Agreement shall be binding upon and inure to the benefit of

the parties hereto and their respective heirs, legatees, legal representatives, successors, transferees, and assigns.

17. **Modifications**. This Award Agreement may be modified or amended at any time, in accordance with Section 14 of the Plan and provided that you must consent in writing to any modification that adversely and materially affects any rights or obligations under this Award Agreement.

18. **Plan Governs**. By signing this Award Agreement, you acknowledge that you have received a copy of the Plan and that your Award Agreement is subject to all the provisions contained in the Plan, the provisions of which are made a part of this Award Agreement and your Award is subject to all interpretations, amendments, rules and regulations which from time to time may be promulgated and adopted pursuant to the Plan. In the event of a conflict between the provisions of this Award Agreement and those of the Plan, the provisions of the Plan shall control.

19. **Governing Law**. The laws of the State of Delaware shall govern the validity of this Award Agreement, the construction of its terms, and the interpretation of the rights and duties of the parties hereto.

BY YOUR SIGNATURE BELOW, along with the signature of the Company's representative, you and the Company agree that this Award is made under and governed by the terms and conditions of this Award Agreement and the Plan.

FAIRPOINT COMMUNICATIONS, INC.

By: _____
Name:
Title:

PARTICIPANT

Signature: _____

Printed Name of Participant: _____

Exhibit A

FAIRPOINT COMMUNICATIONS, INC.
2010 LONG TERM INCENTIVE PLAN

Plan Document

Exhibit B

FAIRPOINT COMMUNICATIONS, INC.
2010 LONG TERM INCENTIVE PLAN

Plan Prospectus

Exhibit C

FAIRPOINT COMMUNICATIONS, INC.
2010 LONG TERM INCENTIVE PLAN

Section 83(b) Election Form

IF YOU WISH TO MAKE A SECTION 83(b) ELECTION, THERE ARE TWO CRITICAL REQUIREMENTS, PARTICULARLY:

- YOUR ELECTION MUST BE FINAL WITHIN 30 DAYS AFTER THE GRANT DATE SET FORTH IN YOUR AWARD AGREEMENT, AND

- BEFORE MAKING YOUR ELECTION, YOU MUST HAVE RECEIVED RESTRICTED SHARES PURSUANT TO SECTION 6 OF THE PLAN.

Attached is an Internal Revenue Code Section 83(b) Election Form. In order to make the election, you must completely fill out the attached form and file one copy with the Internal Revenue Service office where you file your tax return. In addition, one copy of the statement also must be submitted with your income tax return for the taxable year in which you make this election. Finally, you also must submit a copy of the election form to the Company within 10 days after filing that election with the Internal Revenue Service. A Section 83(b) election normally cannot be revoked.

FAIRPOINT COMMUNICATIONS, INC.
2010 LONG TERM INCENTIVE PLAN

Election to Include Value of Restricted Shares in Gross Income in Year of Award (Transfer) Under Internal Revenue Code Section 83(b)

Pursuant to Section 83(b) of the Internal Revenue Code, I hereby elect within 30 days after receiving the property described herein to be taxed immediately on its value specified in item 5 below.

1. My General Information:

Name: _____
Address: _____
_____

S.S.N.
or T.I.N.: _____

2. Description of the property with respect to which I am making this election:

_____ shares of _____ stock of FairPoint Communications, Inc. (the "Restricted Shares").

3. The Restricted Shares were transferred to me on _____ ___, 20__, pursuant to an Award Agreement executed on _____ ___, 20__ (the "Award Agreement"). This election relates to the 20____ calendar taxable year.

4. The Restricted Shares are subject to the restrictions set forth in the Award Agreement, and are generally not transferable until my interest becomes vested and non-forfeitable, pursuant thereto.

5. Fair market value:

The fair market value at the time of transfer (determined without regard to any restrictions other than restrictions which by their terms never will lapse) of the Restricted Shares with respect to which I am making this election is $_____ per share.

6. Amount paid for Restricted Shares:

The amount I paid for the Restricted Shares is $____ per share.

7. Furnishing statement to employer:

A copy of this statement has been furnished to my employer (_____). If the transferor of the Restricted Shares is not my employer, that entity also has been furnished with a copy of this statement.

8. Award Agreement or Plan not affected:

Nothing contained herein shall be held to change any of the terms or conditions of the Award Agreement or the Plan.

Dated: _____ __, 200_.

_____
Taxpayer

Exhibit D

FAIRPOINT COMMUNICATIONS, INC.
2010 LONG TERM INCENTIVE PLAN

Designation of Death Beneficiary

In connection with the Awards designated below that I have received pursuant to the Plan, I hereby designate the person specified below as the beneficiary upon my death of my interest in such Awards. This designation shall remain in effect until revoked in writing by me.

Name of Beneficiary: _____

Address: _____

_____

_____

Social Security No.: _____

This beneficiary designation relates to any and all of my rights under the following Award or Awards:

any Award that I have received or ever receive under the Plan.

the _____ Award that I received pursuant to an award agreement dated _____ __, ____ between myself and the Company.

I understand that this designation operates to entitle the above named beneficiary, in the event of my death, to any and all of my rights under the Award(s) designated above from the date this form is delivered to the Company until such date as this designation is revoked in writing by me, including by delivery to the Company of a written designation of beneficiary executed by me on a later date.

Date: _____

By: _____
Name of Participant

Sworn to before me this
____day of _____, 200_
_____
Notary Public
County of_____
State of_____

[Long Term Incentive Plan – Non-Incentive Stock Option Award Agreement]

FAIRPOINT COMMUNICATIONS, INC.
2010 LONG TERM INCENTIVE PLAN
as amended and restated effective October 13, 2010

Non-Incentive Stock Option Award Agreement

You are hereby awarded this stock option ("Option") to purchase Shares of FairPoint Communications, Inc. (the "Company"), subject to the terms and conditions set forth in this Non-Incentive Stock Option Award Agreement (the "Award Agreement") and in the FairPoint Communications, Inc. 2010 Long Term Incentive Plan (the "Plan"). A copy of the Plan is attached as **Exhibit A**, and a prospectus describing the Plan's material terms is attached as **Exhibit B**. Terms below that begin with capital letters have the special meaning set forth in the Plan or in this Award Agreement.

This Award is conditioned on your execution of this Award Agreement within five (5) days after the Grant Date specified in Section 1 below. By executing this Award Agreement, you will be irrevocably agreeing that all of your rights under this Award will be determined solely and exclusively by reference to the terms and conditions of the Plan, subject to the provisions set forth below. As a result, you should not execute this Award Agreement until you have carefully considered the terms and conditions of the Plan and this Award, plus the information disclosed within the attached Plan prospectus, and (ii) consulted with your personal legal and tax advisors about all of these documents.

1. Specific Terms. Your Option has the following terms:

Name of Participant	
Grant Date:	_____ __, 2011.
Expiration Date:	10 years after Grant Date, at 5:00 p.m. (E.D.T. or E.S.T., as applicable) on the Expiration Date.
Exercise Price:	To be determined by the Committee pursuant to Section 3(b)(iii) of the Plan, followed (as soon as practicable after 30 calendar days following the Effective Date) by written notice to you setting forth the per Share Exercise Price for Shares subject to this Option.
Number of Shares Subject to Award:	_____
Vesting:	Your Award will vest, and thereby become exercisable with respect to the number of Shares covered by this Award, at the rate of twenty-five percent (25%) on the Grant Date, and an additional twenty-five percent (25%) on each of the first three anniversary dates of the Grant Date, provided that your Continuous Service has not ended before the particular vesting date (subject to any employment agreement between you and the Company).
Accelerated Vesting	You will become 100% vested in this Award upon a Change in Control. If your Continuous Service terminates without Cause, vesting will accelerate to the extent necessary so that you become at least 50% vested in the Number of Shares Subject to Award (as designated above), plus an additional 25% of such number for each completed year of your Continuous Service beyond the first year after the Effective Date (up to 100% in the aggregate).. If your Continuous Service ends due to your death or Disability, you will become vested in this Award to the extent vesting would have otherwise occurred within the one-year period following termination of your Continuous Service.

Recapture and Recoupment	Plan §10 shall apply re Termination, Rescission, and Recapture of this Award. Plan §11 shall apply re Recoupment of this Award.

2. **Manner of Exercise**. This Option shall be exercised in the manner set forth in the Plan, using the exercise form attached hereto as **Exhibit C**. The amount of Shares for which this Option may be exercised is cumulative; that is, if you fail to exercise this Option for all of the Shares vested under this Option during any period set forth above, then any Shares subject hereto that are not exercised during such period may be exercised during any subsequent period, until the expiration or termination of this Option pursuant to Sections 1 and 3 of this Award Agreement and the terms of the Plan. Fractional Shares may not be purchased.

3. **Termination of Continuous Service**. Subject to the terms of any employment agreement between you and the Company and/or any of its subsidiaries that is in effect when your Continuous Service terminates, this Award shall be canceled and become automatically null and void immediately after termination of your Continuous Service for any reason, but only to the extent you have not become vested, pursuant to the terms of Section 1 above regarding vesting or accelerated vesting, on or before your Continuous Service ends.

4. **Designation of Beneficiary**. Notwithstanding anything to the contrary contained herein or in the Plan, following the execution of this Award Agreement, you may expressly designate a death beneficiary (the "Beneficiary") to your interest if any, in this Award and any underlying Shares. You shall designate the Beneficiary by completing and executing a designation of beneficiary agreement substantially in the form attached hereto as **Exhibit D** (the "Designation of Death Beneficiary") and delivering an executed copy of the Designation of Beneficiary to the Company. To the extent you do not duly designate a beneficiary who survives you, your estate will automatically be your beneficiary.

5. **Restrictions on Transfer of Award**. Your rights under this Award Agreement may not be sold, pledged, or otherwise transferred without the prior written consent of the Committee, except as hereinafter provided. You may transfer the Options as follows: (i) by instrument to an inter vivos or testamentary trust (or other entity) in which each beneficiary is a Permitted Transferee, as defined in subsection (ii) of this Section, or (ii) by gift to charitable institutions or by gift to any of the following relatives of yours: any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, domestic partner, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, and this shall include adoptive relationships (each a "Permitted Transferee"). Any Permitted Transferee of your rights shall succeed and be subject to all of the terms of this Award Agreement and the Plan.

6. **Taxes**. This Option is not intended to qualify as an "incentive stock option" within the meaning of Section 422 of the Code, and its tax consequences shall accordingly be determined under Section 83 of the Code. Except to the extent otherwise specifically provided in an employment agreement between you and the Company, by signing this Award Agreement, you acknowledge that you shall be solely responsible for the satisfaction of any applicable taxes that may arise pursuant to this Award, including taxes arising under Code Section 409A (regarding deferred compensation) or 4999 (regarding golden parachute excise taxes), and that neither the Company nor the Committee shall have any obligation whatsoever to pay such taxes or to otherwise indemnify or hold you harmless from any or all of such taxes. The Committee shall have the sole discretion to interpret the requirements of the Code, including Section 409A, for purposes of the Plan and this Award Agreement.

7. **Not a Contract of Employment**. By executing this Award Agreement you acknowledge and agree that (i) nothing in this Award Agreement or the Plan confers on you any right to continue an employment, service or consulting relationship with the Company, nor shall it affect in any way your right or the Company's right to terminate your employment, service, or consulting relationship at any time, with

or without Cause; and (ii) the Company would not have granted this Award to you but for these acknowledgements and agreements.

8. **Investment Purposes**. By executing this Award, you represent and warrant to the Company that any Shares issued to you pursuant to your Options will be for investment for your own account and not with a view to, for resale in connection with, or with an intent of participating directly or indirectly in, any distribution of such Shares within the meaning of the Securities Act of 1933, as amended.

9. **Securities Law Restrictions**. Regardless of whether the offering and sale of Shares under the Plan have been registered under the Securities Act of 1933, as amended (the "Securities Act"), or have been registered or qualified under the securities laws of any state, the Company at its discretion may impose restrictions upon the sale, pledge or other transfer of such Shares (including the placement of appropriate legends on stock certificates or the imposition of stop-transfer instructions) if, in the judgment of the Company, such restrictions are necessary or desirable in order to achieve compliance with the Securities Act or the securities laws of any state or any other law or to enforce the intent of this Award.

10. **Headings**. Section and other headings contained in this Award Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope or intent of this Award Agreement or any provision hereof.

11. **Severability**. Every provision of this Award Agreement and of the Plan is intended to be severable. If any term hereof is illegal or invalid for any reason, such illegality or invalidity shall not affect the validity or legality of the remaining terms of this Award Agreement.

12. **Counterparts**. This Award Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

13. **Notices**. All notices, requests, demands and other communications required or permitted to be given under the Plan or this Award Agreement shall be in writing and shall be deemed given (i) when personally delivered to the recipient in writing or by electronic mail (provided in either case that a written or e-mail acknowledgement of receipt is obtained), (ii) one (1) business day after being sent by a nationally recognized overnight courier (provided that a written acknowledgement of receipt is obtained by the overnight courier) or (iii) four (4) business days after mailing by certified or registered mail, postage prepaid, return receipt requested, to the party concerned at the address indicated below (or such other address as the recipient shall specify by ten (10) days' advance written notice given in accordance with this Section 13:

To the Company:

FairPoint Communications, Inc.
Attention: General Counsel
521 East Morehead Street
Suite 500
Charlotte, North Carolina 28202

To the Participant: The last address shown in the Company's records.

14. **Binding Effect**. Except as otherwise provided in this Award Agreement or in the Plan, every covenant, term, and provision of this Award Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legatees, legal representatives, successors, transferees, and assigns.

15. **Modifications**. This Award Agreement may be modified or amended at any time, in accordance with Section 14 of the Plan and provided that you must consent in writing to any modification that adversely and materially affects any rights or obligations under this Award Agreement.

16. **Plan Governs**. By signing this Award Agreement, you acknowledge that you have received a copy of the Plan and that your Award Agreement is subject to all the provisions contained in the Plan, the provisions of which are made a part of this Award Agreement and your Award is subject to all interpretations, amendments, rules and regulations which from time to time may be promulgated and adopted pursuant to the Plan. In the event of a conflict between the provisions of this Award Agreement and those of the Plan, the provisions of the Plan shall control.

17. **Governing Law**. The laws of the State of Delaware shall govern the validity of this Award Agreement, the construction of its terms, and the interpretation of the rights and duties of the parties hereto.

BY YOUR SIGNATURE BELOW, along with the signature of the Company's representative, you and the Company agree that this Award is made under and governed by the terms and conditions of this Award Agreement and the Plan.

FAIRPOINT COMMUNICATIONS, INC.

Signature: _____

Name and Title: _____

PARTICIPANT

Your Signature: _____

Your Printed Name: _____

Exhibit A

FAIRPOINT COMMUNICATIONS, INC.
2010 LONG TERM INCENTIVE PLAN

Plan Document

Exhibit B

FAIRPOINT COMMUNICATIONS, INC.
2010 LONG TERM INCENTIVE PLAN

Plan Prospectus

Exhibit C

FAIRPOINT COMMUNICATIONS, INC.
2010 LONG TERM INCENTIVE PLAN

Form of Exercise of Stock Option

FairPoint Communications, Inc.

[Company Address]

Attention: _____

Dear Sir or Madam:

The undersigned elects to exercise his/her Option to purchase _____ shares of Common Stock of FairPoint Communications, Inc. (the "Company") under and pursuant to a Stock Option Award Agreement dated as of _____.

1. Delivered herewith is a check and/or Shares of Common Stock owned by the undersigned, valued at the closing sale price of the stock on the business day prior to the date of exercise, as follows:

$_____	in cash or check
$_____	in the form of ____ Shares of Common Stock, valued at $_____ per share
$_____	**Total**

2. The undersigned elects a net exercise, hereby authorizing the Company to withhold from the shares otherwise subject to this Option a number of shares sufficient to cover the exercise price and minimum statutory withholding taxes payable pursuant to this exercise; provided that this net exercise alternative is available only if the Committee has not suspended it by written notice to the undersigned before the exercise date for these Options.

The name or names to be on the stock certificate or certificates and the address and Social Security Number of such person(s) is as follows:

Name: _____

Address: _____

Social Security Number _____

Very truly yours,

_____ _____
Date Optionee

Exhibit D

FAIRPOINT COMMUNICATIONS, INC.
2010 LONG TERM INCENTIVE PLAN

Designation of Death Beneficiary

In connection with the Awards designated below that I have received pursuant to the FairPoint Communications, Inc. 2010 Long Term Incentive Plan (the "Plan"), I hereby designate the person specified below as the beneficiary upon my death of my interest in such Awards. This designation shall remain in effect until revoked in writing by me.

Name of Beneficiary: _____

Address: _____

Social Security No.: _____

This beneficiary designation relates to any and all of my rights under the following Award or Awards:

any Award that I have received or ever receive under the Plan.

the _____ Award that I received pursuant to an award agreement dated _____ __, ____ between myself and the Company.

I understand that this designation operates to entitle the above named beneficiary, in the event of my death, to any and all of my rights under the Award(s) designated above from the date this form is delivered to the Company until such date as this designation is revoked in writing by me, including by delivery to the Company of a written designation of beneficiary executed by me on a later date.

Date: _____

By: _____
Name of Participant

Sworn to before me this
____day of _____, 200_
_____
Notary Public
County of_____
State of _____

ITEM 7

[Published CUSIP Number: ____]

CREDIT AGREEMENT

Dated as of [_____ _____, 2011]
among

FAIRPOINT COMMUNICATIONS, INC.

and

FAIRPOINT LOGISTICS, INC.,
as the Borrowers,

BANK OF AMERICA, N.A.,
as Administrative Agent and
L/C Issuer,

and

The Other Lenders Party Hereto

BANC OF AMERICA SECURITIES LLC,

as Sole Lead Arranger and Sole Book Manager

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SCHEDULES

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Form of

CREDIT AGREEMENT

This CREDIT AGREEMENT is entered into as of [_____ ____], 2011, among FAIRPOINT COMMUNICATIONS, INC., a Delaware corporation ("FairPoint"), FairPoint Logistics Inc., a South Dakota corporation ("Logistics"; Logistics, together with FairPoint, each a "Borrower" and collectively, the "Borrowers"), the Lenders (as hereinafter defined), and BANK OF AMERICA, N.A., as Administrative Agent and L/C Issuer.

PRELIMINARY STATEMENTS:

On October 26, 2009, FairPoint, the other Loan Parties and their respective Subsidiaries filed voluntary petitions in the Bankruptcy Court (as hereinafter defined) for relief under Chapter 11 of the Bankruptcy Code (as hereinafter defined) and commenced the Chapter 11 Cases (as hereinafter defined).

FairPoint and the other Loan Parties shall emerge from bankruptcy on the date hereof when the Plan of Reorganization (as hereinafter defined), which was confirmed by the Bankruptcy Court on [_____ ____], 2011, is consummated.

FairPoint, certain of the Loan Parties, certain lenders (the "Prepetition Lenders"), Bank of America, N.A., as administrative agent for such lenders (in such capacity, the "Prepetition Administrative Agent"), and certain other lenders, are parties to a Credit Agreement, dated as of March 31, 2008, as amended (as so amended, the "Prepetition Credit Agreement"), pursuant to which the Prepetition Lenders agreed, subject to the terms and conditions therein contained, to make available to FairPoint certain credit facilities as provided for therein.

Pursuant to the terms of the Plan of Reorganization, the Prepetition Lenders are receiving, among other things, interests in a term loan facility in the aggregate principal amount of $1,000,000,000, on the terms and subject to the conditions set forth herein.

In addition to the foregoing, the Borrowers have requested that the Revolving Credit Lenders provide a revolving credit facility, and the Revolving Credit Lenders have indicated their willingness to lend and the L/C Issuer has indicated its willingness to issue letters of credit, in each case, on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I.

DEFINITIONS AND ACCOUNTING TERMS

Section 1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

"Administrative Agent" means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent; provided that, where such term is used in this Agreement or any other Loan Document in the context of the exercise of

any rights or remedies, including without limitation in Sections 8, 9 and 10.14 hereof, and in Section 6 of the Security Agreement, Section 7 of the Pledge Agreement and Section 1 of the Guaranty, such term shall mean the administrative agent acting in such capacity on behalf of and at the sole direction of the requisite First Lien Claimholders, except to the extent the Second Lien Claimholders are entitled to direct (and in fact direct) the exercise of rights and remedies in accordance with Section 10.14(b)(i)(B), Section 10.14(b)(i)(C) or Section 10.14(b)(i)(D), in which case the administrative agent shall act at the direction of the requisite Second Lien Claimholders for the purposes described therein.

"Administrative Agent's Office" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as the Administrative Agent may from time to time notify to the Borrowers and the Lenders.

"Administrative Questionnaire" means an Administrative Questionnaire in substantially the form of Exhibit E-2 or any other form approved by the Administrative Agent.

"Affiliate" means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. For the avoidance of doubt, neither the Administrative Agent nor any Lender shall be deemed to be an Affiliate of any Loan Party for any purpose under this Agreement, other than Section 7.08 hereof.

"Aggregate Commitments" means the Commitments of all the Lenders.

"Agreement" means this Credit Agreement.

"American Recovery and Reinvestment Act of 2009" means the economic stimulus package enacted by the 111th United States Congress in February 2009 intended to promote investment during the recession, or any similar Law enacted by the United States Congress.

"Annual Incentive Plan" means FairPoint's management bonus program as in effect from time to time which amounts set forth thereunder shall be payable upon the achievement of certain performance metrics set by the board of directors of FairPoint.

"Applicable Percentage" means (a) in respect of the Term Facility, with respect to any Term Lender at any time, the percentage (carried out to the ninth decimal place) of the Term Facility represented by (i) on or prior to the Closing Date, such Term Lender's Term Commitment at such time and (ii) thereafter, the principal amount of such Term Lender's Term Loans at such time and (b) in respect of the Revolving Credit Facility, with respect to any Revolving Credit Lender at any time, the percentage (carried out to the ninth decimal place) of the Revolving Credit Facility represented by such Revolving Credit Lender's Revolving Credit Commitment at such time. If the commitment of each Revolving Credit Lender to make Revolving Credit Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.02, or if the Revolving Credit Commitments have expired, then the Applicable Percentage of each Revolving Credit Lender in respect of the Revolving Credit Facility shall be determined based on the Applicable Percentage of such Revolving Credit Lender in respect of the Revolving Credit Facility most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each Lender in respect of each

Facility is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

"Applicable Rate" means (a) 3.50% per annum for Base Rate Loans and (b) 4.50% per annum for Eurodollar Rate Loans.

"Applicable Revolving Credit Percentage" means with respect to any Revolving Credit Lender at any time, such Revolving Credit Lender's Applicable Percentage in respect of the Revolving Credit Facility at such time.

"Appropriate Lender" means, at any time, (a) with respect to any of the Term Facility or the Revolving Credit Facility, a Lender that has a Commitment with respect to such Facility or holds a Term Loan or a Revolving Credit Loan, respectively, at such time, and (b) with respect to the Letter of Credit Sublimit, (i) the L/C Issuer and (ii) if any Letters of Credit have been issued pursuant to Section 2.03(a), the Revolving Credit Lenders.

"Approved Fund" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Arranger" means Banc of America Securities LLC, in its capacity as sole lead arranger and sole book manager.

"Assignee Group" means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit E-1 or any other form approved by the Administrative Agent.

"Attributable Indebtedness" means, on any date, (a) in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease or similar payments under the relevant lease or other applicable agreement or instrument that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease or other agreement or instrument were accounted for as a Capitalized Lease and (c) all Synthetic Debt of such Person.

"Audited Financial Statements" means the audited balance sheet of Consolidated FairPoint for the fiscal year ended December 31, 2009, and the related statements of income or operations, shareholders' equity and cash flows for such fiscal year of Consolidated FairPoint, including the notes thereto.

"Auto-Extension Letter of Credit" has the meaning specified in Section 2.03(b)(iii).

"Availability Period" means the period from and including the Closing Date to the earliest of (a) the Maturity Date for the Revolving Credit Facility, (b) the date of termination of

the Revolving Credit Commitments pursuant to Section 2.06, and (c) the date of termination of the commitment of each Revolving Credit Lender to make Revolving Credit Loans and of the obligation of the L/C Issuer to make L/C Credit Extensions pursuant to Section 8.02.

"Bank of America" means Bank of America, N.A. and its successors.

"Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy," as now or hereafter in effect, or any successor thereto.

"Bankruptcy Court" means the United States Bankruptcy Court for the Southern District of New York.

"Base Rate" means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its "prime rate" and (c) the applicable Eurodollar Rate plus 1.00%. The "prime rate" is a rate set by Bank of America based upon various factors including Bank of America's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

"Base Rate Loan" means a Revolving Credit Loan or a Term Loan that bears interest based on the Base Rate.

"Borrower" and "Borrowers" have the meanings specified in the introductory paragraph hereto.

"Borrower Materials" has the meaning specified in Section 6.02.

"Borrowing" means a Revolving Credit Borrowing or a Term Borrowing, as the context may require.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent's Office is located and, if such day relates to any Eurodollar Rate Loan, means any such day that is also a London Banking Day.

"Capital Expenditures" means, for any period, the aggregate of all cash expenditures (including in all events all amounts borrowed for the acquisition, repair, improvement, substitution or replacement of any capital asset and all amounts expended under Capitalized Leases but excluding any amount representing capitalized interest) by FairPoint and its Subsidiaries during that period that, in conformity with GAAP, are required to be capitalized or otherwise included in the property, plant or equipment reflected in the balance sheet of Consolidated FairPoint; provided that Capital Expenditures shall in any event exclude amounts expended from insurance proceeds resulting from the loss of, or damage, to property, plant or equipment or other capitalized assets reflected in the balance sheet of FairPoint and its Subsidiaries.

"Capital Expenditures Carryover Amount" means, with respect to any fiscal year of FairPoint, an amount equal to (a) the lesser of (i) 10% of the Capital Expenditures limit for such fiscal year as set forth in Section 7.12 (without giving effect to any Capital Expenditure Carryover Amount) and (ii) an amount equal to (x) the Capital Expenditures allowed for such fiscal year as set forth in Section 7.12 minus (y) the actual aggregate amount of Capital Expenditures made by FairPoint and its Subsidiaries during such fiscal year; provided, that if planned Capital Expenditures cannot be completed in a fiscal year because of a force majeure, the percentage referred to in clause (i) for such fiscal year may be increased to a number, and on such conditions, as the Administrative Agent shall approve in its sole discretion upon receipt of documentation satisfactory to it plus (b) if, in the fourth quarter of such fiscal year, FairPoint and/or its Subsidiaries entered into binding contracts with respect to Capital Expenditures that are within the limits set forth in Section 7.12 for such fiscal year but are contractually committed to be spent in the first quarter of the immediately following fiscal year (and subject to receipt of documentation satisfactory to the Administrative Agent prior to the end of such fiscal year), an amount equal to the lesser of (x) $5,000,000 and (y) the amount so contractually committed ("Clause (b) Capital Expenditures Carryover Amount") but only to the extent such Capital Expenditures are properly funded in the first quarter of the immediately following fiscal year.

"Capitalized Leases" means all leases that have been or should be, in accordance with GAAP, recorded as capitalized leases.

"Carrier Services" means the resale of long distance services.

"Carrier Services Company" means any Subsidiary of a Borrower that is an operating company engaged in the Carrier Services business.

"Cash Collateral Account" means a blocked, non-interest bearing deposit account of one or more of the Loan Parties at Bank of America (or another commercial bank selected in compliance with Section 6.19) in the name of the Administrative Agent and under the sole dominion and control of the Administrative Agent, and otherwise established in a manner satisfactory to the Administrative Agent.

"Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Administrative Agent or the L/C Issuer and the Revolving Credit Lenders, as collateral for L/C Obligations or obligations of Revolving Credit Lenders to fund participations in respect thereof, cash or deposit account balances or, if the L/C Issuer benefitting from such collateral shall agree in its sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to (a) the Administrative Agent and (b) the L/C Issuer. "Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"Cash Equivalents" means any of the following types of Investments, to the extent owned by FairPoint or any of its Subsidiaries free and clear of all Liens (other than Liens created under the Collateral Documents):

(a) readily marketable obligations issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof having maturities of not more than

360 days from the date of acquisition thereof; provided that the full faith and credit of the United States is pledged in support thereof;

(b) time deposits with, or insured certificates of deposit or bankers' acceptances of, any commercial bank that (i) (A) is a Lender or (B) is organized under the Laws of the United States, any state thereof or the District of Columbia or is the principal banking subsidiary of a bank holding company organized under the Laws of the United States, any state thereof or the District of Columbia, and is a member of the Federal Reserve System, (ii) issues (or the parent of which issues) commercial paper rated as described in clause (c) of this definition and (iii) has combined capital and surplus of at least $750,000,000, in each case with maturities of not more than 90 days from the date of acquisition thereof;

(c) commercial paper issued by any Person organized under the Laws of any state of the United States and rated at least "Prime-1" (or the then equivalent grade) by Moody's or at least "A-1" (or the then equivalent grade) by S&P, in each case with maturities of not more than 180 days from the date of acquisition thereof;

(d) Investments, classified in accordance with GAAP as current assets of FairPoint or any of its Subsidiaries, in money market investment programs registered under the Investment Company Act of 1940, which are administered by financial institutions that have the highest rating obtainable from either Moody's or S&P ("Money Market Funds"), and the portfolios of which are limited solely to Investments of the character, quality and maturity described in clauses (a), (b) and (c) of this definition;

(e) repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than 30 days with respect to securities issued or fully guaranteed or insured by the United States;

(f) securities (including tax-exempt debt obligations) with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least "A" by S&P or "A-2" by Moody's or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally (or publicly traded or open-ended bond funds that invest exclusively in such securities);

(g) shares of Money Market Funds which invest exclusively in (i) assets satisfying the requirements of clauses (a) through (f) above and (ii) commercial paper issued by any Person organized under the Laws of any state of the United States and rated at least "Prime-2" by Moody's or at least "A-2" by S&P or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, in each case with maturities of not more than 400 days from the date of acquisition thereof; provided, that such Money Market Funds' policy guidelines do not permit such Money Market Funds to invest more than 10% of their aggregate assets in the types of assets described in subclause (ii) of this clause (g); and

(h) shares of Money Market Funds which invest exclusively in assets satisfying the requirements of clauses (a) through (f) above.

"Cash Management Agreement" means any agreement to provide cash management services, including treasury, depository, overdraft, credit or debit card, electronic funds transfer and other cash management arrangements.

"Cash Management Bank" means any Person that, at the time it enters into a Cash Management Agreement, is a Lender or an Affiliate of a Lender, in its capacity as a party to such Cash Management Agreement.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

"CERCLIS" means the Comprehensive Environmental Response, Compensation and Liability Information System maintained by the U.S. Environmental Protection Agency.

"CFC" means a Person that is a controlled foreign corporation under Section 957 of the Code.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any Law, rule, regulation or treaty, (b) any change in any Law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided, however, that notwithstanding anything herein to the contrary, the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith shall be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Change of Control" means an event or series of events by which:

(a) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have "beneficial ownership" of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an "option right")), directly or indirectly, of 35% or more of the equity securities of FairPoint entitled to vote for members of the board of directors or equivalent governing body of FairPoint on a fully-diluted basis (and taking into account all such securities that such "person" or "group" has the right to acquire pursuant to any option right); or

(b) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of FairPoint cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was

approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body (excluding, in the case of both clause (ii) and clause (iii), any individual whose initial nomination for, or assumption of office as, a member of that board or equivalent governing body occurs as a result of an actual or threatened solicitation of proxies or consents for the election or removal of one or more directors by any person or group other than a solicitation for the election of one or more directors by or on behalf of the board of directors); or

(c) any Person or two or more Persons acting in concert shall have acquired by contract or otherwise, or shall have entered into a contract or arrangement that, upon consummation thereof, will result in its or their acquisition of the power to exercise, directly or indirectly, a controlling influence over the management or policies of FairPoint, or control over the equity securities of FairPoint entitled to vote for members of the board of directors or equivalent governing body of FairPoint on a fully-diluted basis (and taking into account all such securities that such Person or Persons have the right to acquire pursuant to any option right) representing 35% or more of the combined voting power of such securities.

"Chapter 11 Cases" means the cases commenced under Chapter 11 of the Bankruptcy Code by FairPoint and its Subsidiaries in the Bankruptcy Court, which are jointly administered under Case Number 09-16335 (BRL).

"Clause (b) Capital Expenditures Carryover Amount" has the meaning given thereto in the definition of "Capital Expenditures Carryover Amount."

"Closing Date" means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01.

"CoBank" has the meaning specified in Section 2.17(a).

"CoBank Equities" has the meaning specified in Section 2.17(a).

"Code" means the Internal Revenue Code of 1986.

"Collateral" means all of the "Collateral" and "Mortgaged Property" referred to in the Collateral Documents and all of the other property that is or is intended under the terms of the Collateral Documents to be subject to Liens in favor of the Administrative Agent for the benefit of the Secured Parties.

"Collateral Documents" means, collectively, the Security Agreement, the Pledge Agreement, each of the Mortgages, Control Agreements (as defined in the Security Agreement), collateral assignments, security agreements, pledge agreements or other similar agreements delivered to the Administrative Agent pursuant to Section 6.12, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Administrative Agent for the benefit of the Secured Parties.

"Commitment" means a Term Commitment or a Revolving Credit Commitment, as the context may require.

"Committed Loan Notice" means a notice of (a) a Revolving Credit Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Eurodollar Rate Loans, pursuant to Section 2.02(a), which, if in writing, shall be substantially in the form of Exhibit A.

"Company" means any corporation, limited liability company, partnership or other business entity (or the adjectival form thereof, where appropriate).

"Compensated Absence Adjustment" means, for any year in which annual vacation expense is not recognized evenly over the course of that year, the normalization of the annual vacation expense such that the annual vacation expense is recognized evenly over the course of that year.

"Compliance Certificate" means a certificate substantially in the form of Exhibit D.

"Consolidated EBITDAR" means, at any date of determination, an amount equal to Consolidated Net Income of FairPoint for the most recently completed Measurement Period plus, without duplication (a) the following to the extent deducted in calculating such Consolidated Net Income: (i) Federal, state, local and foreign income tax expense, (ii) Consolidated Interest Charges, (iii) amortization and depreciation expense, (iv) aggregate pension and OPEB expense, provided that for purposes of calculating Consolidated EBITDAR, such amount shall be net of pension contributions and OPEB cash payments to the extent such net amount is a positive number, (v) Non-Cash Stock Based Compensation, (vi) losses on sales of assets (excluding sales in the ordinary course of business) and other extraordinary losses, (vii) any other non-cash charges (including non-cash costs arising from implementation of SFAS 109) accrued by the Borrowers and their Subsidiaries during such period (except to the extent any such charge will require a cash payment in a future period), (viii) professional fees for advisors (including (A) fees payable to Third Law Sourcing, LLC, in an amount not to exceed $6,500,000 in the aggregate through the Maturity Date, and (B) fees payable to Altman Vilandrie & Company, in an amount not to exceed $500,000 in the aggregate through the Maturity Date), accountants, legal counsel and US Trustee fees paid for or incurred by FairPoint in connection with and as a result of the Chapter 11 Cases, whether or not on behalf of FairPoint, and fees payable in accordance with the Hauser Consulting Agreement, (ix) Success Bonuses, (x) the negative effects of non-cash adjustments from the application of fresh start reporting, (xi) costs and expenses paid by the Borrowers associated with rejected contracts, in an amount not to exceed $2,000,000 in the aggregate through the Maturity Date, but only to the extent not included in the Reserve (as defined in Section 9.22 of the Plan of Reorganization), (xii) as of the relevant date of determination, so long as no Default or Event of Default has occurred and is continuing, costs and expenses paid by the Borrowers to a financial advisor for the Administrative Agent and the Lenders pursuant to Section 6.20, (xiii) negative accounting adjustments during such period resulting from any Financial Restatement but only to the extent such Financial Restatement affected financial information for any period ending on or prior to the Closing Date, (xiv) any amount required to be reserved in accordance with GAAP on account of prepetition claims that is in excess of the amount previously reserved for such claims pursuant to Section 9.22 of the Plan of Reorganization and (xv) severance expense incurred during such Measurement Period in

an amount not to exceed each of $12,000,000 in any fiscal year or $30,000,000 in the aggregate through the Maturity Date, and minus (b) the following to the extent included in calculating such Consolidated Net Income: (i) Federal, state, local and foreign income tax credits, (ii) gains on sales of assets (excluding sales in the ordinary course of business) and other extraordinary gains, (iii) non-cash gains and non-cash income accrued during such period, (iv) non-operating interest and dividend income for such period, (v) the positive effects of non-cash adjustments from the application of fresh start reporting (in each case of or by the Borrowers and their Subsidiaries for such Measurement Period and all as determined for Consolidated FairPoint in accordance with GAAP) and (vi) positive accounting adjustments during such period resulting from any Financial Restatement but only to the extent such Financial Restatement affected financial information for any period ending on or prior to the Closing Date.

"Consolidated FairPoint" means FairPoint and its Subsidiaries considered as a whole on a consolidated basis.

"Consolidated Funded Indebtedness" means, as of any date of determination, for Consolidated FairPoint, the sum, without duplication, of (a) the outstanding principal amount of all obligations, whether current or long-term, for borrowed money (including the outstanding principal amount of the Obligations hereunder) and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments, (b) all direct obligations arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments, (c) all obligations in respect of the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business), (d) all Attributable Indebtedness, (e) without duplication, all Guarantees with respect to outstanding Indebtedness of the types specified in clauses (a) through (d) above of Persons other than FairPoint or any Subsidiary, and (f) all Indebtedness of the types referred to in clauses (a) through (e) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which FairPoint or a Subsidiary is a general partner or joint venturer, unless such Indebtedness is expressly made non-recourse to FairPoint or such Subsidiary.

"Consolidated Interest Charges" means, for any Measurement Period, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, (b) all interest paid or payable with respect to discontinued operations and (c) the portion of rent expense under Capitalized Leases that is treated as interest in accordance with GAAP, in each case, of or by Consolidated FairPoint for the most recently completed Measurement Period.

"Consolidated Interest Coverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated EBITDAR to (b) Consolidated Interest Charges paid in cash, in each case, of or by Consolidated FairPoint for the most recently completed Measurement Period. For each full fiscal quarter that occurs prior to the first anniversary of the Closing Date, Consolidated Interest Charges for purposes of clause (b) of this definition shall be calculated on an annualized basis such that Consolidated Interest Charges shall equal (i) for the first full fiscal quarter following the Closing Date, the sum of Consolidated Interest Charges for such quarter multiplied by four (4), (ii) for the second full fiscal quarter after the Closing Date, the sum of the Consolidated

Interest Charges for both the first and second full fiscal quarters following the Closing Date multiplied by two (2) and (iii) for the third full fiscal quarter following the Closing Date, the sum of Consolidated Interest Charges otherwise applicable for the first, second and third full fiscal quarters following the Closing Date multiplied by four-thirds (4/3). For the avoidance of doubt, Consolidated EBITDAR for purposes of clause (a) of this definition shall be calculated for the most recently completed Measurement Period.

"Consolidated Net Income" means, at any date of determination, the net income (or loss) of Consolidated FairPoint for the most recently completed Measurement Period; provided that Consolidated Net Income shall exclude (without duplication) (a) extraordinary gains and extraordinary losses for such Measurement Period, (b) the net income of any Subsidiary during such Measurement Period to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of such income is not permitted by operation of the terms of its Organization Documents or any agreement, instrument or Law applicable to such Subsidiary during such Measurement Period, except that FairPoint's equity in any net loss of any such Subsidiary for such Measurement Period shall be included in determining Consolidated Net Income, and (c) any income (or loss) for such Measurement Period of any Person if such Person is not a Subsidiary, except that FairPoint's equity in the net income of any such Person for such Measurement Period shall be included in Consolidated Net Income up to the aggregate amount of cash actually distributed by such Person during such Measurement Period to FairPoint or a Subsidiary as a dividend or other distribution (and in the case of a dividend or other distribution to a Subsidiary, such Subsidiary is not precluded from further distributing such amount to FairPoint as described in clause (b) of this proviso).

"Consolidated Senior Leverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness (other than subordinated Indebtedness expressly permitted to be incurred by FairPoint and its Subsidiaries pursuant to the terms hereof) as of such date to (b) Consolidated EBITDAR of Consolidated FairPoint for the most recently completed Measurement Period.

"Consolidated Total Leverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness as of such date to (b) Consolidated EBITDAR of Consolidated FairPoint for the most recently completed Measurement Period.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Credit Extension" means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

"Debtor Relief Laws" means the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Default" means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

"Default Rate" means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (i) the Base Rate plus (ii) the Applicable Rate, if any, applicable to Base Rate Loans plus (iii) 2% per annum; provided, however, that with respect to a Eurodollar Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan plus 2% per annum and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Rate plus 2% per annum.

"Defaulting Lender" means, subject to Section 2.15(b), any Lender that, as determined by the Administrative Agent (except in the case of clause (b) hereof), (a) has failed to perform any of its funding obligations hereunder, including in respect of its Loans or participations in respect of Letters of Credit, within three Business Days of the date required to be funded by it hereunder, (b) has notified the Borrowers or the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement after the Closing Date to that effect with respect to its funding obligations hereunder or under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after any request by the Administrative Agent, to confirm in a manner satisfactory to the Administrative Agent that it will comply with its funding obligations, or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, or (iii) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment referred to in the preceding clauses (i) or (ii); provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority; provided, further, that notwithstanding the foregoing, LCPI shall not be considered a Defaulting Lender solely by virtue of the fact that it, or its direct or indirect parent, became the subject of a proceeding under a Debtor Relief Law in September or October 2008 (as applicable).

"DIP Credit Agreement" means the "DIP Facility" as defined in the Plan of Reorganization.

"DIP Financing" means the obtaining of credit or incurrence of Indebtedness, in each case after the Closing Date, secured by Liens on the Collateral pursuant to Section 364 of the Bankruptcy Code (or similar Debtor Relief Law).

"Discharge of First Lien Obligations" means, except to the extent otherwise expressly provided in Section 10.14(d), (a) payment in full in cash of the principal of and interest

(including interest accruing on or after, or which would have accrued but for. the commencement of an Insolvency Proceeding, whether or not such interest would be an allowed claim in such Insolvency Proceeding) on all outstanding Indebtedness included in the First Lien Obligations, (b) payment in full in cash of all other First Lien Obligations that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest are paid (other than indemnification Obligations for which no claim or demand for payment, whether oral or written, has been made at such time), (c) termination or expiration of any commitments to extend credit that would be First Lien Obligations (other than pursuant to Cash Management Agreements, in each case as to which satisfactory arrangements have been made with the applicable Cash Management Bank), and (d) termination or Cash Collateralization of all Letters of Credit in an amount equal to 105% of the then Outstanding Amount thereof.

"Discharge of Second Lien Obligations" means (a) payment in full in cash of the principal of and interest (including interest accruing on or after, or which would have accrued but for, the commencement of an Insolvency Proceeding, whether or not such interest would be an allowed claim in such Insolvency Proceeding) on all outstanding Indebtedness included in the Second Lien Obligations, (b) payment in full in cash of all other Second Lien Obligations that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest are paid (other than indemnification Obligations for which no claim or demand for payment, whether oral or written, has been made at such time) and (c) termination or expiration of any commitments to extend credit that would be Second Lien Obligations (other than pursuant to Secured Hedge Agreements, in each case as to which satisfactory arrangements have been made with the applicable Hedge Bank).

"Disposition" or "Dispose" means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by any Person (or the granting of any option or other right to do any of the foregoing), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

"Dividend" means, as to any Person, the declaration or payment of any dividends (other than dividends payable solely in Equity Interests of such Person) or return of any capital to, its stockholders, members and/or other owners or the authorization or the making of any other distribution, payment or delivery of property or cash to its stockholders, members and/or other owners in such capacity, or the redemption, retirement, purchase or other acquisition, directly or indirectly, for a consideration, of any shares of any class of its Equity Interests now or hereafter outstanding or the setting aside of any funds for any of the foregoing purposes, or the purchase or other acquisition by any Subsidiary of such Person for consideration of any shares of any class of the Equity Interests of FairPoint or any other Subsidiary, as the case may be, now or hereafter outstanding.

"Dollar" and "$" mean lawful money of the United States.

"Domestic Subsidiary" means any Subsidiary that is organized under the Laws of any political subdivision of the United States.

"Eligible Assignee" means any Person that meets the requirements to be an assignee under Sections 10.06(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 10.06(b)(iii)).

"Enforcement Action" means an action under applicable Law to

(a) foreclose, execute, levy, or collect on, take possession or control of, sell or otherwise realize upon (judicially or non-judicially), or lease, license, or otherwise dispose of (whether publicly or privately), any Collateral, or otherwise exercise or enforce remedial rights with respect to any Collateral under the Loan Documents (including by way of set-off, recoupment notification of a public or private sale or other disposition pursuant to the UCC or other applicable Law, notification to account debtors, notification to depositary banks under deposit account control agreements, or exercise of rights under landlord consents, if applicable),

(b) solicit bids from third Persons to conduct the liquidation or disposition of any Collateral or to engage or retain sales brokers, marketing agents, investment bankers, accountants, appraisers, auctioneers, or other third Persons for the purposes of valuing, marketing, promoting, and selling any Collateral,

(c) to receive a transfer of any Collateral in satisfaction of Indebtedness or any other Obligation secured thereby,

(d) to otherwise enforce a security interest or exercise another right or remedy, as a secured creditor or otherwise, pertaining to any Collateral at law, in equity, or pursuant to the Loan Documents (including the commencement of applicable legal proceedings or other actions with respect to all or any portion of the Collateral to facilitate the actions described in the preceding clauses, and exercising voting rights in respect of equity interests comprising Collateral), or

(e) effect the Disposition of any Collateral by any Loan Party after the occurrence and during the continuation of an Event of Default with the consent of the Administrative Agent; *provided* that "Enforcement Action" will be deemed to include the commencement of, or joinder in filing of a petition for commencement of, an Insolvency Proceeding against the owner of any Collateral.

"Environmental Laws" means any and all applicable Federal, state and local statutes, Laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any Hazardous Materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of FairPoint, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into

the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Environmental Permit" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"Equity Interests" means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with FairPoint within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by FairPoint or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by FairPoint or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon FairPoint or any ERISA Affiliate.

"Eurodollar Rate" means:

(a) for any Interest Period with respect to a Revolving Credit Loan that is a Eurodollar Rate Loan, the rate per annum equal to (i) the British Bankers Association LIBOR Rate ("BBA LIBOR"), as published by Reuters (or such other commercially available source providing quotations of BBA LIBOR as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two London Banking Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period or, (ii) if such rate is not available at such time for any reason the rate per annum determined by the Administrative Agent to be the

rate at which deposits in Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the Eurodollar Rate Loan being made, continued or converted and with a term equivalent to such Interest Period would be offered by Bank of America's London Branch to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two London Banking Days prior to the commencement of such Interest Period;

(b) for any Interest Period with respect to a Term Loan that is a Eurodollar Rate Loan, the rate per annum equal to the greater of (i) 2.00% and (ii) the rate determined by reference to clause (a) above; and

(c) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to (i) BBA LIBOR, at approximately 11:00 a.m., London time determined two London Banking Days prior to such date for Dollar deposits being delivered in the London interbank market for a term of one month commencing that day or (ii) if such published rate is not available at such time for any reason, the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the date of determination in same day funds in the approximate amount of the Base Rate Loan being made or maintained and with a term equal to one month would be offered by Bank of America's London Branch to major banks in the London interbank Eurodollar market at their request at the date and time of determination.

"Eurodollar Rate Loan" means a Revolving Credit Loan or a Term Loan that bears interest at a rate based on the Eurodollar Rate.

"Event of Default" has the meaning specified in Section 8.01.

"Excess Cash Flow" means, for any fiscal year of FairPoint, an amount equal to (a) Consolidated EBITDAR for such fiscal year minus (b) the sum (for such fiscal year) of, without duplication: (i) Consolidated Interest Charges actually paid in cash by FairPoint and its Subsidiaries, (ii) optional, scheduled and mandatory principal repayments of the Term Loans pursuant to Sections 2.05(a) and (b) (other than (b)(i)) and 2.07, and all prepayments of the Revolving Credit Loans to the extent such prepayment is accompanied by a permanent reduction in the Revolving Credit Commitments, (iii) all Federal, state, local and foreign income taxes actually paid in cash by FairPoint and its Subsidiaries, (iv) Capital Expenditures actually made by FairPoint and its Subsidiaries in such fiscal year, and any Capital Expenditure Carryover Amounts for such fiscal year being carried over into the next fiscal year, (v) cash contributions to the pension trust and cash payments related to OPEB made in such fiscal year, to the extent that the aggregate amount of such cash contributions and payments exceeds the aggregate amount of pension and OPEB expense, (vi) Investments made in such fiscal year pursuant to Section 7.03(j) and (p), (vii) the cash impact of any extraordinary loss in such fiscal year, (viii) to the extent included in the calculation of Consolidated EBITDAR for such fiscal year, any income in such fiscal year related to current or future projects under the American Recovery and Reinvestment Act of 2009, (ix) Dividends paid in cash during such fiscal year pursuant to Section 7.06(d), (x) the amount of any Cash Collateral required to be funded by FairPoint pursuant to Section 2.03(a)(ii)(F) during such fiscal year, (xi) if applicable, any cash payments made during such fiscal year to enter into or settle Swap Contracts to the extent not already included in

Consolidated EBITDAR for such fiscal year, (xii) any amount paid by FairPoint during such fiscal year on account of claims that is in excess of the amount previously reserved by FairPoint for such claims pursuant to Section 9.22 of the Plan of Reorganization, (xiii) to the extent such amounts were permitted to be added back (and were added back) in the calculation of Consolidated EBITDAR for such fiscal year, costs and expenses actually paid by the Borrowers during such fiscal year (A) to a financial advisor for the Administrative Agent and the Lenders pursuant to Section 6.20, (B) to Third Law Sourcing, LLC, (C) to Altman Vilandrie & Company and (D) in accordance with the Hauser Consulting Agreement, (xiv) the Clause (b) Capital Expenditures Carryover Amount for such fiscal year (provided that any portion of the Clause (b) Capital Expenditures Carryover Amount that is not actually paid in cash in the first quarter of the immediately following fiscal year shall be deemed to be added back to such Excess Cash Flow effective on the tenth Business Day after the delivery of financial statements for the first fiscal quarter of the immediately following fiscal year pursuant to Section 6.01(b) or, if earlier, Section 6.01(c)), (xv) to the extent such amounts were permitted to be added back (and were added back) in the calculation of Consolidated EBITDAR for such fiscal year, the aggregate amount of severance expense incurred during such fiscal year, (xvi) costs and expenses paid by the Borrowers during such fiscal year associated with rejected contracts, in an amount not to exceed $2,000,000 in the aggregate through the Maturity Date, but only to the extent not included in the Reserve (as defined in Section 9.22 of the Plan of Reorganization) to the extent such amounts were added back in the calculation of Consolidated EBITDAR for such fiscal year, and (xvii) fees paid in cash by the Borrowers during such fiscal year pursuant to (A) Section 2.09(b)(ii) and (B) the last sentence of the definition of "Maturity Date," plus (c) the sum of (for such fiscal year) of, without duplication (i) interest and dividend income and (ii) if applicable, any cash payments received in connection with the entering into or settlement of Swap Contracts to the extent not already included in Consolidated EBITDAR for such fiscal year.

"Excluded Intercompany Payables" means intercompany loans and advances made among FairPoint and its Qualified Subsidiaries that are either (a) an intercompany payable incurred in the ordinary course of business by FairPoint or any of its 90%-Owned Subsidiaries and owing to FairPoint or a 90%-Owned Subsidiary of FairPoint, as applicable, so long as such payable has not remained outstanding for more than 120 days or (b) Intercompany Tax Payables.

"Excluded Issuance" by any Person means an issuance of shares of capital stock of (or other ownership or profit interests in) such Person upon the exercise of warrants, options or other rights for the purchase of such capital stock (or other ownership or profit interest).

"Excluded Taxes" means, with respect to the Administrative Agent, any Lender, the L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of the Borrowers hereunder, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the Laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, (b) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which a Borrower is located, (c) any backup withholding tax that is required by the Code to be withheld from amounts payable to a Lender that has failed to comply with clause (A) of Section 3.01(e)(ii), and (d) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrowers under Section 10.13), any United States

withholding tax that (i) is required to be imposed on amounts payable to such Foreign Lender pursuant to the Laws in force at the time such Foreign Lender becomes a party hereto (or designates a new Lending Office), including, without limitation, pursuant to enacted Laws with an effective date with respect to such required withholding tax after such time, or (ii) is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with clause (B) of Section 3.01(e)(ii), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Borrowers with respect to such withholding tax pursuant to Section 3.01(a)(ii) or (iii) and (e) taxes that are attributable to the failure by any Lender to deliver the documentation required to be delivered pursuant to Section 3.01(h).

"Existing Letters of Credit" means those letters of credit that are listed on Schedule B, and any renewals or extensions thereof.

"Extraordinary Receipt" means any cash received by or paid to or for the account of any Person not in the ordinary course of business, including tax refunds, pension plan reversions, proceeds of insurance, condemnation awards (and payments in lieu thereof), indemnity payments and any purchase price adjustments, but excluding (a) proceeds of business interruption insurance to the extent such proceeds constitute compensation for lost earnings and (b) any cash received by such Person related to current or future projects under the American Recovery and Reinvestment Act of 2009.

"Facility" means the Term Facility or the Revolving Credit Facility, as the context may require.

"FairPoint" has the meaning specified in the introductory paragraph hereto.

"FATCA" shall mean Sections 1471 through 1474 of the Code and any regulations thereunder or official governmental interpretations thereof.

"FCC" means the Federal Communications Commission and any successor regulatory body.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent.

"Fee Letter" means the letter agreement, dated _____ __, 2011, among the Borrowers and the Administrative Agent.

"Financial Restatement" has the meaning specified in Section 8.01.

"First Lien Claimholders" means the holders of First Lien Obligations in their capacities as holders of First Lien Obligations (including the Administrative Agent, in its capacity as agent for the holders of First Lien Obligations, or any other agent of such holders appointed in accordance with this Agreement).

"First Lien Obligations" means all Obligations of any Loan Party described in clauses First through Fifth of Section 8.03.

"First-Tier Subsidiary" means FairPoint Broadband, Inc., MJD Ventures, Inc., MJD Services Corp., STE, FairPoint Carrier Services, Inc., FairPoint Logistics, Inc., Enhanced Communications of Northern New England Inc. and Northern New England Telephone Operations LLC and any other Subsidiary first acquired or created after the Closing Date that is a direct Subsidiary of FairPoint.

"Foreign Lender" means any Lender that is organized under the Laws of a jurisdiction other than that in which a Borrower is resident for tax purposes (including such a Lender when acting in the capacity of the L/C Issuer). For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

"Fronting Exposure" means, at any time there is a Defaulting Lender, such Defaulting Lender's Applicable Revolving Credit Percentage of the outstanding L/C Obligations other than L/C Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

"Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

"Governmental Authority" means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Guarantee" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"Guarantors" means, collectively, the Subsidiaries of FairPoint listed on Schedule 6.12 and each other Subsidiary of FairPoint that shall be required to execute and deliver a guaranty or guaranty supplement pursuant to Section 6.12.

"Guaranty" means, collectively, the Guaranty made by the Guarantors in favor of the Secured Parties, substantially in the form of Exhibit F, together with each other guaranty and guaranty supplement delivered pursuant to Section 6.12.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Hauser Consulting Agreement" means the Consulting Agreement and General Release, dated as of August 16, 2010, between FairPoint and David L. Hauser.

"Hedge Bank" means any Person that, at the time it enters into an interest rate Swap Contract required or permitted under Article VI or VII, is a Lender or an Affiliate of a Lender, in its capacity as a party to such Swap Contract.

"Honor Date" has the meaning specified in Section 2.03(c)(i).

"Inactive Subsidiary" means each Subsidiary listed on Schedule A.

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) the maximum amount of all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments;

(c) net obligations of such Person under any Swap Contract;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and not past due for more than 60 days after the date on which such trade account was created or, if more than 60 days past due, which are subject to good faith dispute by such Person);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(f) all Attributable Indebtedness of such Person;

(g) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person or any warrant, right or option to acquire such Equity Interest, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid Dividends; and

(h) all Guarantees of such Person in respect of any of the foregoing (it being understood and agreed that performance Guarantees that do not otherwise require the guarantor thereunder to guarantee (or that otherwise have the economic effect of guaranteeing) Indebtedness or another payment obligation of another Person shall not constitute Indebtedness hereunder);

provided, however, that Excluded Intercompany Payables shall not constitute Indebtedness hereunder.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date.

"Indemnified Taxes" means Taxes other than Excluded Taxes.

"Indemnitees" has the meaning specified in Section 10.04(b).

"Information" has the meaning specified in Section 10.07.

"Insolvency Proceeding" means the occurrence of an Event of Default under Section 8.01(f).

"Intercompany Debt" means any Indebtedness, payables or other obligations (other than Excluded Intercompany Payables), whether now existing or hereafter incurred, owed by a Borrower or any Subsidiary of a Borrower to a Borrower or any other Subsidiary of a Borrower, including, without limitation, Intercompany Payables and Receivables.

"Intercompany Debt Report" means, for any fiscal period, a written report certified by the chief financial officer or controller of FairPoint setting forth (a) the aggregate amount of Intercompany Loans made by Logistics to FairPoint during such fiscal period, (b) the aggregate amount of Intercompany Loans made by Legacy Subsidiaries to FairPoint during such fiscal period, (c) the aggregate amount of Legacy Intercompany Payables created during such fiscal period, (d) the aggregate amount of Legacy Intercompany Receivables created during such fiscal period, (e) the aggregate amount of NNE Intercompany Payables created during such fiscal period, (f) the aggregate amount of NNE Intercompany Receivables created during such fiscal period, (g) the aggregate amount of Net Legacy Intercompany Receivables dividended or distributed, directly or indirectly, by one or more Legacy Subsidiaries to FairPoint during such fiscal period and (h) the aggregate amount of Subsidiary Ordinary Course Payables and Receivables created between Guarantors, on the one hand, and Subsidiaries that are not Guarantors, on the other hand, during such fiscal period.

"Intercompany Loans" has the meaning specified in Section 7.02(b).

"Intercompany Note" means a promissory note evidencing Intercompany Loans, in each case duly executed and delivered substantially in the form of Exhibit H, with blanks completed in conformity therewith (or such other form as may be approved by the Administrative Agent or the Required Lenders).

"Intercompany Payables and Receivables" means, collectively, Intercompany Tax Payables, Legacy Intercompany Payables, Legacy Intercompany Receivables, NNE Intercompany Payables and NNE Intercompany Receivables.

"Intercompany Subordination Agreement" has the meaning specified in Section 4.01(d).

"Intercompany Tax Payable" means any payable owing by a Subsidiary of FairPoint to its parent company (if FairPoint or another Subsidiary of FairPoint) arising in connection with the tax sharing arrangements entered into among FairPoint and its Subsidiaries, so long as the amount of such payable relates to the taxes attributable to the operations of such Subsidiary.

"Interest Payment Date" means, (a) as to any Eurodollar Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date of the Facility under which such Loan was made; provided, however, that if any Interest Period for a Eurodollar Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of

such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan, the last Business Day of each March, June, September and December and the Maturity Date of the Facility under which such Loan was made.

"Interest Period" means, as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date one, two, three or six months thereafter, as selected by the Borrowers in their Committed Loan Notice; provided that:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(b) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period shall extend beyond the Maturity Date of the Facility under which such Loan was made.

"Intermediary Holding Company" means each First-Tier Subsidiary that is (a) not an operating company (but that owns directly or indirectly one or more operating companies) and (b) not subject to regulatory restrictions on borrowings or issuances of guaranties of indebtedness for borrowed money.

"Investment" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or interest in, another Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit or all or a substantial part of the business of, such Person. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"IP Rights" has the meaning specified in Section 5.17.

"IRS" means the United States Internal Revenue Service.

"ISP" means, with respect to any Letter of Credit, the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

"Issuer Documents" means, with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the L/C Issuer

and a Borrower (or any Subsidiary thereof) or in favor of the L/C Issuer and relating to such Letter of Credit.

"Laws" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"L/C Advance" means, with respect to each Revolving Credit Lender, such Lender's funding of its participation in any L/C Borrowing in accordance with its Applicable Revolving Credit Percentage.

"L/C Borrowing" means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Credit Borrowing.

"L/C Credit Extension" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

"L/C Issuer" means Bank of America in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

"L/C Obligations" means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. For all purposes of this Agreement, if on any date of determination a standby Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such standby Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn.

"LCPI" means Lehman Commercial Paper Inc.

"Legacy Intercompany Payable" means an intercompany payable owing by a Legacy Subsidiary to FairPoint as a result of payments made by FairPoint on behalf of such Legacy Subsidiary in the ordinary course of business consistent with past practices.

"Legacy Intercompany Receivable" means an intercompany receivable owing by FairPoint to a Legacy Subsidiary as a result of cash collections made, in the ordinary course of business consistent with past practices, by FairPoint from such Legacy Subsidiary's account debtors on behalf of such Legacy Subsidiary.

"Legacy Subsidiaries" means, collectively, each of FairPoint's Subsidiaries other than Logistics and the NNE Subsidiaries.

"Lenders" means, collectively (a) each Person listed on Schedule 2.01, (b) each Person which becomes a Lender pursuant to Section 10.06(b) hereto and (c) their respective successors.

"Lending Office" means, as to any Lender, the office or offices of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrowers and the Administrative Agent.

"Letter of Credit" means any letter of credit issued hereunder and shall include the Existing Letters of Credit**.**

"Letter of Credit Application" means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the L/C Issuer.

"Letter of Credit Expiration Date" means the day that is seven days prior to the Maturity Date then in effect for the Revolving Credit Facility (or, if such day is not a Business Day, the next preceding Business Day).

"Letter of Credit Fee" has the meaning specified in Section 2.03(h).

"Letter of Credit Sublimit" means an amount equal to $30,000,000. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Credit Facility.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

"Loan" means an extension of credit by a Lender to the Borrowers under Article II in the form of a Term Loan or a Revolving Credit Loan.

"Loan Documents" means, collectively, (a) this Agreement, (b) the Notes, (c) the Guaranty, (d) the Collateral Documents, (e) the Fee Letter, (f) each Issuer Document, and (g) any agreement creating or protecting rights in Cash Collateral pursuant to the provisions of Section 2.14.

"Loan Parties" means, collectively, FairPoint and each Subsidiary of FairPoint party to a Loan Document.

"Logistics" has the meaning specified in the introductory paragraph hereto.

"London Banking Day" means any day on which dealings in Dollar deposits are conducted by and between banks in the London, England interbank euro dollar market.

"LTIP Shares" means the compensation in the form of stock options and restricted stock awards or restricted stock units issued to employees and directors of FairPoint and its

Subsidiaries pursuant to the Long Term Incentive Plan (as defined in the Plan of Reorganization).

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent), condition (financial or otherwise) of FairPoint, any NNE Subsidiary or FairPoint and its Subsidiaries taken as a whole; (b) a material impairment of the rights and remedies of the Administrative Agent or any Lender under any Loan Document, or of the ability of FairPoint, any NNE Subsidiary or the Loan Parties (taken as a whole) to perform their obligations under any Loan Document to which such Person is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.

"Material Contract" means, with respect to any Person, each contract to which such Person is a party involving aggregate consideration payable to or by such Person of $10,000,000 or more in any fiscal year or otherwise material to the business, condition (financial or otherwise), operations, performance or properties of such Person.

"Material Subsidiary" means at any time, any Subsidiary which, together with its Subsidiaries, has total assets at such time with a value of at least 5% of the total assets of Consolidated FairPoint at such time and/or gross revenues for the Measurement Period last ended of at least 5% of the gross revenues of Consolidated FairPoint for such Measurement Period.

"Maturity Date" means (a) in the case of the Term Facility, _____ __, 2016 and (b) in the case of the Revolving Credit Facility, (i) _____ ___, 2016 or (ii) if the applicable Continuation Conditions described below are not met on the third anniversary of the Closing Date, the third anniversary of the Closing Date or (iii) if such applicable Continuation Conditions described in the foregoing clause (ii) have been satisfied but the applicable Continuation Conditions described below are not met on the fourth anniversary of the Closing Date, the fourth anniversary of the Closing Date; provided, however, that, in each case, if such date is not a Business Day, the Maturity Date shall be the immediately preceding Business Day. For the purposes of this definition, the "Continuation Conditions" shall mean, (a) in the case of the third anniversary of the Closing Date, that (i) no Event of Default shall have occurred and be continuing on such date and (ii) on or prior to such date, the Borrowers shall have paid to the Administrative Agent, for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage, a continuation fee in an aggregate amount of $750,000 and (b) in the case of the fourth anniversary of the Closing Date, that (i) no Event of Default shall have occurred and be continuing on such date and (ii) on or prior to such date, the Borrowers shall have paid to the Administrative Agent, for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage, a continuation fee in an aggregate amount of $750,000.

"Measurement Period" means, at any date of determination, the most recently completed four fiscal quarters of FairPoint.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Mortgage" mean an agreement, including, but not limited to, a mortgage, deed of trust or any other document, creating and evidencing a Lien on a Mortgaged Property, which shall be in form reasonably satisfactory to the Administrative Agent, in each case, with such schedules and including such provisions as shall be necessary to conform such document to applicable local or foreign Law or as shall be customary under applicable local or foreign Law.

"Mortgaged Property" means each real property, if any, which shall be subject to a Mortgage delivered after the Closing Date pursuant to Section 6.12.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which FairPoint or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

"Multiple Employer Plan" means a Plan which has two or more contributing sponsors (including FairPoint or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

"Net Cash Proceeds" means:

(a) with respect to any Disposition by any Loan Party or any of its Subsidiaries, or any Extraordinary Receipt received or paid to the account of any Loan Party or any of its Subsidiaries, the excess, if any, of (i) the sum of cash and Cash Equivalents received in connection with such transaction (including any cash or Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) less (ii) the sum of (A) the principal amount of any Indebtedness that is secured by the applicable asset and that is required to be repaid in connection with such transaction (other than Indebtedness under the Loan Documents), (B) the reasonable and customary out-of-pocket fees and expenses incurred by such Loan Party or such Subsidiary in connection with such transaction and (C) taxes paid or reasonably estimated to be actually payable within three years of the end of the taxable year during which the relevant transaction occurred as a result of such transaction or any gain recognized in connection therewith after taking into account any available tax credits or deductions; provided that, if the amount of any estimated taxes pursuant to subclause (C) exceeds the amount of taxes actually required to be paid in cash in respect of such Disposition, the aggregate amount of such excess shall constitute Net Cash Proceeds; and

(b) with respect to the sale or issuance of any Equity Interest by any Loan Party or any of its Subsidiaries, or the incurrence or issuance of any Indebtedness by any Loan Party or any of its Subsidiaries, the excess of (i) the sum of the cash and Cash Equivalents received in connection with such transaction less (ii) the underwriting discounts and commissions, private placements and/or initial purchaser fees, and other reasonable and customary out-of-pocket fees and expenses, incurred by such Loan Party or such Subsidiary in connection therewith.

"Net Legacy Intercompany Receivables" means, as of any date of determination, the net amount achieved by setting off, as of such date, the amount of (a) the Legacy Intercompany

Receivables owing by FairPoint to a Legacy Subsidiary on such date against (b) the amount of Legacy Intercompany Payables owing by such Legacy Subsidiary to FairPoint on such date.

"90%-Owned Subsidiary" means (a) any Subsidiary to the extent at least 90% of the capital stock or other ownership interests in such Subsidiary is owned directly or indirectly by FairPoint and (b) Sunflower, to the extent at least 87.5% of the capital stock of Sunflower is owned directly or indirectly by FairPoint.

"NNE Intercompany Payable" means an intercompany payable owing by an NNE Subsidiary to Logistics as a result of payments made by Logistics on behalf of such NNE Subsidiary in the ordinary course of business consistent with past practices.

"NNE Intercompany Receivable" means an intercompany receivable owing by Logistics to an NNE Subsidiary as a result of cash collections made, in the ordinary course of business consistent with past practices by Logistics from such NNE Subsidiary's account debtors on behalf of such NNE Subsidiary.

"NNE Subsidiaries" means, collectively, (a) Northern New England Telephone Operations LLC, (b) Enhanced Communications of Northern New England, Inc., and (c) Telephone Operating Company of Vermont LLC.

"Non-Cash Stock Based Compensation" means the non-cash expense resulting from the issuance of restricted shares, stock options and other awards under the Long Term Incentive Plan (as defined in the Plan of Reorganization).

"Non-Extension Notice Date" has the meaning specified in Section 2.03(b)(iii).

"Non-Pledge Party Subsidiary" means each Subsidiary of a Borrower which is not a Pledge Party.

"Non-Pledged Subsidiary" means any Subsidiary that is not a Pledged Subsidiary.

"Note" means a Term Note or a Revolving Credit Note, as the context may require.

"NPL" means the National Priorities List under CERCLA.

"Obligations" means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan, Letter of Credit, Secured Cash Management Agreement or Secured Hedge Agreement, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"Organization Documents" means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the

certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"Other Taxes" means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

"Outstanding Amount" means (a) with respect to Term Loans and Revolving Credit Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Term Loans and Revolving Credit Loans, as the case may be, occurring on such date; and (b) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Borrowers of Unreimbursed Amounts.

"Participant" has the meaning specified in Section 10.06(d).

"PBGC" means the Pension Benefit Guaranty Corporation.

"Pension Act" means the Pension Protection Act of 2006.

"Pension Funding Rules" means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Section 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

"Pension Plan" means any employee pension benefit plan (including a Multiple Employer Plan or a Multiemployer Plan) that is maintained or is contributed to by FairPoint and any ERISA Affiliate and is covered by Title IV of ERISA.

"Permitted Acquisition" means any transaction (or series of related transactions) for the direct or indirect (a) acquisition of all or substantially all of the property of any Person, or of any business, division or product line of any Person that is not a Subsidiary of any of the Borrowers; (b) acquisition of in excess of 50% of the Equity Interests of any Person; or (c) merger or consolidation or any other combination with any Person that is not a Subsidiary of any of the Borrowers, if each of the following conditions is met:

(i) no Default then exists or would result therefrom;

(ii) after giving effect to such transaction on a Pro Forma Basis, the Borrowers shall be in compliance with the covenants set forth in Section 7.11 as of the most recent Measurement Period;

(iii) the aggregate consideration paid or Indebtedness incurred by FairPoint or any of its Subsidiaries in connection with any such transaction (or series of related transactions) (including the amount of any Indebtedness assumed in connection therewith as contemplated by clause (iv) below) shall not exceed (A) $_____[1] during the fiscal year ending December 31, 2011 and (B) $75,000,000 during each fiscal year thereafter;

(iv) none of FairPoint or its Subsidiaries shall, in connection with any such transaction, assume or remain liable with respect to any Indebtedness or other liability (including any material tax or ERISA liability) of the related seller or the business, person or properties acquired except to the extent same is not prohibited from being incurred under this Agreement, and any other such liabilities or obligations not permitted to be assumed or otherwise supported by FairPoint or any of its Subsidiaries hereunder shall be paid in full or released as to the business, Persons or properties being so acquired on or before the consummation of such transaction;

(v) the Person or business to be acquired shall be, or shall be engaged in, a business of the type in which FairPoint and its Subsidiaries are permitted to be engaged under Section 7.07, and the property acquired in connection with such transaction shall be made subject to the Lien of the Collateral Documents (to the extent required herein or therein) and shall be free and clear of any Liens (other than Liens permitted by Section 7.01);

(vi) the board of directors (or similar managing body) of the Person to be acquired shall not have indicated publicly its opposition to the consummation of such transaction (which opposition has not been publicly withdrawn);

(vii) all transactions in connection therewith shall be consummated in accordance with all applicable requirements of Law; and

(viii) at least five Business Days prior to the proposed date of consummation of any proposed transaction, FairPoint shall have delivered to the Administrative Agent a certificate of a Responsible Officer certifying that such transaction complies (or will comply as of such date of consummation) with this definition of Permitted Acquisition (which shall have attached thereto reasonably detailed backup data and calculations showing such compliance.

"Permitted Letters of Credit" means letters of credit issued for the benefit of a Borrower and reimbursement obligations with respect thereto in the maximum aggregate stated amount of $2,000,000 from time to time outstanding; provided, that in no event shall any such letter of credit have a stated amount of $100,000 or more; provided, further, that to the extent there shall exist a Defaulting Lender with respect to which the Fronting Exposure arising from such

[1] $25,000,000 pro rated for the portion of 2011 remaining from the Closing Date.

Defaulting Lender is not covered in a manner contemplated by this Agreement, the foregoing restriction regarding the stated amount of such letters of credit shall not apply and the foregoing $2,000,000 limit may be increased by the lesser of (a) $3,000,000 and (b) an amount equal to a Defaulting Lender's Applicable Revolving Credit Percentage of the Letter of Credit Sublimit.

"Permitted Refinancing Debt" means Indebtedness incurred to refinance, replace, refund, extend, renew or repay all or any portion of the First Lien Obligations, whether with the same or different lenders, agents or arrangers; provided that the committed amount of the First Lien Obligations is not increased at the time of such refinancing, refunding, renewal or extension except by the sum of (a) an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing plus (b) by an amount equal to any existing commitments unutilized thereunder (and the direct or any contingent obligor with respect thereto is not changed, as a result of or in connection with such refinancing, refunding, renewal or extension) plus (c) up to $25,000,000 in the aggregate in addition thereto; and provided, still further, that the terms relating to principal amount, amortization, maturity, collateral (if any) and subordination (if any), and other material terms (other than interest rate) taken as a whole, of any such refinancing, replacement, refunding, extending, renewing or repaying Indebtedness, and of any agreement entered into and of any instrument issued in connection therewith, are no less favorable in any material respect to the Loan Parties or the Second Lien Claimholders than the terms of the First Lien Obligations and the interest rate applicable to any such refinancing, replacement, refunding, extending, renewing or repaying Indebtedness does not exceed the then applicable market interest rate.

"Permitted Unsecured Debt" means unsecured Indebtedness of FairPoint or any of its Subsidiaries; provided, that, (a) the proceeds of such Indebtedness are used solely to pay the purchase price required to be paid in connection with Permitted Acquisitions or to prepay the Term Loans pursuant to Section 2.05(b), (b) such Indebtedness does not require any scheduled payment of principal (including pursuant to a sinking fund obligation) or mandatory redemption or redemption at the option of the holders thereof prior to one year after the Maturity Date and (c) such Indebtedness is subordinated in right of payment and action to the Obligations in a manner acceptable to Administrative Agent.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Plan" means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan), maintained for employees of FairPoint or any ERISA Affiliate or any such Plan to which FairPoint or any ERISA Affiliate is required to contribute on behalf of any of its employees.

"Plan of Reorganization" means Debtors' Third Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, dated [December] [27], 2010.

"Platform" has the meaning specified in Section 6.02.

"Pledge Agreement" has the meaning specified in Section 4.01(a)(iii).

"Pledge Party" means FairPoint and each Subsidiary of FairPoint party to the Pledge Agreement.

"Pledged Subsidiary" means (a) each Subsidiary the capital stock or other Equity Interests of which is or are pledged pursuant to the Pledge Agreement and (b) Telephone Operating Company of Vermont LLC (it being understood that Telephone Operating Company of Vermont LLC is included as a "Pledged Subsidiary" for definitional purposes only and nothing herein shall be construed to grant (or intend to grant) to the Administrative Agent or any other Person a Lien on the Equity Interests of Telephone Operating Company of Vermont LLC).

"Post-Petition Claims" means interest, fees, costs, expenses, and other charges that pursuant to this Agreement continue to accrue after the commencement of an Insolvency Proceeding.

"Proceeds" means (a) all "proceeds," as defined in Article 9 of the UCC, of the Collateral, and (b) whatever is recovered when any Collateral is sold, exchanged, collected, or disposed of, whether voluntarily or involuntarily, including any additional or replacement Collateral provided during any Insolvency Proceeding and any payment or property received in an Insolvency Proceeding on account of any "secured claim" (within the meaning of Section 506(b) of the Bankruptcy Code or similar Debtor Relief Law).

"Preferred Stock" as applied to the capital stock of any Person, means capital stock of such Person (other than common stock of such Person) of any class or classes (however designed) that ranks prior, as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of such Person, to shares of capital stock of any other class of such Person, and shall include any Qualified Preferred Stock.

"Prepetition Administrative Agent" has the meaning specified in the Preliminary Statements.

"Prepetition Credit Agreement" has the meaning specified in the Preliminary Statements.

"Prepetition Lenders" has the meaning specified in the Preliminary Statements.

"Prepetition Register" means the "Lender Register" under and as defined in the Prepetition Credit Agreement, which shall contain, among other things, the name, address, contact person's name and wiring instructions for each of the lenders under the Prepetition Credit Agreement, as updated through the Closing Date.

"Pro Forma Basis" means on a pro forma basis consistent with GAAP and Regulation S-X of the Securities Act of 1933 or as otherwise agreed to by the Administrative Agent.

In connection with any calculation of the financial covenants set forth in Section 7.11 upon giving effect to a Disposition or Permitted Acquisition on a Pro Forma Basis:

(a) for purposes of any such calculation in respect of any Disposition, any Indebtedness which is retired in connection with such Disposition shall be excluded and deemed to have been retired as of the first day of the applicable period; and

(b) for purposes of any such calculation in respect of any Permitted Acquisition, (i) any Indebtedness incurred or assumed by any Person in connection with such transaction (or series of transactions) (including the Person or assets acquired) and any Indebtedness of the Person or assets acquired that is not retired in connection with such transaction (x) shall be deemed to have been incurred as of the first day of the applicable period and (y) if such Indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness as at the relevant date of determination and (ii) any Indebtedness that is retired in connection with such Permitted Acquisition shall be excluded and deemed to have been retired as of the first day of the applicable period.

"Pro Forma EBITDAR Test" shall be satisfied if, after giving effect to an Investment in a Qualified Subsidiary of the type referred to in clause (c) of the definition thereof pursuant to Section 7.03(l), (a) Consolidated EBITDAR for the 12 months last ended at such time attributable to all Non-Pledged Subsidiaries plus (b) the aggregate amount of all such Investments in Non-Pledged Subsidiaries for such 12-month period, does not exceed $25,000,000.

"Public Lender" has the meaning specified in Section 6.02.

"PUC" means a public utility commission, public service commission or any similar agency or commission.

"Purchase Date" has the meaning specified in Section 10.14(d)(ii)(A)(3).

"Purchase Event" has the meaning specified in Section 10.14(d)(i)(A)(3).

"Purchase Notice" has the meaning specified in Section 10.14(d)(ii)(A).

"Purchase Obligations" has the meaning specified in Section 10.14(d)(i)(A).

"Purchase Price" has the meaning specified in Section 10.14(d)(iii).

"Purchasing Creditors" has the meaning specified in Section 10.14(d)(ii)(A).

"Qualified Preferred Stock" means any Preferred Stock of FairPoint, the express terms of which (a) shall provide for no voting rights (except for (x) voting rights required by applicable Law and (y) limited customary voting rights on fundamental matters such as mergers, consolidations, sales of all or substantially all of the assets of FairPoint, or liquidations involving FairPoint) or covenants (other than customary information covenants and inspection rights) (b) shall provide that dividends thereon shall not be required to be paid at any time (and to the extent) that such payment would be prohibited by the terms of this Agreement or any other agreement of the FairPoint relating to outstanding indebtedness and (c) by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event (including any Change of Control), cannot mature and is not mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, and is not redeemable, or required to be repurchased, at the sole option of the holder thereof (including, without limitation, upon the occurrence of a Change of Control), in whole or in part, on or prior to the date that falls

one year and one day after the date on which all Obligations are repaid in full in cash and all Revolving Credit Commitments have terminated or expired and is otherwise reasonably satisfactory to the Administrative Agent.

"Qualified Subsidiary" means and includes (a) each Wholly-Owned Domestic Subsidiary of a Borrower that is a Pledged Subsidiary, (b) each other Pledged Subsidiary (x) that is a Domestic Subsidiary and (y) in which the Investments of cash, property, services and/or other assets are made in each class of Equity Interests of such Subsidiary by the Pledged Parties, on the one hand, and the other holders of such class of Equity Interests, on the other hand, in amounts that are proportional to the respective equity percentages of the Pledged Parties, on the one hand, and such other holders, on the other hand, for each class of Equity Interests of such Subsidiary (as reasonably determined by senior management of FairPoint) and (c) each Wholly-Owned Domestic Subsidiary of a Borrower that is a Telco or Carrier Services Company, the capital stock or other Equity Interests of which are not permitted to be pledged pursuant to the Pledge Agreement as a result of applicable Law.

"Recovery" has the meaning specified in Section 10.14(f).

"Register" has the meaning specified in Section 10.06(c).

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees and advisors of such Person and of such Person's Affiliates.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived and any events contemplated by the Plan of Reorganization or the Transaction.

"Request for Credit Extension" means (a) with respect to a Borrowing, conversion or continuation of Term Loans or Revolving Credit Loans, a Committed Loan Notice and (b) with respect to an L/C Credit Extension, a Letter of Credit Application.

"Required Lenders" means, as of any date of determination, the sum of (a) the Required Revolving Lenders and (b) the Required Term Lenders.

"Required Revolving Lenders" means, as of any date of determination, Revolving Credit Lenders holding more than 50% of the sum of the (a) Total Revolving Credit Outstandings (with the aggregate amount of each Revolving Credit Lender's risk participation and funded participation in L/C Obligations being deemed "held" by such Revolving Credit Lender for purposes of this definition) and (b) aggregate unused Revolving Credit Commitments; provided that the unused Revolving Credit Commitment of, and the portion of the Total Revolving Credit Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Revolving Lenders.

"Required Term Lenders" means, as of any date of determination, Term Lenders holding more than 50% of the Term Facility on such date (excluding the Term Commitments or Term Loans, as applicable, held by an Unsigned Lender).

"Responsible Officer" means the chief executive officer, president, executive vice president, chief financial officer, treasurer or controller of a Loan Party and any other officer of the applicable Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent, and, solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

"Restricted Payment" means any Dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of any Person or any of its Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such capital stock or other Equity Interest (including any tax payments on account of LTIP Shares satisfied by the Borrowers' withholding and cancellation of Equity Interests), or on account of any return of capital to any Person's stockholders, partners or members (or the equivalent of any thereof), or any option, warrant or other right to acquire any such dividend or other distribution or payment, or any payment (whether in cash, by setoff or otherwise) with respect to any Intercompany Debt.

"Revolving Credit Borrowing" means a borrowing consisting of simultaneous Revolving Credit Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Revolving Credit Lenders pursuant to Section 2.01(b).

"Revolving Credit Commitment" means, as to each Revolving Credit Lender, its obligation to (a) make Revolving Credit Loans to the Borrowers pursuant to Section 2.01(b), and (b) purchase participations in L/C Obligations, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 2.01 under the caption "Revolving Credit Commitment" or opposite such caption in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

"Revolving Credit Facility" means, at any time, the aggregate amount of the Revolving Credit Lenders' Revolving Credit Commitments at such time. As of the Closing Date, the aggregate amount of the Revolving Credit Commitments is $75,000,000.

"Revolving Credit Lender" means, at any time, any Lender that has a Revolving Credit Commitment at such time.

"Revolving Credit Loan" has the meaning specified in Section 2.01(b).

"Revolving Credit Note" means a promissory note made by the Borrowers in favor of a Revolving Credit Lender evidencing Revolving Credit Loans made by such Revolving Credit Lender, substantially in the form of Exhibit C-2.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto.

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Second Lien Claimholders" means the holders of Second Lien Obligations in their capacity as holders of Second Lien Obligations (including the Administrative Agent, in its capacity as agent for the holders of Second Lien Obligations, or any other agent of such holders appointed in accordance with this Agreement).

"Second Lien Obligations" means all Obligations of any Loan Party described in clauses Sixth and Seventh of Section 8.03; provided that the inclusion of Obligations of the Loan Parties under Secured Hedge Agreements described in clause Seventh of Section 8.03 in the "Second Lien Obligations" will not create in favor of the applicable Hedge Bank any rights in connection with the management or release of any Collateral or of the Obligations of any Loan Party under any Collateral Document.

"Secured Cash Management Agreement" means any Cash Management Agreement that is entered into by and between any Loan Party and any Cash Management Bank.

"Secured Hedge Agreement" means any interest rate Swap Contract required or permitted under Article VI or VII that is entered into by and between any Loan Party and any Hedge Bank.

"Secured Parties" means, collectively, the Administrative Agent, the Lenders, the L/C Issuer, the Hedge Banks, the Cash Management Banks, each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.05, and the other Persons the Obligations owing to which are or are purported to be secured by the Collateral under the terms of the Collateral Documents.

"Security Agreement" has the meaning specified in Section 4.01(a)(iii).

"Solvent" and "Solvency" mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property (including rights of contribution in respect of obligations for which such Person has provided a Guarantee) of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable value of the assets (which for this purpose shall include rights of contribution in respect of obligations for which such Person has provided a Guarantee) of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute an unreasonably small capital, and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Standstill Period" has the meaning specified in Section 10.14(b)(i)(B)(1).

"STE" means S T Enterprises, Ltd., a Kansas corporation.

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares, securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of FairPoint.

"Subsidiary Ordinary Course Payables and Receivables" means, with respect to Subsidiaries of FairPoint, intercompany payables and receivables resulting from (a) purchases of goods and services between such Subsidiaries and (b) allocations of payroll and other expenses between or among such Subsidiaries.

"Success Bonuses" means, collectively, the "Success Bonuses" as defined in the Plan of Reorganization.

"Sunflower" means Sunflower Telephone Company, Inc., a Kansas corporation.

"Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Swap Termination Value" means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

"Synthetic Debt" means, with respect to any Person as of any date of determination thereof, all obligations of such Person in respect of transactions entered into by such Person that are intended to function primarily as a borrowing of funds (including any minority interest transactions that function primarily as a borrowing) but are not otherwise included in the definition of "Indebtedness" or as a liability on the consolidated balance sheet of such Person and its Subsidiaries in accordance with GAAP. For the avoidance of doubt, Synthetic Lease Obligations shall not constitute Synthetic Debt.

"Synthetic Lease Obligation" means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property (including sale and leaseback transactions), in each case, creating obligations that do not appear on the balance sheet of such Person but which, upon the application of any Debtor Relief Laws to such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment). Notwithstanding the foregoing it is understood and agreed that Synthetic Lease Obligations do not include obligations of FairPoint or any of its Subsidiaries under any operating lease of such Person entered into in the ordinary course of business and a Synthetic Lease Obligation shall, in any event, require the participation of a bankruptcy-remote special purpose entity that is an Affiliate of FairPoint in the capacity as either an obligor or obligee of such obligation.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Telco" means any Subsidiary of FairPoint that is an operating company.

"Term Borrowing" means a borrowing consisting of simultaneous Term Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period deemed made by each of the Term Lenders pursuant to Section 2.01(a).

"Term Commitment" means, as to each Term Lender, the amount set forth opposite such Term Lender's name on Schedule 2.01 under the caption "Term Commitment" or opposite such caption in the Assignment and Assumption pursuant to which such Term Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. As of the Closing Date, the aggregate amount of the Term Commitments is $1,000,000,000.

"Term Facility" means, at any time, (a) on or prior to the Closing Date, the aggregate amount of the Term Commitments at such time and (b) thereafter, the aggregate principal amount of the Term Loans of all Term Lenders outstanding at such time.

"Term Lender" means (a) at any time on or prior to the Closing Date, any Lender that has a Term Commitment at such time and (b) at any time after the Closing Date, any Lender that holds Term Loans at such time.

"Term Loan" has the meaning specified in Section 2.01(a).

"Term Note" means a promissory note made by the Borrowers in favor of a Term Lender evidencing Term Loans made by such Term Lender, substantially in the form of Exhibit C-1.

"Threshold Amount" means $15,000,000.

"Total Revolving Credit Outstandings" means the aggregate Outstanding Amount of all Revolving Credit Loans and L/C Obligations.

"Total Outstandings" means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

"Transaction" means, collectively, (a) the consummation and implementation of the Plan of Reorganization, (b) the entering into by the Loan Parties of the Loan Documents, to which they are or are intended to be a party and (c) the payment of the fees and expenses incurred in connection with the consummation of the foregoing.

"Type" means, with respect to a Loan, its character as a Base Rate Loan or a Eurodollar Rate Loan.

"UCC" means the Uniform Commercial Code as in effect in the State of New York; provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, "UCC" means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

"United States" and "U.S." mean the United States of America.

"Unreimbursed Amount" has the meaning specified in Section 2.03(c)(i).

"Unsigned Lender" means a Person (together with its successors and assigns) who (a) is a Term Lender as of the Closing Date and (b) has not delivered to the Administrative Agent a signature page to this Agreement duly executed by an authorized officer of such Person.

"Wholly-Owned Domestic Subsidiary" means, as to any Person, any Wholly-Owned Subsidiary of such Person which is a Domestic Subsidiary.

"Wholly-Owned Subsidiary" of any Person means any Subsidiary of such Person to the extent all of the capital stock or other ownership interests in such Subsidiary, other than directors' qualifying shares, is owned directly or indirectly by such Person.

Section 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will"

shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Preliminary Statements, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Preliminary Statements, Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such Law and any reference to any Law or regulation shall, unless otherwise specified, refer to such Law or regulation as amended, modified or supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(d) If any document, certificate or other information is required to be delivered by a Loan Party under the Loan Documents on a day other than a Business Day, such document, certificate or other information, as the case may be, may be delivered on the next succeeding Business Day.

Section 1.03 Accounting Terms. (a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein.

(b) Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrowers or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrowers shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and the consequences of the

change in GAAP shall be disregarded for purposes of determining compliance with the Loan Documents and (ii) the Borrowers shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

Section 1.04 Rounding. Any financial ratios required to be maintained by the Borrowers pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

Section 1.06 Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the maximum amount permitted to be drawn under such Letter of Credit at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

Section 1.07 Currency Equivalents Generally. Any amount specified in this Agreement (other than in Articles II, IX and X) or any of the other Loan Documents to be in Dollars shall also include the equivalent of such amount in any currency other than Dollars, such equivalent amount thereof in the applicable currency to be determined by the Administrative Agent at such time on the basis of the Spot Rate (as defined below) for the purchase of such currency with Dollars. For purposes of this Section 1.07, the "Spot Rate" for a currency means the rate determined by the Administrative Agent to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date of such determination; provided that the Administrative Agent may obtain such spot rate from another financial institution designated by the Administrative Agent if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency.

ARTICLE II.

THE COMMITMENTS AND CREDIT EXTENSIONS

Section 2.01 The Loans. (a) The Term Borrowing. Subject to the terms and conditions set forth herein, and in accordance with the terms and conditions of the Plan of Reorganization, each Term Lender is deemed to have made a term loan (each such loan, a "Term Loan") to the Borrowers on the Closing Date in an amount not to exceed such Term Lender's Applicable Percentage of the Term Facility. Amounts deemed borrowed under this Section 2.01(a) and

repaid or prepaid may not be reborrowed. Term Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein.

(b) The Revolving Credit Borrowings. Subject to the terms and conditions set forth herein, each Revolving Credit Lender severally agrees to make loans (each such loan, a "Revolving Credit Loan") to the Borrowers from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the amount of such Lender's Revolving Credit Commitment; provided, however, that after giving effect to any Revolving Credit Borrowing, (i) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility, and (ii) the aggregate Outstanding Amount of the Revolving Credit Loans of any Lender, plus such Revolving Credit Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all L/C Obligations, shall not exceed such Revolving Credit Lender's Revolving Credit Commitment. Within the limits of each Revolving Credit Lender's Revolving Credit Commitment, and subject to the other terms and conditions hereof, the Borrowers may borrow under this Section 2.01(b), prepay under Section 2.05, and reborrow under this Section 2.01(b), without premium or penalty (except as provided in Section 3.05). Revolving Credit Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein.

Section 2.02 Borrowings, Conversions and Continuations of Loans. (a) Each Revolving Credit Borrowing, each conversion of Term Loans or Revolving Credit Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon the Borrowers' irrevocable notice to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent not later than 12:00 p.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurodollar Rate Loans or of any conversion of Eurodollar Rate Loans to Base Rate Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans. Each telephonic notice by the Borrowers pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Committed Loan Notice, appropriately completed and signed by a Responsible Officer of a Borrower. Each Borrowing of, conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $1,000,000 in excess thereof. Except as provided in Sections 2.03(c), each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Each Committed Loan Notice (whether telephonic or written) shall specify (i) whether the Borrowers are requesting a Revolving Credit Borrowing, a conversion of Term Loans or Revolving Credit Loans from one Type to the other, or a continuation of Eurodollar Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Term Loans or Revolving Credit Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrowers fail to specify a Type of Loan in a Committed Loan Notice or if the Borrowers fail to give a timely notice requesting a conversion or continuation, then the applicable Term Loans or Revolving Credit Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If the Borrowers request a Borrowing of, conversion to, or continuation

of Eurodollar Rate Loans in any such Committed Loan Notice, but fail to specify an Interest Period, they will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage under the applicable Facility of the applicable Term Loans or Revolving Credit Loans, and if no timely notice of a conversion or continuation is provided by the Borrowers, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in Section 2.02(a). In the case of a Revolving Credit Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrowers in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrowers on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrowers; provided, however, that if, on the date a Committed Loan Notice with respect to a Revolving Credit Borrowing is given by the Borrowers, there are L/C Borrowings outstanding, then the proceeds of such Revolving Credit Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrowers as provided above.

(c) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan. During the existence of a Default, no Loans may be requested as, converted to or continued as Eurodollar Rate Loans without the consent of the Required Lenders.

(d) The Administrative Agent shall promptly notify the Borrowers and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrowers and the Lenders of any change in Bank of America's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Term Borrowings, all conversions of Term Loans from one Type to the other, and all continuations of Term Loans as the same Type, there shall not be more than 10 Interest Periods in effect in respect of the Term Facility. After giving effect to all Revolving Credit Borrowings, all conversions of Revolving Credit Loans from one Type to the other, and all continuations of Revolving Credit Loans as the same Type, there shall not be more than 10 Interest Periods in effect in respect of the Revolving Credit Facility.

Section 2.03 Letters of Credit. (a) The Letter of Credit Commitment. (i) Subject to the terms and conditions set forth herein, (A) the L/C Issuer agrees, in reliance upon the agreements of the Revolving Credit Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit for the account of a Borrower or its Subsidiaries, and to amend or extend Letters of Credit previously issued by it, in accordance with Section 2.03(b),

and (2) to honor drawings under the Letters of Credit; and (B) the Revolving Credit Lenders severally agree to participate in Letters of Credit issued for the account of a Borrower or its Subsidiaries and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility, (y) the aggregate Outstanding Amount of the Revolving Credit Loans of any Revolving Credit Lender, plus such Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all L/C Obligations shall not exceed such Lender's Revolving Credit Commitment, and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by a Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by a Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrowers' ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrowers may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. All Existing Letters of Credit shall be deemed to have been issued pursuant hereto, and from and after the Closing Date shall be subject to and governed by the terms and conditions hereof.

(ii) The L/C Issuer shall not issue any Letter of Credit if:

(A) subject to Section 2.03(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Required Revolving Lenders have approved such expiry date; or

(B) the expiry date of the requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Revolving Credit Lenders have approved such expiry date.

(iii) The L/C Issuer shall not be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the L/C Issuer from issuing the Letter of Credit, or any Law applicable to the L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon the L/C Issuer with respect to the Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense that was not applicable on the Closing Date and which the L/C Issuer in good faith deems material to it;

(B) the issuance of such Letter of Credit would violate one or more policies of the L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and the L/C Issuer, the Letter of Credit is in an initial stated amount less than $100,000;

(D) the Letter of Credit is to be denominated in a currency other than Dollars;

(E) the Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder; or

(F) any Lender is at that time a Defaulting Lender, unless the L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to the L/C Issuer (in its sole discretion) with the Borrowers or such Defaulting Lender to eliminate the L/C Issuer's actual or potential Fronting Exposure (after giving effect to Section 2.15(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which the L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(iv) The L/C Issuer shall not amend any Letter of Credit if the L/C Issuer would not be permitted at such time to issue the Letter of Credit in its amended form under the terms hereof.

(v) The L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) the L/C Issuer would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to the Letter of Credit.

(vi) The L/C Issuer shall act on behalf of the Revolving Credit Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article IX included the L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to the L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit. (i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrowers delivered to the L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of a Borrower. Such Letter of Credit Application must be received by the L/C Issuer and the Administrative Agent not later than 1:00 p.m. at least two Business Days (or such later date and time as the Administrative Agent and the L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer: (A) the

proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as the L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer: (1) the Letter of Credit to be amended; (2) the proposed date of amendment thereof (which shall be a Business Day); (3) the nature of the proposed amendment; and (4) such other matters as the L/C Issuer may require. Additionally, the Borrowers shall furnish to the L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as the L/C Issuer or the Administrative Agent may require.

(ii) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrowers and, if not, the L/C Issuer will provide the Administrative Agent with a copy thereof. Unless the L/C Issuer has received written notice from any Revolving Credit Lender, the Administrative Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of a Borrower (or the applicable Subsidiary) or enter into the applicable amendment, as the case may be, in each case in accordance with the L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Revolving Credit Lender's Applicable Revolving Credit Percentage times the amount of such Letter of Credit.

(iii) If a Borrower so requests in any applicable Letter of Credit Application, the L/C Issuer may, in its sole and absolute discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit the L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the L/C Issuer, no Borrower shall be required to make a specific request to the L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Revolving Credit Lenders shall be deemed to have authorized (but may not require) the L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that the L/C Issuer shall not permit any such extension if (A) the L/C Issuer has determined that it would not be permitted, or would have no obligation at such time to

issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.03(a) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is seven Business Days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Revolving Lenders have elected not to permit such extension or (2) from the Administrative Agent, any Revolving Credit Lender or a Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each such case directing the L/C Issuer not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the L/C Issuer will also deliver to the applicable Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations. (i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the L/C Issuer shall notify the Borrowers and the Administrative Agent thereof (the date of any payment by the L/C Issuer under a Letter of Credit is referred to herein as an "Honor Date"). The Borrowers shall reimburse the L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing immediately after, and in any event, within two Business Days of the applicable Honor Date; provided, however, if the amount so paid or disbursed by the L/C Issuer is not reimbursed by the Borrowers prior to 3:00 p.m. on such Honor Date, the Borrowers shall pay interest on such amount from such Honor Date to but not including the date the L/C Issuer is reimbursed therefor at a rate per annum which shall be equal to the Base Rate plus the Applicable Rate applicable to Base Rate Loans (and, if not reimbursed by the third Business Day after such Honor Date, at the Default Rate), such interest to be payable by the Borrowers on demand made on or after the Honor Date. If the Borrowers fail to so reimburse the L/C Issuer by such time, the Administrative Agent shall promptly notify each Revolving Credit Lender of the Honor Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and the amount of such Revolving Credit Lender's Applicable Revolving Credit Percentage thereof. In such event, the Borrowers shall be deemed to have requested a Revolving Credit Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Revolving Credit Commitments and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). Any notice given by the L/C Issuer or the Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Revolving Credit Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the L/C Issuer at the Administrative Agent's Office in an amount equal to its Applicable Revolving Credit Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Revolving Credit Lender that so makes funds

available shall be deemed to have made a Base Rate Loan to the Borrowers in such amount. The Administrative Agent shall remit the funds so received to the L/C Issuer.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Credit Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrowers shall be deemed to have incurred from the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Revolving Credit Lender's payment to the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Revolving Credit Lender funds its Revolving Credit Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's Applicable Revolving Credit Percentage of such amount shall be solely for the account of the L/C Issuer.

(v) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or L/C Advances to reimburse the L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the L/C Issuer, the Borrowers or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrowers of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrowers to reimburse the L/C Issuer for the amount of any payment made by the L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), then, without limiting the other provisions of this Agreement, the L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the L/C Issuer at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the L/C Issuer in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute

such Lender's Loan included in the relevant Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the L/C Issuer submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing under this Section 2.03(c)(vi) shall be conclusive absent manifest error.

(d) Repayment of Participations. (i) At any time after the L/C Issuer has made a payment under any Letter of Credit and has received from any Revolving Credit Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if the Administrative Agent receives for the account of the L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from a Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Revolving Credit Percentage thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the L/C Issuer in its discretion), each Revolving Credit Lender shall pay to the Administrative Agent for the account of the L/C Issuer its Applicable Revolving Credit Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Borrowers to reimburse the L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that any Borrower or any Subsidiary thereof may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, FairPoint or any of its Subsidiaries.

The Borrowers shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrowers' instructions or other irregularity, the Borrowers will immediately notify the L/C Issuer. The Borrowers shall be conclusively deemed to have waived any such claim against the L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) Role of L/C Issuer. Each Lender and each Borrower agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Revolving Credit Lenders or the Required Revolving Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. Each Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrowers' pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.03(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrowers may have a claim against the L/C Issuer, and the L/C Issuer may be liable to the Borrowers, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrowers which the Borrowers prove were caused by the L/C Issuer's willful misconduct or gross negligence or the L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or

purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

(g) Applicability of ISP and UCP. Unless otherwise expressly agreed by the L/C Issuer and the Borrowers when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit), (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce at the time of issuance shall apply to each commercial Letter of Credit.

(h) Letter of Credit Fees. The Borrowers shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit equal to the Applicable Rate for Eurodollar Rate Loans times the daily amount available to be drawn under such Letter of Credit; provided, however, any Letter of Credit Fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the L/C Issuer pursuant to this Section 2.03 shall be payable, to the maximum extent permitted by applicable Law, to the other Lenders in accordance with the upward adjustments in their respective Applicable Percentages allocable to such Letter of Credit pursuant to Section 2.15(a)(iv), with the balance of such fee, if any, payable to the L/C Issuer for its own account. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. Letter of Credit Fees shall be (i) due and payable on the first Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Revolving Lenders, while any Event of Default exists and is continuing, all Letter of Credit Fees shall accrue at the Default Rate.

(i) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The Borrowers shall pay directly to the L/C Issuer for its own account a fronting fee (i) with respect to each commercial Letter of Credit, at the rate specified in the Fee Letter, computed on the amount of such Letter of Credit, and payable upon the issuance thereof, (ii) with respect to any amendment of a commercial Letter of Credit increasing the amount of such Letter of Credit, at a rate separately agreed among the Borrowers and the L/C Issuer, computed on the amount of such increase, and payable upon the effectiveness of such amendment, and (iii) with respect to each standby Letter of Credit, at the rate per annum specified in the Fee Letter, computed on the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the tenth Business Day after the end of each March, June, September and December in respect of the most recently-ended fiscal quarter (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter

of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. In addition, the Borrowers shall pay directly to the L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand (accompanied by an invoice) and are nonrefundable.

(j) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(k) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Borrowers shall be obligated to reimburse the L/C Issuer hereunder for any and all drawings under such Letter of Credit. Each Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of such Borrower, and that such Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

Section 2.04 **[Intentionally Omitted]**.

Section 2.05 Prepayments. (a) Optional. The Borrowers may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Term Loans and Revolving Credit Loans in whole or in part without premium or penalty; provided that (A) such notice must be received by the Administrative Agent not later than 12:00 p.m. (1) three Business Days prior to any date of prepayment of Eurodollar Rate Loans and (2) on the date of prepayment of Base Rate Loans; (B) any prepayment of Eurodollar Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $1,000,000 in excess thereof; (C) any prepayment of Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding and (D) no optional prepayment of Term Loans shall be permitted at any time when Revolving Credit Loans are outstanding unless and until the outstanding principal amount of Revolving Credit Loans has been paid down to zero. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and, if Eurodollar Rate Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's Applicable Percentage in respect of the relevant Facility); provided, however, that if such notice provides that it is a prepayment of the Loans in whole and that it is conditioned upon the effectiveness of other credit facilities, such notice may be revoked by the Borrowers (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. If such notice is given by the Borrowers, the Borrowers shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Each prepayment of the outstanding Term Loans pursuant to this Section 2.05(a) shall be applied to the next scheduled principal repayment installment thereof and thereafter to the remaining principal repayment installments thereof in inverse order of maturity, and each such prepayment shall be paid to the

Lenders in accordance with their respective Applicable Percentages in respect of each of the relevant Facilities.

(b) Mandatory. (i) Within ten (10) Business Days after financial statements have been delivered pursuant to Section 6.01(a) and the related Compliance Certificate has been delivered pursuant to Section 6.02(b) commencing with the fiscal year ending December 31, 2011 (provided, that it is hereby agreed to and understood that with respect solely to the fiscal year ending December 31, 2011, Excess Cash Flow will be calculated for the period commencing on the first day of the calendar month in which the Closing Date occurs or, if the Closing Date is on the last Business Day of any calendar month, as of the first day of the immediately succeeding calendar month), the Borrowers shall prepay an aggregate principal amount of Loans in an amount (if positive) equal to (x) if the Consolidated Total Leverage Ratio as determined as of the last day of the fiscal year covered by such financial statements is greater than 2.00:1.00, 75% of Excess Cash Flow for such fiscal year and (y) if the Consolidated Total Leverage Ratio as determined as of the last day of the fiscal year covered by such financial statements is equal to or less than 2.00:1.00, 50% of Excess Cash Flow for such fiscal year; provided that the Borrowers shall prepay any amount added back to Excess Cash Flow in respect of a Clause (b) Capital Expenditures Carryover Amount, in accordance with the proviso contained in the parenthetical phrase in clause (xiv) of the definition of "Excess Cash Flow," within ten (10) Business Days after the delivery of financial statements for the first fiscal quarter pursuant to Section 6.01(b) or, if earlier, Section 6.01(c).

(ii) If FairPoint or any of its Subsidiaries Disposes of any property (other than any Disposition of any property permitted by Section 7.05(a) through (j)) which results in the realization by such Person of Net Cash Proceeds in excess of $5,000,000 in any fiscal year of such Person, the Borrowers shall prepay an aggregate principal amount of Loans equal to 100% of such excess immediately upon receipt thereof by such Person (such prepayments to be applied as set forth in clauses (vi) and (ix) below); provided, however, that, with respect to any Net Cash Proceeds realized under a Disposition described in this Section 2.05(b)(ii), at the election of the Borrowers (as notified by the Borrowers to the Administrative Agent on or prior to the date of such Disposition), and so long as no Default shall have occurred and be continuing, FairPoint or such Subsidiary may reinvest all or any portion of such Net Cash Proceeds in operating assets so long as within 180 days after the receipt of such Net Cash Proceeds, such purchase shall have been consummated (as certified by the Borrowers in writing to the Administrative Agent); and provided, further, however, that any Net Cash Proceeds not so reinvested shall be immediately applied to the prepayment of the Loans as set forth in this Section 2.05(b)(ii). Notwithstanding the foregoing, to the extent that the sole reason that FairPoint or any of its Subsidiaries is unable to reinvest all or a portion of the Net Cash Proceeds realized under a Disposition within such 180 day period is the failure to receive any required regulatory approvals (and such approvals have not theretofore been denied), such 180 day period may be extended to up to 365 days in the sole discretion of the Administrative Agent; provided, however, immediately upon any denial of a requested approval or withdrawal of the request of such approval the applicable Net Cash Proceeds shall be applied to the prepayment of the Loans as set forth in this Section 2.05(b)(ii).

(iii) Upon the sale or issuance by FairPoint or any of its Subsidiaries of any of its Equity Interests (other than Excluded Issuances and any sales or issuances of Equity Interests to another Loan Party), the Borrowers shall prepay an aggregate principal amount of Loans equal to 100% of all Net Cash Proceeds received therefrom immediately upon receipt thereof by FairPoint or such Subsidiary (such prepayments to be applied as set forth in clauses (vi) and (ix) below).

(iv) Upon the incurrence or issuance by FairPoint or any of its Subsidiaries of any Indebtedness (other than Indebtedness expressly permitted to be incurred or issued pursuant to Section 7.02 (other than Section 7.02(k)), the Borrowers shall prepay an aggregate principal amount of Loans equal to 100% of all Net Cash Proceeds received therefrom immediately upon receipt thereof by FairPoint or such Subsidiary (such prepayments to be applied as set forth in clauses (vi) and (ix) below); provided that, with respect to any incurrence or issuance of Indebtedness permitted to be incurred or issued pursuant to Section 7.02(k), the Borrowers may apply such Net Cash Proceeds to prepay the Term Loans as set forth in this Section 2.05(b)(iv) or to consummate a Permitted Acquisition in accordance with the terms of Section 7.02(k).

(v) Upon any Extraordinary Receipt received by or paid to or for the account of FairPoint or any of its Subsidiaries, and not otherwise included in clauses (ii), (iii) or (iv) of this Section 2.05(b), the Borrowers shall prepay an aggregate principal amount of Loans equal to 100% of all Net Cash Proceeds received therefrom immediately upon receipt thereof by FairPoint or such Subsidiary (such prepayments to be applied as set forth in clauses (vi) and (ix) below); provided, however, that with respect to any proceeds of insurance, condemnation awards (or payments in lieu thereof) or indemnity payments, at the election of the Borrowers (as notified by the Borrowers to the Administrative Agent on or prior to the date of receipt of such insurance proceeds, condemnation awards or indemnity payments), and so long as no Default shall have occurred and be continuing, FairPoint or such Subsidiary may apply within 180 days after the receipt of such cash proceeds to replace or repair the equipment, fixed assets or real property in respect of which such cash proceeds were received; and provided, further, however, that any cash proceeds not so applied shall be immediately applied to the prepayment of the Loans as set forth in this Section 2.05(b)(v).

(vi) Each prepayment of Loans pursuant to the provisions of Section 2.05(b)(i) shall be applied, first, to the Revolving Credit Facility in the manner set forth in clause (ix) of this Section 2.05(b) and, second, to the Term Facility to the principal repayment installments thereof on a pro rata basis. Each other prepayment of Loans pursuant to the foregoing provisions of this Section 2.05(b) shall be applied first, to the Revolving Credit Facility in the manner set forth in clause (ix) of this Section 2.05(b) and, second, to the Term Facility to the principal repayment installments thereof in inverse order of maturity.

(vii) **[Intentionally Omitted.]**

(viii) If for any reason the Total Revolving Credit Outstandings at any time exceed the Revolving Credit Facility at such time, the Borrowers shall immediately

prepay Revolving Credit Loans and L/C Borrowings and/or Cash Collateralize the L/C Obligations (other than the L/C Borrowings) in an aggregate amount equal to 105% of such excess.

(ix) Prepayments of the Revolving Credit Facility made pursuant to this Section 2.05(b), first, shall be applied ratably to the L/C Borrowings, second, shall be applied ratably to the outstanding Revolving Credit Loans, and, third, shall, following the occurrence and during the continuance of an Event of Default, be used to Cash Collateralize the remaining L/C Obligations (in an amount equal to 105% of the then Outstanding Amount thereof); and, in the case of prepayments of the Revolving Credit Facility required pursuant to clauses (i), (ii), (iii), (iv) or (v) of this Section 2.05(b), the amount remaining, if any, after the prepayment in full of all L/C Borrowings and Revolving Credit Loans outstanding at such time and (to the extent required as provided for above) the Cash Collateralization of the remaining L/C Obligations (in an amount equal to 105% of the then Outstanding Amount thereof), and after giving effect to clause (vi) of this Section 2.05(b), may be retained by the Borrowers for use in the ordinary course of its business. Upon the drawing of any Letter of Credit that has been Cash Collateralized, the funds held as Cash Collateral shall be applied (without any further action by or notice to or from the Borrowers or any other Loan Party) to reimburse the L/C Issuer or the Revolving Credit Lenders, as applicable.

Section 2.06 Termination or Reduction of Commitments. (a) Optional. The Borrowers may, upon notice to the Administrative Agent, terminate the Revolving Credit Facility or the Letter of Credit Sublimit, or from time to time permanently reduce the Revolving Credit Facility or the Letter of Credit Sublimit; provided that (i) any such notice shall be received by the Administrative Agent not later than 2:00 p.m. three (3) Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of $1,000,000 or any whole multiple of $1,000,000 in excess thereof, (iii) the Borrowers shall not terminate or reduce (A) the Revolving Credit Facility if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Credit Outstandings would exceed the Revolving Credit Facility or (B) the Letter of Credit Sublimit if, after giving effect thereto, the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder (in an amount equal to 105% of the then Outstanding Amount thereof) would exceed the Letter of Credit Sublimit and (iv) that if such notice provides that it is a termination of the Revolving Credit Facility and that it is conditioned upon the effectiveness of other credit facilities, such notice may be revoked by the Borrowers (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.

(b) Mandatory. (i) The aggregate Term Commitments shall be automatically and permanently reduced to zero on the date of, and after giving effect to, the Term Borrowing.

(ii) If after giving effect to any reduction or termination of Revolving Credit Commitments under this Section 2.06, the Letter of Credit Sublimit exceeds the Revolving Credit Facility at such time, the Letter of Credit Sublimit shall be automatically reduced by the amount of such excess.

(c) Application of Commitment Reductions; Payment of Fees. The Administrative Agent will promptly notify the Lenders of any termination or reduction of the Letter of Credit Sublimit or the Revolving Credit Commitment under this Section 2.06. Upon any reduction of the Revolving Credit Commitments, the Revolving Credit Commitment of each Revolving Credit Lender shall be reduced by such Lender's Applicable Revolving Credit Percentage of such reduction amount. All fees in respect of the Revolving Credit Facility accrued until the effective date of any termination of the Revolving Credit Facility shall be paid on the effective date of such termination.

Section 2.07 Repayment of Loans. (a) Term Loans. The Borrowers shall repay to the Term Lenders the aggregate principal amount of all Term Loans outstanding on the following dates in the respective amounts set forth opposite such dates (which amounts shall be reduced as a result of the application of prepayments in accordance with the order of priority set forth in Section 2.05):

Date	Amount
March 31, 2011	$0
June 30, 2011	$0
September 30, 2011	$0
December 31, 2011	$0
March 31, 2012	$2,500,000
June 30, 2012	$2,500,000
September 30, 2012	$2,500,000
December 31, 2012	$2,500,000
March 31, 2013	$2,500,000
June 30, 2013	$2,500,000
September 30, 2013	$2,500,000
December 31, 2013	$2,500,000
March 31, 2014	$6,250,000
June 30, 2014	$6,250,000
September 30, 2014	$6,250,000
December 31, 2014	$6,250,000
March 31, 2015	$12,500,000
June 30, 2015	$12,500,000
September 30, 2015	$12,500,000
Maturity Date	$917,500,000

provided, however, that the final principal repayment installment of the Term Loans shall be repaid on the Maturity Date for the Term Facility and in any event shall be in an amount equal to the aggregate principal amount of all Term Loans outstanding on such date.

(b) Revolving Credit Loans. The Borrowers shall repay to the Revolving Credit Lenders on the Maturity Date for the Revolving Credit Facility the aggregate principal amount of all Revolving Credit Loans outstanding on such date.

Section 2.08 Interest. (a) Subject to the provisions of Section 2.08(b), (i) each Eurodollar Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurodollar Rate applicable to such Facility for such Interest Period plus the Applicable Rate for such Loan; and (ii) each Base Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate for such Loan.

(b) (i) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the full extent permitted by applicable Laws.

(ii) If any amount (other than principal of any Loan) payable by the Borrowers under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the full extent permitted by applicable Laws.

(iii) Upon the request of the Required Lenders, while any Event of Default exists, the Borrowers shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the full extent permitted by applicable Laws.

(iv) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

Section 2.09 Commitment Fee. (a) In addition to certain fees described in Sections 2.03(h) and (i) the Borrowers shall pay to the Administrative Agent, for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage, a commitment fee equal to 0.75% per annum times the actual daily amount by which the Revolving Credit Facility exceeds the sum of (i) the Outstanding Amount of Revolving Credit Loans and (ii) the Outstanding Amount of L/C Obligations, subject to adjustment as provided in Section 2.15. The commitment fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the last day of the Availability Period for the Revolving Credit Facility. The commitment fee shall be calculated quarterly in arrears.

(b) Other Fees. (i) The Borrowers shall pay to the Arranger and the Administrative Agent for their own respective accounts fees in the amounts and at the times specified in the Fee Letter.

(ii) On the Closing Date, the Borrowers shall pay to the Administrative Agent, for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage, a fee in an aggregate amount of $1,500,000.

Section 2.10 Computation of Interest and Fees. All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to the Eurodollar Rate) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

Section 2.11 Evidence of Debt. (a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive evidence absent manifest error, of the amount of the Credit Extensions made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrowers shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in Section 2.11(a), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

Section 2.12 Payments Generally; Administrative Agent's Clawback. (a) General. All payments to be made by the Borrowers shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrowers hereunder shall be made to the Administrative Agent, for the account

of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage in respect of the relevant Facility (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrowers shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected on computing interest or fees, as the case may be.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurodollar Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrowers a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrowers jointly and severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrowers to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrowers, the interest rate applicable to Base Rate Loans. If the Borrowers and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrowers the amount of such interest paid by the Borrowers for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrowers shall be without prejudice to any claim the Borrowers may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrowers; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrowers prior to the time at which any payment is due to the Administrative Agent for the account of the Lenders or the L/C Issuer hereunder that the Borrowers will not make such payment, the Administrative Agent may assume that the Borrowers have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Appropriate Lenders or the L/C Issuer, as the case may be, the amount due. In such event, if the Borrowers have not in fact made such payment, then each of the Appropriate Lenders or the L/C Issuer, as the case may be, severally agrees to repay to the

Administrative Agent forthwith on demand the amount so distributed to such Lender or the L/C Issuer, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

A notice of the Administrative Agent to any Lender or the Borrowers with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrowers by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Revolving Credit Loans, to fund participations in Letters of Credit and to make payments pursuant to Section 10.04(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 10.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 10.04(c).

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(f) Insufficient Funds. If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, L/C Borrowings, interest and fees then due hereunder, such funds shall be applied (i) first, toward payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, toward payment of principal and L/C Borrowings then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and L/C Borrowings then due to such parties.

Section 2.13 Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of (a) Obligations in respect of any the Facilities due and payable to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations due and payable to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time) of payments on account of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan

Documents at such time obtained by all the Lenders at such time or (b) Obligations in respect of any of the Facilities owing (but not due and payable) to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations owing (but not due and payable) to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time) of payment on account of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time obtained by all of the Lenders at such time then the Lender receiving such greater proportion shall (A) notify the Administrative Agent of such fact, and (B) purchase (for cash at face value) participations in the Loans and subparticipations in L/C Obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of Obligations in respect of the Facilities then due and payable to the Lenders or owing (but not due and payable) to the Lenders, as the case may be, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (A) any payment made by or on behalf of the Borrowers pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (B) the application of Cash Collateral provided for in Section 2.14 or (C) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations to any assignee or participant, other than an assignment to FairPoint or any Subsidiary thereof (as to which the provisions of this Section shall apply).

Each Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

Section 2.14 Cash Collateral.

(a) Certain Credit Support Events. Upon the request of the Administrative Agent or the L/C Issuer (i) if the L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, or (ii) if, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrowers shall, in each case, immediately Cash Collateralize (in an amount equal to 105% of the then Outstanding Amount thereof) the then Outstanding Amount of all L/C Obligations. At any time that there shall exist a Defaulting Lender, unless the Administrative Agent or the L/C Issuer shall have entered into arrangements with such Defaulting Lender to cover all Fronting Exposure arising from such Defaulting Lender (it being understood and agreed that neither the

Administrative Agent nor the L/C Issuer shall be under any obligation to seek to enter into such arrangements), immediately upon the request of the Administrative Agent or the L/C Issuer, the Borrowers shall deliver to the Administrative Agent Cash Collateral in an amount equal to 105% of such Fronting Exposure (after giving effect to Section 2.15(a)(iv) and any Cash Collateral provided by the Defaulting Lender).

(b) Grant of Security Interest. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing general deposit accounts at Bank of America. The Borrowers, and to the extent provided by any Lender, such Lender, hereby grant to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuer and the Lenders, and agrees to maintain, subject to Section 10.14, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.14(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent as herein provided, or that the total amount of such Cash Collateral is less than 105% of the applicable Fronting Exposure and other obligations secured thereby, the Borrowers or the relevant Defaulting Lender will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.14 or Sections 2.03, 2.05, 2.15 or 8.02 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may be provided for herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 10.06(b)(vi))) or (ii) the Administrative Agent's good faith determination that there exists excess Cash Collateral; provided, however, (x) that Cash Collateral furnished by or on behalf of a Loan Party shall not be released during the continuance of a Default or Event of Default (and following application as provided in this Section 2.14 may be otherwise applied in accordance with Section 8.03), and (y) the Person providing Cash Collateral and the L/C Issuer may independently agree between themselves that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

Section 2.15 Defaulting Lenders. (a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) Waivers and Amendments. That Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 10.01.

(ii) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 10.08), shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to the L/C Issuer hereunder; *third*, if so determined by the Administrative Agent or requested by the L/C Issuer, to be held as Cash Collateral for future funding obligations of that Defaulting Lender of any participation in any Letter of Credit; *fourth*, as the Borrowers may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrowers, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Agreement; *sixth*, to the payment of any amounts owing to the Lenders or the L/C Issuer as a result of any judgment of a court of competent jurisdiction obtained by any Lender or the L/C Issuer against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrowers as a result of any judgment of a court of competent jurisdiction obtained by the Borrowers against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans or L/C Borrowings were made at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Borrowings owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Borrowings owed to, that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.15(a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. That Defaulting Lender (x) shall not be entitled to receive any commitment fee pursuant to Section 2.09(a) for any period during which that Lender is a Defaulting Lender (and the Borrowers shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender) and (y) shall be limited in its right to receive Letter of Credit Fees as provided in Section 2.03(h).

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. During any period in which there is a Defaulting Lender, for purposes of computing the amount of the obligation of each non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit pursuant to Section 2.04, the "Applicable Percentage" of each non-Defaulting Lender shall be computed without giving effect to the Commitment of that Defaulting Lender; provided, that, (i) each such reallocation shall be given effect only if, at the date the applicable Lender becomes a Defaulting Lender, no Default or Event of Default exists; and (ii) the aggregate obligation of each non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit shall not exceed the positive difference, if any, of (1) the Commitment of that non-Defaulting Lender minus (2) the aggregate Outstanding Amount of the Loans of that Lender.

(b) Defaulting Lender Cure. If the Borrowers, the Administrative Agent and the L/C Issuer agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.15(a)(iv)), whereupon that Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrowers while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

Section 2.16 Joint and Several Liability. Each of the Borrowers shall be jointly and severally liable with the other Borrower(s) for the Obligations, and each of the Obligations shall be secured by all of the Collateral. Each Borrower acknowledges that it is a co-borrower hereunder and is jointly and severally liable under this Agreement and the other Loan Documents. Any payment made by a Borrower in respect of Obligations owing by one or more Borrowers shall be deemed a payment of such Obligations by and on behalf of all Borrowers. All Credit Extensions extended to any Borrower or requested by any Borrower shall be deemed to be Credit Extensions extended for each of the Borrowers, and each Borrower hereby authorizes each other Borrower to effectuate Credit Extensions on its behalf. Notwithstanding anything to the contrary contained in this Agreement or any of the other Loan Documents, the Administrative Agent and the Lenders shall be entitled to rely upon any request, notice or other communication received by them from any Borrower on behalf of all Borrowers, and shall be entitled to treat their giving of any notice hereunder to FairPoint in accordance with the provisions of this Agreement as notice to each and all Borrowers.

Each Borrower agrees that the joint and several liability of the Borrowers provided for in this Section 2.16 shall not be impaired or affected by any modification, supplement, extension or amendment or any contract or agreement to which the other Borrower(s) may hereafter agree (other than an agreement signed by the Administrative Agent and the Lenders specifically

releasing such liability), nor by any delay, extension of time, renewal, compromise or other indulgence granted by the Administrative Agent or any Lender with respect to any of the Obligations, nor by any other agreements or arrangements whatsoever with the other Borrower(s) or with any other person, each Borrower hereby waiving all notice of such delay, extension, release, substitution, renewal, compromise or other indulgence, and hereby consenting to be bound thereby as fully and effectually as if it had expressly agreed thereto in advance. The liability of each Borrower is direct and unconditional as to all of the Obligations, and may be enforced without requiring the Administrative Agent or any Lender first to resort to any other right, remedy or security. Except to the extent otherwise provided herein, each Borrower hereby expressly waives promptness, diligence, notice of acceptance and any other notice with respect to any of the Obligations, the Notes, this Agreement or any other Loan Document and any requirement that the Administrative Agent or any Lender protect, secure, perfect or insure any Lien or any property subject thereto or exhaust any right or take any action against any Borrower or any other person or any collateral.

Each Borrower hereby irrevocably waives and releases each other Borrower from all "claims" (as defined in Section 101(5) of the Bankruptcy Code) to which such Borrower is or would be entitled by virtue of the provisions of the first paragraph of this Section 2.16 or the performance of such Borrower's obligations thereunder including, without limitation, any right of subrogation (whether contractual, under Section 509 of the Bankruptcy Code or otherwise), reimbursement, contribution, exoneration or similar right, or indemnity, or any right of recourse to security for any of the Obligations.

Section 2.17 CoBank Equity and Security.

(a) So long as CoBank, ACB ("CoBank") is a Lender hereunder, FairPoint will acquire equity in CoBank in such amounts and at such times as CoBank may require in accordance with CoBank's Bylaws and Capital Plan (as each may be amended from time to time), except that the maximum amount of equity that FairPoint may be required to purchase in CoBank in connection with the Loans may not exceed the maximum amount permitted by the Bylaws and the Capital Plan at the time this Agreement is entered into. FairPoint acknowledges receipt of a copy, effective as of the Closing Date, of (i) CoBank's most recent annual report, and if more recent, CoBank's latest quarterly report, (ii) CoBank's Notice to Prospective Stockholders and (iii) CoBank's Bylaws and Capital Plan, which describe the nature of all of FairPoint's stock and other equities, including patronage, in CoBank (the "CoBank Equities") as well as capitalization requirements, and agrees to be bound by the terms thereof.

(b) Each party hereto acknowledges that CoBank's Bylaws and Capital Plan (as each may be amended from time to time) shall govern (i) the rights and obligations of the parties with respect to the CoBank Equities and any distributions made on account thereof or on account of FairPoint's patronage, (ii) FairPoint's eligibility for patronage distributions from CoBank (in the form of CoBank Equities and cash) and (iii) patronage distributions, if any, in the event of a sale of a participation interest. CoBank reserves the right to assign or sell participations in all or any part of its Commitments or outstanding Loans hereunder on a non-patronage basis.

(c) Each party hereto acknowledges that CoBank has a statutory first lien on the CoBank Equities pursuant to the Farm Credit Act of 1971 (as amended from time to time), which

statutory lien shall be for CoBank's sole and exclusive benefit. The CoBank Equities shall not constitute security for the Obligations due to any other Lender. To the extent that any of the Loan Documents create a Lien on the CoBank Equities or on patronage accrued by CoBank for the account of FairPoint (including, in each case, proceeds thereof), such Lien shall be for CoBank's sole and exclusive benefit and shall not be subject to pro rata sharing hereunder. Neither the CoBank Equities nor any accrued patronage shall be offset against the Obligations except that, in the event of an Event of Default, CoBank may elect to apply the cash portion of any patronage distribution or retirement of equity to amounts due to it under this Agreement. Subject to the requirements of Section 3.01, FairPoint acknowledges that any corresponding tax liability associated with such application is the sole responsibility of FairPoint. CoBank shall have no obligation to retire the CoBank Equities upon any Event of Default, Default or any other default by FairPoint or any other Loan Party, or at any other time, either for application to the Obligations or otherwise.

ARTICLE III.

TAXES, YIELD PROTECTION AND ILLEGALITY

Section 3.01 Taxes. (a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes. Any and all payments by or on account of any obligation of the Borrowers hereunder or under any other Loan Document shall to the extent permitted by applicable Laws be made free and clear of and without reduction or withholding for any Taxes. If, however, applicable Laws require any Borrower or the Administrative Agent to withhold or deduct any Indemnified Taxes from any amount payable by the Borrowers or the Administrative Agent to the Administrative Agent, any Lender or the L/C Issuer, as the case may be, then (A) the Administrative Agent shall withhold or make such deductions of Indemnified Taxes as are determined by the Borrowers or the Administrative Agent, as the case may be, to be required based upon the information and documentation received pursuant to subsection (e) below, (B) the Borrowers or the Administrative Agent, as the case may be, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with applicable Laws and (C) the sum payable by the Borrowers shall be increased as necessary so that after any required withholding or the making of all required deductions under this sentence (including deductions applicable to additional sums payable under this sentence) the Administrative Agent, Lender or L/C Issuer, as the case may be, receives an amount equal to the sum it would have received had no such withholding or deduction been made. In addition, if applicable Laws require any Borrower or the Administrative Agent to withhold or deduct any Excluded Taxes from any amount payable by the Borrowers or the Administrative Agent to the Administrative Agent, any Lender or the L/C Issuer, as the case may be, then (X) the Borrowers or the Administrative Agent, as the case may be, shall withhold or make such deductions of Excluded Taxes as are determined by the Borrowers or the Administrative Agent, as the case may be, to be required based upon all available information including the information and documentation received pursuant to subsection (e) below, (Y) the Borrowers or the Administrative Agent, as the case may be, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with applicable Laws and (Z) the sum payable by the Borrowers shall not be increased on account of any required withholding for Excluded Taxes or the making of all required deductions under this sentence.

(b) Payment of Other Taxes by the Borrowers. Without limiting the provisions of subsection (a) above, the Borrowers shall timely pay any material Other Taxes to the relevant Governmental Authority in accordance with applicable Laws; provided that the Borrowers shall not be required to pay any such Other Taxes which are being contested in good faith and by proper proceedings if it has maintained adequate reserves (in the good faith judgment of the management of the Borrowers) with respect thereto in accordance with GAAP.

(c) Tax Indemnifications. (i) Each Borrower shall, and does hereby indemnify the Administrative Agent, each Lender and the L/C Issuer, and shall make payment in respect thereof within 10 days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Administrative Agent, such Lender or the L/C Issuer, as the case may be, with respect to or as a consequence of any transactions contemplated by this Agreement and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority, other than penalties, interest and expenses attributable to the conduct of the Administrative Agent, such Lender or the L/C Issuer, as applicable. A certificate as to the amount of any such payment or liability delivered to the Borrowers by a Lender or the L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or the L/C Issuer, shall be conclusive absent manifest error.

(ii) Without limiting the provisions of subsection (a) or (b) above, each Lender and the L/C Issuer shall, and does hereby, indemnify the Borrowers and the Administrative Agent, and shall make payment in respect thereof within 10 days after demand therefor, against any and all Taxes and any and all related losses, claims, liabilities, penalties, interest and expenses (including the fees, charges and disbursements of any counsel for the Borrowers or the Administrative Agent) incurred by or asserted against any Borrower or the Administrative Agent by any Governmental Authority as a result of the failure by such Lender or the L/C Issuer, as the case may be, to deliver, or as a result of the inaccuracy, inadequacy or deficiency of, any documentation required to be delivered by such Lender or the L/C Issuer, as the case may be, to the Borrowers or the Administrative Agent pursuant to subsection (e). Each Lender and the L/C Issuer hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender or the L/C Issuer, as the case may be, under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this clause (ii). The agreements in this clause (ii) shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender or the L/C Issuer, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all other Obligations.

(d) Evidence of Payments. Upon request by the Borrowers or the Administrative Agent, as the case may be, after any payment of Taxes by any Borrower or the Administrative Agent to a Governmental Authority as provided in this Section 3.01, the Borrowers shall deliver to the Administrative Agent or the Administrative Agent shall deliver to the Borrowers, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other

evidence of such payment reasonably satisfactory to the Borrowers or the Administrative Agent, as the case may be.

(e) Status of Lenders; Tax Documentation. (i) Each Lender shall deliver to the Borrowers and to the Administrative Agent, at the time or times prescribed by applicable Laws or when reasonably requested by the Borrowers or the Administrative Agent, such properly completed and executed documentation prescribed by applicable Laws or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit the Borrowers or the Administrative Agent, as the case may be, to determine (A) whether or not payments made hereunder or under any other Loan Document are subject to Taxes, (B) if applicable, the required rate of withholding or deduction, and (C) such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of all payments to be made to such Lender by the Borrowers pursuant to this Agreement or otherwise to establish such Lender's status for withholding tax purposes in the applicable jurisdiction.

(ii) Without limiting the generality of the foregoing, if a Borrower is resident for tax purposes in the United States,

(A) any Lender that is a "United States person" within the meaning of Section 7701(a)(30) of the Code shall deliver to such Borrower and the Administrative Agent (or, in the case of a Participant, to the Lender from which the related participation shall have been purchased for transmittal to such Borrower and the Administrative Agent) executed originals of IRS Form W-9 (or proper substitute or successor form) or such other documentation or information prescribed by applicable Laws or reasonably requested by such Borrower or the Administrative Agent establishing that such Lender (or Participant) is not subject to U.S. backup withholding, and to the extent it may lawfully do so at such times, provide a new IRS Form W-9 (or proper substitute or successor form) upon the expiration or obsolescence of any previously delivered form; and

(B) each Foreign Lender shall deliver to such Borrower and the Administrative Agent (or in the case of a Participant, to the Lender from which the related participation shall have been purchased for transmittal to the Borrowers and the Administrative Agent) executed originals of IRS Form W-8BEN, Form W-8ECI or Form W-8IMY (together with all additional documentation required to be transmitted with Form W-8IMY, including the appropriate forms described in this Section), as applicable, or any subsequent versions thereof or successors thereto properly completed and duly executed by such Foreign Lender (i) certifying such Foreign Lender's entitlement to a zero rate of, or a complete exemption from, or a reduced rate of, U.S. Federal withholding tax on all payments by such Borrower or the Administrative Agent under this Agreement and the other Loan Documents, or (ii) if the Foreign Lender is claiming exemption from U.S. Federal withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest", executed originals of IRS Form W8BEN together with a certificate to the effect that such Foreign Lender is not (A) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of such Borrower within the meaning of

Section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code or any other necessary documentation. Such forms shall be true and accurate and shall be delivered by each Foreign Lender on or before the date it becomes a party to this Agreement (or, in the case of any Participant, on or before the date such Participant purchases the related participation) and promptly from time to time thereafter upon the reasonable request of such Borrower or the Administrative Agent. In addition, each Foreign Lender shall deliver such forms promptly upon the obsolescence or invalidity of any form previously delivered by such Foreign Lender. Each Foreign Lender shall promptly notify such Borrower at any time it determines that it is no longer in a position to provide any previously delivered certificate to the Borrowers (or any other form of certification adopted by the U.S. taxing authorities for such purpose). Notwithstanding any other provision of this paragraph, a Foreign Lender shall not be required to deliver any form pursuant to this paragraph that such Foreign Lender is not legally able to deliver.

(iii) Each Lender shall promptly (A) notify the Borrowers and the Administrative Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction, and (B) take such steps as shall not be materially disadvantageous to it, in the reasonable judgment of such Lender, and as may be reasonably necessary (including the re-designation of its Lending Office) to avoid any requirement of applicable Laws of any jurisdiction that the Borrowers or the Administrative Agent make any withholding or deduction for taxes from amounts payable to such Lender.

(f) Treatment of Certain Refunds. Unless required by applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender or the L/C Issuer, or have any obligation to pay to any Lender or the L/C Issuer, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or the L/C Issuer, as the case may be. If the Administrative Agent, any Lender or the L/C Issuer determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrowers or with respect to which the Borrowers have paid additional amounts pursuant to this Section, it shall pay to the Borrowers an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrowers under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses incurred by the Administrative Agent, such Lender or the L/C Issuer, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrowers, upon the request of the Administrative Agent, such Lender or the L/C Issuer, agrees to repay the amount paid over to the Borrowers (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, such Lender or the L/C Issuer in the event the Administrative Agent, such Lender or the L/C Issuer is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require the Administrative Agent, any Lender or the L/C Issuer to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrowers or any other Person.

(g) Cooperation. The Administrative Agent, each Lender, and each L/C Issuer, as applicable, shall use commercially reasonable efforts to cooperate with the Borrowers in attempting to recover any Indemnified Taxes which the Borrowers determine, in their sole discretion, exercised in good faith, were improperly imposed, assessed or collected; provided, however that the Borrowers shall indemnify the Administrative Agent, such Lender or L/C Issuer, as applicable, for any costs it incurs in connection with complying with this clause (g). The Borrowers shall have the right to dispute, at their own cost, the imposition of any Indemnified Taxes (including interest and penalties) with the relevant Governmental Authority. This clause (g) shall not be construed to require the Administrative Agent, any Lender or L/C Issuer to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Borrowers or any other Person. In no event will this clause (g) relieve the Borrowers of their obligations to pay additional amounts to the Administrative Agent, any Lender or the L/C Issuer under this Section, as applicable.

(h) If a payment made to a Lender under any Loan Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Lender fails to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to FairPoint and the Administrative Agent (i) a certification signed by its chief financial officer, principal accounting officer, treasurer, controller or other financial officer and (ii) any documentation required by Law or reasonably requested by FairPoint or the Administrative Agent sufficient for FairPoint and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such applicable reporting requirements.

Section 3.02 Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurodollar Rate, or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrowers through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Eurodollar Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrowers that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrowers shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates

based upon the Eurodollar Rate, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurodollar Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurodollar Rate. Upon any such prepayment or conversion, the Borrowers shall also pay accrued interest on the amount so prepaid or converted.

Section 3.03 Inability to Determine Rates. If the Required Lenders determine that for any reason in connection with any request for a Eurodollar Rate Loan or a conversion to or continuation thereof that (a) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Loan, (b) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan or in connection with an existing or proposed Base Rate Loan, or (c) the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrowers and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurodollar Rate Loans shall be suspended, and (y) in the event of a determination described in the preceding sentence with respect to the Eurodollar Rate component of the Base Rate, the utilization of the Eurodollar Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrowers may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

Section 3.04 Increased Costs; Reserves on Eurodollar Rate Loans. (a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by Section 3.04(e)) or the L/C Issuer;

(ii) subject any Lender or the L/C Issuer to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any Eurodollar Rate Loan made by it, or change the basis of taxation of payments to such Lender or the L/C Issuer in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 3.01 and the imposition of, or any change in the rate of, any Excluded Tax payable by such Lender or the L/C Issuer); or

(iii) impose on any Lender or the L/C Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan the interest in which is determined by reference to the Eurodollar Rate (or

of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or the L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or the L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or the L/C Issuer, the Borrowers will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or the L/C Issuer determines that any Change in Law affecting such Lender or the L/C Issuer or any Lending Office of such Lender or such Lender's or the L/C Issuer's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or the L/C Issuer's capital or on the capital of such Lender's or the L/C Issuer's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by the L/C Issuer, to a level below that which such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the L/C Issuer's policies and the policies of such Lender's or the L/C Issuer's holding company with respect to capital adequacy), then from time to time the Borrowers will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or the L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or the L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrowers shall be conclusive absent manifest error. The Borrowers shall pay such Lender or the L/C Issuer, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or the L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or the L/C Issuer's right to demand such compensation, provided that the Borrowers shall not be required to compensate a Lender or the L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than six months prior to the date that such Lender or the L/C Issuer, as the case may be, notifies the Borrowers of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the six-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Reserves on Eurodollar Rate Loans. The Borrowers shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurodollar Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined

by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided the Borrowers shall have received at least 10 Business Days' prior notice (with a copy to the Administrative Agent) of such additional interest from such Lender. If a Lender fails to give notice 10 Business Days prior to the relevant Interest Payment Date, such additional interest shall be due and payable 10 Business Days from receipt of such notice.

Section 3.05 Compensation for Losses. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrowers shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrowers (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrowers; or

(c) any assignment of a Eurodollar Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrowers pursuant to Section 10.13;

including, in the case of clauses (a) through (c) above, any loss or expense arising from the liquidation or reemployment of funds (but excluding loss of anticipated profits) obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrowers shall also pay any customary administrative fees charged by such Lender in connection with the foregoing for which it has received an invoice.

For purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurodollar Rate Loan made by it at the Eurodollar Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan was in fact so funded.

Section 3.06 Mitigation Obligations; Replacement of Lenders. (a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or the Borrowers are required to pay any additional amount to any Lender, the L/C Issuer, or any Governmental Authority for the account of any Lender or the L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender or the L/C Issuer shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or the L/C Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or the L/C Issuer, as the case may be, to any unreimbursed cost or expense and would not otherwise

be disadvantageous to such Lender or the L/C Issuer, as the case may be. The Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender or the L/C Issuer in connection with any such designation or assignment.

(b) Replacement of Lenders. Without limiting the rights of the Borrowers to replace Lenders which are set forth elsewhere in this Agreement, if any Lender provides notice under Section 3.02, requests compensation under Section 3.04, or if the Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, the Borrowers may replace such Lender in accordance with Section 10.13.

Section 3.07 Survival. All of the Borrowers' obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder, and resignation of the Administrative Agent.

ARTICLE IV.

CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

Section 4.01 Conditions of Initial Credit Extension. The obligation of the L/C Issuer and each Revolving Credit Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or telecopies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to the Administrative Agent and each of the Revolving Credit Lenders (other than an Unsigned Lender):

(i) executed counterparts of this Agreement and the Guaranty, sufficient in number for distribution to the Administrative Agent, each Lender (other than an Unsigned Lender) and the Borrowers;

(ii) a Note executed by the Borrowers in favor of each Lender requesting a Note;

(iii) a security agreement, in substantially the form of Exhibit G (together with each other security agreement and security agreement supplement delivered pursuant to Section 6.12, in each case as amended, the "Security Agreement"), duly executed by each of the Borrowers and each of the Guarantors, and a pledge agreement, in substantially the form of Exhibit G-1 (together in the other pledge agreement and pledge agreement supplement determined pursuant to Section 6.12, in each case as amended, the "Pledge Agreement"), duly executed by FairPoint and each Subsidiary listed on Schedule 4.01(a)(iii), together with:

(A) to the extent not delivered to (or in the possession of) the Administrative Agent prior to the Closing Date, certificates or instruments

representing the Pledged Securities (as defined in the Pledge Agreement) accompanied by all endorsements and/or powers required by the Pledge Agreement,

(B) acknowledgment copies or stamped receipt copies of proper financing statements, duly filed on or before the day of the initial Credit Extension under the Uniform Commercial Code of all jurisdictions that the Administrative Agent may deem necessary or desirable in order to perfect the Liens created under the Security Agreement and the Pledge Agreement, covering the Collateral described in the Security Agreement and/or the Pledge Agreement,

(C) completed requests for information, dated on or before the date of the initial Credit Extension**,** listing all effective financing statements filed in the jurisdictions referred to in clause (B) above that name any Loan Party as debtor, together with copies of such other financing statements,

(D) evidence of the completion of all other actions, recordings and filings of or with respect to the Security Agreement and the Pledge Agreement that the Administrative Agent may deem necessary or desirable in order to perfect the Liens created thereby,

(E) each Control Agreement referred to (and as defined) in the Security Agreement and duly executed by the appropriate parties, and

(F) evidence that all other action that the Administrative Agent may deem necessary or desirable in order to perfect the Liens created under the Security Agreement and the Pledge Agreement has been taken (including receipt of duly executed payoff letters, UCC-3 termination statements, intellectual property Lien releases and other Lien releases (including, in each case, in connection with the DIP Credit Agreement and the Prepetition Credit Agreement) and landlords' and bailees' waiver and consent agreements required to be delivered pursuant to the Security Agreement);

(iv) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party;

(v) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing, in good standing and qualified to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect (other than the continuation of the circumstances giving rise to the filing of the Chapter 11 Cases or as a result thereof);

(vi) a favorable opinion of Paul, Hastings, Janofsky & Walker LLP, counsel to the Loan Parties, addressed to the Administrative Agent and each Lender as to such matters concerning the Loan Parties and the Loan Documents as the Required Lenders may reasonably request;

(vii) favorable opinions of local and special FCC counsel to the Loan Parties, addressed to the Administrative Agent and each Lender, as to such matters concerning the Loan Parties and the Loan Documents as the Required Lenders may reasonably request;

(viii) a certificate of a Responsible Officer of each Loan Party either (A) attaching copies of all consents, licenses and approvals required in connection with the consummation by such Loan Party of the Transaction and the execution, delivery and performance by such Loan Party and the validity against such Loan Party of the Loan Documents to which it is a party, and such consents, licenses and approvals shall be in full force and effect, or (B) stating that no such consents, licenses or approvals are so required;

(ix) a certificate signed by a Responsible Officer of the Borrowers certifying (A) that the conditions specified in Sections 4.02(a) and (b) have been satisfied**,** and (B) that there has been no event or circumstance since the date of the Audited Financial Statements that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect;

(x) forecasts for Consolidated FairPoint prepared by management of FairPoint on a monthly basis for the first year following the Closing Date, which condition has been satisfied as a result of the Borrowers' delivery of the "New Forecast" of FairPoint to the Administrative Agent and Lenders that are not Public Lenders on October 15, 2010;

(xi) certificates attesting to the Solvency of each Loan Party after giving effect to the Transaction, from its chief financial officer;

(xii) certified copies of each employment agreement and other compensation arrangement with each executive officer of any Loan Party or any of its Subsidiaries as the Administrative Agent shall request;

(xiii) evidence that all insurance required to be maintained pursuant to the Loan Documents has been obtained and is in effect, together with the certificates of insurance, naming the Administrative Agent, on behalf of the Lenders, as an additional insured or loss payee, as the case may be, under all insurance policies maintained with respect to the assets and properties of the Loan Parties that constitutes Collateral;

(xiv) such other assurances, certificates, documents, consents or opinions as the Administrative Agent, the L/C Issuer or any Lender reasonably may require.

(b) (i) All fees required to be paid to the Administrative Agent on or before the Closing Date shall have been paid and (ii) all fees required to be paid to the Lenders on or before the Closing Date shall have been paid.

(c) Unless waived by the Administrative Agent, the Borrowers shall have paid all fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts among the Borrowers and the Administrative Agent).

(d) FairPoint and each of its Subsidiaries shall have duly authorized, executed and delivered a subordination agreement, substantially in the form of Exhibit B (the "Intercompany Subordination Agreement").

(e) Consolidated EBITDAR (as defined in the DIP Credit Agreement, as amended) for the period of eleven consecutive months ended November 30, 2010 shall have exceeded $230,000,000 (after giving effect to any one-time adjustments consented to by the Administrative Agent in its reasonable discretion).

(f) The final order confirming the Plan of Reorganization shall have been entered, all conditions to the effectiveness, implementation or consummation thereof shall have been satisfied, and the Plan or Reorganization shall have been consummated and implemented.

Without limiting the generality of the provisions of clause (e) of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

Section 4.02 Conditions to all Credit Extensions. The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurodollar Rate Loans) is subject to the following conditions precedent:

(a) The representations and warranties of the Borrowers and each other Loan Party contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects on and as of the date of such Credit Extension, except (i) to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date, (ii) any representation or warranty that is already by its terms qualified as to "materiality", "Material Adverse Effect" or similar language shall be true and correct in all respects as of such date after giving effect to such qualification and (iii) that for purposes of this Section 4.02, the representations and warranties contained in Sections 5.05(a) and (b) shall be deemed to refer to the most recent statements furnished pursuant to Sections 6.01(a) and (b), respectively.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, the L/C Issuer shall have received a Request for Credit Extension in accordance with the requirements hereof.

Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurodollar Rate Loans) submitted by the Borrowers shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V.

REPRESENTATIONS AND WARRANTIES

Each Borrower represents and warrants to the Administrative Agent and the Lenders that:

Section 5.01 Existence, Qualification and Power. Each Loan Party and each of its Subsidiaries (a) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization (except, as to Persons other than FairPoint, the Loan Parties and the NNE Subsidiaries, where the failure to be in good standing could not reasonably be expected to have a Material Adverse Effect (as to such Person considered alone) and such failure does not continue for more than 30 days), (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals necessary to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party and consummate the Transaction, and (c) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

Section 5.02 Authorization; No Contravention. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is or is to be a party have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any material Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any applicable Laws.

Section 5.03 Governmental Authorization; Other Consents. Except for such consents, approvals and filings as have been obtained or made on or prior to the Closing Date and which remain in full force and effect, no approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority (including, without limitation, the FCC and applicable PUCs) or any other Person is necessary or required in connection with (a) the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, or for the consummation of the Transaction, (b) the

grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents, (c) the perfection or maintenance of the Liens created under the Collateral Documents (including, subject to Section 10.14, the first priority nature thereof) or (d) the exercise by the Administrative Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents (other than any consent of the FCC, any PUC or other Governmental Authority having jurisdiction over FairPoint and its Subsidiaries that may be required under applicable Law prior to any foreclosure on and/or to transferring any of the Regulated Securities Collateral (as defined in the Pledge Agreement)). All applicable waiting periods in connection with the Transaction have expired without any action having been taken by any Governmental Authority restraining, preventing or imposing materially adverse conditions upon the Transaction or the rights of the Loan Parties or their Subsidiaries freely to transfer or otherwise dispose of, or to create any Lien on, any properties now owned or hereafter acquired by any of them.

Section 5.04 Binding Effect. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar Laws relating to or affecting creditors' rights generally and general equitable principles (regardless of whether enforcement is sought in equity or at law).

Section 5.05 Financial Statements; No Material Adverse Effect. (a) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present in all material respects the financial condition of FairPoint and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other liabilities, direct or contingent, of FairPoint and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(b) (x) The unaudited balance sheet of Consolidated FairPoint dated [_____ ____, 2010], and the related consolidated and, with respect to FairPoint alone, consolidating statements of income or operations, shareholders' equity and cash flows of Consolidated FairPoint and FairPoint, alone, as the case may be, for the fiscal quarter ended on that date (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present in all material respects the financial condition of Consolidated FairPoint and FairPoint alone, as the case may be, as of the date thereof and the results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments and (y) the unaudited balance sheets of each Intermediary Holding Company and its Subsidiaries on a consolidated basis dated [_____ ____, 2010], and the related statement of income or operations, shareholders' equity and cash flows of such Intermediary Holding Company and its Subsidiaries, on a consolidated basis, for the fiscal quarter ended on that date

(i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present in all material respects the financial condition of such Intermediary Holding Company and its Subsidiaries, on a consolidated basis, as of the date thereof and the results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.

(c) Since the date of the Audited Financial Statements, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect (other than the pendency of the Chapter 11 Cases).

(d) **[Intentionally Omitted.]**

(e) The forecasted balance sheets, statements of income and cash flows of Consolidated FairPoint delivered pursuant to Section 4.01 or Section 6.01(d) were prepared based on good faith estimates and assumptions made by management of FairPoint, which assumptions and estimates were fair in light of the conditions existing at the time of delivery of such forecasts, and represented, at the time of delivery, FairPoint's best estimate of its future financial condition and performance (it being recognized by the Administrative Agent and the Lenders that such financial statements as to future events are not to be viewed as facts and that actual results during the period or periods covered thereby may differ from estimated results).

Section 5.06 Litigation. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of such Borrower after due and diligent investigation, threatened, at law, in equity, in arbitration or before any Governmental Authority, by or against any Borrower or any of its Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement, any other Loan Document or the consummation of the Transaction, or (b) either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.07 No Default. Neither any Loan Party nor any Subsidiary thereof is in default under or with respect to, or a party to, any Contractual Obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

Section 5.08 Ownership of Property; Liens; Investments. (a) Each Loan Party and each of its Subsidiaries has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Schedule 5.08(b) sets forth, as of the Closing Date, a complete and accurate list of all Liens on the property or assets of each Loan Party and each of its Subsidiaries (other than Liens permitted by Section 7.01(a) and Section 7.01(c) through (p)), showing the lienholder thereof, the principal amount of the obligations secured thereby and the property or assets of such Loan Party or such Subsidiary subject thereto. The property of each Loan Party and each of

its Subsidiaries is subject to no Liens, other than Liens set forth on Schedule 5.08(b), and as otherwise permitted by Section 7.01.

(c) Schedule 5.08(c) sets forth, as of the Closing Date (or as of the date of the most recent update thereto pursuant to Section 6.02(j)), a complete and accurate list of all real property owned by each Loan Party, showing the street address, county or other relevant jurisdiction, state, record owner and book value thereof. Each Loan Party has good and marketable fee simple title to the real property owned by such Loan Party, free and clear of all Liens, other than Liens created or permitted by the Loan Documents.

(d) (i) Schedule 5.08(d)(i) sets forth, as of the Closing Date (or as of the date of the most recent update thereto pursuant to Section 6.02(j)), a complete and accurate list of all leases of real property under which any Loan Party is the lessee where the aggregate fair market value of the Collateral located at such leased location exceeds $1,000,000, showing the street address, county or other relevant jurisdiction, state, lessor, lessee, expiration date and annual rental cost thereof. To the knowledge of the Borrowers, each such lease is the legal, valid and binding obligation of the lessor thereof, enforceable in accordance with its terms.

(ii) Schedule 5.08(d)(ii) sets forth, as of the Closing Date (or as of the date of the most recent update thereto pursuant to Section 6.02(j)), a complete and accurate list of all leases of real property under which any Loan Party is the lessor, showing the street address, county or other relevant jurisdiction, state, lessor, lessee, expiration date and annual rental cost thereof. Each such lease is the legal, valid and binding obligation of the lessee thereof, enforceable in accordance with its terms.

(e) (i) Schedule 5.08(e)(i) sets forth a complete and accurate list of all Investments held by any Loan Party as of _____,[2] showing as of such date, the amount, obligor or issuer and maturity, if any, thereof.

(ii) Schedule 5.08(e)(ii) sets forth a complete and accurate list of all Investments consisting of Cash Equivalents of any Subsidiary of a Loan Party that it is not a Loan Party and other Investments of any such Person having a value in excess of $100,000 as of _____,[3] showing as of such date, the amount, obligor or issuer and maturity, if any, thereof.

Section 5.09 Environmental Compliance. (a) The Loan Parties and their respective Subsidiaries conduct in the ordinary course of business a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties, and as a result thereof, such Borrower has reasonably concluded that such Environmental Laws and claims could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

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[2] Two days before Closing Date.

[3] Two days before Closing Date.

(b) Except as set forth on Schedule 5.09(b), none of the properties currently or, to the knowledge of the Loan Parties, formerly owned or operated by any Loan Party or any of its Subsidiaries is listed or proposed for listing on the NPL or on the CERCLIS or any analogous foreign, state or local list or, to the knowledge of any Loan Party, is adjacent to any such property.

(c) Except as set forth on Schedule 5.09(c) or except as would not reasonably be expected to result, individually or in the aggregate, in material liability to any Loan Party or any of its Subsidiaries, there are no and never have been any underground or above-ground storage tanks or any surface impoundments, septic tanks, pits, sumps or lagoons in which Hazardous Materials are being or have been treated, stored or disposed on any property currently owned or operated by any Loan Party or any of its Subsidiaries or, to the best of the knowledge of the Loan Parties, on any property formerly owned or operated by any Loan Party or any of its Subsidiaries; there is no asbestos or asbestos-containing material on any property currently owned or operated by any Loan Party or any of its Subsidiaries; and Hazardous Materials have not been released, discharged or disposed of on any property currently or, to the knowledge of the Loan Parties, formerly owned or operated by any Loan Party or any of its Subsidiaries.

(d) Except as set forth on Schedule 5.09(d), neither any Loan Party nor any of its Subsidiaries is undertaking, and has not completed, either individually or together with other potentially responsible parties, any investigation or assessment or remedial or response action relating to any actual or threatened release, discharge or disposal of Hazardous Materials at any site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law; and all Hazardous Materials generated, used, treated, handled or stored at, or transported to or from, any property currently or formerly owned or operated by any Loan Party or any of its Subsidiaries have been disposed of in a manner not reasonably expected to result in material liability to any Loan Party or any of its Subsidiaries.

Section 5.10 Insurance. The properties of FairPoint and its Subsidiaries are insured with financially sound and reputable insurance companies not Subsidiaries of FairPoint, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where FairPoint or the applicable Subsidiary operates.

Section 5.11 Taxes. FairPoint and its Subsidiaries have filed all Federal, material state and other material tax returns and reports required to be filed, and have paid all material Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against FairPoint or any Subsidiary thereof that would, if made, have a Material Adverse Effect. Except as set forth on Schedule 5.11, as of the Closing Date neither any Loan Party nor any Subsidiary thereof is party to any tax sharing agreement.

Section 5.12 ERISA Compliance. (a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state Laws.

Each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter from the IRS to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the IRS to be exempt from Federal income tax under Section 501(a) of the Code, or an application for such a letter is currently being processed by the IRS. To the best knowledge of such Borrower, nothing has occurred that would prevent, or cause the loss of, such tax-qualified status in a manner whereby such loss could not be remedied and is reasonably likely to have a liability to Consolidated FairPoint in excess of the Threshold Amount.

(b) There are no pending or, to the best knowledge of such Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) (i) Other than with respect to a matter contemplated by the Plan of Reorganization or the Transaction, no ERISA Event has occurred or is, and neither FairPoint nor any ERISA Affiliate is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan; (ii) FairPoint and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is 60% or higher and neither FairPoint nor any ERISA Affiliate knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of the most recent valuation date; (iv) neither FairPoint nor any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (v) neither FairPoint nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA; and (vi) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that could reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

(d) Neither FairPoint nor any ERISA Affiliate maintains or contributes to, or has any unsatisfied obligation to contribute to, or liability under, any active or terminated Pension Plan other than (A) on the Closing Date, those listed on Schedule 5.12(d) hereto and (B) thereafter, Pension Plans not otherwise prohibited by this Agreement.

Section 5.13 Subsidiaries; Equity Interests; Loan Parties. As of the Closing Date, no Loan Party has any Subsidiaries other than those specifically disclosed in Part (a) of Schedule 5.13, and all of the outstanding Equity Interests in such Subsidiaries have been validly issued, are fully paid and non-assessable and are owned by a Loan Party in the amounts specified on Part (a) of Schedule 5.13 free and clear of all Liens except those created under the Collateral Documents. No Loan Party has any equity investments in any other corporation or entity other than those specifically disclosed in Part (b) of Schedule 5.13. All of the outstanding Equity Interests in the Borrowers have been validly issued and are fully paid and non-assessable. Set forth on Part (c)

of Schedule 5.13 is a complete and accurate list of all Loan Parties, showing as of the Closing Date (as to each Loan Party) the jurisdiction of its incorporation, the address of its principal place of business and its U.S. taxpayer identification number or, in the case of any Loan Party that does not have a U.S. taxpayer identification number, its unique identification number issued to it by the jurisdiction of its incorporation. As of the Closing Date, the copy of the charter of each Loan Party and each amendment thereto provided pursuant to Section 4.01(a)(vii) is a true and correct copy of each such document, each of which is valid and in full force and effect.

Section 5.14 Margin Regulations; Investment Company Act. (a) Such Borrower is not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock. Following the application of the proceeds of each Borrowing or drawing under each Letter of Credit, not more than 25% of the value of the assets (either of FairPoint only or of Consolidated FairPoint) subject to the provisions of Section 7.01 or Section 7.05 or subject to any restriction contained in any agreement or instrument between a Borrower and any Lender or any Affiliate of any Lender relating to Indebtedness and within the scope of Section 8.01(e) will be margin stock.

(b) None of FairPoint or any Subsidiary thereof is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

Section 5.15 Disclosure. The written reports, financial statements, certificates and other written information furnished (taken as a whole) by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case as modified or supplemented by other information so furnished) do not contain any material misstatement of fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, such Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time such information was prepared (it being recognized by the Administrative Agent and the Lenders that such projected financial information as to future events are not to be viewed as facts and that actual results during the period or periods covered thereby may differ from projected results).

Section 5.16 Compliance with Laws. Each Loan Party and each Subsidiary thereof is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

Section 5.17 Intellectual Property; Licenses, Etc. Each Loan Party and each of its Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, "IP Rights") that are reasonably necessary for the operation of their respective

businesses, and, to the knowledge of such Borrower, without conflict with the rights of any other Person, and Schedule 5.17 sets forth a complete and accurate list of all such IP Rights (other than licenses and rights to use commercially available, off-the-shelf software) owned or used by each Loan Party and each of its Subsidiaries as of the Closing Date (or as of the date of the most recent update thereto pursuant to Section 6.02(j)). To the knowledge of such Borrower, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by any Loan Party or any of its Subsidiaries infringes upon any rights held by any other Person. No claim or litigation regarding any of the foregoing is pending or, to the best knowledge of such Borrower, threatened, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.18 Solvency. After giving effect to the Transaction, FairPoint and each NNE Subsidiary individually, and each Loan Party, together with its Subsidiaries on a consolidated basis, is Solvent.

Section 5.19 Casualty, Etc. Neither the businesses nor the properties of any Loan Party or any of its Subsidiaries are affected by any fire, explosion, accident, strike, lockout or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy or other casualty (whether or not covered by insurance) that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.20 Labor Matters. Except for (i) matters or events contemplated by the Plan of Reorganization and (ii) matters set forth on Schedule 5.20, there are no collective bargaining agreements or Multiemployer Plans covering the employees of FairPoint or any of its Subsidiaries from March 31, 2008 through to the Closing Date and neither FairPoint nor any Subsidiary thereof has suffered any strikes, walkouts, work stoppages or other material labor difficulty from March 31, 2008 through to the Closing Date.

Section 5.21 Collateral Documents. The provisions of the Collateral Documents are effective to create in favor of the Administrative Agent for the benefit of the Secured Parties a legal, valid and enforceable first priority Lien (subject to Section 10.14 and Liens permitted by Section 7.01) on all right, title and interest of the respective Loan Parties in the Collateral described therein. Except for filings completed prior to the Closing Date and as contemplated hereby and by the Collateral Documents and except for such consents of the FCC, PUCs or other Governmental Authority having jurisdiction over FairPoint and its Subsidiaries as may be required under applicable Law prior to any action by the Administrative Agent to foreclose on or transfer any of the Regulated Securities Collateral (as defined in the Pledge Agreement), no filing or other action will be necessary to perfect or protect such Liens.

ARTICLE VI.

AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain

outstanding, each Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, 6.03, 6.11 and 6.20) cause each Subsidiary thereof to:

Section 6.01 Financial Statements. Deliver to the Administrative Agent and each Lender, in form and detail reasonably satisfactory to the Administrative Agent:

(a) as soon as available, but in any event within 90 days after the end of each fiscal year of FairPoint (or, if earlier, 15 days after the date required to be filed with the SEC (without giving effect to any extension permitted by the SEC)) (commencing with the fiscal year ended December 31, 2010), a balance sheet of Consolidated FairPoint as at the end of such fiscal year, and the related consolidated and, with respect to FairPoint alone, consolidating statements of income or operations, changes in shareholders' equity, and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, such consolidated statements to be audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to the Required Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit, and, in the case of FairPoint alone, such consolidating statements to be certified by the chief executive officer, chief financial officer, treasurer or controller of FairPoint to the effect that such statements are fairly stated in all material respects when considered in relation to the financial statements of Consolidated FairPoint;

(b) as soon as available, but in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year of FairPoint (or, if earlier, 5 days after the date required to be filed with the SEC (without giving effect to any extension permitted by the SEC)) (commencing with the fiscal quarter ended March 31, 2011), (i) the balance sheet of Consolidated FairPoint as at the end of such fiscal quarter, and the related consolidated and, with respect to FairPoint alone, consolidating statements of income or operations, changes in shareholders' equity, and cash flows of Consolidated FairPoint and FairPoint alone, as the case may be, for such fiscal quarter and for the portion of FairPoint's fiscal year then ended and (ii) the balance sheets of each Intermediary Holding Company and its Subsidiaries on a consolidated basis, as at the end of such fiscal quarter, and the related consolidated statements of income or operations, changes in shareholders' equity, and cash flows of such Intermediary Holding Company and its Subsidiaries, on a consolidated basis, for such fiscal quarter and for the portion of such Intermediary Holding Company's fiscal year ended with the last day of such fiscal quarter, setting forth, in the case of clause (i), in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year and, in the case of clauses (i) and (ii), which shall be in reasonable detail, such consolidated statements to be certified by the chief executive officer, chief financial officer, treasurer or controller of FairPoint as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of Consolidated FairPoint or such Intermediary Holding Company and its Subsidiaries, on a consolidated basis, as the case may be, in accordance with GAAP, subject only to audit and normal year-end adjustments and the absence of footnotes and such consolidating statements to be certified by the chief executive officer, chief financial officer, treasurer or controller of FairPoint to the effect that such statements are fairly stated in all material respects when considered in relation to the consolidated financial statements

of Consolidated FairPoint or such Intermediary Holding Company and its Subsidiaries, on a consolidated basis, as the case may be;

(c) until the common stock of FairPoint shall have been publicly listed on either the New York Stock Exchange or NASDAQ, as soon as available, but in any event within 30 days after the end of each month of each fiscal year of FairPoint (commencing with the fiscal month ended [January 31], 2011), (i) a balance sheet of Consolidated FairPoint as of the end of such month, and the related consolidated statements of income or operations, shareholders' equity and cash flows of Consolidated FairPoint for such month and for the portion of FairPoint's fiscal year then ended setting forth in each case in comparative form for the corresponding month of the previous fiscal year and the corresponding portion of the previous fiscal year and (ii) a balance sheet of each Intermediary Holding Company and its Subsidiaries on a consolidated basis as of the end of such month, and the related consolidated statements of income or operations, shareholders' equity and cash flows of such Intermediary Holding Company and its Subsidiaries on a consolidated basis for such month and for the portion of such Intermediary Holding Company's fiscal year then ended, all, in the case of both clauses (i) and (ii), in reasonable detail and duly certified by the chief executive officer, chief financial officer, treasurer or controller of FairPoint;

(d) as soon as available, but in any event by no later than the earlier to occur of (i) 30 days after the end of each fiscal year of FairPoint (commencing with the fiscal year ending December 31, 2010) and (ii) the date the annual business plan and budget is presented to the board of directors of FairPoint, an annual business plan and budget of Consolidated FairPoint that has been approved by the board of directors of FairPoint, including forecasts prepared by management of FairPoint, in form reasonably satisfactory to the Administrative Agent and the Required Lenders, of balance sheets and statements of income or operations and cash flows of Consolidated FairPoint on a quarterly basis for the immediately following fiscal year;

(e) with respect to the first 12 months following the Closing Date, (i) an Intercompany Debt Report for such fiscal month and (ii) an update as to any significant issues or significant open matters between FairPoint, on the one hand, and any union or regulatory commission, on the other hand;

(f) at the time of the delivery of the financial statements provided for in Sections 6.01(b) and 6.01(c), to Lenders that are not Public Lenders, reports regarding specific operating metrics in the form attached hereto as Schedule C, with such changes thereto proposed by the Borrowers from time to time subject to the reasonable acceptance by the Administrative Agent; and

(g) at the time of the delivery of the financial statements provided for in Section 6.01(b), a report with respect to Swap Contracts of FairPoint and its Subsidiaries, indicating the mark-to-market value(s) thereof as of the last Business Day of such fiscal quarter.

As to any information contained in materials furnished pursuant to Section 6.02(d), the Borrowers shall not be separately required to furnish such information under Section 6.01(a) or (b) above, but the foregoing shall not be in derogation of the obligation of the Borrowers to

furnish the information and materials described in Sections 6.01(a) and (b) above at the times specified therein.

Section 6.02 Certificates; Other Information. Deliver to the Administrative Agent and each Lender, in form and detail reasonably satisfactory to the Administrative Agent:

(a) concurrently with the delivery of the financial statements referred to in Section 6.01(a) (commencing with the delivery of the financial statements for the fiscal year ended December 31, 2010), a certificate of its independent certified public accountants certifying such financial statements;

(b) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b) (commencing with the delivery of the financial statements for the fiscal quarter ending March 31, 2011), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of FairPoint (which delivery may, unless the Administrative Agent, or a Lender requests originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes);

(c) promptly after any request by the Administrative Agent, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of any Loan Party by independent accountants in connection with the accounts or books of any Loan Party or any of its Subsidiaries, or any audit of any of them;

(d) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of FairPoint, and copies of all annual, regular, periodic and special reports and registration statements which FairPoint may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, or any special report filed or required to be filed with any national securities exchange, and in any case not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(e) promptly after the furnishing thereof, copies of any statement or report furnished to any holder of debt securities of any Loan Party or of any of its Subsidiaries pursuant to the terms of any indenture, loan or credit or similar agreement and not otherwise required to be furnished to the Lenders pursuant to Section 6.01 or any other clause of this Section 6.02;

(f) as soon as available, but in any event within 30 days after the end of each fiscal year of FairPoint, a report summarizing the insurance coverage (specifying type, amount and carrier) in effect for each Loan Party and its Subsidiaries and containing such additional information as the Administrative Agent, or the Required Lenders through the Administrative Agent, may reasonably specify;

(g) promptly, and in any event within five (5) Business Days after receipt thereof by any Loan Party or any Subsidiary thereof, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any

investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of any Loan Party or any Subsidiary thereof;

(h) not later than five (5) Business Days after receipt thereof by any Loan Party or any Subsidiary thereof, copies of all notices, requests and other documents (including amendments, waivers and other modifications) so received under or pursuant to any instrument, indenture, loan or credit or similar agreement and, from time to time upon request by the Administrative Agent, such information and reports regarding such instruments, indentures and loan and credit and similar agreements as the Administrative Agent may reasonably request;

(i) promptly after the assertion or occurrence thereof, notice of any action or proceeding against or of any noncompliance by any Loan Party or any of its Subsidiaries with any Environmental Law or Environmental Permit that could (i) reasonably be expected to have a Material Adverse Effect or (ii) cause any property described in the Mortgages to be subject to any restrictions on ownership, occupancy, use or transferability under any Environmental Law;

(j) as soon as available, but in any event within 30 days after the end of each fiscal year of FairPoint, (i) a report supplementing Schedules 5.08(c), 5.08(d)(i) and 5.08(d)(ii), with effect from and after the date of such report, including an identification of all owned and leased real property disposed of by any Loan Party or any Subsidiary thereof during such fiscal year, a list and description (including the street address, county or other relevant jurisdiction, state, record owner, book value thereof and, in the case of leases of property, lessor, lessee, expiration date and annual rental cost thereof) of all real property acquired or leased during such fiscal year and a description of such other changes in the information included in such Schedules as may be necessary for such Schedules to be accurate and complete; and (ii) a report supplementing Schedule 5.17, with effect from and after the date of such report, setting forth (A) a list of registration numbers for all patents, trademarks, service marks, trade names and copyrights awarded to any Loan Party or any Subsidiary thereof during such fiscal year and (B) a list of all patent applications, trademark applications, service mark applications, trade name applications and copyright applications submitted by any Loan Party or any Subsidiary thereof during such fiscal year and the status of each such application; each such report to be signed by a Responsible Officer of the Borrowers and to be in a form reasonably satisfactory to the Administrative Agent; and

(k) promptly, such additional information regarding the business, financial, legal or corporate affairs of any Loan Party or any Subsidiary thereof, or compliance with the terms of the Loan Documents, as the Administrative Agent or the Required Lenders may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01, 6.02 or 6.03 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which FairPoint posts such documents, or provides a link thereto on FairPoint's website on the Internet at the website address listed on Schedule 10.02; or (ii) on which such documents are posted on FairPoint's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrowers shall deliver paper copies of such documents to the Administrative Agent or any Lender upon its request to the

Borrowers to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrowers shall notify the Administrative Agent and each Lender (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrowers with any such request by a Lender for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Each Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arranger will make available to the Lenders and the L/C Issuer materials and/or information provided by or on behalf of the Borrowers hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrowers or their Affiliates, 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 Persons' securities. Each Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrowers shall be deemed to have authorized the Administrative Agent, the Arranger, the L/C Issuer and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Borrowers or their securities for purposes of United States Federal and state securities Laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) the Administrative Agent and the Arranger shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information." Notwithstanding the foregoing, no Borrower shall be under any obligation to mark any Borrower Materials "PUBLIC".

Section 6.03 Notices. Promptly notify the Administrative Agent and each Lender:

(a) of the occurrence of any Default or Event of Default;

(b) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including any of the following, to the extent such matters have resulted or could reasonably be expected to result in a Material Adverse Effect: (i) breach or non-performance of, or any default under, a Contractual Obligation of any Borrower or any Subsidiary thereof; (ii) any dispute, litigation, investigation, proceeding or suspension between any Borrower or any Subsidiary thereof and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting any Borrower or any Subsidiary thereof, including pursuant to any applicable Environmental Laws;

(c) of the occurrence of any ERISA Event;

(d) of any material change in accounting policies or financial reporting practices by any Loan Party or any Subsidiary thereof that is required to be identified in a report filed with the SEC under the Securities Exchange Act of 1934 and is not timely reported as required therein;

(e) of the (i) occurrence of any Disposition of property or assets for which the Borrowers are required to make a mandatory prepayment pursuant to Section 2.05(b)(ii), (ii) occurrence of any sale of capital stock or other Equity Interests for which the Borrowers are required to make a mandatory prepayment pursuant to Section 2.05(b)(iii), (iii) incurrence or issuance of any Indebtedness for which the Borrowers are required to make a mandatory prepayment pursuant to Section 2.05(b)(iv), and (iv) receipt of any Extraordinary Receipt for which the Borrowers are required to make a mandatory prepayment pursuant to Section 2.0(b)(v); and

(f) of any default by FairPoint or any of its Subsidiaries with respect to any lease of real property if such default has resulted or could reasonably be expected to result in a Material Adverse Effect.

Each notice pursuant to Section 6.03 (other than Section 6.03(e) or (f)) shall be accompanied by a statement of a Responsible Officer of FairPoint setting forth details of the occurrence referred to therein and stating what action the Borrowers have taken and propose to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

Section 6.04 Payment of Obligations. Pay and discharge as the same shall become due and payable, all its obligations and liabilities, including: (a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same either (i) are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by such Borrower or such Subsidiary or (ii) the failure to pay could not reasonably be expected to have a Material Adverse Effect; (b) all lawful claims which, if unpaid, would by Law become a Lien upon its property; and (c) all Indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness.

Section 6.05 Preservation of Existence, Etc. Except in connection with a transaction permitted by Section 7.04 or 7.05, (a) preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization (except, as to Persons other than FairPoint, the Loan Parties and the NNE Subsidiaries, where the failure to be in good standing could not reasonably be expected to have a Material Adverse Effect (as to such Person considered alone) and such failure does not continue for more than 30 days); provided, however, that the Borrowers and their Subsidiaries may consummate any merger or consolidation permitted under Section 7.04; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade

names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

Section 6.06 Maintenance of Properties. (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) use the standard of care typical in the industry in the operation and maintenance of its facilities.

Section 6.07 Maintenance of Insurance. (a) Generally. Keep its insurable property adequately insured at all times by financially sound and reputable insurers; maintain such other insurance, to such extent and against such risks as is customary with companies in the same or similar businesses operating in the same or similar locations, including insurance with respect to Mortgaged Properties and other properties material to the business of the Loan Parties against such casualties and contingencies and of such types and in such amounts with such deductibles as is customary in the case of similar businesses operating in the same or similar locations, including (i) physical hazard insurance on an "all risk" basis, (ii) commercial general liability against claims for bodily injury, death or property damage covering any and all insurable claims, (iii) explosion insurance in respect of any boilers, machinery or similar apparatus constituting Collateral, (iv) business interruption insurance, (v) worker's compensation insurance and such other insurance as may be required by any Law and (vi) such other insurance against risks as the Administrative Agent may from time to time reasonably require (such policies to be in such form and amounts and having such coverage as may be reasonably satisfactory to the Administrative Agent); provided that if and so long as an Event of Default has occurred and is continuing, with respect to physical hazard insurance, neither the Administrative Agent nor the applicable Loan Party shall agree to the adjustment of any claim in excess of $1,000,000 thereunder without the consent of the other (such consent not to be unreasonably withheld, conditioned or delayed).

(b) Requirements of Insurance. All such insurance shall (i) provide that no cancellation, material reduction in amount or material change in coverage thereof shall be effective until at least 30 days after receipt by the Administrative Agent of written notice thereof and if an endorsement providing such notice is commercially impracticable by FairPoint's carrier, FairPoint will use its commercially reasonable efforts to provide 30 days notice to the Administrative Agent prior to the cancellation, material reduction in amount or material change in coverage, (ii) name the Administrative Agent as mortgagee (in the case of property insurance) or additional insured on behalf of the Secured Parties (in the case of liability insurance) or loss payee (in the case of property insurance), as applicable and (iii) be reasonably satisfactory in all other respects to the Administrative Agent.

(c) Notice to Administrative Agent. Notify the Administrative Agent immediately whenever any separate insurance concurrent in form or contributing in the event of loss with that required to be maintained under this Section 6.07 is taken out by any Loan Party; and if requested by the Administrative Agent, promptly deliver to the Administrative Agent a duplicate original copy of such policy or policies.

(d) Flood Insurance. With respect to each Mortgaged Property, obtain flood insurance in such total amount as the Administrative Agent may from time to time reasonably require, if at any time the area in which any improvements located on any Mortgaged Property is designated a "flood hazard area" in any Flood Insurance Rate Map published by the Federal Emergency Management Agency (or any successor agency), and otherwise comply with the National Flood Insurance Program as set forth in the Flood Disaster Protection Act of 1973.

(e) Broker's Report. Deliver to the Administrative Agent a report of a reputable insurance broker with respect to such insurance and such supplemental reports with respect thereto as the Administrative Agent may from time to time reasonably request.

Section 6.08 Compliance with Laws. Comply in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

Section 6.09 Books and Records. (a) Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of such Borrower or such Subsidiary, as the case may be; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over such Borrower or such Subsidiary, as the case may be.

Section 6.10 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent (accompanied by any Lender) to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the expense of the Borrowers and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrowers; provided, however, that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrowers at any time during normal business hours and without advance notice; provided, further, that so long as no Default or Event of Default exists, the Borrowers shall not be required to reimburse the Administrative Agent and the Lenders for more than two such visits per fiscal year of the Borrowers.

Section 6.11 Use of Proceeds. Use the proceeds of the Credit Extensions for general corporate purposes not in contravention of any Law or of any Loan Document.

Section 6.12 Covenant to Guarantee Obligations and Give Security. (a) Upon the formation or acquisition of any new direct or indirect Subsidiary (other than (x) any CFC or a Subsidiary that is held directly or indirectly by a CFC or (y) any Subsidiary that is prohibited by applicable Law from guaranteeing the Obligations and/or providing any security therefor without the consent of a PUC) by any Loan Party, then the Borrowers shall, at the Borrowers' expense:

(i) within 10 days after such formation or acquisition (or such longer period as may be agreed to by the Administrative Agent), cause such Subsidiary, and cause each direct and indirect parent of such Subsidiary (if it has not already done so), to duly execute and deliver to the Administrative Agent a guaranty or guaranty supplement, in form and substance satisfactory to the Administrative Agent, guaranteeing the other Loan Parties' obligations under the Loan Documents,

(ii) within 10 days after such formation or acquisition (or such longer period as may be agreed to by the Administrative Agent), furnish to the Administrative Agent a description of the real and personal properties of such Subsidiary, in detail satisfactory to the Administrative Agent,

(iii) within 15 days after such formation or acquisition (or such longer period as may be agreed to by the Administrative Agent), cause such Subsidiary and each direct and indirect parent of such Subsidiary (if it has not already done so) to duly execute and deliver to the Administrative Agent deeds of trust, trust deeds, deeds to secure debt, Mortgages, leasehold mortgages, leasehold deeds of trust and other security and pledge agreements, as specified by and in form and substance satisfactory to the Administrative Agent (including delivery of all Pledged Securities (as defined in the Pledge Agreement) in and of such Subsidiary, and other instruments of the type specified in Section 4.01(a)(iii)), securing payment of all the Obligations of such Subsidiary or such parent, as the case may be, under the Loan Documents and constituting Liens on all such real and personal properties,

(iv) within 30 days after such formation or acquisition (or such longer period as may be agreed to by the Administrative Agent), cause such Subsidiary and each direct and indirect parent of such Subsidiary (if it has not already done so) to take whatever action (including the recording of Mortgages, the filing of Uniform Commercial Code financing statements, the giving of notices and the endorsement of notices on title documents) may be necessary or advisable in the opinion of the Administrative Agent to vest in the Administrative Agent (or in any representative of the Administrative Agent designated by it) valid and subsisting Liens on the properties purported to be subject to the deeds of trust, trust deeds, deeds to secure debt, Mortgages, leasehold mortgages, leasehold deeds of trust and security and pledge agreements delivered pursuant to this Section 6.12, enforceable against all third parties in accordance with their terms,

(v) within 60 days after such formation or acquisition (or such longer period as may be agreed to by the Administrative Agent), deliver to the Administrative Agent, upon the request of the Administrative Agent in its sole discretion, a signed copy of a favorable opinion, addressed to the Administrative Agent and the other Lenders, of counsel for the Loan Parties acceptable to the Administrative Agent as to the matters contained in clauses (i), (iii) and (iv) above, and as to such other matters as the Administrative Agent may reasonably request, and

(vi) as promptly as practicable after such formation or acquisition, deliver, upon the request of the Administrative Agent in its sole discretion, to the Administrative Agent with respect to each parcel of real property owned or held by the entity that is the

subject of such formation or acquisition title reports, surveys and engineering, soil and other reports, and environmental assessment reports, each in scope, form and substance satisfactory to the Administrative Agent, provided, however, that to the extent that any Loan Party or any of its Subsidiaries shall have otherwise received any of the foregoing items with respect to such real property, such items shall, promptly after the receipt thereof, be delivered to the Administrative Agent.

(b) Upon the acquisition of any property by any Loan Party, if such property, in the judgment of the Administrative Agent, shall not already be subject to a perfected first priority security interest, subject to Section 10.14, in favor of the Administrative Agent for the benefit of the Secured Parties, then the Borrowers shall, at the Borrowers' expense:

(i) within 10 days after such acquisition (or such longer period as may be agreed to by the Administrative Agent), furnish to the Administrative Agent a description of the property so acquired in detail satisfactory to the Administrative Agent,

(ii) within 15 days after such acquisition (or such longer period as may be agreed to by the Administrative Agent), cause the applicable Loan Party to duly execute and deliver to the Administrative Agent deeds of trust, trust deeds, deeds to secure debt, Mortgages, leasehold mortgages, leasehold deeds of trust and other security and pledge agreements, as specified by and in form and substance satisfactory to the Administrative Agent, securing payment of all the Obligations of the applicable Loan Party under the Loan Documents and constituting Liens on all such properties,

(iii) within 30 days after such acquisition (or such longer period as may be agreed to by the Administrative Agent), cause the applicable Loan Party to take whatever action (including the recording of Mortgages, the filing of Uniform Commercial Code financing statements, the giving of notices and the endorsement of notices on title documents) may be necessary or advisable in the opinion of the Administrative Agent to vest in the Administrative Agent (or in any representative of the Administrative Agent designated by it) valid and subsisting Liens on such property, enforceable against all third parties in accordance with their terms,

(iv) within 60 days after such acquisition (or such longer period as may be agreed to by the Administrative Agent), deliver to the Administrative Agent, upon the request of the Administrative Agent in its sole discretion, a signed copy of a favorable opinion, addressed to the Administrative Agent and the other Lenders, of counsel for the Loan Parties acceptable to the Administrative Agent as to the matters contained in clauses (ii) and (iii) above and as to such other matters as the Administrative Agent may reasonably request, and

(v) as promptly as practicable after any acquisition of a real property, deliver, upon the request of the Administrative Agent in its sole discretion, to the Administrative Agent with respect to such real property title reports, surveys and engineering, soil and other reports, and environmental assessment reports, each in scope, form and substance satisfactory to the Administrative Agent, provided, however, that to the extent that any Loan Party or any of its Subsidiaries shall have otherwise received any of the foregoing

items with respect to such real property, such items shall, promptly after the receipt thereof, be delivered to the Administrative Agent.

(c) Upon the request of the Administrative Agent following the occurrence and during the continuance of a Default, the Borrowers shall, at the Borrowers' expense:

(i) within 10 days after such request, furnish to the Administrative Agent a description of the real and personal properties of the Loan Parties and their respective Subsidiaries in detail satisfactory to the Administrative Agent,

(ii) within 15 days after such request, duly execute and deliver, and cause each Loan Party (other than any CFC or a Subsidiary that is held directly or indirectly by a CFC) (if it has not already done so) to duly execute and deliver, to the Administrative Agent deeds of trust, trust deeds, deeds to secure debt, Mortgages, leasehold mortgages, leasehold deeds of trust and other security and pledge agreements, as specified by and in form and substance satisfactory to the Administrative Agent (including delivery of all Pledged Securities (as defined in the Pledge Agreement) in and of such Subsidiary, and other instruments of the type specified in Section 4.01(a)(iii)), securing payment of all the Obligations of the applicable Loan Party under the Loan Documents and constituting Liens on all such properties,

(iii) within 30 days after such request, take, and cause each Loan Party (other than any CFC or a Subsidiary that is held directly or indirectly by a CFC) to take, whatever action (including the recording of Mortgages, the filing of Uniform Commercial Code financing statements, the giving of notices and the endorsement of notices on title documents) may be necessary or advisable in the opinion of the Administrative Agent to vest in the Administrative Agent (or in any representative of the Administrative Agent designated by it) valid and subsisting Liens on the properties purported to be subject to the deeds of trust, trust deeds, deeds to secure debt, Mortgages, leasehold mortgages, leasehold deeds of trust and security and pledge agreements delivered pursuant to this Section 6.12, enforceable against all third parties in accordance with their terms,

(iv) within 60 days after such request, deliver to the Administrative Agent, upon the request of the Administrative Agent in its sole discretion, a signed copy of a favorable opinion, addressed to the Administrative Agent and the other Lenders, of counsel for the Loan Parties acceptable to the Administrative Agent as to the matters contained in clauses (ii) and (iii) above, and as to such other matters as the Administrative Agent may reasonably request, and

(v) as promptly as practicable after such request, deliver, upon the request of the Administrative Agent in its sole discretion, to the Administrative Agent with respect to each parcel of real property owned or held by the Borrowers and their Subsidiaries, title reports, surveys and engineering, soil and other reports, and environmental assessment reports, each in scope, form and substance satisfactory to the Administrative Agent, provided, however, that to the extent that any Loan Party or any of its Subsidiaries shall have otherwise received any of the foregoing items with respect to such real

property, such items shall, promptly after the receipt thereof, be delivered to the Administrative Agent.

Section 6.13 Compliance with Environmental Laws. Comply, and use commercially reasonable best efforts to cause all lessees and other Persons operating or occupying its properties to comply, in all material respects, with all applicable Environmental Laws and Environmental Permits; obtain and renew all material Environmental Permits necessary for its operations and properties; and conduct any investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other action necessary to remove and clean up all Hazardous Materials from any of its properties to a level consistent with applicable Law as required for the current use of the respective properties, as to owned properties, and any higher standard set forth in the applicable lease, as to leased properties, and in each case, in accordance with the requirements of Environmental Laws; provided, however, that neither Borrower nor any of their Subsidiaries shall be required to undertake any such cleanup, removal, remedial or other action to the extent that its obligation to do so is being contested in good faith and by proper proceedings and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

Section 6.14 Preparation of Environmental Reports. At the reasonable request of the Required Lenders from time to time, provide to the Lenders within 60 days after such request, at the expense of the Borrowers, an environmental site assessment report for any of its properties described in such request, prepared by an environmental consulting firm acceptable to the Administrative Agent, indicating the presence or absence of Hazardous Materials and the estimated cost of any compliance, removal or remedial action in connection with any Hazardous Materials on such properties; provided, however, no Loan Party or any of its Subsidiaries shall be required to bear the expense of any such assessment for any of their properties more than once every 12 months unless the Required Lenders' request for an assessment arises from a notice pursuant to Section 6.02(i), Section 6.03(a) or Section 6.03(b); and provided, further, without limiting the generality of the foregoing, if the Administrative Agent determines at any time that a material risk exists that any such report will not be provided within the time referred to above, the Administrative Agent may retain an environmental consulting firm to prepare such report at the expense of the Borrowers, and each Borrower hereby grants and agrees to cause any Subsidiary thereof that owns any property described in such request to grant at the time of such request to the Administrative Agent, the Lenders, such firm and any agents or representatives thereof an irrevocable non-exclusive license, subject to the rights of tenants, to enter onto their respective properties to undertake such an assessment.

Section 6.15 Further Assurances. Promptly upon the reasonable request by the Administrative Agent, or any Lender through the Administrative Agent, do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Loan Documents, (ii) to the full extent permitted by applicable Law, subject any Loan Party's or any of its Subsidiaries' properties, assets, rights or interests to the Liens now or hereafter intended to be covered by any of the Collateral Documents, (iii) perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and any of the Liens intended to be created thereunder and (iv) assure,

convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Secured Parties the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document or under any other instrument executed in connection with any Loan Document to which any Loan Party or any of its Subsidiaries is or is to be a party, and cause each of its Subsidiaries to do so.

Section 6.16 Compliance with Terms of Leaseholds. Make all payments and otherwise perform all obligations in respect of all leases of real property to which such Borrower or any of its Subsidiaries is a party, keep such leases in full force and effect and not allow such leases to lapse or be terminated or any rights to renew such leases to be forfeited or cancelled, notify the Administrative Agent of any default by any party with respect to such leases and cooperate with the Administrative Agent in all respects to cure any default by FairPoint or any of its Subsidiaries with respect to such lease, and cause each of its Subsidiaries to do so, except, in any case, where the failure to do so, either individually or in the aggregate, could not be reasonably likely to have a Material Adverse Effect.

Section 6.17 Material Contracts. Perform and observe all the terms and provisions of each Material Contract to be performed or observed by it, maintain each such Material Contract in full force and effect, enforce each such Material Contract in accordance with its terms, take all such action to such end as may be from time to time requested by the Administrative Agent and, upon request of the Administrative Agent, make to each other party to each such Material Contract such demands and requests for information and reports or for action as any Loan Party or any of its Subsidiaries is entitled to make under such Material Contract, and cause each of its Subsidiaries to do so.

Section 6.18 Cash Collateral Accounts. Maintain, and cause each of the other Loan Parties to maintain, all Cash Collateral Accounts with Bank of America or another commercial bank located in the United States that is a Lender, which has accepted the assignment of such accounts to the Administrative Agent for the benefit of the Secured Parties pursuant to the terms of the Security Agreement.

Section 6.19 Special Covenant Regarding Cash Management Policy. The Borrowers shall, and shall cause their Subsidiaries to, at all times comply with the cash management policy of FairPoint and its Subsidiaries delivered to the Administrative Agent on the Closing Date, without giving effect to any changes thereto, except to the extent such changes are not adverse to the interests of the Lenders or are otherwise required to ensure compliance with applicable Law or regulation.

Section 6.20 Financial Advisor. For a period of 12 months following the Closing Date, the Borrowers shall pay all reasonable out-of-pocket costs and expenses of a financial advisor (including, without limitation, FTI Consulting, Inc.) for the Administrative Agent and the Lenders; provided, however, in no event shall the amount of such costs and expenses exceed (i) $300,000 per month and (ii) $3,000,000 in the aggregate for such 12-month period. Notwithstanding the foregoing, if a Default has occurred and is continuing, the Administrative Agent may retain, after consultation with FairPoint, a financial advisor to act on behalf of the Administrative Agent and the Lenders and the Borrowers shall pay all costs and expenses with respect thereto. For the avoidance of doubt, the right to engage a financial advisor as

contemplated by the preceding sentence is in the sole discretion of the Administrative Agent, and such retention shall continue for such period as the Administrative Agent determines is appropriate, notwithstanding a subsequent cure or waiver of any such Default.

Section 6.21 Maintenance of Company Separateness. (a) Each Borrower will, and will cause each of its Subsidiaries to, satisfy customary Company formalities, including, as applicable, the holding of regular board of directors' and shareholders' meetings or action by directors or shareholders without a meeting and the maintenance of Company offices and records.

(b) The Borrowers shall not permit any Non-Pledge Party Subsidiary, on the one hand, to have any rights to draw down, whether as a joint account party or otherwise, on any bank account of any Credit Party, on the other hand.

ARTICLE VII.

NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, neither Borrower shall, nor shall it permit any Subsidiary thereof to, directly or indirectly:

Section 7.01 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, or sign or file or suffer to exist under the Uniform Commercial Code of any jurisdiction a financing statement that names such Borrower or any of its Subsidiaries as debtor, or assign any accounts or other right to receive income, other than the following:

(a) Liens pursuant to any Loan Document;

(b) Liens existing on the Closing Date and listed on Schedule 5.08(b) and any renewals or extensions thereof, provided that (i) the property covered thereby is not changed, (ii) the amount secured or benefited thereby is not increased except as contemplated by Section 7.02(d), (iii) the direct or any contingent obligor with respect thereto is not changed, and (iv) any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.02(d);

(c) Liens for taxes, assessments or other charges or levies not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(d) carriers', warehousemen's, mechanics', materialmen's, repairmen's, landlord's liens or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person;

(e) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;

(f) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(g) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate do not materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;

(h) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(h);

(i) Liens securing Indebtedness permitted under Section 7.02(f); provided that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (ii) the Indebtedness secured thereby does not exceed the cost or fair market value, whichever is lower, of the property being acquired on the date of acquisition;

(j) leases or subleases granted to others not interfering in any material respect with the business of any Borrower or any of its Subsidiaries;

(k) Liens arising from precautionary UCC financing statement filings regarding operating leases entered into by any Borrower or any of its Subsidiaries in the ordinary course of business and statutory and common Law landlords' liens under leases to which a Borrower or any of its Subsidiaries is a party;

(l) any interest or title of a lessor under any lease permitted by this Agreement;

(m) Liens (i) of a collecting bank under Section 4-208 of the UCC in "items" incurred in the ordinary course of business, (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business and (iii) customary Liens (including the right of set-off) arising as a matter of Law in favor of banking institutions encumbering deposits held by such banking institutions incurred in the ordinary course of business;

(n) Liens solely on any cash earnest money deposits made by the Borrowers or any of their Subsidiaries in connection with any letter of intent or purchase agreement with respect to an Investment permitted by Section 7.03(p);

(o) Liens securing Secured Hedge Agreements permitted hereunder;

(p) purchase money liens securing payables arising from the purchase by any Loan Party of any equipment or goods in the ordinary course of business; provided that (i) such Liens do not at any time encumber any property other than the property financed by such payables, (ii) such payables do not constitute Indebtedness, (iii) the payable secured thereby does not

exceed the cost or fair market value, whichever is lower, of the property being acquired on the date of acquisition, and (iv) the aggregate amount of such payables, when taken together with the amount of Indebtedness secured by Liens permitted under Section 7.01(i), does not exceed the dollar amount set forth in Section 7.02(f);

(q) CoBank's statutory Lien in the CoBank Equities granted pursuant to the Farm Credit Act of 1971; and

(r) Liens securing (i) taxes and other obligations incurred prior to the commencement of the Chapter 11 Cases and (ii) right-of-way taxes in an aggregate amount not to exceed $1,000,000 in New Hampshire that the Borrowers or their Subsidiaries are disputing as to validity and amount, which in the case of clauses (i) and (ii) remain unpaid following the Closing Date and which shall be treated and discharged following the Closing Date in accordance with the provisions of the Plan of Reorganization.

Section 7.02 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) obligations (contingent or otherwise) existing or arising under any Swap Contract, provided that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of (A) directly mitigating risks associated with fluctuations in interest rates or (B) directly mitigating risks associated with fluctuations in the price of electric supply by fixing the cost of electrical supply under electrical supply contracts of up to one year in duration and, in any event, not for speculative purposes and (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party; provided that, for the avoidance of doubt, obligations existing or arising under contracts entered into by a Borrower or any of its Subsidiaries for the future purchase of services or equipment, in the ordinary course of business and not for speculative purposes, shall not be restricted under this Section 7.02(a);

(b) the Borrowers and their Qualified Subsidiaries may make intercompany loans and advances between and among one another (collectively, "Intercompany Loans"); provided that (i) each such Intercompany Loan shall be evidenced by an Intercompany Note which, if held by a Pledge Party, shall be pledged to the Administrative Agent as, and to the extent required by, the Pledge Agreement, (ii) each Intercompany Loan made pursuant to this clause (b) shall be subject to subordination as, and to the extent required by, the Guaranty (giving effect to exceptions required by applicable Law or regulation as contemplated thereby) and (iii) any Intercompany Loan made pursuant to this clause (b) shall cease to be permitted hereunder if the obligor or obligee thereunder ceases to be a Borrower or a Qualified Subsidiary as contemplated above;

(c) Indebtedness under the Loan Documents, including Permitted Refinancing Debt as may be permitted in accordance with Section 10.14;

(d) Indebtedness outstanding on the Closing Date (excluding Intercompany Debt) and listed on Schedule 7.02 and any refinancings, refundings, renewals or extensions thereof; provided that the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other

reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder and the direct or any contingent obligor with respect thereto is not changed, as a result of or in connection with such refinancing, refunding, renewal or extension; and provided, still further, that the terms relating to principal amount, amortization, maturity, collateral (if any) and subordination (if any), and other material terms taken as a whole, of any such refinancing, refunding, renewing or extending Indebtedness, and of any agreement entered into and of any instrument issued in connection therewith, are no less favorable in any material respect to the Loan Parties or the Lenders than the terms of any agreement or instrument governing the Indebtedness being refinanced, refunded, renewed or extended and the interest rate applicable to any such refinancing, refunding, renewing or extending Indebtedness does not exceed the then applicable market interest rate;

(e) Guarantees by any Borrower or any of its Subsidiaries in respect of (i) Indebtedness otherwise permitted hereunder of any Borrower or any Subsidiary or (ii) leases (other than Capitalized Leases) or of other obligations which do not constitute Indebtedness and which are otherwise permitted hereunder;

(f) Indebtedness in respect of Capitalized Leases, Synthetic Lease Obligations and purchase money obligations for fixed or capital assets within the limitations set forth in Section 7.01(i) and purchase money obligations set forth in Section 7.01(p); provided, however, that the aggregate amount of all such Indebtedness at any one time outstanding shall not exceed $20,000,000;

(g) obligations in respect of performance, bid, appeal, stay, customs and surety bonds, performance and completion guarantees (which, in the case of each of the foregoing, relate solely to Investments or Capital Expenditures permitted hereunder), bank guarantees, bankers' acceptances, including in respect of self-insurance, workers compensation claims or other Indebtedness with respect to reimbursement type obligations regarding workers compensation claims, deferred compensation, severance, pension and health and welfare retirement benefits or the equivalent thereof to current and former employees of FairPoint and its Subsidiaries and similar obligations provided by FairPoint or any of its Subsidiaries or obligations in respect of letters of credit related thereto, in each case, in the ordinary course of business, existing on the Closing Date or consistent with past practice;

(h) cash management obligations and other Indebtedness in respect of netting services, automatic clearinghouse arrangements, employees credit or purchase cards, overdraft protections and similar arrangements, in each case, in connection with deposit accounts;

(i) Indebtedness of the Borrowers or any of their respective Subsidiaries which may be deemed to exist in connection with agreements providing for indemnification, purchase price adjustments and similar obligations in connection with Permitted Acquisitions or sales of assets permitted by this Agreement (so long as any such obligations are those of the Person making the respective acquisition or sale, and are not guaranteed by any other Person);

(j) Indebtedness of the Borrowers consisting of Permitted Letters of Credit; and

(k) Permitted Unsecured Debt, so long as (i) no Default then exists or would result therefrom, (ii) 100% of the Net Cash Proceeds therefrom are applied either (x) to make a concurrent prepayment of Term Loans pursuant to, and in accordance with the requirements of, Section 2.05(b)) or (y) to pay a portion of the cash consideration in connection with any Permitted Acquisition, (iii) calculations are made by the Borrowers demonstrating compliance, on a Pro Forma Basis, with the financial covenants contained in Section 7.11 for the Measurement Period most recently ended prior to the date of the respective issuance of Permitted Unsecured Debt, and (iv) the Borrowers shall have furnished to the Administrative Agent a certificate from a Responsible Officer certifying as to compliance with the requirements of preceding clauses (i), (ii) and (iii) and containing the calculations required by preceding clause (iii); provided, however, that in no event shall the amount of Permitted Unsecured Debt, the Net Cash Proceeds of which are utilized to pay a portion of the cash consideration in connection with any Permitted Acquisition, exceed 50% of the aggregate consideration for such Permitted Acquisition.

Section 7.03 Investments. Make or hold any Investments, except:

(a) Investments held by the Borrowers and their Subsidiaries in the form of Cash Equivalents provided, however, in no event shall the aggregate amount invested by the Loan Parties and their Subsidiaries in Cash Equivalents of a type described in clause (g) of the definition thereof exceed $20,000,000 at any one time;

(b) advances or loans to officers, directors and employees of the Borrowers and their Subsidiaries in an aggregate amount not to exceed $2,500,000 at any time outstanding, for travel, entertainment, relocation and other ordinary business purposes;

(c) (i) Investments by the Borrowers and their Subsidiaries in their respective Subsidiaries outstanding on the Closing Date, (ii) FairPoint, its Wholly-Owned Subsidiaries and its 90% Owned Subsidiaries may incur and hold Intercompany Payables and Receivables and (iii) Subsidiaries of FairPoint may incur and hold Subsidiary Ordinary Course Payables in the ordinary course of business consistent with past practice;

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(e) Guarantees permitted by Section 7.02;

(f) Investments existing on the Closing Date (other than those referred to in Section 7.03(c)(i)) and set forth on Schedule 5.08(e);

(g) acquisition and ownership of Investments by a Borrower or any of its Subsidiaries received in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business;

(h) Guarantees by the Borrowers or any of their Subsidiaries in respect of leases (other than Capitalized Leases) of a Loan Party or of other obligations of a Loan Party that do not constitute Indebtedness, in each case entered into in the ordinary course of business;

(i) Swap Contracts permitted pursuant to Section 7.02(a);

(j) the establishment and/or creation by the Borrowers or any of their Subsidiaries of Subsidiaries in accordance with the provisions of Section 6.12 and the making of Investments therein as otherwise permitted by this Section 7.03;

(k) Investments made in connection with Permitted Acquisitions to the extent the consideration paid therefor consists solely of Equity Interests of FairPoint;

(l) FairPoint and each Qualified Subsidiary may make capital contributions (including by way of the capitalization of an Intercompany Loan) (i) to any of their respective Subsidiaries, to the extent such Subsidiary is a Guarantor and (ii) to any Qualified Subsidiary that is not a Guarantor, so long as, in the case of this subclause (ii), (x) no Default or Event of Default has occurred and is continuing at the time of the respective contribution and (y) in the case of any contribution to a Qualified Subsidiary of the type referred to in clause (c) of the definition thereof, the Pro Forma EBITDAR Test is satisfied at the time of such contribution;

(m) Investments permitted by Section 7.02(b);

(n) Investments constituting Capital Expenditures permitted to be incurred pursuant to Section 7.12;

(o) Investments made in connection with the consummation of the Transaction and provided for in the Plan of Reorganization;

(p) Permitted Acquisitions;

(q) Excluded Intercompany Payables;

(r) Investments in the CoBank Equities and any other stock or securities of, or Investments in, CoBank or its investment services or programs to the extent required by CoBank's Bylaws and Capital Plan and in accordance with Section 2.17;

(s) within three Business Days after the Closing Date, an Investment by Logistics from monies already on deposit in the existing account held at Fidelity Investments (including interest and investment income thereon through the date on which such Investment is made) in Telephone Operating Company of Vermont LLC, the proceeds of which are directly funded by Logistics into the dual pole escrow account established pursuant to the Order of the Vermont Public Service Board, entered February 15, 2008, in Docket No. 7270, Joint Petition of Verizon New England Inc. d/b/a Verizon Vermont and FairPoint Communications, Inc. for approval of an asset transfer, acquisition of control by merger and associated transactions and to the extent

required by such order for the purpose of funding the removal of pre-acquisition dual poles in an aggregate amount during the term of this Agreement not to exceed $2,800,000[4]; and

(t) other Investments not exceeding $5,000,000 in the aggregate in any fiscal year of FairPoint.

Section 7.04 Fundamental Changes. Except in connection with a Permitted Acquisition (so long as a Borrower or Guarantor shall be the continuing or surviving Person) or as permitted under Section 7.05, merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Default or Event of Default exists or would result therefrom:

(a) any Inactive Subsidiary may (i) merge or consolidate with or into or be liquidated into (x) a Borrower, provided, that such Borrower shall be the continuing or surviving Person, or (y) any one or more Guarantors, provided that such Guarantor shall be the continuing or surviving Person, or (ii) if such Inactive Subsidiary has no assets, liquidate or dissolve if the Borrowers determine in good faith that such action is in the best interest of FairPoint and its Subsidiaries;

(b) any Inactive Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to a Borrower or to a Guarantor;

(c) any Subsidiary that is not a Loan Party may dispose of all or substantially all its assets (including any Disposition that is in the nature of a liquidation) to (i) another Subsidiary that is not a Loan Party or (ii) to a Loan Party; and

(d) any Subsidiary of a Borrower may merge into or consolidate with any other Person or permit any other Person to merge into or consolidate with it; provided, however, that in each case, immediately after giving effect thereto (i) in the case of any such merger to which a Borrower is a party, such Borrower is the surviving corporation and (ii) in the case of any such merger to which any Loan Party (other than a Borrower) is a party, such Loan Party is the surviving corporation.

Section 7.05 Dispositions. Make any Disposition or enter into any written agreement to make any Disposition, except:

(a) Dispositions of obsolete or worn out property, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions of inventory in the ordinary course of business;

(c) Dispositions of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the

[4] The exact amount in the existing Fidelity account to be transferred will be updated two days before Closing Date.

proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(d) Dispositions of property by any Subsidiary to a Borrower or to a wholly-owned Subsidiary; provided that if the transferor of such property is a Guarantor, the transferee thereof must either be a Borrower or a Guarantor;

(e) Dispositions permitted by Sections 7.01, 7.03, 7.04 and 7.06;

(f) non-exclusive licenses or sublicenses of IP Rights in the ordinary course of business and substantially consistent with past practice; provided that such licenses or sublicenses shall not interfere in any material respect with the business of any Borrower or any Subsidiary; and

(g) any Borrower and any Subsidiary may lease (as lessee) real or personal property in the ordinary course of business (so long as such lease does not create Indebtedness in respect of a Capitalized Lease not otherwise permitted by Section 7.02(f));

(h) sales or forgiveness of accounts receivable in the ordinary course of business in connection with the collection or compromise thereof;

(i) Dispositions in the ordinary course of business consisting of the abandonment of IP Rights that, in the reasonable good faith determination of the Borrowers or any of their Subsidiaries, are not material to the conduct of the business of the Borrowers and their Subsidiaries;

(j) Dispositions of cash and Cash Equivalents in the ordinary course of business; and

(k) Dispositions of assets (including, without limitation, Dispositions of Investments in joint ventures) not otherwise permitted by this Section 7.05; provided that (i) at the time of such Disposition, no Default shall exist or would result therefrom, (ii) the total consideration received from all such Dispositions permitted by this clause (k) in any fiscal year of FairPoint shall not exceed $25,000,000 in any fiscal year (or, in the event the Consolidated Total Leverage Ratio as of the last day of the immediately preceding fiscal year of FairPoint is 2.00:1.00 or less, $50,000,000) and (iii) the Net Cash Proceeds thereof shall be applied if and to the extent required by Section 2.05(b)(ii);

provided, however, that any Disposition pursuant to Sections 7.05(b), (c), (d) (but only in the respect to transfer from a non-Loan Party to a Loan Party), (e), (g), (j) and (k) shall be for fair market value.

Section 7.06 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, or issue or sell any Equity Interests or accept any capital contributions, except that, so long as no Default or Event of Default shall have occurred and be continuing at the time of any action described below or would result therefrom:

(a) (x) any Subsidiary of FairPoint may pay Dividends directly or indirectly to FairPoint or any Wholly-Owned Subsidiary of FairPoint (including by way of conversion of intercompany payables) and (y) any Non-Wholly-Owned Subsidiary of FairPoint may pay cash Dividends to its shareholders generally, so long as FairPoint or its Subsidiary which owns the Equity Interest in the Subsidiary paying such Dividends receives at least its proportionate share thereof (based upon its relative holding of the Equity Interests in the Subsidiary paying such Dividends and taking into account the relative preferences, if any, of the various classes of Equity Interests of such Subsidiary);

(b) FairPoint and each Subsidiary may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(c) except to the extent the Net Cash Proceeds thereof are required to be applied to the prepayment of the Loans pursuant to Section 2.05(b)(iii), FairPoint and each Subsidiary thereof may purchase, redeem or otherwise acquire its common Equity Interests with the proceeds received from the substantially concurrent issue of new common Equity Interests;

(d) if the Consolidated Total Leverage Ratio as of the last day of any fiscal year of FairPoint is 2.00:1.00 or less, FairPoint may declare or pay cash Dividends to its stockholders solely out of that portion of Excess Cash Flow for such fiscal year that the Borrowers are not required to apply as a mandatory prepayment of the Loans pursuant to Section 2.05(b)(i);

(e) FairPoint and its Subsidiaries may make payments with respect to Intercompany Debt, so long as the respective payment is permitted to be made in accordance with the terms of the Intercompany Subordination Agreement (giving effect to the exceptions required by applicable Law as contemplated thereby);

(f) FairPoint may pay regularly accruing Dividends with respect to Qualified Preferred Stock through the issuance of additional shares of Qualified Preferred Stock (but not in cash) in accordance with the terms of the documentation governing the same;

(g) Sunflower may pay Dividends and distributions to holders of its Equity Interests so long as STE receives its pro rata share of any such Dividends and distributions; and

(h) FairPoint and its Subsidiaries may pay Dividends to FairPoint and its Subsidiaries, as applicable, in accordance with tax sharing arrangements entered into between or among FairPoint and its Subsidiaries.

Section 7.07 Change in Nature of Business. Engage in any material line of business substantially different from those lines of business conducted by FairPoint and its Subsidiaries on the Closing Date or any business substantially related or incidental thereto.

Section 7.08 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of FairPoint, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to FairPoint or such Subsidiary as would be obtainable by FairPoint or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate; provided that the foregoing restrictions shall not apply to

(a) transactions solely among Loan Parties and their 90%-Owned Subsidiaries, (b) employment arrangements (including severance and related arrangements) entered into in the ordinary course of business with officers of the Borrowers and their Subsidiaries, (c) customary fees paid to members of the Board of Directors of the Borrowers and of their Subsidiaries, (d) arrangements with directors, officers and employees not otherwise prohibited by this Agreement, (e) Restricted Payments to the extent permitted by Section 7.06(a) and (f) transactions under the Loan Documents between (i) the Loan Parties, on the one hand, and the (ii) Lenders, Administrative Agent, Collateral Agent, Arranger and L/C Issuer, and their respective Affiliates acting under the Loan Documents as permitted delegates of any of the foregoing (in each case, solely in their respective capacities as Lenders, Administrative Agent, Collateral Agent, Arranger, L/C Issuer or permitted delegates of any of the foregoing) on the other hand.

Section 7.09 Burdensome Agreements. Enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that (a) limits the ability (i) of any Subsidiary to make Restricted Payments to a Borrower or any Guarantor or to otherwise transfer property to or invest in a Borrower or any Guarantor, except for any agreement in effect (A) on the Closing Date and set forth on Schedule 7.09 or (B) at the time any Subsidiary becomes a Subsidiary of a Borrower, so long as such agreement was not entered into solely in contemplation of such Person becoming a Subsidiary of such Borrower, (ii) of any Subsidiary to Guarantee the Indebtedness of a Borrower or (iii) of a Borrower or any Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person; provided, however, that this clause (iii) shall not prohibit any negative pledge incurred or provided in favor of any holder of Indebtedness permitted under Section 7.02(i) solely to the extent any such negative pledge relates to the property financed by or the subject of such Indebtedness; or (b) requires the grant of a Lien to secure an obligation of such Person if a Lien is granted to secure another obligation of such Person.

Section 7.10 Use of Proceeds. Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

Section 7.11 Financial Covenants.

(a) Consolidated Interest Coverage Ratio. Permit the Consolidated Interest Coverage Ratio as of the end of any Measurement Period to be less than the ratio set forth below opposite such fiscal quarter:

Measurement Period Ending	Minimum Consolidated Interest Coverage Ratio
March 31, 2011 through June 30, 2013	3.25:1.00
September 30, 2013 through December 31, 2014	3.50:1.00
March 31, 2015 and each fiscal quarter thereafter	3.75:1.00

(b) Consolidated Total Leverage Ratio. Permit the Consolidated Total Leverage Ratio as of the end of any Measurement Period to be greater than the ratio set forth below opposite such period:

Measurement Period Ending	Maximum Consolidated Total Leverage Ratio
March 31, 2011 through June 30, 2013	4.75:1.00
September 30, 2013 through December 31, 2013	4.50:1.00
March 31, 2014 through June 30, 2014	4.25:1.00
September 30, 2014 through December 31, 2014	4.00:1.00
March 31, 2015	3.75:1.00
June 30, 2015 and each fiscal quarter thereafter	3.50:1.00

(c) Consolidated Senior Leverage Ratio. Permit the Consolidated Senior Leverage Ratio as of the end of any Measurement Period to be greater than the ratio set forth below opposite such fiscal quarter:

Measurement Period Ending	Maximum Consolidated Senior Leverage Ratio
March 31, 2011 through June 30, 2013	4.25:1.00
September 30, 2013 through December 31, 2013	4.00:1.00
March 31, 2014 through June 30, 2014	3.75:1.00
September 30, 2014 through December 31, 2014	3.50:1.00
March 31, 2015	3.25:1.00
June 30, 2015 and each fiscal quarter thereafter	3.00:1.00

Notwithstanding anything to the contrary contained herein, the Borrowers and their Subsidiaries shall not be required to comply with the foregoing provisions of this Section 7.11(c) at any time other than in connection with, and as a condition to, the Borrowers and their Subsidiaries incurring Indebtedness pursuant to Section 7.02(k), the Net Cash Proceeds of which are to be utilized to pay a portion of the cash consideration in connection with any proposed Permitted Acquisition.

Section 7.12 Capital Expenditures. Make or become legally obligated to make any Capital Expenditure, except for Capital Expenditures in the ordinary course of business not exceeding, in the aggregate for FairPoint and its Subsidiaries during each fiscal year set forth below, the amount set forth opposite such fiscal year:

Fiscal Year	Amount
2011	$200,000,000
2012	$190,000,000
2013	$170,000,000
2014	$150,000,000
2015	$150,000,000

If FairPoint and its Subsidiaries do not utilize the entire amount of Capital Expenditures permitted in any fiscal year, so long as no Default or Event of Default exists or would be caused thereby, FairPoint and its Subsidiaries may carry forward to the immediately succeeding fiscal year only, the Capital Expenditures Carryover Amount for such fiscal year (with Capital Expenditures made by FairPoint and its Subsidiaries in such succeeding fiscal year applied last to such Capital Expenditures Carryover Amount).

Section 7.13 Amendments of Organization Documents. Amend any of its Organization Documents, other than (a) amendments and modifications providing for the issuance of (and any associated rights and privileges of) Qualified Preferred Stock on the terms and conditions permitted hereunder and (b) immaterial amendments and modifications not adverse to the interests of the Administrative Agent or any of the Lenders in their capacities as such.

Section 7.14 Accounting Changes. Make any change in (a) accounting policies or reporting practices, except as required by GAAP or (b) its fiscal year.

Section 7.15 Prepayments, Etc. of Indebtedness. (a) Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner, or make any payment in violation of any subordination terms of, any Indebtedness, except (a) the prepayment of the Credit Extensions in accordance with the terms of this Agreement and (b) regularly scheduled or required repayments or redemptions of Indebtedness set forth in Schedule 7.02 and refinancings and refundings of such Indebtedness in compliance with Section 7.02(d).

(b) Make any payment on Permitted Unsecured Debt; provided, that subject to the subordination provisions of the respective agreements governing the respective issuance of Permitted Unsecured Debt and so long as no Default or Event of Default then exists or would result therefrom, the Borrowers may pay regularly scheduled interest on each issuance of Permitted Unsecured Debt through the issuance of Permitted Unsecured Debt (but not in cash) as and when due in accordance with the terms of the instruments and agreements governing the respective Permitted Unsecured Debt.

Section 7.16 **[Intentionally Omitted.]**

Section 7.17 Limitation On Issuance of Equity Interests. (a) The Borrowers will not, and will not permit any of their Subsidiaries to, issue (i) any Preferred Stock or any options, warrants or rights to purchase Preferred Stock or (ii) any redeemable common Equity Interests unless, in either case, the issuance thereof is, and all terms thereof are, satisfactory to the Required Lenders in their sole discretion; provided, that notwithstanding the foregoing, FairPoint may issue Qualified Preferred Stock (x) in payment of regularly accruing Dividends on theretofore outstanding shares of Qualified Preferred Stock as contemplated by Section 7.06(f) and (y) with respect to each other issuance of Qualified Preferred Stock, so long as FairPoint receives reasonably equivalent consideration therefor (as determined in good faith by FairPoint).

(b) The Borrowers will not permit any of their Subsidiaries, directly or indirectly, to issue any shares of such Subsidiary's capital stock, securities or other Equity Interests (or warrants, rights or options to acquire shares or other Equity Interests), except (i) for replacements of then outstanding shares of capital stock or other Equity Interest, (ii) for stock splits, stock dividends and similar issuances which do not decrease the percentage ownership of the Borrowers and their Subsidiaries taken as a whole in any class of the capital stock or other Equity Interests of such Subsidiary, (iii) other Equity Interests issued pursuant to and in accordance with the Plan of Reorganization and (iv) to qualify directors to the extent required by applicable Law.

Section 7.18 Stimulus Applications and Awards. Notwithstanding anything to the contrary contained herein, with respect to any award to FairPoint or any of its Subsidiaries under the American Recovery and Reinvestment Act of 2009, the Borrowers and their Subsidiaries may incur Indebtedness, make Investments and incur Liens solely as required by such award and with respect to the assets that are acquired pursuant to such award.

ARTICLE VIII.

EVENTS OF DEFAULT AND REMEDIES

Section 8.01 Events of Default. Any of the following shall constitute an Event of Default:

(a) Non-Payment. Any Borrower or any other Loan Party fails to (i) pay when and as required to be paid herein, any amount of principal of any Loan or any L/C Obligation or deposit any funds as Cash Collateral in respect of L/C Obligations, or (ii) pay within three days after the same becomes due, any interest on any Loan or on any L/C Obligation, or any fee due hereunder (including amounts payable under Section 6.20), or (iii) pay within five days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. (i) Any Borrower fails to perform or observe any term, covenant or agreement contained in any of Section 6.01 or 6.02, and such failure continues for 10 days, (ii) Section 6.03, 6.05, 6.10, 6.11, 6.12, 6.14, 6.18, 6.19, 6.21 or Article VII or (iii) any of the Loan Parties fails to perform or observe any term, covenant or agreement contained in Section 5.10(a) of the Security Agreement; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in Section 8.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after the earlier of knowledge thereof by a Loan Party or notice thereof having been given to any Loan Party by the Administrative Agent; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of a Borrower or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made; or

(e) Cross-Default. (i) Any Loan Party or any Subsidiary thereof (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise but after giving effect to any applicable grace or cure period) in respect of any Indebtedness or Guarantee (other than Indebtedness hereunder and Indebtedness under Swap Contracts) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which a Loan Party or any Subsidiary thereof is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which a Loan Party or any Subsidiary thereof is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by such Loan Party or such Subsidiary as a result thereof is greater than the Threshold Amount; or

(f) Insolvency Proceedings, Etc. Any Loan Party, any Material Subsidiary, or any Subsidiaries that, taken together, would constitute a Material Subsidiary, institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party, any Material Subsidiary, or any Subsidiaries that, taken together, would constitute a Material Subsidiary, thereof becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within 30 days after its issue or levy; or

(h) Judgments. There is entered against any Loan Party or any Subsidiary thereof (i) one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer is rated at least "A-" by A.M. Best Company; provided that such time as FairPoint obtains new insurance or renews its current insurance policies, such insurer shall be rated at least "A" by A.M. Best Company, has been notified of the potential claim and does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 30 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of FairPoint under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of the Threshold Amount, or (ii) FairPoint or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of the Threshold Amount; or

(j) Invalidity of Loan Documents. Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party or any other Person on behalf of a Loan Party contests in any manner the validity or enforceability of any provision of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any provision of any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document; or

(k) Change of Control. There occurs any Change of Control; or

(l) Collateral Documents. Any Collateral Document after delivery thereof pursuant to Section 4.01 or 6.12 shall for any reason (other than pursuant to the terms thereof and except to the extent resulting from the negligent or willful failure by the Administrative Agent to perfect Liens granted pursuant thereto) cease to create, subject to Section 10.14, a valid and perfected first priority Lien (subject to Liens permitted by Section 7.01) on the Collateral purported to be covered thereby; or

(m) Subordination. (i) The subordination provisions of the documents evidencing or governing any subordinated Indebtedness (the "Subordinated Provisions") shall, in whole or in

part, terminate, cease to be effective or cease to be legally valid, binding and enforceable against any holder of the applicable subordinated Indebtedness; or (ii) any Borrower or any other Loan Party shall, directly or indirectly, disavow or contest in any manner (A) the effectiveness, validity or enforceability of any of the Subordination Provisions, (B) that the Subordination Provisions exist for the benefit of the Administrative Agent, the Lenders and the L/C Issuer or (C) that all payments of principal of or premium and interest on the applicable subordinated Indebtedness, or realized from the liquidation of any property of any Loan Party, shall be subject to any of the Subordination Provisions;

provided, that (i) in the event that following the Closing Date and on or prior to the 12-month anniversary of the Closing Date, FairPoint restates, amends, supplements or otherwise modifies any of its historical financial statements (including financial statements delivered to the SEC) for any period ending on or prior to the Closing Date as a result of any matter or event which occurred or arose prior to or during the pendency of the Chapter 11 Cases (such restatement, amendment, supplement or other modification being a "Financial Restatement"), the fact of such Financial Restatement and its effect on financial information for any period ending on or prior to the Closing Date, in and of itself, shall not result in a Default or Event of Default for any purposes of this Agreement, or for purposes of any other Loan Document and (ii) the information reflected in any Financial Restatement, to the extent it affects any financial information for any period from and after the Closing Date, shall be taken into account for all purposes of this Agreement and the other Loan Documents. Notwithstanding the foregoing, any consideration under Section 8.01(d) as to whether the representation set forth in Section 5.05(c) was incorrect or misleading in any material respect when made or deemed made shall be without giving effect to clause (i) of the preceding proviso.

Section 8.02 Remedies upon Event of Default. If any Event of Default occurs and is continuing:

(a) the Administrative Agent may, in its discretion, and the Administrative Agent shall, at the request of the Required Revolving Lenders, take any or all of the following actions:

(i) declare the commitment of each Revolving Credit Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated; and

(ii) require that the Borrowers Cash Collateralize the L/C Obligations (in an amount equal to 105% of the then Outstanding Amount thereof);

(b) the Administrative Agent may, in its discretion, and the Administrative Agent shall, at the request of (i) the Required Revolving Lenders, in the case of the Revolving Credit Loans and other obligations in respect of the Revolving Credit Facility only, (ii) the Required Term Lenders, in the case of the Term Loans and other obligations in respect of the Term Facility only, or (iii) the Required Lenders, as to all of the Loans and other obligations under the Loan Documents, declare the unpaid principal amount of all outstanding Revolving Credit Loans, Term Loans or Loans, as applicable, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document in connection therewith

to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrowers; and

(c) the Administrative Agent may, in its discretion, and the Administrative Agent shall, at the request of the Required Revolving Lenders, so long as any Obligations with respect to the Revolving Credit Facility are outstanding, and after the Revolving Credit Facility has been paid in full in cash (or at any time when taking action is permitted under and consistent with Sections 10.14(b)(i)(B), (C), and (D)), at the request of the Required Term Lenders, exercise on behalf of itself, the Lenders and the L/C Issuer all rights and remedies available to it, the Lenders and the L/C Issuer under the Loan Documents;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to any Borrower under the Bankruptcy Code, the obligation of each Revolving Credit Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrowers to Cash Collateralize the L/C Obligations (in an amount equal to 105% of the then Outstanding Amount thereof) as aforesaid shall automatically become effective, in each case without further act by the Administrative Agent or any Lender.

Section 8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized (in an amount equal to 105% of the then Outstanding Amount thereof) as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent (or Administrative Agents, in accordance with Section 9.06) in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the L/C Issuer (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuer (including fees and time charges for attorneys who may be employees of any Lender or the L/C Issuer) arising under the Loan Documents and amounts payable under Article III, ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Revolving Credit Loans, L/C Borrowings and other Obligations arising under the Loan Documents relating to the Revolving Credit Facility, ratably among the Revolving Credit Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Revolving Credit Loans, L/C Borrowings and Obligations then owing under Secured Cash Management Agreements, ratably among the Revolving Credit Lenders, the L/C Issuer and the Cash Management Banks in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the Administrative Agent for the account of the L/C Issuer, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit (in an amount equal to 105% of the then Outstanding Amount thereof);

Sixth, to the payment of that portion of the Obligations constituting interest on the Term Loans, ratably among the Term Lenders in proportion to the respective amounts described in this clause Sixth payable to them;

Seventh, to the payment of that portion of the Obligations constituting unpaid principal of the Term Loans and other Obligations arising under the Loan Documents relating to the Term Facility and Obligations then owing under Secured Hedge Agreements, ratably among the Term Lenders and the Hedge Banks in proportion to the respective amounts described in this clause Seventh held by them; and

Last, the balance, if any, after all of the Obligations have been paid in full in cash to the extent not otherwise Cash Collateralized (in an amount equal to 105% of the then Outstanding Amount thereof) by the Borrowers pursuant to Sections 2.03 and 2.14, to the Borrowers or as otherwise required by Law.

Subject to Sections 2.03(c) and 2.14, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit (in an amount equal to 105% of the then Outstanding Amount thereof) pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

Notwithstanding the foregoing, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements shall be excluded from the application described above if the Administrative Agent has not received written notice thereof, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be. Each Cash Management Bank or Hedge Bank not a party to the Credit Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article IX hereof for itself and its Affiliates as if a "Lender" party hereto.

ARTICLE IX.

ADMINISTRATIVE AGENT

Section 9.01 Appointment and Authority. (a) Each of the Lenders and the L/C Issuer hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent

hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuer, and the Borrowers shall not have rights as a third party beneficiary of any of such provisions.

(b) The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders (including in its capacities as a potential Hedge Bank and a potential Cash Management Bank) and the L/C Issuer hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender and the L/C Issuer for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as "collateral agent" and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article IX and Article X (including Section 10.04(c), as though such co-agents, sub-agents and attorneys-in-fact were the "collateral agent" under the Loan Documents) as if set forth in full herein with respect thereto.

Section 9.02 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrowers or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

Section 9.03 Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrowers or any of their Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(d) The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by a Borrower, a Lender or the L/C Issuer.

(e) The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

(f) Each Lender on behalf of itself and each of its Affiliates hereby acknowledges that the Administrative Agent is a nonfiduciary agent for both the Revolving Credit Lenders and the Term Lenders and waives any claim arising from such status, including any claim based on any breach of fiduciary duty or conflict of interest.

Section 9.04 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrowers), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 9.05 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Section 9.06 Resignation of Administrative Agent. The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuer and the Borrowers as (a) Administrative Agent for the L/C Issuer and Revolving Credit Lenders, (b) Administrative Agent for the Term Lenders or (c) Administrative Agent for all Lenders. Upon receipt of any such notice of resignation, the Required Revolving Lenders (in the case of a resignation of the Administrative Agent as Administrative Agent for the L/C Issuer and Revolving Credit Lenders), Required Term Lenders (in the case of a resignation of the Administrative Agent as Administrative Agent for the Term Lenders) or Required Lenders (in the case of a resignation of the Administrative Agent as Administrative Agent for all Lenders), shall have the right, with the prior written consent of the Borrowers (such consent not to be unreasonably withheld, conditioned or delayed or required following the occurrence and during the continuance of a Default), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Revolving Lenders, Required Term Lenders or Required Lenders, as applicable, and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the relevant Lenders and (other than in the case of a resignation as the Administrative Agent for the Term Lenders only) the L/C Issuer, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that if the Administrative Agent shall notify the Borrowers and the relevant Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Administrative Agent shall be discharged from its duties and obligations (or in the case of any resignation only as Administrative Agent for the Revolving Credit Lenders and L/C Issuer or only for the Term Lenders, the retiring Administrative Agent shall be discharged from its duties and obligations hereunder as Administrative Agent the for the Revolving Credit Lenders and L/C Issuer or as Administrative Agent for the Term Lenders, as applicable) hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the L/C Issuer under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (b) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each relevant Lender and (other than in the case of a resignation as the Administrative Agent for the Term Lenders only) the L/C Issuer directly until such time as the Required Revolving Lenders, Required Term Lenders or Required Lenders, as applicable, appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and

become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrowers to any successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed among the Borrowers and such successor; provided that, notwithstanding the foregoing, in the event that there are two Administrative Agents hereunder (one for the Revolving Credit Lenders and L/C Issuer and one for the Term Lenders), each such Administrative Agent shall be entitled to annual compensation equal to that payable to the Administrative Agent immediately prior to the appointment of a second Administrative Agent (subject, in the case of any single entity acting as Administrative Agent for all Lenders that resigns in its capacity as Administrative Agent for either the Revolving Credit Lenders and L/C Issuer or the Term Lenders, but remains as Administrative Agent for either the Revolving Credit Lenders and L/C Issuer or for the Term Lenders, to a reduction in compensation, to be negotiated in good faith but in any event subject to the sole discretion of such Administrative Agent, commensurate with such Administrative Agent's reduction in responsibilities). After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent. For the avoidance of doubt, each Person acting as an Administrative Agent hereunder, whether as Administrative Agent for the L/C Issuer and Revolving Credit Lenders, Administrative Agent for the Term Lenders or as Administrative Agent for all Lenders, shall be entitled to all protections given the Administrative Agent in this Section 9. At any time when there are separate Administrative Agents for the L/C Issuer and Revolving Credit Lenders, on the one hand, or the Term Lenders, on the other hand, references in this Agreement and the other Loan Documents to the Administrative Agent shall constitute, prior to the effectiveness of any amendment contemplated by the immediately succeeding sentence: (1) in the case of delivery of any information, certificate, request or notice; inspection and information rights; and provisions relating to the exculpation, indemnification, expense reimbursement in favor of or protection of the Administrative Agent; a reference to both Administrative Agents; (2) in the case of any matter principally concerning the Revolving Credit Loans; Defaulting Lenders; the disposition, perfection or management of Collateral; insurance; subordination of Subordinated Indebtedness; Letters of Credit; collection or distribution of funds; determination of interest rates; to the Administrative Agent for the Revolving Credit Lenders and the L/C Issuer; and (3) in the case of any matter principally concerning the Term Loans, to the Administrative Agent for the Term Lenders. Following or in connection with the resignation of the Administrative Agent for the L/C Issuer and Revolving Credit Lenders or the Administrative Agent for the Term Lenders, the Borrowers and the Required Lenders agree to enter into such amendments and modifications to the Loan Documents (such amendments and modifications to be of an administrative or ministerial nature only) as are reasonably requested by any replacement Administrative Agent or continuing Administrative Agent to reflect the existence of two Administrative Agents hereunder; provided, that (x) no amendment fee shall be payable by the Loan Parties in connection with any such amendment and (y) any Lender that has not, within five days of being presented with a request to execute any such amendment, executed such amendment, shall be deemed to have executed such amendment.

Any resignation by Bank of America as Administrative Agent for the Revolving Credit Lenders and L/C Issuer or as Administrative Agent for all Lenders pursuant to this Section shall also constitute its resignation as L/C Issuer. Upon the acceptance of a successor's appointment as Administrative Agent for the Revolving Credit Lenders and L/C Issuer hereunder, (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer, (ii) the retiring L/C Issuer shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (iii) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit.

Section 9.07 Non-Reliance on Administrative Agent and Other Lenders. Each Lender and the L/C Issuer acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and the L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Section 9.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Book Manager or Arranger listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or the L/C Issuer hereunder.

Section 9.09 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrowers) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuer and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuer and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuer and the Administrative Agent under Sections 2.03(i) and (j), 2.09 and 10.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each

Lender and the L/C Issuer to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuer, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 10.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or the L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or the L/C Issuer to authorize the Administrative Agent to vote in respect of the claim of any Lender or the L/C Issuer or in any such proceeding.

Section 9.10 Collateral and Guaranty Matters. Each of the Lenders (including in its capacities as a potential Cash Management Bank and a potential Hedge Bank) and the L/C Issuer irrevocably authorize the Administrative Agent, at its option and in its discretion,

(a) to release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than (A) contingent indemnification obligations and (B) obligations and liabilities under Secured Cash Management Agreements and Secured Hedge Agreements as to which arrangements satisfactory to the applicable Cash Management Bank of Hedge Bank shall have been made) and the expiration or termination of all Letters of Credit (other than Letters of Credit as to which other arrangements satisfactory to the Administrative Agent and the L/C Issuer shall have been made), (ii) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document, or (iii) if approved, authorized or ratified in writing in accordance with Section 10.01;

(b) to release any Guarantor from its obligations under the Guaranty if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder; and

(c) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(i).

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.10. In each case as specified in this Section 9.10, the Administrative Agent will, at the Borrowers' expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents or to subordinate its interest in such item, or to release such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 9.10.

Section 9.11 Secured Cash Management Agreements and Secured Hedge Agreements. No Cash Management Bank or Hedge Bank that obtains the benefits of Section 8.03, any Guaranty or any Collateral by virtue of the provisions hereof or of any Guaranty or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article IX to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

ARTICLE X.

MISCELLANEOUS

Section 10.01 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by any Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by (i) the applicable Lenders or other Persons specifically referred to below in the case of the amendments, waivers or consents described below or, in the case of all other amendments, waivers or consents, the Required Lenders (provided that, except to the extent specific consents are otherwise required by clauses (a) through (m) of this Section 10.01, (x) amendments, waivers and consents with respect to any provision of this Agreement or any other Loan Document solely as it relates to the Revolving Credit Facility or the Revolving Credit Lenders, shall require the consent of only the Required Revolving Lenders (and shall not require the consent of the Required Lenders) and (y) amendments, waivers and consents with respect to any provision of this Agreement or any other Loan Document solely as it relates to the Term Loan or the Term Lenders, shall require the consent of only the Required Term Lenders (and shall not require the consent of the Required Lenders)) and (ii) the Borrowers or the applicable Loan Party, as the case may be, and, in each case, acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

(a) waive any condition set forth in Section 4.01 or, in the case of the initial Credit Extension, Section 4.02, without the written consent of each Revolving Credit Lender;

(b) waive any condition set forth in Section 4.02 as to any Credit Extension following the initial Credit Extension without the written consent of the Required Revolving Lenders;

(c) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender;

(d) postpone any date fixed by this Agreement or any other Loan Document for any payment (excluding mandatory prepayments) of principal, interest, fees or other amounts due to

the Lenders (or any of them) hereunder or under such other Loan Document without the written consent of each Lender entitled to such payment;

(e) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject the second proviso of this Section 10.01(e)) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender entitled to such amount; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrowers to pay interest at the Default Rate; provided, further, that only the consent of the Required Revolving Lenders shall be necessary to waive any obligation of the Borrowers to pay Letter of Credit Fees at the Default Rate;

(f) change (i) Section 2.13 or Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender or (ii) the order of application of any reduction in the Commitments or any prepayment of Loans among the Facilities from the application thereof set forth in the applicable provisions of Section 2.05(b) or 2.06(b), respectively, in any manner that materially and adversely affects the Lenders under a Facility without the written consent of (i) if such Facility is the Term Facility, the Required Term Lenders and (ii) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders;

(g) change (i) any provision of this Section 10.01 or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder (other than the definitions specified in clause (ii) of this Section 10.01(g)), without the written consent of each Lender or (ii) the definition of "Required Revolving Lenders" or "Required Term Lenders" without the written consent of each Lender under the applicable Facility;

(h) (i) shorten any date fixed by this Agreement or any other Loan Document for any payment (excluding mandatory prepayments and exercises of remedies under Section 8.02) of principal, interest, fees or other amounts due hereunder or under such other Loan Document to the Revolving Credit Lenders (or any of them) or L/C Issuer without the written consent of the Required Term Lenders or (ii) shorten any date fixed by this Agreement or any other Loan Document for any payment (excluding mandatory prepayments and exercises of remedies under Section 8.02) of principal, interest, fees or other amounts due hereunder or under such Loan Document to the Term Lenders (or any of them) without the written consent of the Required Revolving Lenders;

(i) increase the Letter of Credit Sublimit without the written consent of each Revolving Credit Lender;

(j) release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

(k) release all or substantially all of the Guarantors from the Guaranty, without the written consent of each Lender, except as expressly provided in the Loan Documents;

(l) impose any greater restriction on the ability of any Lender under a Facility to assign any of its rights or obligations hereunder without the written consent of (i) if such Facility is the Term Facility, the Required Term Lenders and (ii) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders; and provided, further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, affect the rights or duties of the L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; and (iii) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requests the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders, other than Defaulting Lenders), except that the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender; or

(m) (i) increase the principal of, or the rate of interest specified herein on, any Revolving Credit Loan or L/C Borrowing, or any fees or other amounts payable to any Revolving Credit Lender or the L/C Issuer hereunder or under any other Loan Document without the written consent of the Required Term Lenders or (ii) increase the principal of, or the rate of interest specified herein on, any Term Loan, or any fees or other amounts payable to any Term Lender hereunder or under any other Loan Document without the written consent of the Required Revolving Lenders;

provided, that notwithstanding anything to the contrary contained in this Section 10.01, the consent of an Unsigned Lender shall not be required for any of the matters specified in clauses (a) through (m) above so long as such Unsigned Lender is treated the same as, or better than, the other Term Lenders.

If any Lender does not consent to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the consent of each Lender and that has been approved by the Required Lenders, the Borrowers may replace such non-consenting Lender in accordance with Section 10.13; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Borrowers to be made pursuant to this paragraph).

Section 10.02 Notices; Effectiveness; Electronic Communications. (a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrowers, the Administrative Agent or the L/C Issuer, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrowers or, in the case of an Unsigned Lender, at its address set forth in the Prepetition Register).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuer hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or the L/C Issuer pursuant to Article II if such Lender or the L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or a Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY

OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to the Borrowers, any Lender, the L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of any Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to any Borrower, any Lender, the L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of a Borrower, the Administrative Agent and the L/C Issuer may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Borrowers, the Administrative Agent and the L/C Issuer. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to FairPoint or its securities for purposes of United States Federal or state securities Laws.

(e) Reliance by Administrative Agent, L/C Issuer and Lenders. The Administrative Agent, the L/C Issuer and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed Loan Notices) purportedly given by or on behalf of a Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrowers shall, jointly and severally, indemnify the Administrative Agent, the L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of a Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

Section 10.03 No Waiver; Cumulative Remedies; Enforcement. No failure by any Lender, the L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person

in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders and the L/C Issuer (and each Lender irrevocably authorizes the Administrative Agent to take such action on its behalf under this Agreement and the other Loan Documents); provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) the L/C Issuer from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Sections 2.13 and 10.14), (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law, subject to the terms of Section 10.14, or (e) all or any portion of the Second Lien Claimholders from exercising their purchase rights in accordance with Section 10.14(d); and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Sections 2.13 and 10.14, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

Section 10.04 Expenses; Indemnity; Damage Waiver. (a) Costs and Expenses. The Borrowers shall, jointly and severally, pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Lender or the L/C Issuer (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or the L/C Issuer), and shall pay all fees and time charges for attorneys who may be employees of the Administrative Agent, any Lender or the L/C Issuer, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with Loans made or Letters of Credit

issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Borrowers. The Borrowers shall, jointly and severally, indemnify the Administrative Agent (and any sub-agent thereof), each Lender and the L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by any Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by FairPoint or any of its Subsidiaries, or any Environmental Liability related in any way to FairPoint or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by FairPoint or any other Loan Party or any of FairPoint's or such Loan Party's directors, shareholders or creditors, and regardless of whether any Indemnitee is a party thereto**, IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF THE INDEMNITEE**; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by FairPoint or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if FairPoint or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

(c) Reimbursement by Lenders. To the extent that the Borrowers for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the L/C Issuer or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the L/C Issuer or such Related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount together with any and all expenses of collection under the provisions of this Section, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by

or asserted against the Administrative Agent (or any such sub-agent) or the L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or the L/C Issuer in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) Waiver of Consequential Damages, Etc. To the full extent permitted by applicable Law, no Borrower shall assert, and each Borrower hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section shall survive the resignation of the Administrative Agent and the L/C Issuer, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

Section 10.05 Payments Set Aside. To the extent that any payment by or on behalf of any Borrower is made to the Administrative Agent, the L/C Issuer or any Lender, or the Administrative Agent, the L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, the L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and the L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the L/C Issuer under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

Section 10.06 Successors and Assigns. (a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto

and their respective successors and assigns permitted hereby, except that no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of Section 10.06(b), (ii) by way of participation in accordance with the provisions of Section 10.06(d), or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.06(f) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuer and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender, other than an Unsigned Lender, may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment(s) and the Loans (including for purposes of this Section 10.06(b), participations in L/C Obligations) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment under any Facility and the Loans at the time owing to it under such Facility (or, if its Commitment is not then in effect, the entire principal outstanding balance of the assigning Lender's Loans) or, in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $5,000,000 unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrowers otherwise consent (each such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations

under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrowers (such consent not to be unreasonably withheld, conditioned or delayed; provided, however, that the Administrative Agent and the Lenders acknowledge and agree that it shall not be unreasonable for the Borrowers to withhold their approval for a proposed assignment to a competitor of the Borrowers) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrowers shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed; provided, however, that the Borrowers, Administrative Agent and the Lenders acknowledge and agree that it shall not be unreasonable for the Administrative Agent to withhold its approval for a proposed assignment of any Revolving Credit Commitment or Revolving Credit Loan to a Term Lender, an Affiliate of a Term Lender or an Approved Fund with respect to a Term Lender) shall be required for assignments in respect of (1) any Term Commitment or Revolving Credit Commitment if such assignment is to a Person that is not a Lender with a Commitment in respect of the applicable Facility, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (2) any Term Loan or Revolving Credit Loan to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) the consent of the L/C Issuer (such consent not to be unreasonably withheld, conditioned or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding).

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of $3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to a Borrower or any of a Borrower's Subsidiaries, or (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would

constitute any of the foregoing Persons described in this clause (B), or (C) to a natural person.

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrowers and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05 and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrowers (at their expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.06(d).

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrowers (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. In

addition, the Administrative Agent shall maintain on the Register information regarding the designation, and revocation of designation, of any Lender as a Defaulting Lender. The Register shall be available for inspection by the Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender, other than an Unsigned Lender, may at any time, without the consent of, or notice to, the Borrowers or the Administrative Agent, sell participations to any Person (other than a natural person, a Defaulting Lender or a Borrower or any of a Borrower's Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrowers, the Administrative Agent, the Lenders and the L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that affects such Participant. Subject to subsection (e) of this Section, the Borrowers agree that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.06(b). To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.13 as though it were a Lender.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01 or 3.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrowers' prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.01 unless the Borrowers are notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrowers, to comply with Section 3.01(e) as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Resignation as L/C Issuer after Assignment. Notwithstanding anything to the contrary contained herein, if at any time Bank of America assigns all of its Revolving Credit Commitment and Revolving Credit Loans pursuant to Section 10.06(b), Bank of America may,

upon 30 days' notice to the Borrowers and the Lenders, resign as L/C Issuer. In the event of any such resignation as L/C Issuer, the Borrowers shall be entitled to appoint from among the Lenders a successor L/C Issuer hereunder; provided, however, that no failure by the Borrowers to appoint any such successor shall affect the resignation of Bank of America as L/C Issuer. If Bank of America resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). Upon the appointment of a successor L/C Issuer, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer, and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

Section 10.07 Treatment of Certain Information; Confidentiality. Each of the Administrative Agent, the Lenders and the L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, trustees, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrowers and their obligations, (g) with the consent of the Borrowers or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, any Lender, the L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrowers.

For purposes of this Section, "Information" means all information received from any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary thereof or their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the L/C Issuer on a nonconfidential basis prior to disclosure by any Loan Party or any Subsidiary thereof, provided that, in the case of information received from a Loan Party or any such Subsidiary after the Closing Date, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Lenders and the L/C Issuer acknowledges that (a) the Information may include material non-public information concerning a Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

Section 10.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, the L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, to the full extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the L/C Issuer or any such Affiliate to or for the credit or the account of any Borrower against any and all of the obligations of such Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender or the L/C Issuer, irrespective of whether or not such Lender or the L/C Issuer shall have made any demand under this Agreement or any other Loan Document and although such obligations of such Borrower may be contingent or unmatured or are owed to a branch or office of such Lender or the L/C Issuer different from the branch or office holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.15 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, the L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the L/C Issuer or their respective Affiliates may have. Each Lender and the L/C Issuer agrees to notify the Borrowers and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

Section 10.09 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrowers. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

Section 10.10 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single

contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 10.11 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

Section 10.12 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent of the L/C Issuer, as applicable, then such provisions shall be deemed to be in effect to the extent not so limited.

Section 10.13 Replacement of Lenders. If any Lender gives notice under Section 3.02, requests compensation under Section 3.04, or if the Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender is a Defaulting Lender or if any other circumstance exists hereunder that gives the Borrowers the right to replace a Lender as a party hereto, then the Borrowers may, at their sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights and obligations under this Agreement and the related Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrowers shall have paid to the Administrative Agent the assignment fee specified in Section 10.06(b);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter; and

(d) such assignment does not conflict with applicable Laws.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrowers to require such assignment and delegation cease to apply.

Section 10.14 Lien Subordination.

(a) Lien Priorities.

(i) Seniority of Liens Securing First Lien Obligations.

(A) Any Lien on Collateral securing any First Lien Obligation will at all times be senior and prior in all respects to any Lien on Collateral securing any Second Lien Obligation, and any Lien on Collateral securing any Second Lien Obligation will at all times be junior and subordinate in all respects to any Lien on any of the Collateral securing any First Lien Obligation.

(B) Except as otherwise expressly provided herein, the priority of the Liens securing First Lien Obligations and the rights and obligations of the First Lien Claimholders, Second Lien Claimholders and Loan Parties will remain in full force and effect with the priority set forth in clause (A) above irrespective of (1) how a Lien was acquired (whether by grant, possession, statute, operation of law, subrogation, or otherwise), (2) the time, manner, or order of the grant, attachment, or perfection of a Lien, (3) any conflicting provision of the UCC or other Law, (4) any defect in, or non-perfection, setting aside, or avoidance of, a Lien or any Collateral Document, (5) the modification of a First Lien Obligation or a Second Lien Obligation, (6) the modification of any Loan Document, (7) the subordination of a Lien on Collateral securing a First Lien Obligation to a Lien securing another obligation of a Loan Party or other Person that is permitted under the Loan Documents as in effect on the Closing Date or secures DIP Financing deemed consented to by the Second Lien Claimholders pursuant to Section 10.15(a), (8) the exchange of a security interest in any Collateral for a security interest in other Collateral, (9) the commencement of any Insolvency Proceeding or (10) any other circumstance whatsoever, including a circumstance

that might be a defense available to, or a discharge of, a Loan Party in respect of a First Lien Obligation or a Second Lien Obligation or holder of such Obligation.

(ii) Prohibition On Contesting Liens; No Marshaling.

(A) No First Lien Claimholder will contest in any proceeding (including an Insolvency Proceeding) the validity, enforceability, perfection, or priority of any Lien securing a Second Lien Obligation, but nothing in this Section 10.14(a)(ii)(A) will impair the rights of the First Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) to enforce this Section 10.14, including the priority of the Liens securing the First Lien Obligations or the provisions for exercise of remedies.

(B) No Second Lien Claimholder will contest in any proceeding (including an Insolvency Proceeding) the validity, enforceability, perfection, or priority of any Lien securing a First Lien Obligation, but nothing in this Section 10.14(a)(ii)(B) will impair the rights of the Second Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) to enforce this Section 10.14, including the priority of the Liens securing the Second Lien Obligations or the provisions for exercise of remedies.

(C) Until the Discharge of First Lien Obligations, no Second Lien Claimholder will assert any marshaling, appraisal, valuation, or other similar right that may otherwise be available to a junior secured creditor.

(iii) First and Second Lien Collateral to Be Identical; Release of Liens or Guarantees.

(A) The First Lien Claimholders and Second Lien Claimholders intend for the Collateral to secure both the First Lien Obligations and the Second Lien Obligations, without any difference between components of the Collateral securing the First Lien Obligations and the components of the Collateral securing the Second Lien Obligations.

(B) Until the Discharge of First Lien Obligations, and whether or not an Insolvency Proceeding has commenced, the Loan Parties will not grant (and the First Lien Claimholders and Second Lien Claimholders will not accept), and will use their reasonable commercial efforts to prevent any other Person from granting, a Lien on any property (1) in favor of any First Lien Claimholder to secure the First Lien Obligations unless such Loan Party or such other Person grants to the Administrative Agent for the benefit of the Second Lien Claimholders a junior Lien on such property to secure the Second Lien Obligations and (2) in favor of any Second Lien Claimholder to secure the Second Lien Obligations unless such Loan Party or such other Person grants to the Administrative Agent for the benefit of the First Lien Claimholders a senior Lien on such property to secure the First Lien Obligations.

(C) Subject to Section 10.01(j), the Administrative Agent, in accordance with the provisions of the Loan Documents (including, but not limited to Section 7.05), may and, at the simultaneous direction of both the Required Revolving Lenders and the Required Term Lenders, shall, release its Liens on any portion of the Collateral, or release any Guarantor from its Obligations under its Guaranty. Any such release shall be effective as to the Lien on such Collateral securing the First Lien Obligations and the Lien on such Collateral securing the Second Lien Obligations, and to the Guaranty of such Guarantor of both the Second Lien Obligations and the First Lien Obligations.

(D) Until the Discharge of First Lien Obligations, to the extent that the Administrative Agent (1) releases a Lien securing the First Lien Obligations on any portion of the Collateral or a Guarantor from its Obligations under its Guaranty with respect to the First Lien Obligations, which Lien or Guaranty is subsequently reinstated, or (2) obtains a new Lien securing the First Lien Obligations or additional Guaranty of the First Lien Obligations from a Guarantor, then, in each case, the Administrative Agent, acting for the benefit of the Second Lien Claimholders, will be granted a Lien on such Collateral to secure the Second Lien Obligations and an additional Guaranty of the Second Lien Obligations, as the case may be, subject to Section 10.14(a)(i).

(b) Enforcement.

(i) Who May Exercise Remedies.

(A) Following an acceleration of the Obligations in accordance with Section 8.02(b), subject to subsection (B) below, until the Discharge of First Lien Obligations and subject to applicable Law, First Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) will have the exclusive right to:

(1) commence and maintain an Enforcement Action (including the rights to set off or credit bid their debt),

(2) subject to Section 10.14(a)(iii), make determinations regarding the release or disposition of, or restrictions with respect to, the Collateral, and

(3) otherwise enforce the rights and remedies of a secured creditor under the UCC, the Debtor Relief Laws or any applicable Laws of any applicable jurisdiction, so long as any Proceeds received by the First Lien Claimholders in the aggregate in excess of those necessary to achieve the Discharge of First Lien Obligations are distributed in accordance with Section 8.03, except as otherwise required pursuant to the UCC and applicable Law, subject to the relative priorities described in Section 10.14(a).

(B) Notwithstanding the preceding Section 10.14(b)(i)(A), Second Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) may commence an Enforcement Action or exercise rights with respect to a Lien securing a Second Lien Obligation only if:

(1) one hundred eighty (180) days have elapsed since the Second Lien Obligations were due in full as a result of acceleration or otherwise (such 180-day period, the "Standstill Period"),

(2) First Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) are not then diligently pursuing an Enforcement Action with respect to all or a material portion of the Collateral or diligently attempting to vacate any stay or prohibition against such exercise,

(3) any acceleration of the Second Lien Obligations has not been rescinded, and

(4) no Loan Party is then a debtor in an Insolvency Proceeding.

(C) Notwithstanding Section 10.14(b)(i)(A), but subject to Section 10.14(a), the Second Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) may

(1) file a proof of claim or statement of interest, vote on a plan of reorganization (including a vote to accept or reject a plan of partial or complete liquidation, reorganization, arrangement, composition, or extension), and make other filings, arguments, and motions, with respect to the Second Lien Obligations and the Collateral in any Insolvency Proceeding commenced by or against any Loan Party, in each case in accordance with this Agreement,

(2) take action to create, perfect, preserve, or protect its Lien on the Collateral, so long as such actions are not adverse to the priority status in accordance with this Agreement of Liens on the Collateral securing the First Lien Obligations or First Lien Claimholders' rights to exercise remedies,

(3) file necessary pleadings in opposition to a claim objecting to or otherwise seeking the disallowance of a Second Lien Obligation or a Lien securing the Second Lien Obligations,

(4) join (but not exercise any control over) a judicial foreclosure or Lien enforcement proceeding with respect to the Collateral initiated by Administrative Agent, to the extent that such action could not reasonably be expected to interfere materially with the Enforcement Action, but no Second Lien Claimholder may receive any Proceeds thereof unless expressly permitted herein,

(5) bid for or purchase Collateral at any public, private, or judicial foreclosure upon such Collateral initiated by any First Lien Claimholder, or any sale of Collateral during an Insolvency Proceeding; *provided* that such bid may not include a "credit bid" in respect of any Second Lien Obligations unless the proceeds of such bid are otherwise sufficient to cause and do cause the Discharge of First Lien Obligations in their entirety, and

(6) declare, permit or vote in favor of declaring the unpaid principal amount of the Term Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document in connection therewith to be immediately due and payable in accordance with Section 8.02(b) or the proviso to Section 8.02.

(D) Notwithstanding any provision of this Agreement, Second Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) may exercise any rights and remedies that could be exercised by an unsecured creditor (other than initiating or joining in an involuntary case or proceeding under the Bankruptcy Code with respect to a Loan Party) against a Loan Party that has guaranteed or granted Liens to secure the Second Lien Obligations in accordance with the terms of the Loan Documents and applicable Law, *provided* that any judgment Lien obtained by the Second Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) as a result of such exercise of rights will be included in the Collateral and be subject to this Agreement for all purposes (including in relation to the First Lien Obligations).

(E) Notwithstanding any provision of this Agreement or any other Loan Document to the contrary, all rights and remedies under this Agreement and the other Loan Documents shall be exercised by the Administrative Agent either itself or, where applicable, acting at the direction of the Required Lenders, the Required Revolving Lenders or the Required Term Lenders, as the case may be, all consistent with, and subject to the express and limited exceptions contained in, the second paragraph of Section 10.03, and except as expressly provided for in the second paragraph of Section 10.03, to the maximum extent permitted by law, no First Lien Claimholder or Second Lien Claimholder shall have any individual right to enforce any of the rights and remedies hereunder or to take any Enforcement Action other than through the Administrative Agent in accordance with this Agreement.

(ii) Manner Of Exercise.

(A) The First Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) may take any Enforcement Action in accordance with this Agreement and the other Loan Documents: (1) in any manner in its sole discretion in compliance with applicable Law, (2) without consultation with or the consent of any Second Lien

Claimholder, (3) regardless of whether an Insolvency Proceeding has been commenced and (4) regardless of whether such exercise is adverse to the interest of any Second Lien Claimholder.

(B) The rights of the First Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) or the Administrative Agent to enforce any provision of this Agreement or any Loan Document will not be prejudiced or impaired by (1) any act or failure to act of any Loan Party, any First Lien Claimholder, or the Administrative Agent, or (2) noncompliance by any Person other than such First Lien Claimholder with any provision of this Agreement, any Loan Document, regardless of any knowledge thereof that any First Lien Claimholder or the Administrative Agent may have or otherwise be charged with.

(C) No Second Lien Claimholder will contest, protest, object to, or take any action to hinder, and each waives any and all claims with respect to, any Enforcement Action by a First Lien Claimholder in compliance with this Agreement and applicable Law.

(c) Refinancing of First Lien Obligations. If, in connection with the Discharge of First Lien Obligations, any Borrower issues or incurs any Permitted Refinancing Debt, then the First Lien Obligations will automatically be deemed not to have been discharged for all purposes of this Agreement (except for actions taken as a result of the initial Discharge of First Lien Obligations) and

(i) the Obligations under such Permitted Refinancing Debt will automatically be treated as First Lien Obligations for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth herein,

(ii) the holders of such new First Lien Obligations will be First Lien Claimholders for all purposes of this Agreement,

(iii) Second Lien Claimholders will promptly enter into such documents and agreements (including amendments or supplements to this Agreement) as the Borrowers or the new First Lien Claimholders reasonably request to provide to the new First Lien Claimholders the rights contemplated hereby, in each case consistent in all material respects with the terms of this Agreement, and

(iv) the new First Lien Claimholders will promptly agree in a writing addressed to the Borrowers and each Second Lien Claimholder to be bound by the terms of this Agreement.

(d) Purchase of First Lien Obligations by Second Lien Claimholders.

(i) Purchase Right.

(A) If there is (1) an acceleration of the First Lien Obligations in accordance with Section 8.02(b), (2) an Event of Default under Section 8.01(a)

that is not cured or waived by the Required Lenders, within sixty (60) days of its occurrence, or (3) the commencement of an Insolvency Proceeding (each a "Purchase Event"), then all or any portion of the Second Lien Claimholders may purchase all, but not less than all, of the First Lien Obligations together with all remaining undrawn amounts of the Revolving Credit Commitments (the "Purchase Obligations"). Such purchase will

(I) include all principal of, and all accrued and unpaid interest, fees, and expenses in respect of, all First Lien Obligations outstanding at the time of purchase,

(II) be made pursuant to an Assignment and Assumption, whereby Second Lien Claimholders will assume all funding commitments and Obligations of First Lien Claimholders under the Loan Documents,

(III) otherwise be subject to the terms and conditions of this Section 10.14(d), and

(IV) otherwise be subject to the terms and conditions of this Section 10.14(d). Each First Lien Claimholder will retain all rights to indemnification provided in the Loan Documents for all claims and other amounts relating to periods prior to the purchase of the First Lien Obligations pursuant to this Section 10.14(d).

(ii) Purchase Notice.

(A) Second Lien Claimholders desiring to purchase all of the Purchase Obligations (the "Purchasing Creditors") will deliver a "Purchase Notice" to the Administrative Agent and the Borrowers that (1) is signed by the Purchasing Creditors, (2) states that each Purchasing Creditor is irrevocably electing to purchase, in accordance with this Section 10.14(d), the percentage of all of the Purchase Obligations stated in the Purchase Notice for that Purchasing Creditor, which percentages must aggregate exactly 100% for all Purchasing Creditors, (3) designates a "Purchase Date" on which the purchase will occur, that is (1) at least one but not more than three (3) Business Days after the Administrative Agent's receipt of the Purchase Notice, and (y) not more than thirty (30) days after the Purchase Event. A Purchase Notice will be ineffective if it is received by the Administrative Agent after the occurrence giving rise to the Purchase Event is waived, cured, or otherwise ceases to exist.

(B) Upon the Administrative Agent's receipt of an effective Purchase Notice conforming to this Section 10.14(d), the Purchasing Creditors will be irrevocably obligated to purchase, and the First Lien Claimholders will be irrevocably obligated to sell, the First Lien Obligations in accordance with and subject to this Section 10.14(d).

(iii) Purchase Price. The "Purchase Price" for the Purchase Obligations will equal the sum of: (A) the principal amount of all loans, advances, or similar extensions of

credit included in the Purchase Obligations (including unreimbursed amounts drawn on Letters of Credit, but excluding the undrawn amount of outstanding Letters of Credit), and all accrued and unpaid interest thereon through the Purchase Date (including any acceleration prepayment penalties or premiums), (B) the net aggregate amount then owing to Cash Management Banks under Cash Management Agreements evidencing First Lien Obligations, including all amounts owing to the creditors as a result of the termination (or early termination) thereof, and (C) all accrued and unpaid fees, expenses, indemnities, and other amounts owed to the First Lien Claimholders under the Loan Documents on the Purchase Date.

(iv) Purchase Closing. On the Purchase Date, (A) the Purchasing Creditors and the Administrative Agent will execute and deliver the Assignment and Assumption, (B) the Purchasing Creditors will pay the Purchase Price to the Administrative Agent by wire transfer of immediately available funds, (B) the Purchasing Creditors will deposit with the Administrative Agent or its designee by wire transfer of immediately available funds, Cash Collateral in the amount of the aggregate undrawn amount of all then outstanding Letters of Credit and the aggregate facing and similar fees that will accrue thereon through the stated maturity of the Letters of Credit (assuming no drawings thereon before stated maturity), and (C) the Second Lien Claimholders will execute and deliver to the Administrative Agent (for the benefit of the First Lien Claimholders) a waiver of all claims arising out of this Agreement and the transactions contemplated hereby as a result of exercising the purchase option contemplated by this Section 10.14(d).

(v) Actions After Purchase Closing. Promptly after the closing of the purchase of all Purchase Obligations, the Administrative Agent will distribute the Purchase Price to the First Lien Claimholders in accordance with the terms of the Loan Documents.

(vi) Consent of Loan Parties. Each Borrower irrevocably consents to any assignment effected to one or more Purchasing Creditors pursuant to this Section 10.14(d).

(e) Payment Turnover. Until the Discharge of First Lien Obligations, whether or not an Insolvency Proceeding has commenced, Collateral or Proceeds received by a Second Lien Claimholder in connection with an Enforcement Action or, subject to Section 10.15(g), received in connection with any Insolvency Proceeding, will be

(i) segregated and held in trust, and

(ii) promptly paid over to the Administrative Agent in the form received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct. Administrative Agent is authorized to make such endorsements as agent for the Second Lien Claimholder. This authorization is coupled with an interest and is irrevocable until the Discharge of First Lien Obligations.

Section 10.15 Lien Subordination in Insolvency Proceedings.

(a) Use of Cash Collateral and DIP Financing.

(i) Until the Discharge of First Lien Obligations, if an Insolvency Proceeding has commenced, the Administrative Agent, as holder of a Lien on the Collateral securing the Second Lien Obligations, will not contest, protest, or object to, and each Second Lien Claimholder will be deemed to have consented to,

(A) any use, sale, or lease of "cash collateral" (as defined in Section 363(a) of the Bankruptcy Code), and

(B) any Loan Party obtaining DIP Financing if the Required Revolving Lenders consent in writing to such use, sale, or lease, or DIP Financing, *provided* that

(1) the Second Lien Claimholders otherwise retain their Lien on the Collateral,

(2) the Second Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) may seek adequate protection as permitted by Section 10.15(d) and, if such adequate protection is not granted, the Administrative Agent, acting on behalf of the Second Lien Claimholders may object under this Section 10.15(a) solely on such basis,

(3) after taking into account the use of cash collateral and the principal amount of any DIP Financing (after giving effect to any DIP Financing constituting Permitted Refinancing Debt) on any date, the sum of the then outstanding principal amount of any First Lien Obligations and any DIP Financing does not exceed the lesser of (x) $100,000,000 and (y) the sum of the then outstanding principal amount of any First Lien Obligations and $50,000,000 and

(4) such DIP Financing and the Liens securing such DIP Financing are pari passu with or superior in priority to the then outstanding First Lien Obligations and the Liens securing such First Lien Obligations.

(ii) Any customary "carve-out" or other similar administrative priority expense or claim consented to in writing by the Required Revolving Lenders prior to the Discharge of First Lien Obligations will be deemed for purposes of Section 10.15(a) to be a use of cash collateral, and not to be a principal amount of DIP Financing at the time of such consent.

No Second Lien Claimholder may provide DIP Financing to a Loan Party secured by Liens equal or senior in priority to the Liens securing any First Lien Obligations, *provided* that if no First Lien Claimholder offers to provide DIP Financing to the extent

permitted under Section 10.15(a) on or before the date of the hearing to approve DIP Financing, then a Second Lien Claimholder may seek to provide such DIP Financing secured by Liens equal or senior in priority to the Liens securing any First Lien Obligations, and First Lien Claimholders may object thereto.

(iii) nothing in this Section 10.15 limits or impairs the right of the Second Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) to object to any motion regarding DIP Financing (including a DIP Financing proposed by one or more First Lien Claimholders) or cash collateral to the extent that

(A) the objection could be asserted in an Insolvency Proceeding by unsecured creditors generally, is consistent with the other terms of this Section 10.15, and is not based on the status of any Second Lien Claimholder as holder of a Lien, or

(B) the DIP Financing does not meet the requirements of Section 10.15(a).

(b) Sale Of Collateral. The Second Lien Claimholders, as holders or beneficiaries of a Lien on the Collateral, will not contest, protest, or object, and will be deemed to have consented pursuant to Section 363(f) of the Bankruptcy Code, to a Disposition of Collateral free and clear of its Liens or other interests under Section 363 of the Bankruptcy Code if the Administrative Agent consents in writing (at the direction of the Required Revolving Lenders) to the Disposition, *provided* that

(i) either (A) pursuant to court order, the Liens of Second Lien Claimholders attach to the net Proceeds of the Disposition with the same priority and validity as the Liens held by Second Lien Claimholders on such Collateral, and the Liens remain subject to the terms of this Agreement, or (B) the Proceeds of a Disposition of Collateral received by the Administrative Agent in excess of those necessary to achieve the Discharge of First Lien Obligations, are distributed in accordance with the UCC and applicable Law,

(ii) the net cash Proceeds of the Disposition that are applied to First Lien Obligations permanently reduce the First Lien Obligations pursuant to Section 8.03, or if not so applied, are subject to the rights of the Second Lien Claimholders to object to any further use notwithstanding Section 10.15(a), and

(iii) Second Lien Claimholders are not deemed to have waived any rights to credit bid on the Collateral in any such Disposition in accordance with Section 363(k) of the Bankruptcy Code.

Notwithstanding the preceding sentence, Second Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) may object to any Disposition of Collateral that could be raised in an Insolvency Proceeding by unsecured creditors generally so long as not otherwise inconsistent with the terms of this Agreement.

(c) Relief From The Automatic Stay. Until the Discharge of First Lien Obligations no Second Lien Claimholder may seek relief from the automatic stay or any other stay in an Insolvency Proceeding in respect of the Collateral without the prior written consent of the Required Revolving Lenders or oppose any request by the Administrative Agent for relief from such stay.

(d) Adequate Protection.

(i) No Second Lien Claimholder will contest, protest, or object to (A) a request by a First Lien Claimholder for "adequate protection" under any Debtor Relief Law, or (B) an objection by a First Lien Claimholder to a motion, relief, action, or proceeding based on a First Lien Claimholder claiming a lack of adequate protection.

(ii) Notwithstanding the preceding Section 10.15(d)(i), in an Insolvency Proceeding:

(A) Except as permitted in this Section 10.15(d), no Second Lien Claimholders may seek or request adequate protection or relief from the automatic stay imposed by Section 362 of the Bankruptcy Code or other relief.

(B) If a First Lien Claimholder is granted adequate protection in the form of additional or replacement Collateral in connection with a motion described in Section 10.15(a), then the Second Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) may seek or request adequate protection in the form of a Lien on such additional or replacement Collateral, which Lien will be subordinated to the Liens securing the First Lien Obligations and any DIP Financing (and all related Obligations) on the same basis as the other Liens securing the Second Lien Obligations are subordinated to the Liens securing First Lien Obligations under this Agreement.

(C) Any claim by a Second Lien Claimholder under Section 507(b) of the Bankruptcy Code will be subordinate in right of payment to any claim of First Lien Claimholders under Section 507(b) of the Bankruptcy Code and any payment thereof will be deemed to be Proceeds of Collateral, *provided* that, subject to Section 10.15(g), Second Lien Claimholders will be deemed to have agreed pursuant to Section 1129(a)(9) of the Bankruptcy Code that such Section 507(b) claims may be paid under a plan of reorganization in any form having a value on the effective date of such plan equal to the allowed amount of such claims.

(e) First Lien Objections To Second Lien Actions. Subject to Section 10.14(b)(i), nothing in this Section 10.15 limits the First Lien Claimholders (acting collectively through the Administrative Agent to the extent required by Section 10.03) from objecting in an Insolvency Proceeding or otherwise to any action taken by a Second Lien Claimholder, including the Second Lien Claimholder's seeking adequate protection (other than adequate protection permitted under

Section 10.15(d)) or asserting any of its rights and remedies under the Loan Documents or otherwise.

(f) Avoidance; Reinstatement Of Obligations. If a First Lien Claimholder or a Second Lien Claimholder receives payment or property on account of a First Lien Obligation or Second Lien Obligation, and the payment is subsequently invalidated, avoided, declared to be fraudulent or preferential, set aside, or otherwise required to be transferred to a trustee, receiver, or the estate of a Loan Party (a "Recovery"), then, to the extent of the Recovery, the First Lien Obligations or Second Lien Obligations intended to have been satisfied by the payment will be reinstated as First Lien Obligations or Second Lien Obligations, as applicable, on the date of the Recovery, and no Discharge of First Lien Obligations or Discharge of Second Lien Obligations, as applicable, will be deemed to have occurred for all purposes hereunder, whether or not this Agreement has terminated. Upon any such reinstatement of First Lien Obligations, each Second Lien Claimholder will deliver to the Administrative Agent any Collateral or Proceeds thereof received between the Discharge of First Lien Obligations and their reinstatement in accordance with Section 10.14(e). No Second Lien Claimholder may benefit from a Recovery, and any distribution made to a Second Lien Claimholder as a result of a Recovery will be paid over to the Administrative Agent for application to the First Lien Obligations in accordance with Section 8.03.

(g) Reorganization Securities. Nothing in this Agreement prohibits or limits the right of a Second Lien Claimholder to receive and retain any debt or equity securities that are issued by a reorganized debtor pursuant to a plan of reorganization or similar dispositive restructuring plan in connection with an Insolvency Proceeding, *provided* that any debt securities received by a Second Lien Claimholder on account of a Second Lien Obligation that constitutes a "secured claim" within the meaning of Section 506(b) of the Bankruptcy Code will be paid over or otherwise transferred to the Administrative Agent for application in accordance with Section 8.03 unless such distribution is made under a plan that is consented to by the affirmative vote of all classes composed of the secured claims of First Lien Claimholders.

If, in an Insolvency Proceeding, debt Obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor are distributed pursuant to a plan of reorganization or similar dispositive restructuring plan, both on account of First Lien Obligations and on account of Second Lien Obligations, then, to the extent the debt Obligations distributed on account of the First Lien Obligations and on account of the Second Lien Obligations are secured by Liens upon the same property, the provisions of this Agreement will survive the distribution of such debt Obligations pursuant to such plan and will apply with like effect to the Liens securing such debt Obligations continue to govern the relationship of the First Lien Claimholders and the Second Lien Claimholders.

(h) Post-Petition Claims.

(A) No Second Lien Claimholder may oppose or seek to challenge any claim by a First Lien Claimholder for allowance or payment in any Insolvency Proceeding of First Lien Obligations consisting of Post-Petition Claims.

(B) No First Lien Claimholder may oppose or seek to challenge in an Insolvency Proceeding a claim by a Second Lien Claimholder for allowance of Second Lien Obligations consisting of Post-Petition Claims.

(i) Waivers. Each Second Lien Claimholder waives (A) any claim it may hereafter have against any First Lien Claimholder arising out of any cash collateral or financing arrangement or out of any grant of a security interest in connection with the Collateral in an Insolvency Proceeding, so long as such actions are not in express contravention of the terms of this Agreement; (B) any right to assert or enforce any claim under Section 506(c) or 552 of the Bankruptcy Code as against First Lien Claimholders or any of the Collateral to the extent securing the First Lien Obligations; and (C) solely in its capacity as a holder of a Lien on Collateral, any claim or cause of action that any Loan Party may have against any First Lien Claimholder, except to the extent arising from a breach by such First Lien Claimholder of the provisions of this Agreement.

(j) Separate Grants Of Security And Separate Classification. The First Lien Claimholders and the Second Lien Claimholders acknowledge and agree as among each other that (i) the grants of Liens securing the First Lien Obligations and the Second Lien Obligations constitute two separate and distinct grants and (ii) because of, among other things, their differing rights in the Collateral, the Second Lien Obligations, to the extent deemed to be "secured claims" within the meaning of Section 506(b) of the Bankruptcy Code, are fundamentally different from the First Lien Obligations and must be separately classified in any plan of reorganization in an Insolvency Proceeding. Second Lien Claimholders will not seek in an Insolvency Proceeding to be treated as part of the same class of creditors as First Lien Claimholders and will not oppose or contest any pleading by First Lien Claimholders seeking separate classification of their respective secured claims. The Borrowers hereby acknowledge the provisions of the first sentence of this Section 10.15(j).

(k) Effectiveness In Insolvency Proceedings. The Parties acknowledge that this Agreement is a "subordination agreement" under Section 510(a) of the Bankruptcy Code, which will be effective before, during, and after the commencement of an Insolvency Proceeding. All references in this Agreement to any Loan Party will include such Person as a debtor-in-possession and any receiver or trustee for such Person in an Insolvency Proceeding.

Section 10.16 Subrogation. If a Second Lien Claimholder pays or distributes cash, property, or other assets to a First Lien Claimholder under Section 10.14 or 10.15, the Second Lien Claimholder will be subrogated to the rights of the First Lien Claimholder with respect to the value of the payment or distribution, *provided* that the Second Lien Claimholder waives such right of subrogation until the Discharge of First Lien Obligations. Such payment or distribution will not reduce the Second Lien Obligations.

Section 10.17 Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. EACH BORROWER IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR THE L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST EITHER BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. EACH BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

Section 10.18 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND

(B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 10.19 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Borrower acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent and the Arranger are arm's-length commercial transactions between the Borrowers and their respective Affiliates, on the one hand, and the Administrative Agent and the Arranger, on the other hand, (B) each Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent and the Arranger each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrowers or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent nor the Arranger has any obligation to the Borrowers or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent and the Arranger and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrowers and their respective Affiliates, and neither the Administrative Agent nor the Arranger has any obligation to disclose any of such interests to the Borrowers or any of their respective Affiliates. To the full extent permitted by Law, each Borrower hereby waives and releases any claims that it may have against the Administrative Agent and the Arranger with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 10.20 Electronic Execution of Assignments and Certain Other Documents. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state Laws based on the Uniform Electronic Transactions Act.

Section 10.21 USA PATRIOT Act. Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrowers that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into Law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the Act.

The Borrowers shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" an anti-money laundering rules and regulations, including the Act.

Section 10.22 **ENTIRE AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.**

Section 10.23 Execution of Lender Signature Pages; Lender Contact Information. Upon satisfaction of the conditions precedent set forth in Section 4.01, this Agreement shall constitute a legal, valid and binding obligation of each Lender enforceable against such Lender in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar Laws relating to or affecting creditors' rights generally, general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing. Notwithstanding the prior sentence or any provision in this Agreement to the contrary, the Administrative Agent shall not make any payments to any Lender under this Agreement, whether of principal, interest or otherwise, and shall hold all such funds on behalf of each Lender until such time as the Lender has delivered to the Administrative Agent a signature page to this Agreement duly executed by an authorized officer of such Lender. In addition, the Administrative Agent shall be entitled to rely on any address and contact information provided in the Prepetition Register with respect to any Unsigned Lender for all purposes hereunder and under the other Loan Documents until the Administrative Agent actually receives notice from such Lender in accordance with Section 10.02(a) of another address or other contact information.

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

FAIRPOINT COMMUNICATIONS, INC.

By: _____
Name: _____
Title: _____

FAIRPOINT LOGISTICS, INC.

By: _____
Name: _____
Title: _____

BANK OF AMERICA, N.A., as
Administrative Agent

By: _____
Name: _____
Title: _____

BANK OF AMERICA, N.A., as a Lender and L/C Issuer

By: _____
Name: _____
Title: _____

[OTHER LENDERS]

ITEM 8

Update on Amended Quarterly Reports

See Docket No. 1098

ITEM 9

NINTH AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION OF
FAIRPOINT COMMUNICATIONS, INC.

FairPoint Communications, Inc., a corporation organized and existing under the laws of the State of Delaware (the "*Corporation*"), hereby certifies as follows:

A. The name of the Corporation is FairPoint Communications, Inc. The Corporation was originally incorporated under the name "*MJD Communications, Inc.*" and filed its original Certificate of Incorporation with the Secretary of State of the State of Delaware on June 30, 1993. The Corporation filed Certificates of Amendment with the Secretary of State of the State of Delaware on June 6, 1996, November 24, 1998 and January 28, 2005. The Corporation filed restatements of its Certificate of Incorporation with the Secretary of State of the State of Delaware on July 1, 1994, July 31, 1997, March 26, 1998, October 20, 1999, January 19, 2000, April 28, 2000, May 10, 2002 and February 8, 2005.

B. In accordance with Sections 242, 245 and 303 of the Delaware General Corporation Law and pursuant to the authority granted to the Corporation under Section 303 of the DGCL to put into effect and carry out the Debtors' Third Amended Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code, as confirmed on [_____], [2011] by order of the Bankruptcy Court (the "*Joint Plan of Reorganization*"), the Corporation hereby amends and restates its Certificate of Incorporation as follows:

1. Corporate Name. The name of the Corporation is FairPoint Communications, Inc.

2. Registered Office and Agent.

(a) The address of the Corporation's registered office in the State of Delaware is 1209 Orange Street, City of Wilmington, New Castle County, Delaware 19801.

(b) The name of the registered agent of the Corporation at such address is The Corporation Trust Company.

3. Purpose of the Corporation. The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

4. Definitions. The following terms have the indicated meanings when used herein.

(a) "**Board of Directors**" means the board of directors of the Corporation.

(b) "**Certificate of Incorporation**" means this Ninth Amended and Restated Certificate of Incorporation.

(c) "**Common Stock**" means the shares of common stock of the Corporation referred to in Section 5(c) hereof.

(d) "**Communications Laws**" means any law or regulation of the United States or any state or territory of the United States or of the District of Columbia, now or hereafter in effect, including without limitation, the Communications Act of 1934, as amended, the Telecommunications Act of 1996, as amended, and the regulations or policies promulgated under such acts, pertaining to any authorization, license, permit, order, filing or consent held or required to be obtained by the Corporation from the Federal

Communications Commission (or any successor thereto) or the regulatory commission of any state or territory or of the District of Columbia having jurisdiction over the Corporation or any of its subsidiaries, including laws or regulations pertaining to approval of the acquisition or ownership of shares of capital stock of the Corporation.

(e) "**Corporation**" means FairPoint Communications, Inc., a Delaware corporation.

(f) "**Covered Person**" means any holder of capital stock of the Corporation or any partner, member, director, stockholder, employee or agent of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries.

(g) "**DGCL**" means the General Corporation Law of the State of Delaware.

(h) "**Effective Time**" means the date and time at which this Certificate of Incorporation shall become effective in accordance with Section 103(d) of the DGCL.

(i) "**Excluded Opportunity**" means any opportunity, matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of:

(i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or

(ii) any Covered Person,

unless, in the case of a director, such opportunity, matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the knowledge or possession of, such director expressly in such director's capacity as a director of the Corporation.

(j) "**Person**" means any natural person, corporation, limited liability company, trust, joint venture, association, company, governmental authority or other entity.

(k) "**Preferred Stock**" means the shares of any series or class of preferred stock of the Corporation, if any, referred to in Section 5(b) hereof.

5. Capitalization.

(a) **Authorized Shares**. The total number of shares of all classes of capital stock which the Corporation shall have the authority to issue is 40,000,000 shares, consisting of 2,500,000 shares of preferred stock, par value $0.01 per share, and 37,500,000 shares of common stock, par value $0.01 per share.

(b) **Preferred Stock**. Shares of Preferred Stock may be issued at any time and from time to time in one or more classes or series, with each such class or series to consist of such number of shares and to have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, as shall be stated in the resolution or resolutions providing for the issuance of such class or series adopted by the Board of Directors, and the Board of Directors is hereby expressly vested with authority, to the full extent now or hereafter provided by law, to adopt any such resolution or

resolutions and to file with the Secretary of State of the State of Delaware a certificate setting forth a copy of such resolution or resolutions and the number of shares of Preferred Stock of the class or series as to which such resolution or resolutions apply. The authority of the Board of Directors with respect to each class or series of Preferred Stock shall include, but not be limited to, determination of the following:

(i) the number of authorized shares constituting that class or series and the distinctive designation of that class or series;

(ii) the dividend rate on the outstanding shares of that class or series, whether dividends shall be paid in cash or in kind and whether dividends shall be cumulative, and, if so, from which date or dates, and the relative rights of priority, if any, of payment of dividends on the outstanding shares of that class or series;

(iii) whether that class or series shall have voting rights, in addition to the voting rights provided by law, and, if so, the terms of such voting rights;

(iv) whether that class or series shall have conversion privileges, and, if so, the terms and conditions of such conversion, including provision for adjustment of the conversion rate in such events as the Board of Directors shall determine;

(v) whether the shares of that class or series shall be redeemable, and, if so, the terms and conditions of such redemption, including the date or dates upon or after which they shall be redeemable, and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates;

(vi) whether that class or series shall have a sinking fund for the redemption or purchase of shares of that class or series, and, if so, the terms and amount of such sinking fund;

(vii) the restrictions, if any, on the payment of dividends upon, and the making of the distributions to any class of stock ranking junior to the shares of that class or series, and the restrictions, if any, on the purchase or redemption of the shares of any such junior class;

(viii) the rights of the shares of that class or series in the event of voluntary or involuntary liquidation, dissolution or winding up of the Corporation, and the relative rights of priority, if any, of payment of shares of that class or series; and

(ix) any other relative rights, preferences and limitations of that class or series.

(c) **Common Stock.**

(i) **Generally.** Except as otherwise expressly set forth in this Certificate of Incorporation, all outstanding shares of Common Stock shall have the same terms.

(ii) **Dividends.** Subject to the preferential dividend rights of any class or series of Preferred Stock outstanding from time to time, and subject to the other provisions of this Certificate of Incorporation, the holders of outstanding shares of Common Stock shall be entitled to receive dividends and other distributions in cash, stock or property of the Corporation when, as and to the extent declared by the Board of Directors from time to time out of assets or funds of the Corporation legally available therefor.

(iii) **Liquidation.** In the event of the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of outstanding shares of Common Stock shall be entitled to share in the assets of the Corporation remaining after payment of or provision for all debts and other liabilities of the Corporation and the liquidation preference of all classes or series of outstanding Preferred Stock.

(iv) **Voting Rights.** Except as otherwise expressly set forth in this Certificate of Incorporation and except as otherwise required by law:

(A) Each holder of shares of Common Stock shall be entitled, with respect to each share of Common Stock held by such holder, to one vote in person or by proxy on all matters submitted to a vote of the holders of Common Stock, whether voting separately as a class or otherwise.

(B) The holders of outstanding shares of Common Stock shall vote together as a single class on all matters to be voted on by the holders of Common Stock.

(v) **Consents.** Any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of the stockholders of the Corporation, and the ability of the stockholders to consent in writing to the taking of any action is specifically denied.

(d) **No Preemptive Rights.** Except as expressly set forth in this Certificate of Incorporation, any certificate of designation, any resolution or resolutions providing for the issuance of a class or series of capital stock adopted by the Board of Directors, or any agreement between the Corporation and the holders of shares of capital stock, no holder of shares of capital stock of the Corporation shall have any preemptive right to subscribe for any shares of any class or series of capital stock of the Corporation whether now or hereafter authorized.

(e) **Bankruptcy Code Restrictions.** The Corporation shall not issue any non-voting equity securities to the extent prohibited by Section 1123(a)(6) of Title 11 of the United States Code (the "Bankruptcy Code") as the same is in effect on the date of the filing of this Certificate of Incorporation with the Secretary of State of the State of Delaware; *provided*, however, that this Section 5(e) (i) will have no further force and effect beyond that required under Section 1123(a)(6) of the Bankruptcy Code, (ii) will have such further force and effect, if any, only for so long as Section 1123(a)(6) of the Bankruptcy Code is in effect and applicable to the Corporation, and (iii) in all events may be amended or eliminated in accordance with such applicable law as from time to time may be in effect.

6. Provisions Relating to Stock Ownership and Federal and State Communications Laws.

(a) **Requests for Information.** So long as the Corporation or any of its subsidiaries holds any authorization, license, permit, order, filing or consent from the Federal Communications Commission (or any successor thereto) or any state or territorial regulatory commission, or the regulatory commission of the District of Columbia, having jurisdiction over the Corporation or any of its subsidiaries, if the Board of Directors has reason to believe that the ownership, or proposed ownership, of shares of capital stock of

the Corporation by any stockholder or any person presenting any shares of capital stock of the Corporation for transfer into its name (a "*Transferee*") may violate any provision of the Communications Laws, or if the Board of Directors needs information in order to make a determination as to whether the ownership, or proposed ownership, of shares of capital stock of the Corporation by any stockholder or any Transferee may violate any provision of the Communications Laws, such stockholder or Transferee, upon request of the Board of Directors, shall furnish promptly to the Board of Directors such information (including, without limitation, information with respect to citizenship, other ownership interests and affiliations) as the Board of Directors shall reasonably request to determine whether the ownership of, or the existence or exercise of any rights with respect to, shares of capital stock of the Corporation by such stockholder or Transferee violates any provision of the Communications Laws.

(b) **Denial of Rights**. If any stockholder or Transferee from whom information is reasonably requested should fail to respond to any such request for information made by the Board of Directors pursuant to Section 6(a) hereof, or if the Board of Directors, based on written advice of outside regulatory counsel, reasonably concludes in good faith that the ownership of, or existence or exercise of any rights of stock ownership with respect to, shares of capital stock of the Corporation by such stockholder or Transferee would violate any provision of the Communications Laws (a "Communications Laws Violation"), the Corporation (by majority vote of the Board of Directors), upon reasonable prior written notice to such stockholder or Transferee, may suspend those rights of stock ownership the existence or exercise of which would result in such Communications Laws Violation, such suspension to remain in effect until such requested information has been received or the existence or exercise of such suspended rights would not result in such Communications Laws Violation; *provided, however*, that such rights may be suspended only to the minimum extent necessary so that such Communications Laws Violation would not exist; and *provided, further*, that the Corporation, in cooperation with the affected stockholder or Transferee, shall take all commercially reasonable steps to mitigate or eliminate the Communications Laws Violation by filing and prosecuting before the FCC or state or territorial regulatory commission, or the regulatory commission of the District of Columbia, as the case may be, a request for waiver or declaratory ruling or such other relief as necessary or appropriate.

(c) **Remedies**. The Corporation (by majority vote of the Board of Directors) may seek to exercise any and all appropriate remedies, at law or in equity, in any court of competent jurisdiction, against any stockholder or Transferee, with a view towards obtaining any information requested pursuant to Section 6(a) hereof, and/or to exercise the rights as provided in, and subject to the provisions of, Section 6(b).

7. Renunciation of Interest or Expectancy. The Corporation renounces any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity.

8. Management of the Business and Conduct of the Affairs of the Corporation. The following provisions are inserted for the management of the business and for the conduct of the affairs of the Corporation and for the purpose of creating, defining, limiting and regulating the powers of the Corporation and its directors and stockholders.

(a) The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors, which may exercise all such powers of the Corporation and do all such lawful acts and things, except as may otherwise be provided in the DGCL or elsewhere herein.

(b) Subject to the terms of paragraph (d) of this Section 8, the number of directors constituting the Board of Directors shall be as set forth in the by-laws of the Corporation, or determined by the Board of Directors by resolution adopted by the Board of Directors in accordance with the by-laws of the Corporation, but shall not be less than five nor more than eleven.

(c) Subject to the terms of paragraph (d) of this Section, directors shall be elected by a plurality of the votes cast at the annual meetings of stockholders, or at a special meeting of stockholders called for (or including) such purpose, and each director so elected shall hold office until the next annual meeting of stockholders and until such director's successor is duly elected and qualified, or until such director's earlier death, resignation or removal.

(d) Under and in accordance with the reorganization proceeding styled FairPoint Communications, Inc., et al, Case No. 09-16335 (BRL) which confirmed the Debtors' Third Amended Joint Plan of Reorganization, the initial Board of Directors after the date of this Certificate of Incorporation (the "*Initial Board of Directors*") shall consist of seven members. Each director on the Initial Board of Directors shall serve until the next annual meeting of stockholders following the one-year anniversary of the effective date of the Joint Plan of Reorganization and until such director's successor is duly elected and qualified, or until such director's earlier death, resignation or removal.

(e) Advance notice of nominations by stockholders for the election of directors, and of stockholder proposals regarding action to be taken at any meeting of stockholders, shall be given in the manner and to the extent provided in the by-laws of the Corporation.

9. By-laws. In furtherance and not in limitation of the powers conferred by law, the Board of Directors is expressly authorized to alter, amend and repeal the by-laws of the Corporation without a stockholder vote, subject to the power of the stockholders to alter, amend or repeal the by-laws; *provided*, that with respect to the powers of stockholders to alter amend or repeal the by-laws, the affirmative vote of the holders of at least a majority in voting power of all the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to alter, amend or repeal the by-laws of the Corporation, *provided* that the affirmative vote of the holders of at least two-thirds in such voting power shall be required to alter, amend or repeal certain provisions of the by-laws as provided therein on the date of this Certificate of Incorporation.

10. Exoneration.

(a) The personal liability of the directors of the Corporation is hereby eliminated to the fullest extent permitted by the DGCL, including, without limitation, paragraph (7) of subsection (b) of Section 102 thereof, as the same may be amended or supplemented. If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

(b) Any repeal or modification of Section 10(a) hereof shall be prospective only, and shall not adversely affect any elimination or limitation of the personal liability of a director of the Corporation in respect of any act or omission occurring prior to the time of such repeal or modification.

11. Stockholder Action.

(a) Any action required or permitted to be taken by the holders of the Common Stock of the Corporation must be effected at a duly called annual or special meeting of such holders and may not be effected by any consent in writing by such holders.

(b) Except as otherwise required by law and subject to the rights of the holders of any series of Preferred Stock, special meetings of stockholders of the Corporation may be called only by:

(i) the Chairman of the Board of Directors,

(ii) the Lead Director, if any, of the Board of Directors;

(iii) the Board of Directors, or

(iv) the Secretary of the Corporation upon a request by the holders of at least 25% in voting power of all outstanding shares of the Corporation entitled to vote at such meeting.

(c) Meetings of stockholders may be held within or without the State of Delaware, as the by-laws of the Corporation may provide.

(d) The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated by the Board of Directors or in the by-laws of the Corporation.

(e) Elections of directors need not be by written ballot.

12. Quorum at stockholder meetings. The holders of one-third in voting power of the capital stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business, except that the holders of a majority in voting power of the capital stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall be required to constitute a quorum for:

(a) a vote for any director in a contested election,

(b) the removal of a director, or

(c) the filling of a vacancy on the Board of Directors by the stockholders of the Corporation.

13. Amendments to this Certificate of Incorporation.

(a) The Corporation reserves the right to amend any provision contained in this Certificate of Incorporation, as the same may be in effect from time to time, in the manner now or hereafter prescribed by law, and all rights conferred on stockholders or others hereunder are subject to such reservation.

(b) Anything contained in Section 13(a) hereof to the contrary notwithstanding, and notwithstanding that a lesser percentage may be permitted from time to time by applicable law, the affirmative vote of the holders of at least two-thirds in voting power of all the shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to alter, amend or repeal in any respect Sections 8, 9, 10, 11 and 12 hereof and this Section 13 or to adopt any provision inconsistent therewith, whether such alteration, amendment or repeal is by amendment to this Certificate of Incorporation or by merger, reorganization, recapitalization or other corporate transaction having the effect of amending this Certificate of Incorporation.

IN WITNESS WHEREOF, FAIRPOINT COMMUNICATIONS, INC. has caused this Ninth Amended and Restated Certificate of Incorporation to be executed by _____, its _____, on this ____ day of _____, 2011.

FAIRPOINT COMMUNICATIONS, INC.

By: _____
Name:
Title:

Attest:

By: _____
Name:
Title:

ITEM 10

FAIRPOINT COMMUNICATIONS, INC.

SECOND AMENDED AND RESTATED BY-LAWS

As adopted on _____ __, 2011

ARTICLE I

STOCKHOLDERS

SECTION 1.1 Annual Meetings. The annual meeting of the stockholders of the Corporation shall be held on such date, and at such time and place within or without the State of Delaware, as may be designated from time to time by resolution of the Board of Directors. Only such business as is properly designated by resolution of the Board of Directors or otherwise brought before such meeting in accordance with the Corporation's Certificate of Incorporation from time to time in effect (the "Certificate of Incorporation") and these By-laws may be transacted at the annual meeting.

SECTION 1.2 Special Meetings. Special meetings of stockholders of the Corporation may be called only by (a) the Chairman of the Corporation; (b) the Lead Director, if any, of the Board of Directors; (c) the Board of Directors; or (d) the Secretary of the Corporation upon a request by the holders of at least 25% in voting power of all outstanding shares of capital stock of the Corporation entitled to vote at such meeting. Special meetings may not be called by any other person or persons. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice. Such special meetings of the stockholders shall be held at such places, within or without the State of Delaware, as shall be specified in the respective notices or waivers of notice thereof. The purpose or purposes of the proposed meeting shall be included in the notice setting forth such call.

SECTION 1.3 Notice of Meetings. The Secretary or any Assistant Secretary shall cause written printed or electronic notice of the place, if any, date and hour of each meeting of the stockholders and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting (if such date is different from the record date for stockholders entitled to notice of the meeting) and, in the case of a special meeting, the purpose or purposes for which such meeting is called, to be given in the manner set forth in the next paragraph (which shall include such business as shall be specified in a request for meeting pursuant to Section 1.2(d)). Unless otherwise provided by law, the Certificate of Incorporation or these By-laws, the notice of any meeting shall be given not less than ten nor more than 60 days before the date of the meeting to each stockholder entitled to vote at the meeting as of the record date for determining the stockholders entitled to notice of the meeting. If a stockholder meeting is to be held via electronic communications and stockholders will take action at such meeting, the notice of such meeting must provide the information required to access the stockholder list.

Notices are deemed given (i) if by mail, when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholders' address as it appears on the record of stockholders of the Corporation, or, if such stockholder shall have filed with the Secretary of the Corporation a written request that notices to such stockholder be mailed to some other address, then directed to such stockholder at such other address; (ii) if by facsimile, when faxed to a number where the stockholder has consented to receive notice; (iii) if by electronic mail, when mailed electronically to an electronic mail address at which the stockholder has consented to receive such notice; (iv) if by posting on an electronic network (such as a website or chatroom) together with a separate notice to the stockholder of such specific posting, upon the later to occur of (A) such posting or (B) the giving of the separate notice of such posting; or (v) if by any other form of electronic communication, when directed to the stockholder in the manner consented to by the stockholder.

For notice given by electronic transmission to a stockholder to be effective, such stockholder must consent to the Corporation's giving notice by that particular form of electronic transmission. A stockholder may revoke consent to receive notice by electronic transmission by written notice to the Corporation. A stockholder's consent to notice by electronic transmission is automatically revoked if the Corporation is unable to deliver two consecutive electronic transmission notices and such inability becomes known to the Secretary, Assistant Secretary, the transfer agent or other person responsible for giving notice.

A written waiver of any notice of any annual or special meeting signed by the person entitled thereto, or a waiver by electronic transmission by the person entitled to notice, shall be deemed equivalent to notice, whether provided before or after the meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in a waiver of notice. The attendance of any stockholder at a meeting of stockholders, whether in person or by proxy, shall constitute a waiver of notice of such meeting, except when the stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Except for meetings validly called under Section 1.2(d), (i) any previously scheduled meeting of the stockholders may be postponed, and (ii) (unless the Certificate of Incorporation otherwise provides) any special meeting of the stockholders may be cancelled, by resolution of the Board of Directors upon public notice given prior to the date previously scheduled for such meeting of stockholders.

SECTION 1.4 Organization; Procedure. (a) The Chairman or, in the Chairman's absence, the Lead Director, if any, or in the Lead Director's absence, at the Chairman's direction, any member of the Nominating and Governance Committee of the Board of Directors shall call all meetings of the stockholders to order and shall act as chairman of such meeting. The Secretary of the Corporation or, in such officer's absence, an Assistant Secretary shall act as secretary of the meeting. If neither the Secretary nor an Assistant Secretary is present, the person presiding over such meeting shall appoint a secretary of the meeting. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the person presiding over the meeting. The Board

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

(b) Without limiting the provisions of Section 1.4(a), any meeting of stockholders, annual or special, may adjourn from time to time to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken and in a press release issued in the Corporation's customary manner (with a copy posted on the Corporation's website). At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix a new record date for notice of such adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date for notice of such adjourned meeting.

SECTION 1.5 Quorum. Except as otherwise provided by law, by the Certificate of Incorporation or these By-Laws, the holders of one-third in voting power of the capital stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business, except that the holders of a majority in voting power of the capital stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall be required to constitute a quorum for (a) a vote for any director in a contested election; (b) the removal of a director; or (c) the filling of a vacancy on the Board of Directors if the filling of such vacancy is

submitted to a vote of the stockholders. If a quorum is not present at any meeting of the stockholders, the person presiding over such meeting shall have the power to adjourn any such meeting from time to time in the manner provided in Section 1.4(a) and/or Section 1.4(b) until a quorum is present.

SECTION 1.6 Record Date.

(a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, unless otherwise required by law, not be more than 60 nor less than ten days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination, which shall be no less than ten days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided*, *however*, that the Board of Directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which shall not be more than 60 days prior to such other action. If no such record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

SECTION 1.7 Stockholder Lists. The officer who has charge of the stock ledger shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting at least ten days prior to the meeting (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of meeting or (b) during ordinary business hours at the principal place of business of the Corporation. If the meeting is not being held solely by means of remote communication, then a list of stockholders entitled to vote at the meeting shall be produced and kept at the time and place of the meeting during the whole time thereof and may be examined by any stockholder

who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 1.7 or to vote in person or by proxy at any meeting of stockholders.

SECTION 1.8 Proxies. At all meetings of stockholders, any stockholder entitled to vote thereat shall be entitled to vote in person or by proxy, but no proxy shall be voted or acted upon after three years from its date, unless such proxy provides for a longer period. Without limiting the manner in which a stockholder may authorize another person or persons to act for such stockholder as proxy pursuant to the General Corporation Law of the State of Delaware (hereinafter the "DGCL"), the following shall constitute a valid means by which a stockholder may grant such authority: (a) a stockholder may execute a written instrument authorizing another person or persons to act for such stockholder as proxy, and execution of the written instrument may be accomplished by the stockholder or the stockholder's authorized officer, director, employee, trustee or agent signing such writing or causing his or her signature to be affixed to such writing by any reasonable means including, but not limited to, by facsimile signature; or (b) a stockholder may authorize another person or persons to act for such stockholder as proxy by transmitting or authorizing the transmission of a telegram, cablegram or other means of electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any such telegram, cablegram or other means of electronic transmission must either set forth or be submitted with information from which it can be determined that the telegram, cablegram or electronic transmission was authorized by the stockholder. If it is determined that such telegrams, cablegrams or other electronic transmissions are valid, the inspectors, or if there are no inspectors, such other persons making that determination shall specify the information upon which they relied.

Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to the preceding paragraph of this Section 1.8 may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

Proxies shall be filed with the Secretary of the meeting prior to or at the commencement of the meeting to which they relate. A proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by filing an instrument in writing revoking the proxy or by filing another duly executed proxy bearing a later date with the Secretary.

SECTION 1.9 Voting. Except as otherwise provided by law or the Certificate of Incorporation, each stockholder entitled to vote at a meeting of stockholders shall be entitled to one vote for each share of capital stock held by such stockholder which has voting power upon the matter in question. At all meetings of stockholders for the election of directors at which a quorum is present a plurality of the votes cast shall be sufficient to elect. All other questions presented to the stockholders at a meeting at which a quorum is present shall be decided by the affirmative vote of the holders of a majority in voting power of the capital stock present in person or represented by proxy and entitled to vote on the matter, unless the question is one upon which by express provision of statute or of the Certificate of Incorporation, these By-Laws or the rules or regulations of any stock exchange applicable to the Corporation, a different vote is required, in which case such express provision shall govern and control the decision of such question.

SECTION 1.10 Voting by Ballot. No vote of the stockholders need be taken by written ballot, or by a ballot submitted by electronic transmission, or conducted by inspectors of elections, unless otherwise required by law. Any vote not required to be taken by ballot or by ballot submitted by electronic transmission may be conducted in any manner approved by the presiding officer at the meeting at which such vote is taken.

SECTION 1.11 Inspector of Elections. The Board of Directors shall in advance of any meeting of stockholders, appoint one or more inspectors of election, who may be employees of the Corporation, to act at the meeting or any adjournment thereof and to make a written report thereof. The Board of Directors may designate one or more persons as alternate inspectors to replace any inspector who fails to act. In the event that no inspector so appointed or designated is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of his or her ability. The inspector or inspectors so appointed or designated shall (a) ascertain the number of shares of capital stock of the Corporation outstanding and the voting power of each such share; (b) determine the shares of capital stock of the Corporation represented at the meeting and the validity of proxies and ballots; (c) specify the information relied upon to determine the validity of electronic transmissions in accordance with Section 1.8 hereof; (d) count all votes and ballots; (e) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors; and (f) certify their determination of the number of shares of capital stock of the Corporation represented at the meeting and such inspectors' count of all votes and ballots. Such certification and report shall specify such other information as may be required by law. No person who is a candidate for an office at an election may serve as an inspector at such election.

When determining the shares of capital stock represented and the validity of proxies and ballots, the inspector may consider such information as is permitted by applicable law. No person who is a candidate for an office at an election may serve as an inspector at such election.

SECTION 1.12 Notice of Stockholder Business and Nominations.

(a) Annual Meetings of Stockholders.

Nominations of persons for election to the Board of Directors of the Corporation and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders only:

(i) pursuant to the Corporation's notice of meeting (or any supplement thereto);

(ii) by or at the direction of the Board of Directors or any committee thereof; or

(iii) by any stockholder of the Corporation who was a stockholder of record of the Corporation at the time the notice provided for in this Section 1.12 is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 1.12.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting (which shall include such business as shall be specified in a request for meeting pursuant to Section 1.2(d)). Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (i) by or at the direction of the Board of Directors or any committee thereof or (ii) provided that (x) the Corporation's notice of meeting indicates that election of directors is a purpose of such meeting or (y) the Board of Directors has otherwise determined that directors shall be elected at such meeting, or in the event specified in a request for meeting pursuant to Section 1.2(d), by any stockholder of the Corporation who is a stockholder of record at the time the notice required by Section 1.12(c)(i) is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and upon such election and who complies with the notice requirements set forth in Section 1.12(c)(i).

(c) Stockholder's Notice. For any nominations or other business to be properly brought before an annual meeting or special meeting by a stockholder pursuant to Section 1.12(a)(iii) or Section 1.12(b)(ii), the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and any such proposed business (other than the nominations of persons for election to the Board of Directors) must constitute a proper matter for stockholder action.

(i) *Timing of Stockholder's Notice.*

(A) For a stockholder's notice with respect to an annual meeting to be timely, it must be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the 90th day, nor earlier than the close of business on the 120th day, prior to the first anniversary of the preceding year's annual meeting (*provided, however*, that in the event that the date of the annual meeting is more than 30 days before or more than 70 days after such anniversary date, notice by the stockholder must be so

delivered not earlier than the close of business on the 120th day prior to such annual meeting and not later than the close of business on the later of the 90th day prior to such annual meeting or, if the first public announcement of the date of such annual meeting is less than 100 days prior to the date of such annual meeting, the tenth day following the day on which public announcement of the date of such meeting is first made by the Corporation). For purposes of this paragraph A, the 2010 annual meeting of stockholders shall be deemed to have been held on June 30, 2010. Notwithstanding anything in the previous sentence to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation is increased effective at the annual meeting and there is no public announcement by the Corporation naming the nominees for the additional directorships at least 100 days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 1.12 shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth day following the day on which such public announcement is first made by the Corporation.

(B) For a stockholder's notice with respect to a special meeting of stockholders called by the Corporation for the purpose of electing one or more directors to the Board of Directors to be timely (including any meeting called pursuant to Section 1.2(d)), any such stockholder entitled to vote in such election of directors may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, if the stockholder's notice required by Section 1.12(b)(ii) shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day prior to such special meeting and not later than the close of business on the later of the 90th day prior to such special meeting or, if the first public announcement of the date of such special meeting is less than 100 days prior to the date of such special meeting, the 10th day following the day on which public announcement is first made or notice is given of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting.

(C) In no event shall the public announcement of an adjournment or postponement of an annual meeting or special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(D) In addition, to be timely, a stockholder's notice shall further be updated and supplemented, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and, if later and more than five days after the record date, as of the date that is ten business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to the Secretary at the principal executive offices of the Corporation not later than five business days after the record date for the meeting in the case of the update and supplement required to be made as of the record date, and not later than five business days prior to the date for the meeting, any adjournment or postponement thereof in the case of the update and supplement required to be made at least ten business days prior to the meeting or any adjournment or postponement thereof; provided that (x) if there are fewer than ten days but more than two days between the date of any meeting and the date of any adjourned or postponed

meeting, such update and supplement shall be required to be made not later than the day prior to the adjourned or postponed meeting and (y) if there are only one or two days between the date of any meeting and the date of any adjourned or postponed meeting, such update and supplement shall be required to be made at the adjourned or postponed meeting.

(ii) *Content of Stockholder's Notice.* The stockholder's notice shall set forth:

(A) as to each person whom the stockholder proposes to nominate for election as a director (x) all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to and in accordance with Section 14(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and the rules and regulations promulgated thereunder, (y) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such stockholder and beneficial owner, if any, and their respective affiliates and associates, or others acting in concert therewith, on the one hand, and each proposed nominee, and his or her respective affiliates and associates, or others acting in concert therewith, on the other hand, including, without limitation all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K if the stockholder making the nomination and any beneficial owner on whose behalf the nomination is made, if any, or any affiliate or associate thereof or person acting in concert therewith, were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant and (z) such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected;

(B) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the By-laws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made (including a description of all agreements, arrangements and understandings between such stockholder and beneficial owner, if any, and any other person or persons (including their names) in connection with the proposal of such business by such stockholder); and

(C) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (1) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (2) the class or series and number of shares of capital stock of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner, (3) a description of any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing, including, in the case of a nomination, the nominee, (4) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants,

convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the stockholder's notice by, or on behalf of, such stockholder and such beneficial owners, whether or not such instrument or right shall be subject to settlement in underlying shares of capital stock of the Corporation, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of stock of the Corporation, (5) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business or nomination, (6) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (x) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (y) otherwise to solicit proxies or votes from stockholders in support of such proposal or nomination and (7) any other information relating to such stockholder and beneficial owner, if any, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in an election contest pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder.

(iii) *Other Information.* The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation, including, but not limited to, requiring proposed nominees to respond to a questionnaire providing information about the candidate's background and qualifications, to represent that he or she has no agreements with any third party as to voting or compensation in connection with his or her service as a director, and to agree to abide by applicable confidentiality, governance, conflicts, stock ownership and trading policies of the Corporation. The foregoing notice requirements of this Section 1.12(c) shall be deemed satisfied by a stockholder with respect to business other than a nomination if the stockholder has notified the Corporation of his, her or its intention to present a proposal at an annual meeting in compliance with applicable rules and regulations promulgated under the Exchange Act and such stockholder's proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such annual meeting.

(d) General.

(i) Only such persons who are nominated in accordance with the procedures set forth in this Section 1.12 shall be eligible to be elected at an annual or special meeting of stockholders of the Corporation to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 1.12. Except as otherwise provided by law, the person presiding over the meeting shall have the power and duty:

(A) to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Section 1.12 (including whether the stockholder or beneficial

owner, if any, on whose behalf the nomination or proposal is made solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies or votes in support of such stockholder's nominee or proposal in compliance with such stockholder's representation as required by clause (6) of Section 1.12(c)(ii)(C) hereof); and

(B) if any proposed nomination or business was not made or proposed in compliance with this Section 1.12, to declare that such nomination shall be disregarded or that such proposed business shall not be transacted. Notwithstanding the foregoing provisions of this Section 1.12, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination or proposed business, such nomination shall be disregarded and such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this Section 1.12, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

(ii) For purposes of this Section 1.12, "public announcement" shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press or other national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder.

(iii) Notwithstanding the foregoing provisions of this Section 1.12, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations promulgated thereunder with respect to the matters set forth in this Section 1.12; *provided*, *however*, that any references in these By-laws to the Exchange Act or the rules and regulations promulgated thereunder are not intended to and shall not limit any requirements applicable to nominations or proposals as to any other business to be considered pursuant to this Section 1.12 (including Section 1.12(a)(iii) and Section 1.12(b) hereof), and compliance with Section 1.12(a)(iii) and Section 1.12(b) shall be the exclusive means for a stockholder to make nominations or submit other business (other than, as provided in the last sentence of Section 1.12(c)(iii), matters brought properly under and in compliance with Rule 14a-8 of the Exchange Act, as may be amended from time to time). Nothing in this Section 1.12 shall be deemed to affect any rights (A) of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to applicable rules and regulations promulgated under the Exchange Act or (B) of the holders of any series of Preferred Stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

SECTION 1.13 Opening and Closing of Polls. The date and time for the opening and the closing of the polls for the matters to be voted upon at a stockholder meeting shall be announced at the meeting. The inspector of the election shall be prohibited from accepting any

ballots, proxies or votes or any revocations thereof or changes thereto after the closing of the polls, unless the Court of Chancery of the State of Delaware upon application by a stockholder shall determine otherwise.

SECTION 1.14 Confidential Voting.

(a) Proxies and ballots that identify the votes of specific stockholders shall be kept in confidence by the inspectors of election unless: (i) there is an opposing solicitation with respect to the election or removal of directors; (ii) disclosure is required by applicable law; (iii) a stockholder expressly requests or otherwise authorizes disclosure in relation to such stockholder's vote; or (iv) the Corporation concludes in good faith that a bona fide dispute exists as to the authenticity of one or more proxies, ballots or votes, or as to the accuracy of any tabulation of such proxies, ballots or votes.

(b) The inspectors of election and any authorized agents or other persons engaged in the receipt, count and tabulation of proxies and ballots shall be advised of this Section 1.14 and instructed to comply herewith.

(c) The inspectors of election shall certify, to the best of their knowledge based on due inquiry, that proxies and ballots have been kept in confidence as required by this Section 1.14.

SECTION 1.15 No Stockholder Action by Written Consent. Any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of the stockholders of the Corporation, and the ability of the stockholders to consent in writing to the taking of any action is specifically denied.

ARTICLE II

BOARD OF DIRECTORS

SECTION 2.1 General Powers. Except as may otherwise be provided by law, by the Certificate of Incorporation or by these By-Laws, the property, affairs and business of the Corporation shall be managed by or under the direction of the Board of Directors. The Board of Directors may exercise all the powers of the Corporation and do all such lawful acts and things as are not by law or by the Certificate of Incorporation directed or required to be exercised or done by the stockholders.

SECTION 2.2 Number of Directors.

(a) Subject to the provisions of Section 2.3 with respect to the Initial Board and Section 9.1(a), the Board of Directors of the Corporation shall consist of such number of directors as shall from time to time be fixed exclusively by resolution of the Board of Directors adopted by a majority of the entire Board of Directors.

(b) The Board of Directors shall at no time consist of fewer than five directors nor more than eleven directors. Directors shall be elected by stockholders by a plurality of the votes

cast by holders of shares of the Corporation's capital stock present in person or represented by proxy and entitled to vote thereon.

SECTION 2.3 Initial Board; Election of Directors. Subject to the DGCL, the Initial Board of Directors (as defined in the Certificate of Incorporation) shall hold office until the first annual meeting of stockholders to be held following the one-year anniversary of the effective date of the Corporation's Joint Plan of Reorganization (as defined in the Certificate of Incorporation) and until his or her successor shall have been duly elected and qualified or until such director's earlier death, resignation or removal. Except as otherwise provided in the Certificate of Incorporation with respect to the Initial Board of Directors, directors who are elected at an annual meeting of stockholders, and directors who are elected in the interim to fill vacancies and newly created directorships, shall hold office until their respective successors shall have been duly elected and qualified or until their earlier death, resignation and removal.

SECTION 2.4 Additional Directorships. Unless otherwise provided by law, in the Certificate of Incorporation or in these By-laws, newly created directorships or vacancies on the Board of Directors occurring for any reason may be filled only by a majority vote of the directors then in office, regardless of whether such directors fulfill quorum requirements, or by a sole remaining director, or by stockholders at a meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting or otherwise in accordance with Section 1.12(b).

SECTION 2.5 Annual and Regular Meetings. The annual meeting of the Board of Directors for the purpose of electing officers and for the transaction of such other business as may come before the meeting shall be held as soon as practicable following adjournment of the annual meeting of the stockholders. Notice of such annual meeting of the Board of Directors need not be given. The Board of Directors from time to time may by resolution provide for the holding of regular meetings and fix the place (which may be within or without the State of Delaware) and the date and hour of such meetings. Notice of regular meetings which have been scheduled in advance and recorded in the Corporation's minute books or otherwise notified in advance to all directors need not be given; *provided*, *however*, that if the Board of Directors shall fix or change the time or place of any regular meeting, notice of such action shall be mailed promptly, or sent by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail or other electronic means, to each director who shall not have been present at the meeting at which such action was taken, addressed or transmitted to him or her at his or her usual place of business, or shall be delivered or transmitted to him or her personally. Notice of such action need not be given to any director who attends the first regular meeting after such action is taken without protesting the lack of notice to him or her, prior to or at the commencement of such meeting, or to any director who submits a signed waiver of notice, whether before or after such meeting.

SECTION 2.6 Special Meetings; Notice. Special meetings of the Board of Directors shall be held whenever called by the Chairman, any director (including the Lead Director, if any) or the Chief Executive Officer at such place (within or without the State of Delaware), date and hour as may be specified in the respective notices or waivers of notice of such meetings. Special

meetings of the Board of Directors may be called on 24 hours' notice, if notice is given to each director personally or by telephone, including a voice messaging system, or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail or other electronic means, or on five calendar days' notice, if notice is mailed to each director, addressed or transmitted to him or her at such director's usual place of business or other designated location. Notice of any special meeting shall be deemed to have been waived by any director who attends such meeting without protesting the lack of notice to him or her, prior to or at the commencement of such meeting, or to any director who submits a signed waiver of notice, whether before or after such meeting, and any business may be transacted thereat. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need to be specified in the notice of such meeting, except for amendments to these By-Laws, as provided under Section 9.1.

SECTION 2.7 Quorum; Voting. At all meetings of the Board of Directors, the presence of a majority of the directors shall constitute a quorum for the transaction of business. Except as otherwise required by law, the vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board of Directors. The directors present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum.

SECTION 2.8 Adjournment. A majority of the directors present, whether or not a quorum is present, may adjourn any meeting of the Board of Directors to another time or place. Notice of any adjourned meeting shall be given to each director in accordance with Section 2.6 of these By-Laws *except that* such notice may be given less than 24 hours before the time of the adjourned meeting, *unless* the time and place of the adjourned meeting are not announced at the time of adjournment, in which case notice conforming to the requirements of Section 2.6 of these By-Laws (including the 24-hour notice period) shall be given to each director.

SECTION 2.9 Action Without a Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if all members of the Board of Directors consent thereto in writing or by electronic transmission, and such writing or writings or electronic transmissions are filed with the minutes of proceedings of the Board of Directors.

SECTION 2.10 Regulations; Manner of Acting. To the extent consistent with applicable law, the Certificate of Incorporation and these By-Laws, the Board of Directors may adopt such rules and regulations for the conduct of meetings of the Board of Directors and for the management of the property, affairs and business of the Corporation as the Board of Directors may deem appropriate.

SECTION 2.11 Action by Telephonic Communications. Members of the Board of Directors may participate in a meeting of the Board of Directors by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this provision shall constitute presence in person at such meeting.

SECTION 2.12 Resignations. Any director may resign at any time by submitting an electronic transmission or by delivering a written notice of resignation, signed by such director, to the Chairman, the Lead Director, if any, or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery.

SECTION 2.13 Removal of Directors. Any director may be removed at any time, with or without cause, upon the affirmative vote of the holders of a majority of the combined voting power of the then outstanding capital stock of the Corporation entitled to vote generally in the election of directors, *provided*, that at any time prior to the first annual meeting of stockholders held following the one-year anniversary of the effective date of the Joint Plan of Reorganization (as defined in the Certificate of Incorporation), a director may be removed, without cause, only on the affirmative vote of the holders of two-thirds of the combined voting power of the then outstanding capital stock of the Corporation entitled to vote generally in the election of directors.

SECTION 2.14 Compensation. The amount, if any, which each director shall be entitled to receive as compensation for his or her services as such shall be fixed from time to time by resolution of the Board of Directors.

SECTION 2.15 Reliance on Accounts and Reports, etc. A director, or a member of any committee designated by the Board of Directors shall, in the performance of his or her duties, be fully protected in relying in good faith upon the records of the Corporation and upon information, opinions, reports or statements presented to the Corporation by any of the Corporation's officers or employees, or committees designated by the Board of Directors, or by any other person as to the matters the member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

SECTION 2.16 Lead Director. When the Chairman is also the Chief Executive Officer of the Corporation or is a director who does not otherwise qualify as an "independent director" under the rules of the New York Stock Exchange and, if applicable, the Corporation's Corporate Governance Guidelines, a "Lead Director" shall be elected by majority vote of the independent directors at the first meeting of the Board of Directors following the annual meeting of stockholders. The Lead Director shall have such duties and/or authority as shall be set forth in the Corporation's Corporate Governance Guidelines and as may be assigned from time to time by the Board of Directors.

ARTICLE III

BOARD COMMITTEES

SECTION 3.1 Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute

a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member. Any such committee, to the extent permitted by law and to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it.

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

SECTION 3.3 Quorum and Manner of Acting. Except as may be otherwise provided in the resolution creating such Committee, at all meetings of any Committee the presence of members (or alternate members) constituting a majority of the total membership of such Committee shall constitute a quorum for the transaction of business. The act of the majority of the members present at any meeting at which a quorum is present shall be the act of such Committee. Any action required or permitted to be taken at any meeting of any such Committee may be taken without a meeting, if all members of such Committee shall consent to such action in writing or by electronic transmission, and such writing or writings or electronic transmission or transmissions are filed with the minutes of the proceedings of the Committee. The members of any such Committee shall act only as a Committee, and the individual members of such Committee shall have no power as such.

SECTION 3.4 Action by Telephonic Communications. Members of any Committee designated by the Board of Directors may participate in a meeting of such Committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this provision shall constitute presence in person at such meeting.

ARTICLE IV

OFFICERS

SECTION 4.1 Number. The officers of the Corporation shall be elected by the Board of Directors and may consist of a Chairman, a Chief Executive Officer, a Chief Operating Officer, a President, one or more Vice Presidents, a Chief Financial Officer, a Secretary, a Treasurer and a General Counsel. The Board of Directors may appoint such other officers as it may deem appropriate; provided that officers of the rank of Vice President and below may be appointed by the Compensation Committee of the Board of Directors. Such other officers shall exercise such powers and perform such duties as may be determined from time to time by the Board of Directors or Compensation Committee, as applicable or by the Chief Executive Officer (as to officers of the rank of Vice President and below, if so authorized by the Compensation Committee). Any number of offices may be held by the same person. No officer, other than the Chairman, need be a director of the Corporation.

SECTION 4.2 Election. Unless otherwise determined by the Board of Directors, the officers of the Corporation shall be elected by the Board of Directors. Each officer shall hold office for such term as may be prescribed by the Board of Directors (or Compensation Committee, as applicable) and until such person's successor shall have been duly chosen and qualified, or until such person's earlier death, disqualification, resignation or removal.

SECTION 4.3 Powers. Each of the officers of the Corporation elected or appointed by the Board of Directors or the Compensation Committee in accordance with these By-Laws shall have the powers and duties prescribed by law, by these By-Laws or by the Board of Directors (or the Compensation Committee, as applicable) and, unless otherwise prescribed by these By-Laws or by the Board of Directors, the Compensation Committee or the Chief Executive Officer, as applicable, shall have such further powers and duties as ordinarily pertain to that office.

SECTION 4.4 Salaries. The salaries of all executive officers (as determined by the Board of Directors) of the Corporation shall be fixed by the Board of Directors or as determined by the Compensation Committee of the Board of Directors and the salaries of all non-executive officers shall be fixed by the Board of Directors or as determined by the Compensation Committee of the Board of Directors, either directly or by delegation.

SECTION 4.5 Removal and Resignation; Vacancies. Any officer may be removed for or without cause at any time by the Board of Directors. Any officer may resign at any time by delivering notice of resignation, either in writing signed by such officer or by electronic transmission, to the Board of Directors or the Chief Executive Officer. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any vacancy occurring in any office of the Corporation by death, resignation, removal or otherwise, shall be filled by the Board of Directors. Any resignation shall be without prejudice to the rights, if any, of the Corporation under any contract with the resigning officer.

SECTION 4.6 The Chairman. The Board of Directors may elect from among the members of the Board of Directors a Chairman, who shall be a U.S. citizen. Subject to the direction of the Board of Directors, the Chairman shall have such duties and powers as set forth in these By-Laws. Subject to the powers conferred upon any Lead Director in accordance with Section 2.16, the Chairman shall preside over all meetings of the stockholders and the Board of Directors. A Chairman shall be considered an officer of the Corporation unless designated as a non-executive Chairman of the Board by a resolution of the Board of Directors.

SECTION 4.7 The Chief Executive Officer. The Chief Executive Officer shall have general control and supervision of the policies and operations of the Corporation. The Chief Executive Officer shall be a U.S. citizen. Subject to the direction of the Board of Directors, the Chief Executive Officer shall manage and administer the Corporation's business and affairs and shall also perform all duties and exercise all powers usually pertaining to the office of a chief executive officer of a corporation. The Chief Executive Officer shall perform such other duties and have such other powers as the Board of Directors or (unless the Chairman is also the Chief Executive Officer) the Chairman may from time to time prescribe.

SECTION 4.8 The Chief Operating Officer. The Chief Operating Officer, subject to the authority of the Chief Executive Officer, shall have primary responsibility for, and authority with respect to, the management of the day-to-day business and affairs of the Corporation, to the extent prescribed by the Chief Executive Officer. The Chief Operating Officer shall have such other powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe.

SECTION 4.9 The President. The President shall perform such duties and have such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe.

SECTION 4.10 Vice Presidents. The Vice Presidents shall have such designations and shall perform such duties and have such powers as the Board of Directors, the Compensation Committee or the Chief Executive Officer may from time to time prescribe.

SECTION 4.11 The Secretary. The Secretary shall keep or cause to be kept a record of all the proceedings of the meetings of the stockholders and of the Board of Directors, and shall cause all notices to be duly given in accordance with the provisions of these By-Laws and as required by law. The Secretary shall be the custodian of the records and of the seal of the Corporation and cause such seal (or a facsimile thereof) to be affixed to instruments when appropriate. The Secretary shall perform, in general, all duties incident to the office of secretary and such other duties as may be specified in these By-Laws or as may be assigned to him or her from time to time by the Board of Directors or the Chief Executive Officer.

SECTION 4.12 The Chief Financial Officer. The Chief Financial Officer shall be the principal financial officer of the Corporation and shall have responsibility for the overall supervision of the financial affairs of the Corporation. The Chief Financial Officer shall perform such other duties and exercise such other powers as are normally incident to the office of chief financial officer and as may be prescribed by the Board of Directors or the Chief Executive Officer from time to time.

SECTION 4.13 The Treasurer. The Treasurer shall perform, in general, all duties incident to the office of treasurer and such other duties as may be specified in these By-Laws or as may be assigned to him or her from time to time by the Board of Directors, the Chief Executive Officer, or the Chief Financial Officer.

SECTION 4.14 The General Counsel. The General Counsel shall have responsibility for the legal affairs of the Corporation. The General Counsel shall perform such other duties and exercise such other powers as are normally incident to the office of general counsel and as may be prescribed by the Board of Directors or the Chief Executive Officer from time to time.

SECTION 4.15 Additional Officers. The Board of Directors from time to time may delegate to the Chief Executive Officer or the President the power to appoint subordinate officers and to prescribe their respective rights, terms of office, authorities and duties. Any such officer may remove any such subordinate officer appointed by him or her, for or without cause. The

persons upon whom such titles are conferred shall not be deemed officers of the Corporation unless elected by the Board of Directors.

SECTION 4.16 Delegation of Authority. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

ARTICLE V

CAPITAL STOCK

SECTION 5.1 Certificates of Stock, Uncertificated Shares. The shares of capital stock of the Corporation may be either represented by certificates or uncertificated shares; provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of the capital stock of the Corporation shall be uncertificated shares. Any resolution of the Board of Directors providing for uncertificated shares shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Subject to Section 5.3 below, notwithstanding the adoption of such resolution by the Board of Directors, every holder of capital stock represented by certificates and, upon request, every holder of uncertificated shares shall be entitled to have a certificate signed by, or in the name of, the Corporation, (a) by the Chairman, the Chief Executive Officer, the Chief Operating Officer, the President or a Vice President; and (b) by the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary, representing the number of shares registered in certificate form. Such certificate shall be in such form as the Board of Directors may determine, to the extent consistent with applicable law, the Certificate of Incorporation and these By-Laws.

SECTION 5.2 Signatures; Facsimile. All signatures on the certificate referred to in Section 5.1 of these By-Laws may be in facsimile, engraved or printed form, to the extent permitted by law. In case any officer, transfer agent or registrar who has signed, or whose facsimile, engraved or printed signature has been placed upon a certificate representing shares of capital stock of the Corporation shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer, transfer agent or registrar at the date of issue.

SECTION 5.3 Lost, Stolen or Destroyed Certificates. The Corporation may issue a new certificate in place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

SECTION 5.4 Transfer of Stock. Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares of stock, duly endorsed or accompanied by appropriate evidence of succession, assignment or authority to transfer, the Corporation shall issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books. Within a reasonable time after the transfer of uncertificated stock, the

Corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on the certificates pursuant to Sections 151, 156, 202(a) or 218(a) of the DGCL. Subject to the provisions of the Certificate of Incorporation and these By-Laws, the Board of Directors may prescribe such additional rules and regulations as it may deem appropriate relating to the issue, transfer and registration of shares of the Corporation. For so long as required by the rules of any exchange upon which the securities of the Corporation may be listed or traded, and except as may be required by the Certificate of Incorporation, the Corporation shall not close, and shall not permit to be closed, the transfer books on which transfers of such securities are recorded.

SECTION 5.5 Registered Stockholders. To the fullest extent permitted by law, prior to due surrender of a certificate for registration of transfer, the Corporation may treat the registered owner as the person exclusively entitled to receive dividends and other distributions, to vote, to receive notice and otherwise to exercise all the rights and powers of the owner of the shares represented by such certificate, and the Corporation shall not be bound to recognize any equitable or legal claim to or interest in such shares on the part of any other person, whether or not the Corporation shall have notice of such claim or interests. Whenever any transfer of shares of capital stock shall be made for collateral security, and not absolutely, it shall be so expressed in the entry of the transfer if, when the certificates are presented to the Corporation for transfer or uncertificated shares are requested to be transferred, both the transferor and transferee request the Corporation to do so.

SECTION 5.6 Transfer Agent and Registrar. The Board of Directors may appoint one or more transfer agents and one or more registrars, and may require all certificates representing shares to bear the signature of any such transfer agents or registrars.

ARTICLE VI

INDEMNIFICATION

To the fullest extent permitted by the laws of the State of Delaware:

SECTION 6.1 Nature of Indemnity. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any actual or threatened action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she or a person of whom he or she is the legal representative is or was, at any time during which this By-Law is in effect (whether or not such person continues to serve in such capacity at the time any indemnification or advancement of expenses pursuant hereto is sought or at the time any proceeding relating thereto exists or is brought), the Chief Executive Officer, the President or any Executive Vice President, Senior Vice President or Vice President (each, an "Indemnified Officer") or a director of the Corporation (each such Indemnified Officer or director of the Corporation hereinafter referred to as an "indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as an Indemnified Officer or a director, or in any other capacity while serving as an Indemnified Officer or a director, shall be indemnified and held harmless by the Corporation (and any

successor of the Corporation by merger or otherwise) to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended or modified from time to time (but, in the case of any such amendment or modification, only to the extent that such amendment or modification permits the Corporation to provide greater indemnification rights than said law permitted the Corporation to provide prior to such amendment or modification), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) incurred or suffered by such indemnitee in connection therewith and such indemnification shall continue as to a person who has ceased to be an Indemnified Officer or a director and shall inure to the benefit of his or her heirs, executors and administrators; *provided*, *however*, that, except as provided in these By-Laws with respect to proceedings to enforce rights to indemnification and "advancement of expenses" (as defined below), the Corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation.

The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

SECTION 6.2 Request for Indemnification. To obtain indemnification under this By-Law, a claimant shall submit to the Corporation a written request, including therein or therewith such documentation and information as is reasonably available to the claimant and is reasonably necessary to determine whether and to what extent the claimant is entitled to indemnification. Upon written request by a claimant for indemnification, a determination, if required by applicable law, with respect to the claimant's entitlement thereto shall be made as follows: (1) if requested by the claimant, by Independent Counsel (as hereinafter defined), or (2) if no request is made by the claimant for a determination by Independent Counsel, (i) by the Board of Directors by a majority vote of a quorum of the Board of Directors consisting of Disinterested Directors (as hereinafter defined) or by a committee of Disinterested Directors appointed by the Board of Directors, or (ii) if a quorum of the Board of Directors consisting of Disinterested Directors or a committee of Disinterested Directors is not obtainable or, even if obtainable, such quorum or committee of Disinterested Directors so directs, by Independent Counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to the claimant, or (iii) if a quorum of Disinterested Directors or a committee of Disinterested Directors so directs, by a majority vote of the stockholders of the Corporation. In the event the determination of entitlement to indemnification is to be made by Independent Counsel, the Independent Counsel shall be selected by the Board of Directors unless there shall have occurred within two years prior to the date of the commencement of the proceeding for which indemnification is claimed a "Change of Control" (as defined in the Corporation's Credit Facility with Bank of America N.A., as Administrative Agent, and the other lenders party thereto, as in effect on the effective date of the Joint Plan of Reorganization (as defined in the Certificate of Incorporation)), in which case the Independent Counsel shall be selected by the claimant unless the claimant shall request that such selection be made by the Board of Directors. If it is so

determined that the claimant is entitled to indemnification, payment to the claimant shall be made within ten (10) days after such determination. A "Disinterested Director" means a director of the Corporation who is not and was not a party to the matter in respect of which indemnification is sought by the claimant. An "Independent Counsel" means a law firm, a member of a law firm, or an independent practitioner, that is experienced in matters of corporation law and shall include any person who, under the applicable standards of professional conduct then prevailing, would not have a conflict of interest in representing either the Corporation or the claimant in an action to determine the claimant's rights under this By-Law.

SECTION 6.3 Advance Payment of Expenses. To the fullest extent authorized by the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended or modified from time to time (but, in the case of any such amendment or modification, only to the extent that such amendment or modification permits the Corporation to provide greater rights to advancement of expenses than said law permitted the Corporation to provide prior to such amendment or modification), an indemnitee shall also have the right (and shall be deemed to have a contractual right to have), without the need for any action by the Board of Directors, to be paid by the Corporation (and any successor of the Corporation by merger or otherwise) the expenses (including attorneys' fees) incurred in defending any such proceeding in advance of its final adjudication (hereinafter an "advancement of expenses"), such advances to be paid by the Corporation within twenty (20) calendar days after the receipt by the Corporation of a statement or statements from the claimant requesting such advance or advances from time to time; *provided*, *however*, that, if the DGCL requires, an advancement of expenses incurred by an indemnitee in his or her capacity as an Indemnified Officer or a director (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter an "undertaking"), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a "final adjudication") that such indemnitee is not entitled to be indemnified for such expenses under this Article VI or otherwise. The Board of Directors may authorize the Corporation's counsel to represent such Indemnified Officer or director in any action, suit or proceeding, whether or not the Corporation is a party to such action, suit or proceeding.

SECTION 6.4 Procedure for Indemnification. If, following final adjudication of a proceeding, a claim for indemnification under this Article VI is not paid in full by the Corporation within sixty (60) calendar days after a written claim pursuant to Section 6.2 has been received by the Corporation, or if, whether before or after final adjudication of a proceeding, a claim for an advancement of expenses pursuant to Section 6.3 is not paid in full by the Corporation within 20 calendar days after a written claim has been received by the Corporation, the indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit, including without limitation reasonable attorneys' fees. In any suit brought by the indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the indemnitee to enforce a right to an advancement of expenses) it shall be a defense that the

indemnitee has not met any applicable standard for indemnification set forth in the DGCL. In any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that, the indemnitee has not met any applicable standard for indemnification set forth in the DGCL. Neither the failure of the Corporation (including its Disinterested Directors, a committee of such Disinterested Directors, Independent Counsel, or its stockholders) to have made a determination that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its Disinterested Directors, a committee of such Disinterested Directors, Independent Counsel or its stockholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article VI or otherwise shall be on the Corporation.

If a determination shall have been made pursuant to Section 6.2 that the indemnitee is entitled to indemnification, the Corporation shall be bound by such determination in any judicial proceeding commenced pursuant to this Section 6.4. The Corporation shall be precluded from asserting in any judicial proceeding commenced pursuant to this Section 6.4 that the procedures and presumptions of this By-Law are not valid, binding and enforceable and shall stipulate in such proceeding that the Corporation is bound by all the provisions of this By-Law.

SECTION 6.5 Preservation of Other Rights. The rights to indemnification and to the advancement of expenses conferred in this Article VI shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the Certificate of Incorporation, these By-Laws, agreement, vote of stockholders or directors or otherwise.

SECTION 6.6 Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL. To the extent that the Corporation maintains any policy or policies providing such insurance, each indemnitee to which rights to indemnification have been granted in this Article VI, shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage thereunder for any such indemnitee.

SECTION 6.7 Employees and Agents. The Corporation may, by action of the Board of Directors (whether pursuant to resolution or otherwise), provide indemnification and advance expenses to officers, employees and agents (in addition to Indemnified Officers and directors of the Corporation), to directors, officers, employees or agents of a subsidiary, and to each person serving as a director, officer, partner, member, employee or agent of another Corporation, partnership, limited liability company, joint venture, trust or other enterprise, at the request of the

Corporation to the fullest extent of the provisions of this Article VI with respect to the indemnification and advancement of expenses of directors of the Corporation.

SECTION 6.8 Survival. The rights conferred upon indemnitees in this Article VI shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director, officer or trustee and shall inure to the benefit of the indemnitee's heirs, executors and administrators. Any amendment, alteration or repeal of this Article VI that adversely affects any right of an indemnitee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment, alteration or repeal.

ARTICLE VII

OFFICES

SECTION 7.1 Registered Office. The registered office of the Corporation in the State of Delaware shall be located at The Corporation Trust Company, 1209 Orange Street, in the City of Wilmington, New Castle County, Delaware 19801. The name and address of the Corporation's registered agent at such address is The Corporation Trust Company.

SECTION 7.2 Other Offices. The Corporation may maintain offices or places of business at such other locations within or without the State of Delaware as the Board of Directors may from time to time determine or as the business of the Corporation may require.

ARTICLE VIII

GENERAL PROVISIONS

SECTION 8.1 Facsimile Signatures. In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these By-Laws, facsimile signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board of Directors or a committee thereof.

SECTION 8.2 Corporate Books. The books of the Corporation may be kept outside of the State of Delaware at such place or places as the Board of Directors may from time to time determine.

SECTION 8.3 Fiscal Year. The fiscal year of the Corporation shall be fixed by the Board of Directors.

SECTION 8.4 Seal. The seal of the Corporation shall contain the name of the Corporation, the year of its incorporation and the words "Corporate Seal" and "Delaware." The form of such seal shall be subject to alteration by the Board of Directors. The seal may be used by causing it or a facsimile thereof to be impressed, affixed or reproduced, or may be used in any other lawful manner.

ARTICLE IX

AMENDMENT OF BY-LAWS

SECTION 9.1 Amendment. Subject to the provisions of this Section 9.1 and the Certificate of Incorporation, these By-Laws (including this Article IX) may be amended, altered or repealed:

(a) by resolution adopted by a majority of the Board of Directors without a stockholder vote at any special or regular meeting of the Board of Directors if, in the case of such special meeting only, notice of such amendment, alteration or repeal is contained in the notice or waiver of notice of such meeting; *provided, however*, that the amendment, alteration or repeal of the provisions of Sections 1.2, 1.15, 2.2(b), 2.3, 2.4 or 2.13 hereof or this Section 9.1 shall require the affirmative vote of the holders of two-thirds or more of the combined voting power of the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors; or

(b) at any regular or special meeting of the stockholders upon the affirmative vote of the holders of a majority or more of the combined voting power of the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, if, in the case of such special meeting only, notice of such amendment, alteration or repeal is contained in the notice or waiver of notice of such meeting; *provided, however*, that the amendment, alteration or repeal of the provisions of Sections 1.2, 1.15, 2.2(b), 2.3, 2.4 or 2.13 hereof or this Section 9.1 shall require the affirmative vote of the holders of two-thirds or more of the combined voting power of the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors.

ARTICLE X

CONSTRUCTION

SECTION 10.1 Construction. In the event of any conflict between the provisions of these By-Laws as in effect from time to time and the provisions of the Certificate of Incorporation of the Corporation as in effect from time to time, the provisions of such Certificate of Incorporation shall be controlling.