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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

(Mark One)

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

For the quarterly period ended September 30, 2013

or

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number 000-52049

**SYNCHRONOSS TECHNOLOGIES, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**06-1594540**

(I.R.S. Employer  
Identification No.)

**200 Crossing Boulevard, 8<sup>th</sup> Floor**

**Bridgewater, New Jersey**

(Address of principal executive offices)

**08807**

(Zip Code)

**(866) 620-3940**

(Registrant's telephone number, including area code)

(Former name, former address, and former fiscal year, if changed since last report)

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller Reporting Company

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

Shares outstanding of the Registrant's common stock:

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Class	Outstanding at October 29, 2013
Common stock, \$0.0001 par value	40,526,584

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**SYNCHRONOSS TECHNOLOGIES, INC.**  
**CONSOLIDATED BALANCE SHEETS**  
**(Unaudited)**  
**(In thousands, except per share data)**

	<u>September 30, 2013</u>	<u>December 31, 2012</u>
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 37,087	\$ 36,028
Marketable securities	7,894	20,188
Accounts receivable, net of allowance for doubtful accounts of \$440 and \$258 at September 30, 2013 and December 31, 2012, respectively	88,694	74,980
Prepaid expenses and other assets	23,710	24,012
Deferred tax assets	4,120	4,114
Total current assets	161,505	159,322
Marketable securities	5,787	653
Property and equipment, net	95,821	58,162
Goodwill	125,998	127,322
Intangible assets, net	100,764	110,760
Deferred tax assets	4,047	6,961
Other assets	9,821	3,482
Total assets	<u>\$ 503,743</u>	<u>\$ 466,662</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 11,660	\$ 8,980
Accrued expenses	29,756	41,658
Deferred revenues	22,031	20,954
Contingent consideration obligation	9,037	3,279
Total current liabilities	72,484	74,871
Lease financing obligation - long-term	9,257	9,540
Contingent consideration obligation - long-term	—	5,100
Other liabilities	3,139	2,494
Stockholders' equity:		
Preferred stock, \$0.0001 par value; 10,000 shares authorized, 0 shares issued and outstanding at September 30, 2013 and December 31, 2012	—	—
Common stock, \$0.0001 par value; 100,000 shares authorized, 44,303 and 42,533 shares issued; 40,510 and 38,674 outstanding at September 30, 2013 and December 31, 2012, respectively	4	4
Treasury stock, at cost (3,793 and 3,859 shares at September 30, 2013 and December 31, 2012, respectively)	(67,104)	(67,918)
Additional paid-in capital	381,919	344,469
Accumulated other comprehensive loss	(1,901)	(365)
Retained earnings	105,945	98,467
Total stockholders' equity	418,863	374,657
Total liabilities and stockholders' equity	<u>\$ 503,743</u>	<u>\$ 466,662</u>

See accompanying notes to consolidated financial statements.

**SYNCHRONOSS TECHNOLOGIES, INC.**  
**CONSOLIDATED STATEMENTS OF INCOME**  
**(Unaudited)**  
**(In thousands, except per share data)**

	<u>Three Months Ended September 30,</u>		<u>Nine Months Ended September 30,</u>	
	<u>2013</u>	<u>2012</u>	<u>2013</u>	<u>2012</u>
Net revenues	\$ 89,716	\$ 68,961	\$ 251,840	\$ 200,511
Costs and expenses:				
Cost of services*	38,133	29,136	105,791	84,388
Research and development	16,554	12,645	49,630	38,091
Selling, general and administrative	15,562	10,278	45,157	31,728
Net change in contingent consideration obligation	500	(327)	2,676	(5,735)
Restructuring charges	—	—	5,172	—
Depreciation and amortization	10,213	6,068	28,792	17,201
Total costs and expenses	<u>80,962</u>	<u>57,800</u>	<u>237,218</u>	<u>165,673</u>
Income from operations	8,754	11,161	14,622	34,838
Interest income	149	295	432	1,023
Interest expense	(235)	(222)	(714)	(702)
Other (expense) income	(369)	(207)	(326)	586
Income before income tax expense	8,299	11,027	14,014	35,745
Income tax expense	(4,709)	(4,825)	(6,536)	(12,111)
Net income	<u>\$ 3,590</u>	<u>\$ 6,202</u>	<u>\$ 7,478</u>	<u>\$ 23,634</u>
Net income per common share:				
Basic	<u>\$ 0.09</u>	<u>\$ 0.16</u>	<u>\$ 0.19</u>	<u>\$ 0.62</u>
Diluted	<u>\$ 0.09</u>	<u>\$ 0.16</u>	<u>\$ 0.19</u>	<u>\$ 0.60</u>
Weighted-average common shares outstanding:				
Basic	<u>38,960</u>	<u>38,107</u>	<u>38,589</u>	<u>38,219</u>
Diluted	<u>40,056</u>	<u>38,872</u>	<u>39,662</u>	<u>39,192</u>
Comprehensive income	<u>\$ 8,738</u>	<u>\$ 6,773</u>	<u>\$ 5,942</u>	<u>\$ 24,054</u>

\* Cost of services excludes depreciation and amortization which is shown separately.

See accompanying notes to consolidated financial statements.

**SYNCHRONOSS TECHNOLOGIES, INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**(Unaudited)**  
**(In thousands)**

	Nine Months Ended September 30,	
	2013	2012
<b>Operating activities:</b>		
Net income	\$ 7,478	\$ 23,634
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization expense	28,792	17,199
Loss on disposal of asset	—	198
Amortization of bond premium	225	1,000
Deferred income taxes	3,401	32
Non-cash interest on leased facility	691	690
Stock-based compensation	18,313	14,387
Changes in operating assets and liabilities:		
Accounts receivable, net of allowance for doubtful accounts	(13,714)	(6,733)
Prepaid expenses and other current assets	1,656	7,022
Other assets	(6,724)	(122)
Accounts payable	2,680	(2,665)
Accrued expenses	(11,952)	(3,042)
Contingent consideration obligation	1,724	(8,396)
Excess tax benefit from the exercise of stock options	(983)	(6,592)
Other liabilities	1,063	(146)
Deferred revenues	760	(1,707)
Net cash provided by operating activities	33,410	34,759
<b>Investing activities:</b>		
Purchases of fixed assets	(55,216)	(25,377)
Purchases of marketable securities available-for-sale	(6,703)	(13,082)
Maturities of marketable securities available-for-sale	13,635	15,531
Business acquired, net of cash	—	(26,572)
Net cash used in investing activities	(48,284)	(49,500)
<b>Financing activities:</b>		
Proceeds from the exercise of stock options	17,495	7,330
Payments on contingent consideration obligation	(1,090)	(2,268)
Excess tax benefit from the exercise of stock option	983	6,592
Repurchase of common stock	—	(13,898)
Proceeds from the sale of Treasury Stock in connection with an employee stock purchase plan	1,474	612
Proceeds from capital obligations	—	38
Repayments of capital obligations	(1,236)	(750)
Net cash provided (used) by financing activities	17,626	(2,344)
Effect of exchange rate changes on cash	(1,693)	391
Net increase (decrease) in cash and cash equivalents	1,059	(16,694)
Cash and cash equivalents at beginning of year	36,028	69,430
Cash and cash equivalents at end of period	\$ 37,087	\$ 52,736
<b>Supplemental disclosures of cash flow information:</b>		
Cash paid for income taxes	\$ 1,131	\$ 3,222

See accompanying notes to consolidated financial statements.

**SYNCHRONOSS TECHNOLOGIES, INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — UNAUDITED (Continued)**  
**(in thousands, except per share data unless otherwise noted)**

The consolidated financial statements as of September 30, 2013 and for the three and nine months ended September 30, 2013 and 2012 are unaudited, but in the opinion of management include all adjustments (consisting only of normal recurring adjustments) necessary for a fair presentation of the results for the interim periods. They do not include all of the information and footnotes required by U.S. generally accepted accounting principles (“GAAP”) for complete financial statements and should be read in conjunction with the financial statements and notes in the Annual Report of Synchronoss Technologies, Inc. incorporated by reference in the Company’s annual report on Form 10-K for the year ended December 31, 2012. The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All significant intercompany balances and transactions are eliminated in consolidation. The Company has no unconsolidated subsidiaries or investments accounted for under the equity method. The results reported in these consolidated financial statements should not necessarily be taken as indicative of results that may be expected for the entire year. The balance sheet at December 31, 2012 has been derived from the audited financial statements at that date but does not include all of the information and footnotes required by GAAP for complete financial statements.

**1. Description of Business**

Synchronoss Technologies, Inc. (the “Company” or “Synchronoss”) is a mobile innovation company that provides software-based activation and personal cloud solutions for connected devices across the globe. Such solutions include device and service procurement, provisioning, activation, support, intelligent connectivity management and content synchronization, back-up and sharing that enable communications service providers (CSPs), cable operators/multi-services operators (MSOs), original equipment manufacturers (OEMs) with embedded connectivity (e.g. smartphones, laptops, tablets and mobile Internet devices, among others), e-Tailers/retailers and other customers to accelerate and monetize their go-to-market strategies for connected devices. This includes automating subscriber activation, order management, upgrades, service provisioning and connectivity and content management from any channel (e.g., e-commerce, telesales, enterprise, indirect and other retail outlets, etc.) to any communication service (e.g., wireless (3G, (EV-DO and HSPA), 4G, (LTE and WiMAX)), Wi-Fi, high speed access, local access, IPTV, cable, satellite TV, etc.) across any connected device type with support for content transfer, synchronization and sharing. The Company’s solutions touch all aspects of connected devices on the mobile Internet.

The Company’s Activation Services and Personal Cloud platforms provide end-to-end seamless integration between customer-facing channels/applications, communication services, or devices and “back-office” infrastructure-related systems and processes. The Company’s customers rely on its solutions and technology to automate the process of activation and content management for their customers’ devices while delivering additional communication services. The Company’s platforms also support automated customer care processes through use of highly accurate and effective speech processing technology and enable the Company’s customers to offer their subscribers the ability to store in the Cloud their personal content and data which resides on their connected mobile devices, such as personal computers, smartphones and tablets. The Company’s platforms are designed to be carrier-grade, high availability, flexible and scalable to enable multiple converged communication services to be managed across multiple distribution channels, including e-commerce, m-commerce, telesales, customer stores, indirect and other retail outlets, etc., allowing it to meet the rapidly changing and converging services and connected devices offered by its customers. The Company enables its customers to acquire, retain and service subscribers quickly, reliably and cost-effectively by enabling back-up, synchronization and sharing of subscriber content. Through the use of the Company’s platforms, its customers can simplify the processes associated with managing the customer experience for procuring, activating, connecting, synchronizing and social media sharing connected devices, content and services. The extensibility, scalability and relevance of the Company’s platforms enable new revenue streams and retention opportunities for its customers through new subscriber acquisitions, sale of new devices, accessories and new value-added service offerings in the Cloud, while optimizing their cost of operations and enhancing customer experience.

The Company currently operates in and markets its solutions and services directly through its sales organizations in North America, Europe and Asia-Pacific.

SYNCHRONOSS TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — UNAUDITED (Continued)  
(in thousands, except per share data unless otherwise noted)

**2. Basis of Presentation**

For further information about the Company's basis of presentation or its significant accounting policies, refer to the financial statements and footnotes thereto included in the Company's annual report on Form 10-K for the year ended December 31, 2012.

In connection with the Spatial Systems Nominees PTY LTD ("Spatial") acquisition, the consolidated balance sheet at December 31, 2012 has been recast to include retrospective purchase accounting adjustments. These adjustments pertain to measurement period adjustments during the nine months ended September 30, 2013 based on the reclassification and valuation of assets acquired and liabilities assumed in the Spatial acquisition. The effect on the consolidated balance sheet at December 31, 2012, as a result of the recast, is a decrease in accounts receivable of \$2.6 million, an increase in prepaid expenses and other assets of \$5.0 million, an increase in goodwill of \$11.8 million, an increase in accrued expenses of \$4.6 million, and an increase in deferred revenues of \$9.6 million.

During the third quarter, the Company entered into a new three year agreement with AT&T which continues until July 31, 2016 unless earlier terminated. AT&T may renew this agreement for one additional year by providing at least ninety days written notice prior to the end of the initial term. This agreement defines the work activities, transaction pricing, forecasting process, service level agreements and remedies associated with certain services performed by the Company for AT&T's e-commerce organizations. The agreement provides for AT&T to pay the Company (i) monthly hosting fees, (ii) fees based on the number of transactions processed through the Company's technology platform, (iii) fees based on manual processing services and (iv) fees for professional services rendered by the Company.

Prior to the third quarter, several of the Company's subsidiaries that operate outside the United States used the U.S. dollar as the functional currency. Effective July 1, 2013, the Company changed the functional currencies of those subsidiaries that operate outside the United States to their local currency. The functional currency is translated into U.S. dollars for balance sheet accounts using the month end rates in effect as of the balance sheet date and average exchange rate for revenue and expense accounts for each respective period. The translation adjustments are deferred as a separate component of stockholders' equity, within accumulated other comprehensive income. Gains or losses resulting from transactions denominated in foreign currencies are included in other income or expense, within the consolidated statements of income. The effects of the change in functional currency were not material to the Company's consolidated financial statements.

*Impact of Recently Issued Accounting Standards*

In February 2013, the FASB issued ASU 2013-02 which requires additional disclosures regarding the reporting of reclassifications out of accumulated other comprehensive income. ASU 2013-02 requires an entity to present, either on the face of the statement where net income is presented or in the notes, significant amounts reclassified out of accumulated other comprehensive income by the respective line items of net income but only if the amount reclassified is required under U.S. GAAP to be reclassified to net income in its entirety in the same reporting period. This guidance is effective for reporting periods beginning after December 15, 2012. The Company adopted this guidance effective January 1, 2013. The Company's adoption of this standard did not have a significant impact on its consolidated financial statements.

In March 2013, the FASB issued ASU 2013-05, which permits an entity to release cumulative translation adjustments into net income when a reporting entity (parent) ceases to have a controlling financial interest in a subsidiary or group of assets that is a business within a foreign entity. Accordingly, the cumulative translation adjustment should be released into net income only if the sale or transfer results in the complete or substantially complete liquidation of the foreign entity in which the subsidiary or group of assets had resided, or, if a controlling financial interest is no longer held. The revised standard is effective for fiscal years beginning after December 15, 2013; however, early adoption is permitted. The Company does not expect adoption of this ASU to significantly impact its consolidated financial statements.



SYNCHRONOSS TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — UNAUDITED (Continued)  
(in thousands, except per share data unless otherwise noted)

In July 2013, the FASB issued ASU 2013-11, which provides that a liability related to an unrecognized tax benefit would be offset against a deferred tax asset instead of presented gross for a net operating loss carryforward, a similar tax loss, or a tax credit carryforward if such settlement is required or expected in the event the uncertain tax position is disallowed. This new guidance is effective for fiscal years beginning after December 15, 2013. The Company does not expect adoption of this ASU to significantly impact its consolidated financial statements.

**3. Earnings per Common Share**

The Company calculates basic and diluted per share amounts based on net earnings adjusted for the effects to earnings that would result if contingently issuable shares related to contingent consideration to be settled in the Company's stock were reported as equity for the periods presented. To calculate basic earnings per share, the Company uses the weighted average number of common shares outstanding during the period adjusted for the weighted average number of contingently issuable shares. The weighted average numbers of shares contingently issuable are calculated as if they were outstanding as of the last day of the period. The diluted earnings per share calculation is based on the weighted average number of shares of common stock outstanding adjusted for the number of additional shares that would have been outstanding had all potentially dilutive common shares been issued. Potentially dilutive shares of common stock include stock options, non-vested share awards and contingently issuable shares related to contingent consideration to be settled in stock. The dilutive effects of stock options and restricted stock awards are based on the treasury stock method. The dilutive effects of the contingent consideration to be settled in stock are calculated as if the contingently issuable shares were outstanding as of the beginning of the period. The following table provides a reconciliation of the numerator and denominator used in computing basic and diluted net income attributable to common stockholders per common share. Stock options that are anti-dilutive and excluded from the following table totaled 1,378 and 2,286 for the three months ended September 30, 2013 and 2012, respectively, and 1,406 and 1,709 for the nine months ended September 30, 2013 and 2012, respectively.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2013	2012	2013	2012
Numerator:				
Net income attributable to common stockholders	\$ 3,590	\$ 6,202	\$ 7,478	\$ 23,634
Denominator:				
Weighted average common shares outstanding — basic	38,960	38,107	38,589	38,219
Dilutive effect of:				
Options and unvested restricted shares	1,096	765	1,073	973
Weighted average common shares outstanding — diluted	40,056	38,872	39,662	39,192

**4. Fair Value Measurements of Assets and Liabilities**

The Company classifies marketable securities as available-for-sale. The fair value hierarchy established in the guidance adopted by the Company prioritizes the inputs used in valuation techniques into three levels as follows:

- Level 1 — Observable inputs — quoted prices in active markets for identical assets and liabilities;
- Level 2 — Observable inputs other than the quoted prices in active markets for identical assets and liabilities — includes quoted prices for similar instruments, quoted prices for identical or similar instruments in inactive markets, and amounts derived from valuation models where all significant inputs are observable in active markets; and
- Level 3 — Unobservable inputs — includes amounts derived from valuation models where one or more significant inputs are unobservable and require the Company to develop relevant assumptions.

The following is a summary of assets and liabilities held by the Company and their related classifications under the fair value hierarchy:

SYNCHRONOSS TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — UNAUDITED (Continued)  
(in thousands, except per share data unless otherwise noted)

	September 30, 2013	December 31, 2012
Level 1 (A)	\$ 42,474	\$ 41,395
Level 2 (B)	8,294	15,474
Level 3 (C)	(9,037)	(8,379)
Total	<u>\$ 41,731</u>	<u>\$ 48,490</u>

- (A) Level 1 assets include money market funds and enhanced income money market funds which are classified as cash equivalents and marketable securities, respectively.
- (B) Level 2 assets include certificates of deposit, municipal bonds and corporate bonds which are classified as marketable securities.
- (C) Level 3 liabilities include the contingent consideration obligation.

The Company utilizes the market approach to measure fair value for its financial assets. The market approach uses prices and other relevant information generated by market transactions involving identical or comparable assets. The Company's marketable securities investments classified as Level 2 primarily utilize broker quotes in a non-active market for valuation of these securities. No transfers of assets between Level 1 and Level 2 of the fair value measurement hierarchy occurred during the nine months ended September 30, 2013.

The aggregate fair value of available-for-sale securities and aggregate amount of unrealized gains and losses for available for sale securities at September 30, 2013 were as follows:

	Aggregate Fair Value	Aggregate Amount of Unrealized	
		Gains	Losses
Due in one year or less	\$ 7,894	\$ 2	\$ (23)
Due after one year, less than five years	5,787	13	(3)
	<u>\$ 13,681</u>	<u>\$ 15</u>	<u>\$ (26)</u>

The aggregate fair value of available-for-sale securities and aggregate amount of unrealized gains and losses for available for sale securities at December 31, 2012 were as follows:

	Aggregate Fair Value	Aggregate Amount of Unrealized	
		Gains	Losses
Due in one year or less	\$ 20,188	\$ 18	\$ (41)
Due after one year, less than five years	653	1	(1)
	<u>\$ 20,841</u>	<u>\$ 19</u>	<u>\$ (42)</u>

Unrealized gains and losses are reported as a component of accumulated other comprehensive loss in stockholders' equity. The cost of securities sold is based on specific identification method. The Company evaluates investments with unrealized losses to determine if the losses are other than temporary. The Company has determined that the gross unrealized losses at September 30, 2013 and December 31, 2012 are temporary. In making this determination, the Company considered the financial condition, credit ratings and near-term prospects of the issuers, the underlying collateral of the investments, and the magnitude of the losses as compared to the cost and the length of time the investments have been in an unrealized loss position. Additionally, while the Company classifies the securities as available for sale, the Company does not currently intend to sell such investments and it is more likely than not to recover the carrying value prior to being required to sell such investments.

The Company determined the fair value of the contingent consideration obligation based on a probability-weighted income approach derived from quarterly revenue estimates and a probability assessment with respect to the likelihood of achieving the various

**SYNCHRONOSS TECHNOLOGIES, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — UNAUDITED (Continued)**  
**(in thousands, except per share data unless otherwise noted)**

performance criteria. The fair value measurement is based on significant inputs not observable in the market and thus represents a Level 3 measurement. The significant unobservable inputs used in the fair value measurement of the Company's contingent consideration obligation are the probabilities of achieving certain financial targets and contractual milestones. Significant increases (decreases) in any of those probabilities in isolation may result in a higher (lower) fair value measurement. No changes in valuation techniques occurred during the nine months ended September 30, 2013.

The changes in fair value of the Company's Level 3 contingent consideration obligation during the nine months ended September 30, 2013 were as follows:

	<b>Level 3</b>
Balance at December 31, 2012	\$ 8,379
Fair value adjustment to contingent consideration obligation included in net income	2,676
Earn-out compensation due to SpeechCycle employees	511
SpeechCycle Earn-out payment	(2,553)
Fx impact of change in contingent consideration obligation	24
Balance at September 30, 2013	<u>\$ 9,037</u>

**5. Acquisition****Spatial Systems Nominees PTY LTD (“Spatial”)**

On November 30, 2012, the Company acquired 100% of the capital stock of Spatial, an Australian company with operations in the U.S., for total cash consideration of \$30.6 million and issued approximately 240 shares of the Company's Common Stock. The total cash consideration was comprised of \$30.0 million for the purchase of all of the shares of Spatial and \$625 for the estimated surplus working capital on the date of purchase. Of the 240 shares of the Company's Common Stock issued, only a portion valued at approximately \$1.4 million based on the Company's November 30, 2012 closing stock price per share was considered purchase price. The remaining value of the shares will be recognized as compensation expense and amortized over the service period of three years. In addition, the Company potentially may make payments totaling up to approximately \$5.0 million in cash and may issue up to 260 shares of stock based on the ability to achieve a range of business objectives for the period from December 1, 2012 through November 30, 2013.

The Company accounted for this business combination by applying the acquisition method, and accordingly, the purchase price was allocated to the tangible assets acquired and liabilities assumed based upon their fair values at the acquisition date. The excess of the purchase price over the net tangible assets and liabilities, approximately \$36.4 million was recorded as goodwill, which is not tax deductible. The Company is in the process of finalizing the purchase allocation, thus the provisional measures of deferred revenue, deferred income taxes, intangibles and goodwill are subject to change. The purchase price allocation will be finalized in 2013.

*Allocation of Consideration Transferred*

Total purchase price is summarized as follows:

	<b>November 30, 2012</b>
Cash consideration	\$ 30,000
Working Capital Surplus	625
Value of Synchronoss common stock issued	1,386
Estimated fair value of the Earn-out payments	4,600
Total purchase price	<u>\$ 36,611</u>

## SYNCHRONOSS TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — UNAUDITED (Continued)  
(in thousands, except per share data unless otherwise noted)

The Company prepared an initial determination of the fair value of assets acquired and liabilities assumed as of the acquisition date using preliminary information. In accordance with ASC 805, during the measurement period an acquirer shall retrospectively adjust the provisional amounts recognized at the acquisition date to reflect information obtained about facts and circumstances that existed as of the acquisition date that, if known, would have affected the measurement of the amounts recognized as of the acquisition date. Accordingly, the Company has recognized measurement period adjustments made during the first quarter of 2013 to the fair value of certain assets acquired and liabilities assumed as a result of the further refinements in the Company's provisional amounts. These adjustments were retrospectively applied to the November 30, 2012 acquisition date balance sheet. The effect of these adjustments on the preliminary purchase price allocation was a decrease in accounts receivable of \$2.6 million, an increase in prepaid expenses and other assets of \$5.0 million, an increase to goodwill of \$11.8 million, an increase in accrued expenses of \$4.6 million, and an increase to deferred revenues of \$9.6 million. None of the adjustments had a material impact on the Company's previously reported results of operations.

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

	November 30, 2012
Cash and cash equivalents	\$ 2,395
Accounts receivable	4,409
Prepaid expenses and other assets	5,232
Property and equipment	584
Intangible assets	11,322
Other assets, non-current	70
Total identifiable assets acquired	24,012
Accounts payable and accrued liabilities	(9,860)
Deferred revenue	(11,111)
Deferred tax liability	(2,459)
Other liabilities, non-current	(389)
Total liabilities assumed	(23,819)
Net identifiable assets acquired	193
Goodwill	36,418
Net assets acquired	\$ 36,611

**Newbay Software Limited ("Newbay")**

On December 24, 2012, the Company acquired 100% of the capital stock of Newbay, an Ireland company, and its subsidiaries, for cash consideration of \$55.5 million. Newbay has operations in Europe and the U.S.

The Company accounted for this business combination by applying the acquisition method, and accordingly, the purchase price was allocated to the tangible assets acquired and liabilities assumed based upon their fair values at the acquisition date. The excess of the purchase price over the net tangible assets and liabilities, approximately \$23.2 million was recorded as goodwill, which is not tax deductible. The Company is in the process of finalizing the purchase allocation, thus the provisional measures of deferred revenue, deferred income taxes, intangibles and goodwill are subject to change. The Company expects the purchase price allocation will be finalized in 2013.

## SYNCHRONOSS TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — UNAUDITED (Continued)  
(in thousands, except per share data unless otherwise noted)*Allocation of Consideration Transferred*

Total purchase price is summarized as follows:

	December 24, 2012
Total consideration	\$ 55,500
Closing Adjustment	(2,947)
Total purchase price	<u>\$ 52,553</u>

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

	December 24, 2012
Cash and cash equivalents	\$ 2,444
Accounts receivable	5,748
Prepaid expenses and other assets	3,838
Property and equipment	4,543
Intangible assets	27,989
Deferred tax asset	517
Other assets, non-current	1,089
Total identifiable assets acquired	<u>46,168</u>
Accounts payable and accrued liabilities	(13,575)
Deferred revenue	(881)
Capital lease	(2,348)
Total liabilities assumed	<u>(16,804)</u>
Net identifiable assets acquired	29,364
Goodwill	23,189
Net assets acquired	<u>\$ 52,553</u>

Total goodwill changed during the nine months ended September 30, 2013 as follows:

Balance at December 31, 2012	\$ 127,322
Acquisitions	—
Reclassifications, adjustments and other	(298)
Translation adjustments	(1,026)
Balance at September 30, 2013	<u>\$ 125,998</u>

SYNCHRONOSS TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — UNAUDITED (Continued)  
(in thousands, except per share data unless otherwise noted)

6. Stockholders' Equity

*Stock Options*

The Company uses the Black-Scholes option pricing model for determining the estimated fair value for stock-based awards. The weighted-average assumptions used in the Black-Scholes option pricing model are as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2013	2012	2013	2012
Expected stock price volatility	6.5%	6.8%	6.6%	6.9%
Risk-free interest rate	1.39%	0.63%	0.86%	0.81%
Expected life of options (in years)	4.37	4.51	4.45	4.87
Expected dividend yield	0%	0%	0%	0%

The weighted-average fair value (as of the date of grant) of the options was \$15.88 and \$11.11 per share for the three months ended September 30, 2013 and 2012, respectively, and \$15.76 and \$14.10 per share for the nine months ended September 30, 2013 and 2012, respectively. During the three months ended September 30, 2013 and 2012, the Company recorded total pre-tax stock-based compensation expense of \$7.3 million (\$4.8 million after tax or \$0.12 per diluted share) and \$4.6 million (\$2.9 million after tax or \$0.07 per diluted share), respectively, which includes the fair value for equity awards issued after January 1, 2006. During the nine months ended September 30, 2013 and 2012, the Company recorded total pre-tax stock-based compensation expense of \$18.3 million (\$12.1 million after tax or \$0.30 per diluted share) and \$14.4 million (\$9.1 million after tax or \$0.23 per diluted share), respectively, which includes the fair value for equity awards issued after January 1, 2006. The total stock-based compensation cost related to non-vested equity awards not yet recognized as an expense as of September 30, 2013 was approximately \$42.8 million. That cost is expected to be recognized over a weighted-average period of approximately 2.58 years.

The following table summarizes information about stock options outstanding as of September 30, 2013:

Options	Number of Options	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Outstanding at December 31, 2012	3,976	\$ 20.88		
Options Granted	612	30.20		
Options Exercised	(1,042)	16.78		
Options Cancelled	(117)	24.96		
Outstanding at September 30, 2013	3,429	\$ 23.65	4.54	\$ 49,432
Vested or expected to vest at September 30, 2013	3,253	\$ 23.37	4.46	\$ 47,803
Exercisable at September 30, 2013	1,994	\$ 20.73	3.73	\$ 34,560

A summary of the Company's non-vested restricted stock at September 30, 2013, and changes during the nine months ended September 30, 2013, is presented below:

Non-Vested Restricted Stock	Number of
Non-vested at December 31, 2012	866
Granted	829
Vested	(241)
Forfeited	(102)
Non-vested at September 30, 2013	1,352

## SYNCHRONOSS TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — UNAUDITED (Continued)  
(in thousands, except per share data unless otherwise noted)**Employee Stock Purchase Plan**

On February 1, 2012, the Company established a ten year Employee Stock Purchase Plan (“ESPP” or “the Plan”) for certain eligible employees. The Plan is to be administered by the Company’s Board of Directors. The total number of shares available for purchase under the Plan is 500 shares of the Company’s Common Stock. Employees participate over a six month period through payroll withholdings and may purchase, at the end of the six month period, the Company’s Common Stock at the lower of 85% of the fair market value on the first day of the offering period or the fair market value on the purchase date. No participant will be granted a right to purchase Common Stock under the Plan if such participant would own more than 5% of the total combined voting power of the Company. In addition, no participant may purchase more than a thousand shares of Common Stock within any purchase period.

The expected life of ESPP shares is the average of the remaining purchase period under each offering period. The assumptions used to value employee stock purchase rights are as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2013	2012	2013	2012
Expected stock price volatility	65%	68%	67%	68%
Risk-free interest rate	0.10%	0.92%	0.12%	0.92%
Expected life (in years)	0.50	0.50	0.50	0.50
Expected dividend yield	0%	0%	0%	0%

During the three months ended September 30, 2013 and 2012, the Company recorded \$164 and \$113, respectively, of compensation expense related to the ESPP. During the nine months ended September 30, 2013 and 2012, the Company recorded \$493 and \$321, respectively, of compensation expense related to the ESPP. During the three months ended September 30, 2013 and 2012, the Company sold a total of 31 and 33 shares, respectively, of its Treasury Stock pursuant to purchases under its ESPP Plan. During the nine months ended September 30, 2013 and 2012, the Company sold a total of 66 and 33 shares of its Treasury Stock pursuant to purchases under its ESPP Plan. Cash received from purchases through the ESPP Plan during the three months ended September 30, 2013 and 2012, was approximately \$804 and \$612, respectively, and is included within the financing activities section of the consolidated statements of cash flows. Cash received from purchases through the ESPP Plan during the nine months ended September 30, 2013 and 2012, was approximately \$1,474 and \$612, respectively, and is included within the financing activities section of the consolidated statements of cash flows. The total unrecognized compensation expense related to the ESPP as of September 30, 2013 was approximately \$144, which is expected to be recognized over the remainder of the offering period.

**7. Restructuring Charges**

In January 2013, the Company initiated a work-force reduction of approximately 10 percent as part of a corporate restructuring, with reductions occurring across all levels and departments within the Company. This measure was intended to reduce costs and to align the Company’s resources with its key strategic priorities. Additionally, in relation to the work-force reduction, the Company initiated a facilities consolidation, beginning the process of closing one of its leased locations in Seattle, WA. The Company recorded restructuring charges of \$4.6 million and \$555 during the nine months ended September 30, 2013 for employment termination costs and minimum lease payments, respectively. There were no additional restructuring charges during the three months ended September 30, 2013. At September 30, 2013, the restructuring charges that were unpaid and classified under accrued expenses on the balance sheet related to the facilities consolidation were \$256.

A summary of the Company’s restructuring accrual at September 30, 2013, and changes during the nine months ended September 30, 2013, is presented below:

SYNCHRONOSS TECHNOLOGIES, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — UNAUDITED (Continued)  
(in thousands, except per share data unless otherwise noted)

	Balance at December 31, 2012	Charges	Payments	Adjustments	Balance at September 30, 2013
Employment termination costs	\$ —	\$ 4,617	\$ (4,602)	\$ (15)	\$ —
Facilities consolidation	—	555	(299)	—	256
<b>Total</b>	<b>\$ —</b>	<b>\$ 5,172</b>	<b>\$ (4,901)</b>	<b>\$ (15)</b>	<b>\$ 256</b>

**8. Accumulated Other Comprehensive Income**

The changes in accumulated other comprehensive income during the three months ended September 30, 2013, are as follows, net of tax:

	Foreign Currency	Unrealized Holding Gains on Available-for-Sale Securities	Net Gain (Loss) on Intra-Entity Foreign Currency Transactions	Total
Balance at June 30, 2013	\$ (7,015)	\$ (34)	\$ —	\$ (7,049)
Other comprehensive income before reclassifications	2,623	19	2,506	5,148
Amounts reclassified from accumulated other comprehensive income	—	—	—	—
Total other comprehensive loss	2,623	19	2,506	5,148
Balance at September 30, 2013	\$ (4,392)	\$ (15)	\$ 2,506	\$ (1,901)

The changes in accumulated other comprehensive income during the nine months ended September 30, 2013, are as follows, net of tax:

	Foreign Currency	Unrealized Holding Gains on Available-for-Sale Securities	Net Gain (Loss) on Intra-Entity Foreign Currency Transactions	Total
Balance at December 31, 2012	\$ (352)	\$ (13)	\$ —	\$ (365)
Other comprehensive income before reclassifications	(4,040)	(2)	2,506	(1,536)
Amounts reclassified from accumulated other comprehensive income	—	—	—	—
Total other comprehensive loss	(4,040)	(2)	2,506	(1,536)
Balance at September 30, 2013	\$ (4,392)	\$ (15)	\$ 2,506	\$ (1,901)

**9. Credit Facility**

In September 2013, the Company entered into a Credit Agreement (the “Credit Facility”) with JP Morgan Chase Bank, N.A., as administrative agent, Wells Fargo Bank, National Association, as syndication agent and Capital One, National Association and KeyBank National Association, as co-documentation agents. The Credit Facility, which will be used for general corporate purposes, is a \$100 million unsecured revolving line of credit that matures on September 27, 2018. Synchronoss has the right to request an increase in the aggregate principal amount of the Credit Facility to \$150 million. Synchronoss has not drawn down any funds under the Credit Facility.

The Credit Facility is subject to certain financial covenants. As of September 30, 2013, the Company was in compliance with all required covenants and there were no outstanding balances on the Credit Facility.



**SYNCHRONOSS TECHNOLOGIES, INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — UNAUDITED (Continued)**  
**(in thousands, except per share data unless otherwise noted)**

**10. Legal Matters**

The Company is not currently subject to any legal proceedings that could have a material adverse effect on its operations; however, it may from time to time become a party to various legal proceedings arising in the ordinary course of its business. The Company is currently the plaintiff in several patent infringement cases. Although the Company cannot predict the outcome of the cases at this time due to the inherent uncertainties of litigation, the Company continues to pursue its claims and believes that the counterclaims are without merit, and the Company intends to defend all of such counterclaims.

**11. Subsequent Events**

The Company has evaluated all subsequent events and transactions through the filing date.

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

The following discussion and analysis should be read in conjunction with the information set forth in our consolidated financial statements and related notes included elsewhere in this quarterly report on Form 10-Q and in our annual report Form 10-K for the year ended December 31, 2012. This report contains "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. These statements are subject to risks and uncertainties and are based on the beliefs and assumptions of our management as of the date hereof based on information currently available to our management. Use of words such as "believes," "expects," "anticipates," "intends," "plans," "should", "continues," "likely" or similar expressions, indicate a forward-looking statement. Forward-looking statements are not guarantees of future performance and involve risks, uncertainties and assumptions. Actual results may differ materially from the forward-looking statements we make. We caution investors not to place substantial reliance on the forward-looking statements included in this report. These statements speak only as of the date of this report (unless another date is indicated), and we undertake no obligation to update or revise the statements in light of future developments. All numbers are expressed in thousands unless otherwise stated.

### Overview

We are a mobile innovation company that provides software-based activation and personal cloud solutions for connected devices across the globe. Such solutions include device and service procurement, provisioning, activation, support, intelligent connectivity management and content synchronization, back-up and sharing that enable communications service providers (CSPs), cable operators/multi-services operators (MSOs), original equipment manufacturers (OEMs) with embedded connectivity (e.g. smartphones, laptops, tablets and mobile Internet devices, among others), e-Tailers/retailers and other customers to accelerate and monetize their go-to-market strategies for connected devices. This includes automating subscriber activation, order management, upgrades, service provisioning and connectivity and content management from any channel (e.g., e-commerce, telesales, enterprise, indirect and other retail outlets, etc.) to any communication service (e.g., wireless (3G, (EV-DO and HSPA), 4G, (LTE and WiMAX)), Wi-Fi, high speed access, local access, IPTV, cable, satellite TV, etc.) across any connected device type with support for content transfer, synchronization and sharing. Our global solutions touch all aspects of connected devices on the mobile Internet.

Our Activation Services and Personal Cloud platforms provide end-to-end seamless integration between customer-facing channels/applications, communication services, or devices and "back-office" infrastructure-related systems and processes. Our customers rely on our solutions and technology to automate the process of activation and content management for their customers' devices while delivering additional communication services. Our platforms also support automated customer care processes through use of accurate and effective speech processing technology and enable our customers to offer their subscribers the ability to store in the Cloud their personal content and data which resides on their connected mobile devices, such as personal computers, smartphones and tablets. Our platforms are designed to be carrier-grade, high availability, flexible and scalable to enable multiple converged communication services to be managed across multiple distribution channels, including e-commerce, m-commerce, telesales, customer stores, indirect and other retail outlets, etc., allowing us to meet the rapidly changing and converging services and connected devices offered by our customers. We enable our customers to acquire, retain and service subscribers quickly, reliably and cost-effectively by enabling back-up, synchronization and sharing of subscriber content. Through the use of our platforms, our customers can simplify the processes associated with managing the customer experience for procuring, activating, connecting, synchronizing and social media sharing connected devices, content and services. The extensibility, scalability and relevance of our platforms enable new revenue streams and retention opportunities for our customers through new subscriber acquisitions, sale of new devices, accessories and new value-added service offerings in the Cloud, while optimizing their cost of operations and enhancing customer experience.

We currently operate in and market our solutions and services directly through our sales organizations in North America, Europe and Asia-Pacific.

### Revenues

We generate a substantial portion of our revenues on a per-transaction or subscription basis, which is derived from contracts that extend up to 60 months from execution. For the three months ended September 30, 2013 and 2012, we derived approximately 77% and 72%, respectively, of our revenues from transactions processed and subscription arrangements. The remainder of our revenues

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was generated from professional services and licenses. The current mix of revenue represents higher transaction and subscription revenues than we have historically experienced. This is a result of new subscription arrangements with our existing customers.

Historically, our revenues have been directly impacted by the number of transactions processed. The future success of our business depends on the continued growth of consumer and business transactions and, as such, the volume of transactions that we process could fluctuate on a quarterly basis. See “Current Trends Affecting Our Results of Operations” for certain matters regarding future results of operations.

Most of our revenues are recorded in U.S. dollars but as we continue to expand our footprint with international carriers and increase the extent of recording our international activities in local currencies we will become subject to currency translation risk that could affect our future net sales.

Our five largest customers, AT&T, Comcast, Charter Communications, Verizon Wireless and Vodafone, accounted for approximately 79% of our revenues for the three months ending September 30, 2013, as compared to our five largest customers, AT&T, Charter Communications, Time Warner Cable, Verizon Wireless, and Vodafone, which accounted for 78% of our revenues for the three months ended September 30, 2012. AT&T and Verizon Wireless are the only customers that accounted for more than 10% of our revenues for the three months ended September 30, 2013 and 2012. See “Risk Factors” for certain matters bearing risks on our future results of operations.

During the third quarter, we entered into a new three year agreement with AT&T which continues until July 31, 2016 unless earlier terminated. AT&T may renew this agreement for one additional year by providing at least ninety days written notice prior to the end of the initial term. This agreement defines the work activities, transaction pricing, forecasting process, service level agreements and remedies associated with certain services performed by us for AT&T’s e-commerce organizations. The agreement provides for AT&T to pay us (i) monthly hosting fees, (ii) fees based on the number of transactions processed through our technology platform, (iii) fees based on manual processing services and (iv) fees for professional services rendered by us.

### ***Costs and Expenses***

Our costs and expenses consist of cost of services, research and development, selling, general and administrative, change in contingent consideration, depreciation and amortization and interest and other expense.

Cost of services includes all direct materials, direct labor, cost of facilities and those indirect costs related to revenues such as indirect labor, materials and supplies. Our primary cost of services is related to our information technology and systems department, including network costs, data center maintenance, database management and data processing costs, as well as personnel costs associated with service implementation, customer deployment and customer care. Also included in cost of services are costs associated with our exception handling centers and the maintenance of those centers. Currently, we utilize a combination of employees and third-party providers to process transactions through these centers.

Research and development costs are expensed as incurred unless they meet GAAP criteria for deferral and amortization. Software development costs incurred prior to the establishment of technological feasibility do not meet these criteria, and are expensed as incurred. Research and development expense consists primarily of costs related to personnel, including salaries and other personnel-related expenses, consulting fees and the cost of facilities, computer and support services used in service technology development. We also expense costs relating to developing modifications and minor enhancements of our existing technology and services.

Selling, general and administrative expense consists of personnel costs including salaries, sales commissions, sales operations and other personnel-related expense, travel and related expense, trade shows, costs of communications equipment and support services, facilities costs, consulting fees and costs of marketing programs, such as internet and print. General and administrative expense consists primarily of salaries and other personnel-related expense for our executive, administrative, legal, finance and human resources functions, facilities, professional services fees, audit, tax and bad debt expense.

Net change in contingent consideration obligation consists of the changes to the fair value estimates of the obligation to the former equity holders which resulted from our acquisitions. The estimates are based on the weighted probability of achieving certain financial targets and milestones. The contingent consideration obligation earn-out periods are no longer than 12 months in duration.

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Restructuring charges consist of the costs associated with the January 2013 work-force reduction plan to reduce costs and align our resources with our key strategic priorities. The restructuring charges include employee termination costs and facilities consolidation costs related to minimum lease payments of a leased location that will be closed.

Depreciation relates to our property and equipment and includes our network infrastructure and facilities. Amortization primarily relates to trademarks, customer lists and technology acquired.

Interest expense consists primarily of interest on our lease financing obligations.

### **Current Trends Affecting Our Results of Operations**

Our on-demand business model enables delivery of our proprietary solutions over the Web as a service and has been driven by market trends such as various forms of device activations, order provisioning, local and mobile number portability (“L/MNP”), the implementation of new technologies, subscriber growth, competitive churn, network changes, growth of the emerging device market (i.e., smartphones, tablets, connected consumer electronics devices, etc.), need for Cloud-based content back up, synchronization and sharing, and a universal connectivity platform for all connected devices and consolidations in the industry. In particular, the emergence of order provisioning of e-commerce transactions for smartphone devices, wireless, VoIP, L/MNP, and other communication services surrounding the convergence of bundled services, as well as the recent cooperative activities between cable MSOs and wireless carriers, have increased the need for our services and we believe will continue to be a source of growth for us. New and emerging companies looking to offer wireless services also look towards us as a source of knowledge and technology.

To support our expected growth driven by the favorable industry trends mentioned above, we continue to look for opportunities to improve our operating efficiencies, such as the utilization of offshore technical and non-technical resources for our exception handling center management as well as routine software maintenance activities. We believe that these opportunities will continue to provide future benefits and position us to support revenue growth. In addition, we anticipate further automation of the transactions generated by our more mature customers and additional transaction types. Our cost of services can fluctuate from period to period based upon the level of automation and the on-boarding of new transaction and service types.

We continue to advance our plans for the expansion of our platforms’ footprint with international carriers to support connected devices and multiple networks through our focus on transaction management and Cloud-based services for back up, synchronization and sharing of content. Our initiatives with AT&T, Verizon Wireless, Vodafone and other CSPs continue to grow along with our account presence with connected device OEM’s. We are also exploring additional opportunities through merger and acquisition activities to support our customer, product and geographic diversification strategies.

### **Critical Accounting Policies and Estimates**

The discussion and analysis of our financial condition and results of operations are based on our consolidated financial statements, which have been prepared in accordance with U.S. generally accepted accounting principles (“GAAP”). The preparation of these consolidated financial statements in accordance with GAAP requires us to utilize accounting policies and make certain estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingencies as of the date of the financial statements and the reported amounts of revenues and expenses during a fiscal period. The Securities and Exchange Commission (“SEC”) considers an accounting policy to be critical if it is important to a company’s financial condition and results of operations, and if it requires significant judgment and estimates on the part of management in its application. We have discussed the selection and development of the critical accounting policies with the audit committee of our board of directors, and the audit committee has reviewed our related disclosures in this Form 10-Q. Although we believe that our judgments and estimates are appropriate, correct and reasonable under the circumstances, actual results may differ from those estimates. If actual results or events differ materially from those contemplated by us in making these estimates, our reported financial condition and results of operations for future periods could be materially affected. See “Risk Factors” for certain matters bearing risks on our future results of operations.

We believe that of our significant accounting policies, which are described in Note 2 in our Annual Report on Form 10-K for the year ended December 31, 2012, the following accounting policies involve a greater degree of judgment and complexity. Accordingly, these are the policies we believe are the most critical to aid in fully understanding and evaluating our consolidated financial condition

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and results of operations:

- Revenue Recognition and Deferred Revenue
- Income Taxes
- Goodwill and Impairment of Long-Lived Assets
- Business Combinations
- Stock-Based Compensation

There were no significant changes in our critical accounting policies and estimates discussed in our Form 10-K during the nine months ended September 30, 2013. Please refer to Management’s Discussion and Analysis of Financial Condition and Results of Operations contained in Part II, Item 7 of our Annual Report on Form 10-K for the year ended December 31, 2012 for a more complete discussion of our critical accounting policies and estimates.

**Results of Operations**

*Three months ended September 30, 2013 compared to the three months ended September 30, 2012*

The following table presents an overview of our results of operations for the three months ended September 30, 2013 and 2012.

	Three Months Ended September 30,				2013 vs 2012	
	2013		2012		\$ Change	% Change
	s	% of Revenue	s	% of Revenue		
	(in thousands)					
Net revenues	\$ 89,716	100.0%	\$ 68,961	100.0%	\$ 20,755	30.1%
Cost of services*	38,133	42.5%	29,136	42.2%	8,997	30.9%
Research and development	16,554	18.5%	12,645	18.3%	3,909	30.9%
Selling, general and administrative	15,562	17.3%	10,278	14.9%	5,284	51.4%
Net change in contingent consideration obligation	500	0.6%	(327)	(0.5)%	827	(252.9)%
Depreciation and amortization	10,213	11.4%	6,068	8.8%	4,145	68.3%
	<u>80,962</u>	<u>90.2%</u>	<u>57,800</u>	<u>83.8%</u>	<u>23,162</u>	<u>40.1%</u>
Income from operations	\$ 8,754	9.8%	\$ 11,161	16.2%	\$ (2,407)	(21.6)%

\* Cost of services excludes depreciation and amortization which is shown separately.

**Net Revenues.** Net revenues increased \$20.8 million to \$89.7 million for the three months ended September 30, 2013, compared to the same period in 2012. This increase was due primarily to the expansion of our services provided to our customers. Transaction and subscription revenues as a percentage of sales were 77% or \$69.4 million for the three months ended September 30, 2013 and 72% or \$49.7 million for the same period in 2012. Professional service and license revenues as a percentage of sales were 23% or \$20.3 million for the three months ended September 30, 2013, compared to 28% or \$19.3 million for the same period in 2012. The increase in transaction and subscription revenue is primarily due to new subscription arrangements with our existing customers.

Net revenues related to Activation Services increased \$11.1 million to \$62.9 million for the three months ended September 30, 2013 compared to the same period in 2012. The combination of upgrade promotions being offered by operators, along with the positive impact of Family Share Plans drove increased transaction volumes. Net revenues related to Activation Services represented 70% for the three months ended September 30, 2013, compared to 75% for the same period in 2012. Net revenues related to our Personal Cloud Services increased by \$9.6 million to \$26.8 million of our revenues for the three months ended September 30, 2013 compared to the same period in 2012. Our cloud service revenue growth was driven by the scaling of our Personal Cloud platform deployments with major Tier 1 mobile operator customers. Net revenues related to our Personal Cloud Services represented 30% for the three months ended September 30, 2013, compared to 25% for the same period in 2012.

**Expenses**

**Cost of Services.** Cost of services increased \$9.0 million to \$38.1 million for the three months ended September 30, 2013, compared to the same period in 2012, due primarily to an increase of \$3.4 million in telecommunication and facility costs related to the increased call volume and capacity associated with our data facilities. There was also an increase of \$3.2 million in outside consulting expense, due to our increased use of third party exception handling vendors. There was also an increase of \$1.3 million in

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our personnel and related costs and an increase of \$545 thousand in our stock-based compensation. The increase in personnel and related costs and stock-based compensation was due primarily to our continued growth in existing and new programs with our current customers and recent acquisitions. Cost of services as a percentage of revenues increased to 42.5% for the three months ended September 30, 2013, as compared to 42.2% for the three months ended September 30, 2012.

**Research and Development.** Research and development expense increased \$3.9 million to \$16.6 million for the three months ended September 30, 2013, compared to the same period in 2012, due primarily to headcount increases. There was an increase of \$2.1 million in our personnel and related costs and an increase of \$337 thousand in stock-based compensation. The increase in personnel and related costs and stock-based compensation was due primarily to our continued growth as we further expand the capabilities of our offerings, as well as investing in several early-stage customer deployments. There were also increases of \$691 thousand in outside consultants and \$458 thousand in telecom and facilities costs as a result of the expansion of our programs. Research and development expense as a percentage of revenues increased to 18.5% for three months ended September 30, 2013 as compared to 18.3% for the three months ended September 30, 2012.

**Selling, General and Administrative.** Selling, general and administrative expense increased \$5.3 million to \$15.6 million for the three months ended September 30, 2013, compared to the same period in 2012, due primarily to headcount increases. There was an increase of \$2.6 million in personnel and related costs and an increase of \$1.8 million in stock-based compensation. The increase in personnel and related costs and stock-based compensation was due primarily to our continued growth in existing and new programs with our current customers and recent acquisitions. There was also an increase of \$631 thousand in telecommunications and facility costs as a result of the expansion of our facilities. Selling, general and administrative expense as a percentage of revenues increased to 17.3% for the three months ended September 30, 2013, compared to 14.9% for the three months ended September 30, 2012.

**Net change in contingent consideration obligation.** The net change in contingent consideration obligation resulted in a \$500 thousand increase of the contingent consideration obligation for the three months ended September 30, 2013 driven by changes in the fair value estimates related to the weighted probability of achieving revenue and product milestones for the Spatial Systems Nominees PTY Limited (“Spatial”) Earn-out and changes in our stock price. The \$327 thousand reduction of the fair value change in the contingent consideration liability for the three months ended September 30, 2012 was due to the change in the estimate of the fair value of the contingent consideration obligation related to the Miyowa S.A. (“Miyowa”) and SpeechCycle, Inc. (“SpeechCycle”) Earn-outs, primarily due to changes in the probability of achieving revenue and product milestones.

**Depreciation and amortization.** Depreciation and amortization expense increased \$4.1 million to \$10.2 million for the three months ended September 30, 2013, compared to the same period in 2012, primarily related to the amortization of our newly acquired intangible assets of Spatial and Newbay Software Limited. There was also an increase in depreciable fixed assets necessary for the continued expansion of our platforms. Depreciation and amortization expense as a percentage of revenues increased to 11.4% for the three months ended September 30, 2013, as compared to 8.8% for the three months ended September 30, 2012.

**Income from Operations.** Income from operations decreased \$2.4 million to \$8.8 million for the three months ended September 30, 2013, compared to the same period in 2012. This was due primarily to increased charges related to the net change in contingent consideration obligation, increases in depreciable fixed assets, intangible amortization and the additional costs associated with our acquired operations offset by increased revenues. Income from operations as a percentage of revenues decreased to 9.8% for the three months ended September 30, 2013, as compared to 16.2% for the three months ended September 30, 2012.

**Interest income.** Interest income decreased \$146 thousand to \$149 thousand for the three months ended September 30, 2013, compared to the same period in 2012. Interest income decreased primarily due to a reduction of our cash and investment balances as a result of our recent acquisitions.

**Interest expense.** Interest expense increased \$13 thousand to \$235 thousand for the three months ended September 30, 2013, compared to the same period in 2012.

**Other expense.** Other expense increased \$162 thousand to \$369 thousand for the three months ended September 30, 2013, compared to the same period in 2012. Other expense increased primarily due to a reduction in refundable research and development tax credits in France and changes in foreign currency exchange rate fluctuations.

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**Income Tax.** We recognized approximately \$4.7 million and \$4.8 million in related tax expense during the three months ended September 30, 2013 and 2012, respectively. Our effective tax rate was approximately 56.7% for the three months ended September 30, 2013, which was higher than our U.S. federal statutory rate primarily due to the unfavorable impact of the fair market value adjustment for the contingent consideration obligation related to the Spatial Earn-out and higher state taxes. Our effective tax rate was approximately 43.8% for the three months ended September 30, 2012, which was higher than our U.S. federal statutory rate primarily due a shift to increased U.S. profits, which resulted in an increase in the state effective rates. We review the expected annual effective income tax rate and make changes on a quarterly basis as necessary based on certain factors such as changes in forecasted annual operating income, changes to the actual and forecasted permanent book-to-tax differences, and changes resulting from the impact of tax law changes.

**Nine months ended September 30, 2013 compared to the nine months ended September 30, 2012**

The following table presents an overview of our results of operations for the nine months ended September 30, 2013 and 2012.

	Nine Months Ended September 30,				2013 vs 2012	
	2013		2012		\$ Change	% Change
	\$	% of Revenue	\$	% of Revenue		
	(in thousands)					
Net revenues	\$ 251,840	100.0%	\$ 200,511	100.0%	\$ 51,329	25.6%
Cost of services*	105,791	42.0%	84,388	42.1%	21,403	25.4%
Research and development	49,630	19.7%	38,091	19.0%	11,539	30.3%
Selling, general and administrative	45,157	17.9%	31,728	15.8%	13,429	42.3%
Net change in contingent consideration obligation	2,676	1.1%	(5,735)	(2.9)%	8,411	(146.7)%
Restructuring charges	5,172	2.1%	—	0.0%	5,172	100.0%
Depreciation and amortization	28,792	11.4%	17,201	8.6%	11,591	67.4%
	237,218	94.2%	165,673	82.6%	71,545	43.2%
Income from operations	\$ 14,622	5.8%	\$ 34,838	17.4%	\$ (20,216)	(58.0)%

\* Cost of services excludes depreciation and amortization which is shown separately.

**Net Revenues.** Net revenues increased \$51.3 million to \$251.8 million for the nine months ended September 30, 2013, compared to the same period in 2012. This increase was due primarily to the expansion of our services provided to our customers. Transaction and subscription revenues as a percentage of sales were 70% or \$175.3 million for the nine months ended September 30, 2013 and 68% or \$136.4 million for the same period in 2012. Professional service and license revenues as a percentage of sales were 30% or \$76.5 million for the nine months ended September 30, 2013, compared to 32% or \$64.1 million for the same period in 2012. The increase in transaction and subscription revenue is primarily due to new subscription arrangements with our existing customers.

Net revenues related to Activation Services increased \$30.6 million to \$175.2 million for the nine months ended September 30, 2013 compared to the same period in 2012. The combination of upgrade promotions being offered by operators, along with the positive impact of Family Share Plans drove increased transaction volumes. Net revenues related to Activation Services represented 70% for the nine months ended September 30, 2013, compared to 72% for the same period in 2012. Net revenues related to our Personal Cloud Services increased by \$20.7 million to \$76.6 million of our revenues for the nine months ended September 30, 2013 compared to the same period in 2012. Our cloud service revenue growth was driven by the scaling of our Personal Cloud platform deployments with major Tier 1 mobile operator customers. Net revenues related to our Personal Cloud Services represented 30% for the nine months ended September 30, 2013, compared to 28% for the same period in 2012.

**Expenses**

**Cost of Services.** Cost of services increased \$21.4 million to \$105.8 million for the nine months ended September 30, 2013, compared to the same period in 2012, due primarily to an increase of \$10.6 million in telecommunication and facility costs related to the increased call volume and capacity associated with our data facilities. There was also an increase of \$6.5 million in our personnel and related costs and an increase of \$813 thousand in our stock-based compensation. The increase in personnel and related costs and stock-based compensation was due primarily to our continued growth in existing and new programs with our current customers and recent acquisitions. There was also an increase of \$2.8 million in outside consulting expense due to our increased use of third party exception handling vendors. Cost of services as a percentage of revenues decreased to 42.0% for the nine months ended September 30, 2013, as compared to 42.1% for the nine months ended September 30, 2012.



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**Research and Development.** Research and development expense increased \$11.5 million to \$49.6 million for the nine months ended September 30, 2013, compared to the same period in 2012, due primarily to headcount increases. There was an increase of \$8.5 million in personnel and related costs and an increase of \$628 thousand in stock-based compensation. The increase in personnel and related costs and stock-based compensation was due primarily to our continued growth as we further expand the capabilities of our offerings, as well as investing in several early-stage customer deployments. There were also increases of \$1.3 million in outside consultants and \$872 thousand in telecom and facilities costs as a result of the expansion of our programs. Research and development expense as a percentage of revenues increased to 19.7% for nine months ended September 30, 2013 as compared to 19.0% for the nine months ended September 30, 2012.

**Selling, General and Administrative.** Selling, general and administrative expense increased \$13.4 million to \$45.2 million for the nine months ended September 30, 2013, compared to the same period in 2012, due primarily to headcount increases. There was an increase of \$7.2 million in personnel and related costs and an increase of \$2.5 million in stock-based compensation expense. The increase in personnel and related costs and stock-based compensation was due primarily to our continued growth in existing and new programs with our current customers and recent acquisitions. There was also an increase of \$1.8 million in professional services related to accounting and legal costs as a result of our acquisition and patent activity and an increase of \$1.7 million in telecommunications and facility costs as a result of our acquisitions. Selling, general and administrative expense as a percentage of revenues increased to 17.9% for the nine months ended September 30, 2013, compared to 15.8% for the nine months ended September 30, 2012.

**Net change in contingent consideration obligation.** The net change in contingent consideration obligation resulted in a \$2.7 million increase of the contingent consideration obligation for the nine months ended September 30, 2013 driven by changes in the fair value estimates related to the weighted probability of achieving revenue and product milestones for the SpeechCycle, Inc. (“SpeechCycle”) and Spatial Systems Nominees PTY Limited (“Spatial”) Earn-outs and changes in our stock price. The \$5.7 million reduction of the fair value change in the contingent consideration liability for the nine months ended September 30, 2012 was due to the change in the estimate of the fair value of the contingent consideration obligation related to the Sapience Knowledge Systems, Inc. (“SKS”), Miyowa S.A. (“Miyowa”), and SpeechCycle Earn-outs, primarily due to changes in the probability of achieving revenue and product milestones and operational efficiencies.

**Restructuring charges.** Restructuring charges were \$5.2 million, consisting of \$4.6 million for employment termination costs and \$555 thousand for minimum lease payments, for the nine months ended September 30, 2013, as a result of the January 2013 work-force reduction plan to reduce costs and align our resources with our key strategic priorities.

**Depreciation and amortization.** Depreciation and amortization expense increased \$11.6 million to \$28.8 million for the nine months ended September 30, 2013, compared to the same period in 2012, primarily related to the amortization of our newly acquired intangible assets of SpeechCycle, Spatial and Newbay Software Limited. There was also an increase in depreciable fixed assets necessary for the continued expansion of our platforms. Depreciation and amortization expense as a percentage of revenues increased to 11.4% for the nine months ended September 30, 2013, as compared to 8.6% for the nine months ended September 30, 2012.

**Income from Operations.** Income from operations decreased \$20.2 million to \$14.6 million for the nine months ended September 30, 2013, compared to the same period in 2012. This was due primarily to increased charges related to the net change in contingent consideration obligation, increases in depreciable fixed assets, restructuring charges related to our work-force reduction and facilities consolidation to align our resources with our key strategic priorities, increased intangible amortization and the additional costs associated with our acquired operations offset by increased revenues. Income from operations as a percentage of revenues decreased to 5.8% for the nine months ended September 30, 2013, as compared to 17.4% for the nine months ended September 30, 2012.

**Interest income.** Interest income decreased \$591 thousand to \$432 thousand for the nine months ended September 30, 2013, compared to the same period in 2012. Interest income decreased primarily due to a reduction of our cash and investment balances as a result of our recent acquisitions.

**Interest expense.** Interest expense increased \$12 thousand to \$714 thousand for the nine months ended September 30, 2013, compared to the same period in 2012.



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**Other expense.** Other expense increased \$912 thousand to \$326 thousand for the nine months ended September 30, 2013, compared to the same period in 2012. Other expense increased primarily due to a reduction in refundable research and development credits realized in France and changes in foreign currency exchange rate fluctuations.

**Income Tax.** We recognized approximately \$6.5 million and \$12.1 million in related tax expense during the nine months ended September 30, 2013 and 2012, respectively. Our effective tax rate was approximately 46.6% for the nine months ended September 30, 2013, which was higher than our U.S. federal statutory rate primarily due to the unfavorable impact of the fair market value adjustment for the contingent consideration obligation related to the Spatial Earn-out and higher state taxes, offset by the favorable impact of recognizing the 2012 tax credit for research and experimentation expenses as a discrete benefit in the first quarter, in accordance with the date of enactment of the American Taxpayer Relief Act of 2012. Our effective tax rate was approximately 33.9% for the nine months ended September 30, 2012, which was lower than our U.S. federal statutory rate primarily due to the favorable tax impact of the fair market value adjustment for the contingent consideration obligation related to the Miyowa, SKS, and SpeechCycle equity holders, and increased profits of certain foreign jurisdictions, which have lower tax rates than the U.S., partially offset by the effect of state income taxes. We review the expected annual effective income tax rate and make changes on a quarterly basis as necessary based on certain factors such as changes in forecasted annual operating income, changes to the actual and forecasted permanent book-to-tax differences, and changes resulting from the impact of tax law changes.

## **Liquidity and Capital Resources**

Our principal source of liquidity has been cash provided by operations. Our cash, cash equivalents and marketable securities balance was \$50.8 million at September 30, 2013, a decrease of \$6.1 million as compared to the balance at December 31, 2012. During the nine months ended September 30, 2013, purchases of fixed assets were offset by cash generated from operations and the exercise of stock options. We anticipate that our principal uses of cash in the future will be to fund the expansion of our business through both organic growth as well as possible acquisition activities and the expansion of our customer base internationally. Uses of cash will also include facility and technology expansion, capital expenditures, and working capital.

In September 2013, we entered into a Credit Agreement (the "Credit Facility") with JP Morgan Chase Bank, N.A., as administrative agent, Wells Fargo Bank, National Association, as syndication agent and Capital One, National Association and KeyBank National Association, as co-documentation agents. The Credit Facility, which will be used for general corporate purposes, is a \$100 million unsecured revolving line of credit that matures on September 27, 2018. We have the right to request an increase in the aggregate principal amount of the Credit Facility to \$150 million. We have not drawn down any funds under the Credit Facility.

The Credit Facility is subject to certain financial covenants. As of September 30, 2013, we were in compliance with all required covenants and there were no outstanding balances on the Credit Facility.

## **Discussion of Cash Flows**

**Cash flows from operations.** Net cash provided by operating activities for the nine months ended September 30, 2013 was \$33.4 million, as compared to \$34.8 million cash provided for the same period in 2012. The decrease in net cash provided by operating activities for the nine months ended September 30, 2013 of \$1.4 million as compared to 2012 is primarily due to a decline in net income offset by changes in non-cash items and working capital accounts.

**Cash flows from investing.** Net cash used in investing activities for the nine months ended September 30, 2013 was \$48.3 million, as compared to \$49.5 million for the same period in 2012. The decrease in net cash used in investing activities for the nine months ended September 30, 2013 of \$1.2 million as compared to 2012 is primarily due to a lack of acquisitions in 2013 compared to 2012 offset by increased purchases of property and equipment related to our continued investments in our global information technology and business systems infrastructure.

**Cash flows from financing.** Net cash provided by financing activities for the nine months ended September 30, 2013 was \$17.6 million, as compared to \$2.3 million cash used by financing activities for the same period in 2012. The increase in net cash provided by financing activities for the nine months ended September 30, 2013 of \$19.9 million as compared to 2012 is primarily due to an increase in proceeds from the exercise of stock options and the lack of repurchases of stock in 2013 compared to 2012.

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We believe that our existing cash and cash equivalents, cash generated from our existing operations and our credit facilities will be sufficient to fund our operations for the next twelve months.

**Effect of Inflation**

Although inflation generally affects us by increasing our cost of labor and equipment, we do not believe that inflation has had any material effect on our results of operations for the nine months ended September 30, 2013 and 2012.

**Impact of Recently Issued Accounting Standards**

In February 2013, the FASB issued ASU 2013-02 which requires additional disclosures regarding the reporting of reclassifications out of accumulated other comprehensive income. ASU 2013-02 requires an entity to present, either on the face of the statement where net income is presented or in the notes, significant amounts reclassified out of accumulated other comprehensive income by the respective line items of net income but only if the amount reclassified is required under U.S. GAAP to be reclassified to net income in its entirety in the same reporting period. This guidance is effective for reporting periods beginning after December 15, 2012. We adopted this guidance effective January 1, 2013. Our adoption of this standard did not have a significant impact on our consolidated financial statements.

In March 2013, the FASB issued ASU 2013-05, which permits an entity to release cumulative translation adjustments into net income when a reporting entity (parent) ceases to have a controlling financial interest in a subsidiary or group of assets that is a business within a foreign entity. Accordingly, the cumulative translation adjustment should be released into net income only if the sale or transfer results in the complete or substantially complete liquidation of the foreign entity in which the subsidiary or group of assets had resided, or, if a controlling financial interest is no longer held. The revised standard is effective for fiscal years beginning after December 15, 2013; however, early adoption is permitted. We do not expect adoption of this ASU to significantly impact our consolidated financial statements.

In July 2013, the FASB issued ASU 2013-11, which provides that a liability related to an unrecognized tax benefit would be offset against a deferred tax asset instead of presented gross for a net operating loss carryforward, a similar tax loss, or a tax credit carryforward if such settlement is required or expected in the event the uncertain tax position is disallowed. This new guidance is effective for fiscal years beginning after December 15, 2013. We do not expect adoption of this ASU to significantly impact our consolidated financial statements.

**Off-Balance Sheet Arrangements**

We had no off-balance sheet arrangements as of September 30, 2013 and December 31, 2012.

**ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

**Market Risk**

In addition to the other information set forth in this report, you should carefully consider the factors discussed in Part II, “Item 7A. Quantitative and Qualitative Disclosures about Market Risk” in our Annual Report on Form 10-K for the year ended December 31, 2012, which could materially affect our business, financial condition or future results. We believe our exposure associated with these market risks has not changed materially since December 31, 2012.

**Foreign Currency Exchange Risk**

Prior to the third quarter, several of our subsidiaries that operate outside the United States used the U.S. dollar as the functional currency. Effective July 1, 2013, we changed the functional currencies of those subsidiaries that operate outside the United States to their local currency. The functional currency is translated into U.S. dollars for balance sheet accounts using the month end rates in effect as of the balance sheet date and average exchange rate for revenue and expense accounts for each respective period. The translation adjustments are deferred as a separate component of stockholders’ equity, within accumulated other comprehensive income. Gains or losses resulting from transactions denominated in foreign currencies are included in other income or expense, within the consolidated statements of income. The effects of the change in functional currency were not material to our consolidated financial statements.

We do not hold any derivative instruments and do not engage in any hedging activities. Although our reporting currency is the U.S. dollar, we may conduct business and incur costs in the local currencies of other countries in which we may operate, make sales and buy materials. As a result, we are subject to currency translation risk. Further, changes in exchange rates between foreign currencies

and the U.S. dollar could affect our future net sales and cost of sales and could result in exchange losses.

We cannot accurately predict future exchange rates or the overall impact of future exchange rate fluctuations on our business, results of operations and financial condition. To the extent that our international activities recorded in local currencies increase in the future, our exposure to fluctuations in currency exchange rates will correspondingly increase and hedging activities may be considered if appropriate.

#### **ITEM 4. CONTROLS AND PROCEDURES**

##### ***Evaluation of Disclosure Controls and Procedures.***

Under the supervision and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer, we evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended) as of September 30, 2013. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures are effective as of September 30, 2013, the end of the period covered by this quarterly report, to ensure that the information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934, as amended, are recorded, processed, summarized and reported within the time periods specified in the rules and forms of the Securities and Exchange Commission, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosures.

##### ***Changes in internal controls over financial reporting***

We have implemented new financial systems that will continue in phases over the next several quarters. In connection with this initiative and the resulting changes in our financial systems, the Company continues to enhance the design and documentation of our internal control processes to ensure that controls over our financial reporting remain effective. Except as noted, there were no changes in our internal control over financial reporting identified in connection with the evaluation required by paragraph (d) of Exchange Act Rule 13a-15 that was conducted during the last fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

#### **PART II — OTHER INFORMATION**

##### **ITEM 1. LEGAL PROCEEDINGS**

We are not currently subject to any legal proceedings that could have a material adverse effect on our operations; however, we may from time to time become a party to various legal proceedings arising in the ordinary course of our business. For instance, on October 4, 2011, we filed a complaint in the United States District Court for the District of New Jersey (Civ Act. No. 3:11-cv-05811 FLW-TJB) against Assurion, Inc. (“Assurion”), claiming that Assurion has infringed, and continues to infringe, several of our patents. On February 3, 2012, Assurion filed an answer to our complaint and asserted certain counterclaims that our patents at issue are invalid. In addition, on November 21, 2011, we filed an amended complaint in the United States District Court for the District of New Jersey (Civ Act. No. 3:11-cv-06713) against OnMobile Global Limited, VoxMobili, Inc. and VolMobili, S.A. (“collectively, VoxMobili”), claiming that VoxMobili has infringed, and continues to infringe, several of our patents. On April 2, 2012, VoxMobili filed an answer to our complaint and asserted certain counterclaims that our patents at issue are invalid. On March 23, 2013, the Court stayed both the Assurion and VoxMobili actions pending reexamination of several asserted patents in the United States Patent and Trademark Office. Although due to the inherent uncertainties of litigation, we cannot predict the outcome of the actions at this time, we continue to pursue our claims and believe that the Assurion and VoxMobili counterclaims are without merit, and we intend to defend all of such counterclaims.

##### **ITEM 1A. RISK FACTORS**

In addition to the other information set forth in this report, you should carefully consider the factors discussed in Part I, “Item 1A. Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2012, which could materially affect our business, financial condition or future results. The risks described in our Form 10-K are not the only risks we face. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition and/or operating results. If any of the risks actually occur, our business, financial condition or results of operations

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could be negatively affected. In that case, the trading price of our stock could decline, and our stockholders may lose part or all of their investment.

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

None.

**ITEM 3. DEFAULTS UPON SENIOR SECURITIES**

None.

**ITEM 4. Mine Safety Disclosures**

Not Applicable.

**ITEM 5. OTHER INFORMATION**

None.

**ITEM 6. EXHIBITS**

<u>Exhibit No.</u>	<u>Description</u>
3.2	Restated Certificate of Incorporation of the Registrant, incorporated by reference to Registrant's Registration Statement on Form S-1 (Commission File No. 333-132080).
3.4	Amended and Restated Bylaws of the Registrant, incorporated by reference to Registrant's Registration Statement on Form S-1 (Commission File No. 333-132080).
4.2	Form of the Registrant's Common Stock certificate, incorporated by reference to Registrant's Registration Statement on Form S-1 (Commission File No. 333-132080).
10.8	Credit Agreement dated as of September 27, 2013 between the Registrant and JPMorgan Chase Bank, N.A., as Administrative Agent.
10.9	Cingular Mater Services Agreement, effective September 1, 2005 by and between the Registrant and Cingular Wireless LLC, incorporated by reference to Registrant's Annual Report on Form 10-K for the year ended December 31, 2008.
10.9.1	Subordinate Material and Services Agreement No. SG021306.S.025 by and between the Registrant and AT&T Services, Inc. dated as of August 1, 2013, including order numbers SG021306.S.025.S.001, SG021306.S.025.S.002, SG021306.S.025.S.003 and SG021306.S.025.S.004 attached thereto
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) of the Exchange Act, as adopted pursuant to section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) of the Exchange Act, as adopted pursuant to section 302 of the Sarbanes-Oxley Act of 2002
32.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(b) of the Exchange Act and section 18 U.S.C. Section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002
32.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(b) of the Exchange Act and section 18 U.S.C. Section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002
101.INS	XBRL Instance Document
101.SCH	XBRL Schema Document
101.CAL	XBRL Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase

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101.LAB	XBRL Labels Linkbase Document
101.PRE	XBRL Presentation Linkbase Document

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**SIGNATURES**

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

Synchronoss Technologies, Inc.

/s/ Stephen G. Waldis

**Stephen G. Waldis**  
**Chairman of the Board of Directors and**  
**Chief Executive Officer**  
**(Principal executive officer)**

/s/ Lawrence R. Irving

**Lawrence R. Irving**  
**Executive Vice President, Chief Financial Officer**  
**and Treasurer**

November 5, 2013

# J.P.Morgan

## CREDIT AGREEMENT

dated as of

September 27, 2013

among

SYNCHRONOSS TECHNOLOGIES, INC.

The Lenders Party Hereto

JPMORGAN CHASE BANK, N.A.  
as Administrative Agent

WELLS FARGO BANK, NATIONAL ASSOCIATION  
as Syndication Agent

and

CAPITAL ONE, NATIONAL ASSOCIATION and KEYBANK NATIONAL ASSOCIATION  
as Co-Documentation Agents

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J.P. MORGAN SECURITIES LLC  
as Sole Bookrunner and Sole Lead Arranger

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CREDIT AGREEMENT (this "Agreement") dated as of September 27, 2013 among SYNCHRONOSS TECHNOLOGIES, INC., the LENDERS from time to time party hereto, JPMORGAN CHASE BANK, N.A., as Administrative Agent, WELLS FARGO BANK, NATIONAL ASSOCIATION, as Syndication Agent and CAPITAL ONE, NATIONAL ASSOCIATION and KEYBANK NATIONAL ASSOCIATION, as Co-Documentation Agents.

The parties hereto agree as follows:

## ARTICLE I

### Definitions

SECTION 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"ABR", when used in reference to any Loan or Borrowing, refers to a Loan, or the Loans comprising such Borrowing, bearing interest at a rate determined by reference to the Alternate Base Rate.

"Additional Licenses" has the meaning assigned to such term in Section 6.03(a)(iv).

"Adjusted LIBO Rate" means, with respect to any Eurodollar Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

"Administrative Agent" means JPMorgan Chase Bank, N.A., in its capacity as administrative agent for the Lenders hereunder.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

"Affected Foreign Subsidiary" means any Foreign Subsidiary to the extent such Foreign Subsidiary acting as a Subsidiary Guarantor would cause a Deemed Dividend Problem.

"Affiliate" means, with respect to a specified 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.

"Agent Party" has the meaning assigned to such term in Section 9.01(d).

"Aggregate Commitment" means the aggregate of the Commitments of all of the Lenders, as reduced or increased from time to time pursuant to the terms and conditions hereof. As of the Effective Date, the Aggregate Commitment is \$100,000,000.

"Alternate Base Rate" means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%, provided that, for the avoidance of doubt, the Adjusted LIBO Rate for any day shall be based on the rate appearing on Reuters Screen LIBOR01 Page (or on any successor or substitute page of such page) at approximately 11:00 a.m. London time on such day. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate shall be effective from and including the effective date

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of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate, respectively.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower and its affiliated companies concerning or relating to bribery or corruption.

“Applicable Percentage” means, with respect to any Lender, the percentage of the Aggregate Commitment represented by such Lender’s Commitment; provided that, in the case of Section 2.21 when a Defaulting Lender shall exist, “Applicable Percentage” shall mean the percentage of the Aggregate Commitment (disregarding any Defaulting Lender’s Commitment) represented by such Lender’s Commitment. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments and to any Lender’s status as a Defaulting Lender at the time of determination.

“Applicable Rate” means, for any day, with respect to any Eurodollar Loan or any ABR Loan or with respect to the commitment fees payable hereunder, as the case may be, the applicable rate per annum set forth below under the caption “Eurodollar Spread”, “ABR Spread” or “Commitment Fee Rate”, as the case may be, based upon the Leverage Ratio applicable on such date:

	<u>Leverage Ratio:</u>	<u>Eurodollar Spread</u>	<u>ABR Spread</u>	<u>Commitment Fee Rate</u>
<u>Category 1:</u>	≤ 0.50 to 1.00	1.75%	0.75%	0.25%
<u>Category 2:</u>	> 0.50 to 1.00 but ≤ 1.00 to 1.00	2.00%	1.00%	0.30%
<u>Category 3:</u>	> 1.00 to 1.00	2.25%	1.25%	0.35%

For purposes of the foregoing,

(i) if at any time the Borrower fails to deliver the Financials on or before the date the Financials are due pursuant to Section 5.01, Category 3 shall be deemed applicable for the period commencing three (3) Business Days after the required date of delivery and ending on the date which is three (3) Business Days after the Financials are actually delivered, after which the Category shall be determined in accordance with the table above as applicable;

(ii) adjustments, if any, to the Category then in effect shall be effective three (3) Business Days after the Administrative Agent has received the applicable Financials (it being understood and agreed that each change in Category shall apply during the period commencing on the effective date of such change and ending on the date immediately preceding the effective date of the next such change); and

(iii) notwithstanding the foregoing, Category 1 shall be deemed to be applicable until the Administrative Agent’s receipt of the applicable Financials for the Borrower’s first fiscal quarter ending after the Effective Date (unless such Financials demonstrate that Category 2 or 3 should have been applicable during such period, in which case such other Category shall be deemed to be applicable during such period) and adjustments to the Category then in effect shall thereafter be effected in accordance with the preceding paragraphs.

“Approved Fund” has the meaning assigned to such term in Section 9.04(b).

“Assignment and Assumption” means an assignment and assumption agreement entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

“Augmenting Lender” has the meaning assigned to such term in Section 2.20.

“Availability Period” means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

“Available Revolving Commitment” means, at any time with respect to any Lender, the Commitment of such Lender then in effect minus the Revolving Credit Exposure of such Lender at such time; it being understood and agreed that any Lender’s Swingline Exposure shall not be deemed to be a component of the Revolving Credit Exposure for purposes of calculating the commitment fee under Section 2.12(a).

“Banking Services” means each and any of the following bank services provided to the Borrower or any Subsidiary by any Lender or any of its Affiliates: (a) credit cards for commercial customers (including, without limitation, commercial credit cards and purchasing cards), (b) stored value cards and (c) treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, overdrafts and interstate depository network services).

“Banking Services Agreement” means any agreement entered into by the Borrower or any Subsidiary in connection with Banking Services.

“Bankruptcy Event” means, with respect to any Person, such Person becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, provided, further, that such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

“Board” means the Board of Governors of the Federal Reserve System of the United States of America.

“Borrower” means Synchronoss Technologies, Inc., a Delaware corporation.

“Borrowing” means (a) Revolving Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect or (b) a Swingline Loan.

“Borrowing Request” means a request by the Borrower for a Revolving Borrowing in accordance with Section 2.03 in the form attached hereto as Exhibit H-1.

“Burdensome Restrictions” means any consensual encumbrance or restriction of the type described in clause (a) or (b) of Section 6.08.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurodollar Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in Dollars in the London interbank market.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital lease obligations on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

“Change in Control” means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the SEC thereunder as in effect on the date hereof), of Equity Interests representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower; (b) occupation of a majority of the seats (other than vacant seats) on the board of directors of the Borrower by Persons who were neither (i) nominated or approved by the board of directors of the Borrower nor (ii) appointed by directors so nominated or approved; or (c) the occurrence of a change in control, or other similar provision, as defined in any agreement or instrument evidencing any Material Indebtedness which occurrence triggers a default or mandatory prepayment not waived in writing prior to such occurrence.

“Change in Law” means the occurrence, after the date of this Agreement (or with respect to any Lender, if later, the date on which such Lender becomes a Lender), 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, implementation or application thereof by any Governmental Authority, or (c) the making or issuance of any request, rules, guideline, requirement or directive (whether or not having the force of law) by any Governmental Authority; provided however, that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder, issued in connection therewith or in implementation thereof, and (ii) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law” regardless of the date enacted, adopted, issued or implemented.

“Class”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans or Swingline Loans.

“Code” means the Internal Revenue Code of 1986, as amended.

“Co-Documentation Agent” means each of Capital One, National Association and KeyBank National Association in its capacity as co-documentation agent for the credit facility evidenced by this Agreement.

“Commitment” means, with respect to each Lender, the commitment of such Lender to make Revolving Loans and to acquire participations in Letters of Credit and Swingline Loans hereunder, expressed as an amount representing the maximum aggregate amount of such Lender’s Revolving Credit

Exposure hereunder, as such commitment may be (a) reduced or terminated from time to time pursuant to Section 2.09, (b) increased from time to time pursuant to Section 2.20 and (c) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption or other documentation contemplated hereby pursuant to which such Lender shall have assumed its Commitment, as applicable.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

“Communications” has the meaning assigned to such term in Section 9.01(d).

“Connection Income Taxes” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“Consolidated Adjusted EBITDA” means Consolidated Non-GAAP Net Income plus, to the extent deducted from revenues and without duplication of the additions in determining Consolidated Non-GAAP Net Income, (i) Consolidated Interest Expense, (ii) expense for income taxes paid or accrued, (iii) depreciation, (iv) amortization, (v) extraordinary or non-recurring non-cash expenses or losses incurred other than in the ordinary course of business (excluding, for the avoidance of doubt, contingent consideration obligation expenses and deferred compensation expenses in respect of earn-outs), (vi) non-cash expenses related to stock based compensation minus, to the extent included in Consolidated Non-GAAP Net Income, (1) interest income, (2) income tax credits and refunds (to the extent not netted from tax expense), (3) any cash payments made during such period in respect of items described in clauses (v) or (vi) above (or described in the definition of Consolidated Non-GAAP Net Income) subsequent to the fiscal quarter in which the relevant non-cash expenses or losses were incurred and (4) extraordinary, unusual or non-recurring income or gains realized other than in the ordinary course of business, all calculated for the Borrower and its Subsidiaries on a consolidated basis.

“Consolidated Capital Expenditures” means, without duplication, any expenditures for any purchase or other acquisition of any asset which would be classified as a fixed or capital asset on a consolidated balance sheet of the Borrower and its Subsidiaries prepared in accordance with GAAP.

“Consolidated Interest Expense” means, with reference to any period, the interest expense (including without limitation interest expense under Capital Lease Obligations that is treated as interest in accordance with GAAP) of the Borrower and its Subsidiaries calculated on a consolidated basis for such period with respect to all outstanding Indebtedness of the Borrower and its Subsidiaries allocable to such period in accordance with GAAP (including, without limitation, all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers acceptance financing and net costs under interest rate Swap Agreements to the extent such net costs are allocable to such period in accordance with GAAP). In the event that the Borrower or any Subsidiary shall have completed a Material Acquisition or a Material Disposition since the beginning of the relevant period, Consolidated Interest Expense shall be determined for such period on a pro forma basis as if such acquisition or disposition, and any related incurrence or repayment of Indebtedness, had occurred at the beginning of such period.

“Consolidated Non-GAAP Net Income” means, with reference to any period, the net income (or loss) of the Borrower and its Subsidiaries calculated in accordance with GAAP on a consolidated basis for such period, plus (or minus if applicable), to the extent deducted from revenues in determining such net income (or loss) and without duplication, (i) non-cash charges, losses or expenses resulting from the after-tax write-down of deferred revenue, (ii) non-cash after-tax stock-based

compensation expense, (iii) charges, losses or expenses, net of associated taxes, resulting from acquisitions or restructurings (provided that the aggregate cash portion of all such charges, losses and expenses permitted to be included in the calculation of Consolidated Adjusted EBITDA for the period of four consecutive fiscal quarters ending with the end of such fiscal quarter, shall not exceed an amount equal to five percent (5%) of Consolidated Adjusted EBITDA of such period without giving effect to this clause (iii); provided, however, that any brokerage fees for Permitted Acquisitions (or any other acquisitions by the Borrower or any Subsidiary of all or substantially all the assets of, or a majority of the Equity Interests in, a Person or division or line of business of a Person consummated with the prior written approval of the Required Lenders) paid by the Borrower or any Subsidiary during such period shall not be included in such calculation), (iv) non-cash charges, losses or expenses resulting from the net after-tax change in contingent consideration obligations, calculated after adjusting for related foreign exchange gains or losses, (v) deferred compensation expense with respect to earn-out obligations, net of taxes and (vi) after-tax amortization expense. For the avoidance of doubt, Consolidated Non-GAAP Net Income shall exclude any income (or loss) of any Person other than the Borrower or a Subsidiary, but any such income so excluded may be included in such period or any later period to the extent of any cash dividends or distributions actually paid in the relevant period to the Borrower or any wholly-owned Subsidiary of the Borrower.

“Consolidated Tangible Assets” means, as of any date of determination thereof, Consolidated Total Assets minus the Intangible Assets of the Borrower and its Subsidiaries on such date.

“Consolidated Total Assets” means, as of the date of any determination thereof, total assets of the Borrower and its Subsidiaries calculated in accordance with GAAP on a consolidated basis as of such date.

“Consolidated Total Indebtedness” means at any time the sum, without duplication, of (a) the aggregate Indebtedness (including, for the avoidance of doubt, contingent consideration obligations) of the Borrower and its Subsidiaries calculated on a consolidated basis as of such time in accordance with GAAP, (b) the aggregate amount of Indebtedness of the Borrower and its Subsidiaries relating to the maximum drawing amount of all letters of credit outstanding and bankers acceptances and (c) Indebtedness of the type referred to in clauses (a) or (b) hereof of another Person guaranteed by the Borrower or any of its Subsidiaries (with the amount of such guarantee being determined in accordance with the last sentence of the definition of Guarantee).

“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. The terms “Controlling” and “Controlled” have meanings correlative thereto.

“Credit Event” means a Borrowing, the issuance, amendment, renewal or extension of a Letter of Credit, an LC Disbursement or any of the foregoing.

“Credit Party” means the Administrative Agent, the Issuing Bank, the Swingline Lender or any other Lender.

“Deemed Dividend Problem” means, with respect to any Foreign Subsidiary, such Foreign Subsidiary’s accumulated and undistributed earnings and profits being deemed to be repatriated to the Borrower or the applicable parent Domestic Subsidiary under Section 956 of the Code and the effect of such repatriation causing materially adverse tax consequences to the Borrower or such parent Domestic Subsidiary, in each case as determined by the Borrower in its commercially reasonable judgment acting in good faith and in consultation with its legal and tax advisors.



“Default” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Defaulting Lender” means any Lender that (a) has failed, within two (2) Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or Swingline Loans or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender’s good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three (3) Business Days after request by a Credit Party, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Loans and participations in then outstanding Letters of Credit and Swingline Loans under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party’s receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has become the subject of a Bankruptcy Event.

“Designated Persons” means any Person listed on a Sanctions List.

“Dollars” or “\$” refers to lawful money of the United States of America.

“Domestic Subsidiary” means a Subsidiary organized under the laws of a jurisdiction located in the United States of America.

“ECP” means an “eligible contract participant” as defined in Section 1(a)(18) of the Commodity Exchange Act or any regulations promulgated thereunder and the applicable rules issued by the Commodity Futures Trading Commission and/or the SEC.

“Effective Date” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

“Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

“Electronic System” means any electronic system, including e-mail, e-fax, Intralinks<sup>®</sup>, ClearPar<sup>®</sup> and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Administrative Agent and the Issuing Bank and any of its respective Related Parties or any other Person, providing for access to data protected by passcodes or other security system .

“Environmental Laws” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Material.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower or any Subsidiary 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.

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“ERISA Event” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the failure to satisfy the “minimum funding standard” (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal of the Borrower or any of its ERISA Affiliates from any Plan or Multiemployer Plan; or (g) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition upon the Borrower or any of its ERISA Affiliates of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

“Eurodollar”, when used in reference to any Loan or Borrowing, means that such Loan, or the Loans comprising such Borrowing, bears interest at a rate determined by reference to the Adjusted LIBO Rate.

“Event of Default” has the meaning assigned to such term in Article VII.

“Excluded Swap Obligation” means, with respect to any Loan Party, any Specified Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Loan Party of, or the grant by such Loan Party of a security interest to secure, such Specified Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) (a) by virtue of such Loan Party’s failure for any reason to constitute an ECP at the time the Guarantee of such Loan Party or the grant of such security interest becomes or would become effective with respect to

such Specified Swap Obligation or (b) in the case of a Specified Swap Obligation subject to a clearing requirement pursuant to Section 2(h) of the Commodity Exchange Act (or any successor provision thereto), because such Loan Party is a “financial entity,” as defined in Section 2(h)(7)(C)(i) of the Commodity Exchange Act (or any successor provision thereto), at the time the Guarantee of such Loan Party becomes or would become effective with respect to such related Specified Swap Obligation. If a Specified Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Specified Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. Federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.19(b)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.17, amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender acquired the applicable interest in a Loan or Commitment or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient’s failure to comply with Section 2.17(f) and (d) any U.S. Federal withholding Taxes imposed under FATCA.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code.

“Federal Funds Effective Rate” means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

“Financial Officer” means the chief financial officer, principal accounting officer, treasurer or controller of the Borrower.

“Financials” means the annual or quarterly financial statements, and accompanying certificates and other documents, of the Borrower and its Subsidiaries required to be delivered pursuant to Section 5.01(a) or 5.01(b).

“Foreign Lender” means (a) if the Borrower is a U.S. Person, a Lender, with respect to such Borrower, that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender, with respect to such Borrower, that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes.

“Foreign Subsidiary” means any Subsidiary which is not a Domestic Subsidiary.

“GAAP” means generally accepted accounting principles in the United States of America.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided, that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business or indemnification obligations entered into in the ordinary course of business. The amount of any Guarantee shall be deemed to be the lower of (i) an amount equal to the stated or determined amount of the primary obligation in respect of which such Guarantee is made and (ii) the maximum amount for which such guaranteeing Person may be liable pursuant to the terms of the instrument embodying such Guarantee, or, if such Guarantee is not an unconditional guarantee of the entire amount of the primary obligation and such maximum amount is not stated or determinable, the amount of such guaranteeing Person’s maximum reasonably anticipated liability in respect thereof determined by such Person in good faith.

“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.

“Impacted Interest Period” has the meaning assigned to such term in the definition of “LIBO Rate”.

“Increasing Lender” has the meaning assigned to such term in Section 2.20.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (d) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business), (e) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (f) all Guarantees by such Person of Indebtedness of others, (g) all Capital Lease Obligations of such Person, (h) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (i) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances and (j) all obligations of such Person under Sale and Leaseback Transactions. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership

in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor. Notwithstanding anything to the contrary in the foregoing, in connection with any Permitted Acquisition or any other acquisition by the Borrower or any Subsidiary permitted hereunder (or any sale, transfer or other disposition by the Borrower or any Subsidiary permitted hereunder), the term "Indebtedness" shall not include contingent post-closing purchase price adjustments to which the seller in such Permitted Acquisition or such other acquisition (or the buyer in such sale, transfer or other disposition, as the case may be) may become entitled or contingent indemnity obligations that may be owed to such seller (or buyer, if applicable) in respect thereof.

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

"Ineligible Institution" has the meaning assigned to such term in Section 9.04(b).

"Intangible Assets" means assets that are considered to be intangible assets under GAAP, including customer lists, goodwill, computer software, copyrights, trade names, trademarks, patents, franchises, licenses, unamortized deferred charges, unamortized debt discount and capitalized research and development costs.

"Interest Coverage Ratio" has the meaning assigned to such term in Section 6.13(b).

"Interest Election Request" means a request by the Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.08 in the form attached hereto as Exhibit H-2.

"Interest Payment Date" means (a) with respect to any ABR Loan (other than a Swingline Loan), the last day of each March, June, September and December and the Maturity Date, (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurodollar Borrowing with an Interest Period of more than three months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three months' duration after the first day of such Interest Period and the Maturity Date and (c) with respect to any Swingline Loan, the day that such Loan is required to be repaid and the Maturity Date.

"Interest Period" means with respect to any Eurodollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months thereafter, as the Borrower may elect; provided, that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of a Eurodollar Borrowing only, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period pertaining to a Eurodollar Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"Interpolated Rate" means, at any time, the rate per annum determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the LIBOR Screen Rate for

the longest period (for which the LIBOR Screen Rate is available) that is shorter than the Impacted Interest Period and (b) the LIBOR Screen Rate for the shortest period (for which the LIBOR Screen Rate is available) that exceeds the Impacted Interest Period, in each case, at such time.

“IRS” means the United States Internal Revenue Service.

“Issuing Bank” means JPMorgan Chase Bank, N.A., in its capacity as the issuer of Letters of Credit hereunder, and its successors in such capacity as provided in Section 2.06(i). The Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of the Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

“LC Collateral Account” has the meaning assigned to such term in Section 2.06(j).

“LC Disbursement” means a payment made by the Issuing Bank pursuant to a Letter of Credit.

“LC Exposure” means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time plus (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

“Lender Parent” means, with respect to any Lender, any Person as to which such Lender is, directly or indirectly, a subsidiary.

“Lender Presentation” means the presentation dated September 2013 relating to the Borrower and the Transactions.

“Lenders” means the Persons listed on Schedule 2.01 and any other Person that shall have become a Lender hereunder pursuant to Section 2.20 or pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term “Lenders” includes the Swingline Lender and the Issuing Bank.

“Letter of Credit” means any letter of credit issued pursuant to this Agreement.

“Leverage Ratio” has the meaning assigned to such term in Section 6.13(a).

“LIBO Rate” means, with respect to any Eurodollar Borrowing for any applicable Interest Period, the London interbank offered rate administered by the British Bankers Association (or any other Person that takes over the administration of such rate) for Dollars for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen or, in the event such rate does not appear on either of such Reuters pages, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion; in each case the “LIBOR Screen Rate”) at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period; provided that, if the LIBOR Screen Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement; provided, further, that if a LIBOR Screen Rate shall not be available at such time for such Interest Period (the “Impacted Interest Period”), then the LIBO Rate for such Interest Period shall be the Interpolated Rate; provided, that, if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this

Agreement. It is understood and agreed that all of the terms and conditions of this definition of “LIBO Rate” shall be subject to Section 2.14.

“LIBOR Screen Rate” has the meaning assigned to such term in the definition of “LIBO Rate”.

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Liquidity” means, at any time, an amount equal to the sum of (i) the aggregate Available Revolving Commitments at such time plus (ii) the dollar amount of unrestricted and unencumbered cash and cash equivalents maintained by the Borrower and its Subsidiaries in the United States at such time.

“Loan Documents” means this Agreement, any promissory notes issued pursuant to Section 2.10(e), any Letter of Credit applications, the Subsidiary Guaranty, and all other agreements, instruments, documents and certificates identified in Section 4.01 executed and delivered to, or in favor of, the Administrative Agent or any Lenders and including all other pledges, powers of attorney, consents, assignments, contracts, notices, letter of credit agreements and all other written agreements whether heretofore, now or hereafter executed by or on behalf of any Loan Party, or any employee of any Loan Party, and delivered to the Administrative Agent or any Lender in connection with this Agreement or the transactions contemplated hereby. Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to this Agreement or such Loan Document as the same may be in effect at any and all times such reference becomes operative.

“Loan Parties” means, collectively, the Borrower and the Subsidiary Guarantors.

“Loans” means the loans made by the Lenders to the Borrower pursuant to this Agreement.

“Material Adverse Effect” means a material adverse effect on (a) the business, assets, operations or financial condition of the Borrower and the Subsidiaries taken as a whole, (b) the ability of the Borrower to perform any of its material obligations under this Agreement or (c) the validity or enforceability of this Agreement or any and all other Loan Documents or the material rights or remedies of the Administrative Agent and the Lenders thereunder.

“Material Indebtedness” means Indebtedness (other than the Loans and Letters of Credit), or obligations in respect of one or more Swap Agreements, of any one or more of the Borrower and its Subsidiaries in an aggregate principal amount exceeding \$5,000,000. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Borrower or any Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Borrower or such Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

“Maturity Date” means September 27, 2018.

“Moody’s” means Moody’s Investors Service, Inc.

“Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Obligations” means all unpaid principal of and accrued and unpaid interest on the Loans, all LC Exposure, all accrued and unpaid fees and all expenses, reimbursements, indemnities and other obligations and indebtedness (including interest and fees accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), obligations and liabilities of any of the Borrower and its Subsidiaries to any of the Lenders, the Administrative Agent, the Issuing Bank or any indemnified party, individually or collectively, existing on the Effective Date or arising thereafter, direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise, arising or incurred under this Agreement or any of the other Loan Documents or to the Lenders or any of their Affiliates under any Swap Agreement or any Banking Services Agreement or in respect of any of the Loans made or reimbursement or other obligations incurred or any of the Letters of Credit or other instruments at any time evidencing any thereof; provided that the definition of “Obligations” shall not create or include any guarantee by any Loan Party of (or grant of security interest by any Loan Party to support, as applicable) any Excluded Swap Obligations of such Loan Party for purposes of determining any obligations of any Loan Party.

“OFAC” means the Office of Foreign Assets Control of the U.S. Department of Treasury.

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.19).

“Participant” has the meaning assigned to such term in Section 9.04.

“Participant Register” has the meaning assigned to such term in Section 9.04(c).

“Patriot Act” means the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“Permitted Acquisition” means any acquisition (whether by purchase, merger, consolidation or otherwise) or series of related acquisitions by the Borrower or any Subsidiary of (i) all or substantially all the assets of or (ii) a majority of the Equity Interests in, a Person or division or line of business of a Person, if, at the time of and immediately after giving effect (including giving effect on a pro forma basis) thereto, (a) no Default or Event of Default has occurred and is continuing or would arise immediately after giving effect (including giving effect on a pro forma basis) thereto, (b) such Person or division or line of business is engaged in the same or a similar line of business as the Borrower and the



Subsidiaries or business reasonably related thereto or similar or complementary thereto, or reasonable extensions thereof, in each case, determined in good faith by the Borrower's board of directors, (c) (i) the Borrower and the Subsidiaries are in compliance with the covenant contained in Section 6.13(b) and (ii) the Leverage Ratio is not greater than 2.25 to 1.00, in each case recomputed as of the last day of the most recently ended fiscal quarter of the Borrower for which financial statements are available, as if such acquisition (and any related incurrence or repayment of Indebtedness, with any new Indebtedness being deemed to be amortized over the applicable testing period in accordance with its terms) had occurred on the first day of each relevant period for testing such compliance and, if the aggregate consideration paid in respect of such acquisition exceeds \$25,000,000, the Borrower shall have delivered to the Administrative Agent a certificate of a Financial Officer of the Borrower to such effect, together with all relevant financial information, statements and projections reasonably requested by the Administrative Agent and (d) in the case of an acquisition, merger or consolidation involving the Borrower or a Subsidiary, the Borrower or such Subsidiary (or another Person that merges or consolidates with such Subsidiary and that, immediately after the consummation of such merger or consolidation, becomes a Subsidiary) is the surviving entity of such merger and/or consolidation.

"Permitted Encumbrances" means:

- (a) Liens imposed by law for Taxes that are not yet due or are being contested in compliance with Section 5.04;
- (b) carriers', warehousemen's, mechanics', materialmen's, repairmen's, landlord and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 5.04;
- (c) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations or employment laws or to secure other public statutory or regulatory obligations;
- (d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;
- (e) judgment Liens in respect of judgments that do not constitute an Event of Default under clause (k) of Article VII;
- (f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower or any Subsidiary;
- (g) licenses of intellectual property in the ordinary course of business (including intercompany licensing of intellectual property between the Borrower and any Subsidiary and between Subsidiaries in connection with cost-sharing arrangements, distribution, marketing, make-sell or other similar arrangements);
- (h) any interest or title of a lessor or sublessor under any lease of real property or personal property; and

(i) banker's liens, rights of setoff or similar rights and remedies as to deposit accounts or other funds maintained with depository institutions; provided that such deposit accounts or funds are not established or deposited for the purpose of providing collateral for any Indebtedness;

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness.

"Permitted Investments" means:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;

(b) investments in commercial paper maturing within 270 days from the date of acquisition thereof and having, at such date of acquisition, the highest credit rating obtainable from S&P or from Moody's;

(c) investments in certificates of deposit, banker's acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof which has a combined capital and surplus and undivided profits of not less than \$500,000,000;

(d) fully collateralized repurchase agreements with a term of not more than thirty (30) days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above;

(e) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated AAA by S&P and Aaa by Moody's and (iii) have portfolio assets of at least \$5,000,000,000;

(f) in the case of any Foreign Subsidiary, other short term investments that are analogous to the foregoing, are of comparable credit quality and are customarily used by companies in the jurisdiction of such Foreign Subsidiary for cash management purposes; and

(g) (i) any other investments permitted by the Borrower's investment policy as such policy is in effect, and as disclosed to the Administrative Agent, prior to the Effective Date and (ii) any other investments permitted by the Borrower's investment policy as such policy may be amended, restated, supplemented or otherwise modified from time to time on or after the Effective Date with the reasonable consent of the 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 pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Prime Rate" means the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. as its prime rate in effect at its principal office in New York City; each

change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

“Recipient” means (a) the Administrative Agent, (b) any Lender and (c) the Issuing Bank, as applicable.

“Register” has the meaning assigned to such term in Section 9.04.

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person’s Affiliates.

“Required Lenders” means, at any time, Lenders having Revolving Credit Exposures and unused Commitments representing more than 50% of the sum of the total Revolving Credit Exposures and unused Commitments at such time.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in the Borrower or any Subsidiary or any option, warrant or other right to acquire any such Equity Interests in the Borrower or any Subsidiary.

“Revolving Credit Exposure” means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender’s Revolving Loans and its LC Exposure and Swingline Exposure at such time.

“Revolving Loan” means a Loan made pursuant to Section 2.01.

“S&P” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business.

“Sale and Leaseback Transaction” means any sale or other transfer of any property or asset by any Person with the intent to lease such property or asset as lessee.

“Sanctioned Country” means a country or territory which is at any time subject to Sanctions.

“Sanctions” means:

(a) economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (i) the U.S. government and administered by OFAC, (ii) the United Nations Security Council, (iii) the European Union or (iv) Her Majesty’s Treasury of the United Kingdom; and

(b) economic or financial sanctions imposed, administered or enforced from time to time by the U.S. State Department, the U.S. Department of Commerce or the U.S. Department of the Treasury.

“Sanctions List” means any of the lists of specifically designated nationals or designated persons or entities (or equivalent) held by the U.S. government and administered by OFAC, the U.S. State

Department, the U.S. Department of Commerce or the U.S. Department of the Treasury or the United Nations Security Council or any similar list maintained by the European Union, any other EU Member State or any other U.S. government entity, in each case as the same may be amended, supplemented or substituted from time to time.

“SEC” means the United States Securities and Exchange Commission.

“Securities Act” means the United States Securities Act of 1933.

“Specified Swap Obligation” means, with respect to any Loan Party, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act or any rules or regulations promulgated thereunder.

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D of the Board. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D of the Board or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Subordinated Indebtedness” means any Indebtedness of the Borrower or any Subsidiary the payment of which is subordinated to payment of the obligations under the Loan Documents.

“Subordinated Indebtedness Documents” means any document, agreement or instrument evidencing any Subordinated Indebtedness or entered into in connection with any Subordinated Indebtedness.

“subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, Controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” means any subsidiary of the Borrower.

“Subsidiary Guarantor” means each Subsidiary (other than Affected Foreign Subsidiaries) that is a party to the Subsidiary Guaranty. The Subsidiary Guarantors on the Effective Date are identified as such in Schedule 3.01 hereto.

“Subsidiary Guaranty” means that certain Guaranty dated as of the Effective Date in the form of Exhibit F (including any and all supplements thereto) and executed by each Subsidiary Guarantor party thereto, and, in the case of any guaranty by a Foreign Subsidiary, any other guaranty agreements of

similar substance and effect as are reasonably requested by the Administrative Agent and its counsel, in each case as amended, restated, supplemented or otherwise modified from time to time.

“Swap Agreement” means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock, stock option plan, stock purchase plan, equity compensation plan or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or the Subsidiaries shall be a Swap Agreement.

“Swingline Exposure” means, at any time, the aggregate principal amount of all Swingline Loans outstanding at such time. The Swingline Exposure of any Lender at any time shall be its Applicable Percentage of the total Swingline Exposure at such time.

“Swingline Lender” means JPMorgan Chase Bank, N.A., in its capacity as lender of Swingline Loans hereunder.

“Swingline Loan” means a Loan made pursuant to Section 2.05.

“Syndication Agent” means Wells Fargo Bank, National Association in its capacity as syndication agent for the credit facility evidenced by this Agreement.

“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.

“Transactions” means the execution, delivery and performance by the Loan Parties of this Agreement and the other Loan Documents, the borrowing of Loans and other credit extensions, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

“Type”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

“U.S. Person” means a “United States person” within the meaning of Section 7701(a)(30) of the Code.

“U.S. Tax Compliance Certificate” has the meaning assigned to such term in Section 2.17(f)(ii)(B)(3).

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

SECTION 1.02 Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Revolving Loan”) or by Type (e.g., a “Eurodollar Loan”) or by Class and Type (e.g., a “Eurodollar Revolving Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Revolving Borrowing”) or by Type (e.g., a “Eurodollar Borrowing”) or by Class and Type (e.g., a “Eurodollar Revolving Borrowing”).

SECTION 1.03 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. The word “law” shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply), and all judgments, orders and decrees, of all Governmental Authorities. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein), (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified (including by succession of comparable successor laws), (c) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (f) 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.

SECTION 1.04 Accounting Terms; GAAP; Pro Forma Calculations. (a) Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith; provided, further, that in the event the Borrower requests such an amendment, the Administrative Agent and the Required Lenders shall negotiate in good faith to evaluate such proposed amendment. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any Subsidiary at “fair value”, as defined therein, (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof and (iii) in a manner such that any obligations relating to a lease that was accounted for by such Person as an operating lease as of the Effective Date and any similar lease entered into after the Effective Date by the Borrower or any Subsidiary shall be accounted for as obligations relating to an operating lease and not as Capital Lease Obligations .

(b) All pro forma computations required to be made hereunder giving effect to any acquisition or disposition, or issuance, incurrence or assumption of Indebtedness, or other transaction shall in each case be calculated giving pro forma effect thereto (and, in the case of any pro forma computation made hereunder to determine whether such acquisition or disposition, or issuance, incurrence or assumption of Indebtedness, or other transaction is permitted to be consummated hereunder, to any other such transaction consummated since the first day of the period covered by any component of such pro forma computation and on or prior to the date of such computation) as if such transaction had occurred on the first day of the period of four consecutive fiscal quarters ending with the most recent fiscal quarter for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, ending with the last fiscal quarter included in the financial statements referred to in Section 3.04(a)), and, to the extent applicable, to the historical earnings and cash flows associated with the assets acquired or disposed of (but without giving effect to any synergies or cost savings) and any related incurrence or reduction of Indebtedness, all in accordance with Article 11 of Regulation S-X under the Securities Act. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of determination had been the applicable rate for the entire period (taking into account any Swap Agreement applicable to such Indebtedness).

SECTION 1.05 Status of Obligations. In the event that the Borrower or any other Loan Party shall at any time issue or have outstanding any Subordinated Indebtedness, the Borrower shall take or cause such other Loan Party to take all such actions as shall be necessary to cause the Obligations to constitute senior indebtedness (however denominated) in respect of such Subordinated Indebtedness and to enable the Administrative Agent and the Lenders to have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness. Without limiting the foregoing, the Obligations are hereby designated as “senior indebtedness” and as “designated senior indebtedness” and words of similar import under and in respect of any indenture or other agreement or instrument under which such Subordinated Indebtedness is outstanding and are further given all such other designations as shall be required under the terms of any such Subordinated Indebtedness in order that the Lenders may have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness.

## ARTICLE II

### The Credits

SECTION 2.01 Commitments. Subject to the terms and conditions set forth herein, each Lender (severally and not jointly) agrees to make Revolving Loans to the Borrower in Dollars from time to time during the Availability Period in an aggregate principal amount that will not result in (a) such Lender’s Revolving Credit Exposure exceeding such Lender’s Commitment or (b) the sum of the total Revolving Credit Exposures exceeding the Aggregate Commitment. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans.

SECTION 2.02 Loans and Borrowings. (a) Each Revolving Loan (other than a Swingline Loan) shall be made as part of a Borrowing consisting of Revolving Loans made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender’s failure to make Loans as required. Any Swingline Loan shall be made in accordance with the procedures set forth in Section 2.05.

(b) Subject to Section 2.14, each Revolving Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Swingline Loan shall be an ABR Loan. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan (and in the case of an Affiliate, the provisions of Sections 2.14, 2.15, 2.16 and 2.17 shall apply to such Affiliate to the same extent as to such Lender); provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurodollar Revolving Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000. At the time that each ABR Revolving Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$250,000 and not less than \$500,000; provided that an ABR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the Aggregate Commitment or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e). Each Swingline Loan shall be in an amount that is an integral multiple of \$100,000 and not less than \$100,000. Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of ten (10) Eurodollar Revolving Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

SECTION 2.03 Requests for Revolving Borrowings. To request a Revolving Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone (a) in the case of a Eurodollar Borrowing, not later than 11:00 a.m., New York City time, three (3) Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, not later than 11:00 a.m., New York City time, one (1) Business Day before the date of the proposed Borrowing; provided that any such notice of an ABR Revolving Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e) may be given not later than 10:00 a.m., New York City time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or teletype to the Administrative Agent of a written Borrowing Request signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) the aggregate amount of the requested Borrowing;
- (ii) the date of such Borrowing, which shall be a Business Day;
- (iii) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;
- (iv) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and
- (v) the location and number of the Borrower's account to which funds are to be disbursed, which shall comply with the requirements of Section 2.07.

If no election as to the Type of Revolving Borrowing is specified, then the requested Revolving Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Revolving Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this



Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04 Intentionally Omitted.

SECTION 2.05 Swingline Loans. (a) Subject to the terms and conditions set forth herein, the Swingline Lender agrees to make Swingline Loans in Dollars to the Borrower from time to time during the Availability Period, in an aggregate principal amount at any time outstanding that will not result in (i) the aggregate principal amount of outstanding Swingline Loans exceeding \$5,000,000 or (ii) the sum of the total Revolving Credit Exposures exceeding the Aggregate Commitment; provided that the Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding Swingline Loan. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Swingline Loans.

(b) To request a Swingline Loan, the Borrower shall notify the Administrative Agent of such request by telephone (confirmed by telecopy), not later than 12:00 noon, New York City time, on the day of a proposed Swingline Loan. Each such notice shall be irrevocable and shall specify the requested date (which shall be a Business Day and may, for the avoidance of doubt, be the same Business Day as such request) and amount of the requested Swingline Loan. The Administrative Agent will promptly advise the Swingline Lender of any such notice received from the Borrower. The Swingline Lender shall make each Swingline Loan available to the Borrower by means of a credit to the general deposit account of the Borrower with the Swingline Lender (or, in the case of a Swingline Loan made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(e), by remittance to the Issuing Bank) by 3:00 p.m., New York City time, on the requested date of such Swingline Loan.

(c) The Swingline Lender may by written notice given to the Administrative Agent not later than 10:00 a.m., New York City time, on any Business Day require the Lenders to acquire participations on such Business Day in all or a portion of the Swingline Loans outstanding. Such notice shall specify the aggregate amount of Swingline Loans in which Lenders will participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Lender, specifying in such notice such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Lender hereby absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to the Administrative Agent, for the account of the Swingline Lender, such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Lender acknowledges and agrees that its obligation to acquire participations in Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the Swingline Lender the amounts so received by it from the Lenders. The Administrative Agent shall notify the Borrower of any participations in any Swingline Loan acquired pursuant to this paragraph, and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to the Swingline Lender. Any amounts received by the Swingline Lender from the Borrower (or other party on behalf of the Borrower) in respect of a Swingline Loan after receipt by the Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the Lenders that shall have made their payments pursuant to this paragraph and to the Swingline Lender, as their interests may appear; provided that any such payment so remitted shall be repaid to the Swingline Lender or to the Administrative Agent, as applicable, if and to the extent such payment is

required to be refunded to the Borrower for any reason. The purchase of participations in a Swingline Loan pursuant to this paragraph shall not relieve the Borrower of any default in the payment thereof.

SECTION 2.06 Letters of Credit. (a) General. Subject to the terms and conditions set forth herein, the Borrower may request the issuance of Letters of Credit denominated in Dollars as the applicant thereof for the support of its or its Subsidiaries' obligations, in a form reasonably acceptable to the Administrative Agent and the Issuing Bank, at any time and from time to time during the Availability Period. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, the Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control. The Borrower unconditionally and irrevocably agrees that, in connection with any Letter of Credit issued for the support of any Subsidiary's obligations as provided in the first sentence of this paragraph, the Borrower will be fully responsible for the reimbursement of LC Disbursements in accordance with the terms hereof, the payment of interest thereon and the payment of fees due under Section 2.12(b) to the same extent as if it were the sole account party in respect of such Letter of Credit (the Borrower hereby irrevocably waiving any defenses that might otherwise be available to it as a guarantor or surety of the obligations of such a Subsidiary that is an account party in respect of any such Letter of Credit).

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the Issuing Bank) to the Issuing Bank and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the Issuing Bank, the Borrower also shall submit a letter of credit application on the Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension (i) the amount of the LC Exposure shall not exceed \$5,000,000 and (ii) the sum of the total Revolving Credit Exposures shall not exceed the Aggregate Commitment.

(c) Expiration Date. Each Letter of Credit shall expire (or be subject to termination by notice from the Issuing Bank to the beneficiary thereof) at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (ii) the date that is five (5) Business Days prior to the Maturity Date; provided that any Letter of Credit may contain customary automatic renewal provisions agreed upon by the Borrower and the Issuing Bank pursuant to which the expiration date of such Letter of Credit shall automatically be extended for consecutive periods of up to twelve (12) months (but not to a date later than the date set forth in clause (ii) above).

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the Issuing Bank or the Lenders, the Issuing Bank hereby grants to each Lender, and each Lender hereby acquires from the Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance

of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by the Issuing Bank and not reimbursed by the Borrower on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrower for any reason. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Reimbursement. If the Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent in Dollars the amount equal to such LC Disbursement, calculated as of the date the Issuing Bank made such LC Disbursement not later than 12:00 noon, New York City time, on the Business Day immediately following the day that such LC Disbursement is made (or, if later, the Business Day immediately following the day the Borrower receives notice of such LC Disbursement); provided that, if such LC Disbursement is greater than \$1,000,000, the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 or 2.05 that such payment be financed with an ABR Revolving Borrowing or Swingline Loan in an equivalent amount of such LC Disbursement and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing or Swingline Loan. If the Borrower fails to make such payment when due, the Administrative Agent shall notify each Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrower, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse the Issuing Bank, then to such Lenders and the Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse the Issuing Bank for any LC Disbursement (other than the funding of ABR Revolving Loans or a Swingline Loan as contemplated above) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such LC Disbursement.

(f) Obligations Absolute. The Borrower's obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. Neither the Administrative Agent, the Lenders nor the Issuing Bank, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding

sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the Issuing Bank; provided that the foregoing shall not be construed to excuse the Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by the Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of the Issuing Bank (as finally determined by a court of competent jurisdiction), the Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. The Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The Issuing Bank shall promptly notify the Administrative Agent and the Borrower by telephone (confirmed by teletype) of such demand for payment and whether the Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse the Issuing Bank and the Lenders with respect to any such LC Disbursement.

(h) Interim Interest. If the Issuing Bank shall make any LC Disbursement, then, unless the Borrower shall reimburse or finance such LC Disbursement in full on the date such LC Disbursement is due to be reimbursed under paragraph (c) of this Section, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrower reimburses such LC Disbursement, at the rate per annum then applicable to ABR Revolving Loans; provided that, if the Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.13(c) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (e) of this Section to reimburse the Issuing Bank shall be for the account of such Lender to the extent of such payment.

(i) Replacement of Issuing Bank. The Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of the Issuing Bank. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.12(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of the Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit then outstanding and issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(j) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, Lenders with LC Exposure representing greater than 50% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph, the Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders (the "LC Collateral Account"), an amount in cash equal to 105% of the amount of the LC Exposure as of such date plus any accrued and unpaid interest thereon; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in clause (h) or (i) of Article VII. Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the Obligations. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with LC Exposure representing greater than 50% of the total LC Exposure), be applied to satisfy other Obligations. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three (3) Business Days after all Events of Default have been cured or waived.

SECTION 2.07 Funding of Borrowings. (a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 12:00 noon, New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders; provided that Swingline Loans shall be made as provided in Section 2.05. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower maintained with the Administrative Agent in New York City or Chicago and designated by the Borrower in the applicable Borrowing Request; provided that ABR Revolving Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(e) shall be remitted by the Administrative Agent to the Issuing Bank. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any 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 paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

SECTION 2.08 Interest Elections. (a) Each Revolving Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Revolving

Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Revolving Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. This Section shall not apply to Swingline Borrowings, which may not be converted or continued.

(b) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Revolving Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or teletype to the Administrative Agent of a written Interest Election Request signed by the Borrower. Notwithstanding any contrary provision herein, this Section shall not be construed to permit the Borrower to elect an Interest Period for Eurodollar Loans that does not comply with Section 2.02(d).

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which Interest Period shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Revolving Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Revolving Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each

Eurodollar Revolving Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.09 Termination and Reduction of Commitments. (a) Unless previously terminated, the Commitments shall terminate on the Maturity Date.

(b) The Borrower may at any time terminate, or from time to time reduce, the Commitments; provided that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of \$5,000,000 and not less than \$5,000,000 and (ii) the Borrower shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.11, the sum of the Revolving Credit Exposures would exceed the Aggregate Commitment.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three (3) Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities or other events specified therein, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent; provided, however, that, for the avoidance of doubt, a reduction of the Commitments pursuant to this paragraph (c) shall not impair the Borrower's ability to request an increase in the Commitments pursuant to Section 2.20 below. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments.

SECTION 2.10 Repayment of Loans; Evidence of Debt. (a) The Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date and (ii) to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the earlier of the Maturity Date and the first date after such Swingline Loan is made that is the 15<sup>th</sup> or last day of a calendar month and is at least two (2) Business Days after such Swingline Loan is made; provided that on each date that a Revolving Borrowing is made, the Borrower shall repay all Swingline Loans then outstanding.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to the order of such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in the form attached hereto as Exhibit I. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

SECTION 2.11 Prepayment of Loans. The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with the provisions of this Section 2.11. The Borrower shall notify the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the Swingline Lender) by telephone (confirmed by telecopy or electronic communication, if arrangements for doing so have been approved by the Administrative Agent) of any prepayment hereunder (i) in the case of prepayment of a Eurodollar Revolving Borrowing, not later than 11:00 a.m., New York City time, three (3) Business Days before the date of prepayment, (ii) in the case of prepayment of an ABR Revolving Borrowing, not later than 11:00 a.m., New York City time, one (1) Business Day before the date of prepayment or (iii) in the case of prepayment of a Swingline Loan, not later than 12:00 noon, New York City time, on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.09, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.09. Promptly following receipt of any such notice relating to a Revolving Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Revolving Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by (i) accrued interest to the extent required by Section 2.13 and (ii) break funding payments pursuant to Section 2.16. If at any time the sum of the aggregate principal amount of all of the Revolving Credit Exposures exceeds the Aggregate Commitment, the Borrower shall immediately repay Borrowings or cash collateralize LC Exposure in an account with the Administrative Agent pursuant to Section 2.06(j), as applicable, in an aggregate principal amount sufficient to cause the aggregate principal amount of all Revolving Credit Exposures to be less than or equal to the Aggregate Commitment.

SECTION 2.12 Fees. (a) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a commitment fee, which shall accrue at the Applicable Rate on the average daily amount of the Available Revolving Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which such Commitment terminates. Accrued commitment fees shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof; provided that any commitment fees accruing after the date on which the Commitments terminate shall be payable on demand. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Borrower agrees to pay (i) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Eurodollar Revolving Loans on the average daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Commitment terminates and the date on which



such Lender ceases to have any LC Exposure and (ii) to the Issuing Bank for its own account a fronting fee, which shall accrue at the rate of 0.125% per annum on the average daily amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) attributable to Letters of Credit issued by the Issuing Bank during the period from and including the Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any LC Exposure, as well as the Issuing Bank's standard and customary fees and commissions with respect to the issuance, amendment, cancellation, negotiation, transfer, presentment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable on the third (3<sup>rd</sup>) Business Day following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to the Issuing Bank pursuant to this paragraph shall be payable within ten (10) days after demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(c) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(d) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to the Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Lenders. Fees paid shall not be refundable under any circumstances.

SECTION 2.13 Interest. (a) The Loans comprising each ABR Borrowing (including each Swingline Loan) shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Eurodollar Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount, 2% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and upon termination of the Commitments; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Revolving Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a

leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Adjusted LIBO Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.14 Alternate Rate of Interest. If prior to the commencement of any Interest Period for a Eurodollar Borrowing:

(a) the Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period; or

(b) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or teletype as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Eurodollar Borrowing shall be ineffective and any such Eurodollar Borrowing shall be repaid on the last day of the then current Interest Period applicable thereto and (ii) if any Borrowing Request requests a Eurodollar Revolving Borrowing, such Borrowing shall be made as an ABR Borrowing.

SECTION 2.15 Increased Costs. (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate) or the Issuing Bank;

(ii) impose on any Lender or the Issuing Bank or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or any Letter of Credit or participation therein; or

(iii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, continuing, converting into or maintaining any Loan or of maintaining its obligation to make any such Loan or to increase the cost to such Lender, the Issuing Bank or such other Recipient of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender, the Issuing Bank or such other Recipient hereunder, whether of principal, interest or otherwise, then the Borrower will pay to such Lender, the Issuing Bank or such other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, the Issuing Bank or such other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or the Issuing Bank determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or the Issuing Bank's capital or on the capital of such Lender's or the Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by the Issuing Bank, to a level below that which such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the Issuing Bank's policies and the policies of such Lender's or the Issuing Bank's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender or the Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or the Issuing Bank setting forth in reasonable detail the basis of the calculation of the amount or amounts necessary to compensate such Lender or the Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender or the Issuing Bank, as the case may be, the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

(d) Failure or delay on the part of any Lender or the Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or the Issuing Bank's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or the Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender or the Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the Issuing Bank's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.16 Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or as a result of any prepayment pursuant to Section 2.11), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.11 and is revoked in accordance therewith) or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.19, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in Dollars of a comparable amount and period from other banks in the eurodollar market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

SECTION 2.17 Taxes. (a) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable withholding agent) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2.17) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) Payment of Other Taxes by the Borrower. The Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for, Other Taxes.

(c) Evidence of Payments. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 2.17, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) Indemnification by the Loan Parties. The Loan Parties shall indemnify each Recipient, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) Status of Lenders. (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by

the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.17(f)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person:

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. Federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable;

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed originals of IRS Form W-8ECI;

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit G-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed originals of IRS Form W-8BEN; or

(4) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, a U.S. Tax Compliance Certificate substantially in the form of

Exhibit G-2 or Exhibit G-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. Federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) 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 were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(g) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.17 (including by the payment of additional amounts pursuant to this Section 2.17), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 2.17 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to

indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) Survival. Each party's obligations under this Section 2.17 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(i) Defined Terms. For purposes of this Section 2.17, the term "Lender" includes the Issuing Bank and the term "applicable law" includes FATCA.

**SECTION 2.18 Payments Generally; Pro Rata Treatment; Sharing of Set-offs**. (a) The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.15, 2.16 or 2.17, or otherwise) prior to 12:00 noon, New York City time on the date when due, in immediately available funds, without set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 10 South Dearborn Street, Chicago, Illinois 60603, except payments to be made directly to the Issuing Bank or Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in Dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards 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, towards payment of principal and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties.

(c) At the election of the Administrative Agent, all payments of principal, interest, LC Disbursements, fees, premiums, reimbursable expenses (including, without limitation, all reimbursement for fees and expenses pursuant to Section 9.03), and other sums payable under the Loan Documents, may be paid from the proceeds of Borrowings made hereunder whether made following a request by the Borrower pursuant to Section 2.03 or a deemed request as provided in this Section or may be deducted from any deposit account of the Borrower maintained with the Administrative Agent. The Borrower hereby irrevocably authorizes (i) the Administrative Agent to make a Borrowing for the purpose of paying each payment of principal, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents and agrees that all such amounts charged shall constitute Loans (including Swingline Loans) and that all such Borrowings shall be deemed to have been requested pursuant to Sections 2.03 or 2.05, as applicable and (ii) the Administrative Agent to charge any deposit account of the Borrower maintained with the Administrative Agent for each payment of principal, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents.

(d) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Revolving Loans or participations in LC Disbursements or Swingline Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans and participations in LC Disbursements and Swingline Loans and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Revolving Loans and participations in LC Disbursements and Swingline Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Revolving Loans and participations in LC Disbursements and Swingline Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements and Swingline Loans to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(e) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Bank hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Bank, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Bank, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(f) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.05(c), 2.06(d) or (e), 2.07(b), 2.18(e) or 9.03(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender and for the benefit of the Administrative Agent, the Swingline Lender or the Issuing Bank to satisfy such Lender's obligations to it under such Section until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account over which the Administrative Agent shall have exclusive control as cash collateral for, and application to, any future funding obligations of such Lender under any such Section; in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

SECTION 2.19 Mitigation Obligations; Replacement of Lenders. (a) If any Lender requests compensation under Section 2.15, or the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then such Lender shall 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, such designation or assignment



(i) would eliminate or reduce amounts payable pursuant to Section 2.15 or 2.17, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender requests compensation under Section 2.15, (ii) the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17 or (iii) any Lender becomes a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights (other than its existing rights to payments pursuant to Sections 2.15 or 2.17) and obligations under the Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Borrower shall have received the prior written consent of the Administrative Agent (and if a Commitment is being assigned, the Issuing Bank and the Swingline Lender), which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements and Swingline Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.15 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

SECTION 2.20 Expansion Option. The Borrower may from time to time elect to increase the Commitments in minimum increments of \$25,000,000 so long as, after giving effect thereto, the aggregate amount of such increases does not exceed \$50,000,000. The Borrower may arrange for any such increase to be provided by one or more Lenders (each Lender so agreeing to an increase in its Commitment, an “Increasing Lender”), or by one or more new banks, financial institutions or other entities (each such new bank, financial institution or other entity, an “Augmenting Lender”; provided that no Ineligible Institution may be an Augmenting Lender), which agree to increase their existing Commitments or provide new Commitments, as the case may be; provided that (i) each Augmenting Lender, shall be subject to the approval of the Borrower and the Administrative Agent (such approvals not to be unreasonably withheld, delayed or conditioned) and (ii) (x) in the case of an Increasing Lender, the Borrower and such Increasing Lender execute an agreement substantially in the form of Exhibit C hereto, and (y) in the case of an Augmenting Lender, the Borrower and such Augmenting Lender execute an agreement substantially in the form of Exhibit D hereto. No consent of any Lender (other than the Lenders participating in the increase) shall be required for any increase in Commitments pursuant to this Section 2.20. Increases and new Commitments created pursuant to this Section 2.20 shall become effective on the date agreed by the Borrower, the Administrative Agent and the relevant Increasing Lenders or Augmenting Lenders, and the Administrative Agent shall notify each Lender thereof. Notwithstanding the foregoing, no increase in the Commitments (or in the Commitment of any Lender) shall become effective under this paragraph unless, (i) on the proposed date of the effectiveness of such increase, (A) the conditions set forth in paragraphs (a) and (b) of Section 4.02 shall be satisfied or waived by the Required Lenders and the Administrative Agent shall have received a certificate to that effect dated such date and executed by a Financial Officer of the Borrower and (B) the Borrower shall be in compliance (on a pro forma basis) with the covenants contained in Section 6.13 and (ii) the Administrative Agent shall have received documents consistent with those delivered on the Effective Date as to the organizational power and authority of the Borrower to borrow hereunder after giving effect

to such increase. On the effective date of any increase in the Commitments, (i) each relevant Increasing Lender and Augmenting Lender shall make available to the Administrative Agent such amounts in immediately available funds as the Administrative Agent shall determine, for the benefit of the other Lenders, as being required in order to cause, after giving effect to such increase and the use of such amounts to make payments to such other Lenders, each Lender's portion of the outstanding Revolving Loans of all the Lenders to equal its Applicable Percentage of such outstanding Revolving Loans, and (ii) the Borrower shall be deemed to have repaid and reborrowed all outstanding Revolving Loans as of the date of any increase in the Commitments (with such reborrowing to consist of the Types of Revolving Loans, with related Interest Periods if applicable, specified in a notice delivered by the Borrower, in accordance with the requirements of Section 2.03). The deemed payments made pursuant to clause (ii) of the immediately preceding sentence shall be accompanied by payment of all accrued interest on the amount prepaid and, in respect of each Eurodollar Loan, shall be subject to indemnification by the Borrower pursuant to the provisions of Section 2.16 if the deemed payment occurs other than on the last day of the related Interest Periods. Nothing contained in this Section 2.20 shall constitute, or otherwise be deemed to be, a commitment on the part of any Lender to increase its Commitment hereunder at any time.

SECTION 2.21 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

- (a) fees shall cease to accrue on the unfunded portion of the Commitment of such Defaulting Lender pursuant to Section 2.12(a);
- (b) the Commitment and Revolving Credit Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 9.02); provided, that, except as otherwise provided in Section 9.02, this clause (b) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender directly affected thereby;
- (c) if any Swingline Exposure or LC Exposure exists at the time such Lender becomes a Defaulting Lender then:
  - (i) all or any part of the Swingline Exposure and LC Exposure of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent that (x) no Default or Event of Default shall have occurred and be continuing at such time and (y) the sum of all non-Defaulting Lenders' Revolving Credit Exposures plus such Defaulting Lender's Swingline Exposure and LC Exposure does not exceed the total of all non-Defaulting Lenders' Commitments;
  - (ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrower shall within one (1) Business Day following notice by the Administrative Agent (x) first, prepay such Swingline Exposure and (y) second, cash collateralize for the benefit of the Issuing Bank only the Borrower's obligations corresponding to such Defaulting Lender's LC Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 2.06(j) for so long as such LC Exposure is outstanding;
  - (iii) if the Borrower cash collateralizes any portion of such Defaulting Lender's LC Exposure pursuant to clause (ii) above, the Borrower shall not be required to pay any fees to such

Defaulting Lender pursuant to Section 2.12(b) with respect to such Defaulting Lender's LC Exposure during the period such Defaulting Lender's LC Exposure is cash collateralized;

(iv) if the LC Exposure of the non-Defaulting Lenders is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Section 2.12(a) and Section 2.12(b) shall be adjusted in accordance with such non-Defaulting Lenders' Applicable Percentages; and

(v) if all or any portion of such Defaulting Lender's LC Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of the Issuing Bank or any other Lender hereunder, all letter of credit fees payable under Section 2.12(b) with respect to such Defaulting Lender's LC Exposure shall be payable to the Issuing Bank until and to the extent that such LC Exposure is reallocated and/or cash collateralized; and

(d) so long as such Lender is a Defaulting Lender, the Swingline Lender shall not be required to fund any Swingline Loan and the Issuing Bank shall not be required to issue, amend or increase any Letter of Credit, unless it is reasonably satisfied that the related exposure and the Defaulting Lender's then outstanding LC Exposure will be 100% covered by the Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Borrower in accordance with Section 2.21(c), and participating interests in any such newly made Swingline Loan or any newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.21(c)(i) (and such Defaulting Lender shall not participate therein).

If (i) a Bankruptcy Event with respect to a Lender Parent shall occur following the date hereof and for so long as such event shall continue or (ii) the Swingline Lender or the Issuing Bank has a good faith belief that any Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, the Swingline Lender shall not be required to fund any Swingline Loan and the Issuing Bank shall not be required to issue, amend or increase any Letter of Credit, unless the Swingline Lender or the Issuing Bank, as the case may be, shall have entered into arrangements with the Borrower or such Lender (which arrangements may include, without limitation, such reallocation or collateralization as contemplated by subsection (d) above), reasonably satisfactory to the Swingline Lender or the Issuing Bank, as the case may be, to defease any risk to it in respect of such Lender hereunder.

In the event that the Administrative Agent, the Borrower, the Swingline Lender and the Issuing Bank each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Swingline Exposure and LC Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders (other than Swingline Loans) as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Applicable Percentage.

### ARTICLE III

#### Representations and Warranties

The Borrower represents and warrants to the Lenders that:

SECTION 3.01 Organization; Powers; Subsidiaries. Each of the Borrower and its Subsidiaries is duly organized, validly existing and (to the extent the concept is applicable in such jurisdiction) in good standing under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so,

individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and (to the extent the concept is applicable in such jurisdiction) is in good standing in, every jurisdiction where such qualification is required. Schedule 3.01 hereto (as supplemented from time to time) identifies each Subsidiary, noting whether such Subsidiary is a Subsidiary Guarantor, the jurisdiction of its incorporation or organization, as the case may be, the percentage of issued and outstanding shares of each class of its capital stock or other equity interests owned by the Borrower and the other Subsidiaries and, if such percentage is not 100% (excluding directors' qualifying shares as required by law), a description of each class issued and outstanding. All of the outstanding shares of capital stock and other equity interests of each Subsidiary are validly issued and outstanding and fully paid and nonassessable and all such shares and other equity interests indicated on Schedule 3.01 as owned by the Borrower or another Subsidiary are owned, beneficially and of record, except as provided in Schedule 3.01, by the Borrower or any Subsidiary free and clear of all Liens. There are no outstanding commitments or other obligations of the Borrower or any Subsidiary to issue, and no options, warrants or other rights of any Person to acquire, any shares of any class of capital stock or other equity interests of any Subsidiary.

SECTION 3.02 Authorization; Enforceability. The Transactions are within each Loan Party's organizational powers and have been duly authorized by all necessary organizational actions and, if required, actions by equity holders. The Loan Documents to which each Loan Party is a party have been duly executed and delivered by such Loan Party and constitute a legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.03 Governmental Approvals; No Conflicts. The execution, delivery and performance by each Loan Party of the Loan Documents to which such Loan Party is a party (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect, (b) will not violate any applicable law or regulation or the charter, by-laws or other organizational documents of the Borrower or any of its Subsidiaries or any order of any Governmental Authority, (c) will not violate in any material respect or result in a default under any indenture, material agreement or other material instrument binding upon the Borrower or any of its Subsidiaries or its assets, or give rise to a right thereunder to require any payment to be made by the Borrower or any of its Subsidiaries, and (d) will not result in the creation or imposition of any Lien on any asset of the Borrower or any of its Subsidiaries.

SECTION 3.04 Financial Condition; No Material Adverse Change. (a) The Borrower has heretofore furnished to the Lenders its consolidated balance sheet and statements of income, stockholders equity and cash flows (i) as of and for the fiscal year ended December 31, 2012 reported on by Ernst & Young LLP, independent public accountants, and (ii) as of and for the fiscal quarter and the portion of the fiscal year ended June 30, 2013, certified by its chief financial officer. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to year-end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (ii) above.

(b) Since December 31, 2012, there has been no material adverse change in the business, assets, operations or financial condition of the Borrower and its Subsidiaries, taken as a whole.

SECTION 3.05 Properties. (a) Each of the Borrower and its Subsidiaries has good title to, or valid leasehold interests in, all its real and personal property material to its business, except for

minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes.

(b) Each of the Borrower and its Subsidiaries owns, or is licensed to use, all trademarks, trade names, copyrights, patents and other intellectual property material to its business, and, to the knowledge of the Borrower, the use thereof by the Borrower and its Subsidiaries does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.06 Litigation, Environmental and Labor Matters. (a) There are no actions, suits, proceedings or, to the Borrower's knowledge, investigations by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower, threatened in writing against or affecting the Borrower or any of its Subsidiaries (i) as to which there is a reasonable probability of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or (ii) that involve this Agreement or the Transactions.

(b) Except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any of its Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received written notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

(c) There are no strikes, lockouts or slowdowns against the Borrower or any of its Subsidiaries pending or, to their knowledge, threatened in writing, except to the extent such strikes, lockouts or slowdowns, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. The hours worked by and payments made to employees of the Borrower and its Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Federal, state, local or foreign law relating to such matters, except to the extent such violations, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. All material payments due from the Borrower or any of its Subsidiaries, or for which any claim may be made against the Borrower or any of its Subsidiaries, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as liabilities on the books of the Borrower or such Subsidiary, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. The consummation of the Transactions will not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement under which the Borrower or any of its Subsidiaries is bound.

SECTION 3.07 Compliance with Laws and Agreements. Each of the Borrower and its Subsidiaries is in compliance with all laws, regulations and orders of any Governmental Authority applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.08 Investment Company Status. Neither the Borrower nor any of its Subsidiaries is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

SECTION 3.09 Taxes. Each of the Borrower and its Subsidiaries has timely filed or caused to be filed all federal Tax returns and all other material Tax returns and reports required to have

been filed and has paid or caused to be paid all Taxes required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings and for which the Borrower or such Subsidiary, as applicable, has set aside on its books adequate reserves or (b) to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.10 ERISA. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect.

SECTION 3.11 Disclosure. The Borrower has disclosed to the Lenders all material agreements, instruments and corporate or other restrictions to which it or any of its Subsidiaries is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. For the purposes of this Section 3.11, all materials publicly filed by the Borrower with the SEC shall be deemed to be disclosed to the Lenders. Neither the Lender Presentation nor any of the other written reports, financial statements, certificates or other information furnished by or on behalf of the Borrower or any Subsidiary to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or delivered hereunder (as modified or supplemented by all other information so furnished and all material publicly filed by the Borrower with the SEC) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not materially misleading; provided that, with respect to forecasts or projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time (it being understood that forecasts and projections are subject to contingencies and no assurances can be given that any forecast or projection will be realized).

SECTION 3.12 Federal Reserve Regulations. No part of the proceeds of any Loan have been used or will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 3.13 Liens. There are no Liens on any of the real or personal properties of the Borrower or any Subsidiary except for Liens permitted by Section 6.02.

SECTION 3.14 No Default. No Default or Event of Default has occurred and is continuing.

SECTION 3.15 No Burdensome Restrictions. The Borrower is not subject to any Burdensome Restrictions except Burdensome Restrictions permitted under Section 6.08.

SECTION 3.16 Sanctions Laws and Regulations. The Borrower represents on a continuing basis that :

(a) The Borrower and to its knowledge its Affiliates and their respective directors, officers, employees, and agents have conducted their business in compliance with Anti-Corruption Laws and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

(b) None of the Borrower or to its knowledge its Affiliates or their respective directors, officers, employees, agents or representatives acting or benefiting in any capacity in connection with this Agreement (i) is a Designated Person; (ii) is a Person that is owned or controlled by a Designated Person; (iii) is located, organized or resident in a Sanctioned Country; or (iv) has directly or

indirectly engaged in, or is now directly or indirectly engaged in, any dealings or transactions (1) with any Designated Person, (2) in any Sanctioned Country, or (3) otherwise in violation of Sanctions.

#### ARTICLE IV

##### Conditions

SECTION 4.01 Effective Date. The obligations of the Lenders to make Loans and of the Issuing Bank to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent (or its counsel) shall have received (i) from each party hereto either (A) a counterpart of this Agreement signed on behalf of such party or (B) written evidence satisfactory to the Administrative Agent (which may include telecopy or electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement and (ii) duly executed copies of the Loan Documents and such other legal opinions, certificates, documents, instruments and agreements as the Administrative Agent shall reasonably request in connection with the Transactions, all in form and substance satisfactory to the Administrative Agent and its counsel and as further described in the list of closing documents attached as Exhibit E.

(b) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP, counsel for the Loan Parties, substantially in the form of Exhibit B, and covering such other matters relating to the Loan Parties, the Loan Documents or the Transactions as the Administrative Agent shall reasonably request. The Borrower hereby requests such counsel to deliver such opinion.

(c) The Administrative Agent shall have received such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and (to the extent the concept is applicable in the relevant jurisdiction of formation) good standing of the initial Loan Parties, the authorization of the Transactions and any other legal matters relating to such Loan Parties, the Loan Documents or the Transactions, all in form and substance satisfactory to the Administrative Agent and its counsel and as further described in the list of closing documents attached as Exhibit E.

(d) The Administrative Agent shall have received a certificate, dated the Effective Date and signed by the President, a Vice President or a Financial Officer of the Borrower, confirming compliance with the conditions set forth in paragraphs (a) and (b) of Section 4.02.

(e) The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the Effective Date, including, to the extent invoiced, reimbursement or payment of all reasonable out-of-pocket expenses required to be reimbursed or paid by the Borrower hereunder.

The Administrative Agent shall notify the Borrower and the Lenders of the Effective Date, and such notice shall be conclusive and binding.

SECTION 4.02 Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing, and of the Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) The representations and warranties of the Borrower set forth in this Agreement shall be true and correct in all material respects (or in all respects if the applicable representation or warranty is qualified by materiality or Material Adverse Effect) on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable, except in the case of any such representation or warranty that expressly relates to an earlier date, in which case such representation or warranty shall be true and correct in all material respects (or in all respects if the applicable representation or warranty is qualified by materiality or Material Adverse Effect) on and as of such earlier date.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default or Event of Default shall have occurred and be continuing.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

## ARTICLE V

### Affirmative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit shall have expired or terminated or been collateralized on substantially the terms set forth in Section 2.06(j), in each case, without any pending draw, and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

SECTION 5.01 Financial Statements and Other Information. The Borrower will furnish to the Administrative Agent for distribution to each Lender:

(a) within ninety (90) days after the end of each fiscal year of the Borrower (or, if earlier, by the date that the Annual Report on Form 10-K of the Borrower for such fiscal year would be required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for the filing of such form), its audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by Ernst & Young LLP or other independent public accountants of recognized national standing (without a "going concern" or like qualification or exception and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(b) within forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (or, if earlier, by the date that the Quarterly Report on Form 10-Q of the Borrower for such fiscal quarter would be required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for the filing of such form), its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of



and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(c) concurrently with any delivery of financial statements under clause (a) or (b) above, a certificate of a Financial Officer of the Borrower (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed calculations demonstrating compliance with Section 6.13 and (iii) stating whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements referred to in Section 3.04 and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;

(d) concurrently with any delivery of financial statements under clause (a) above, a certificate of the accounting firm that reported on such financial statements stating whether they obtained knowledge during the course of their examination of such financial statements of any Default (which certificate may be limited to the extent required by accounting rules or guidelines);

(e) as soon as available, but in any event not more than thirty (30) days following the end of each fiscal year of the Borrower, a copy of the plan and forecast (including a projected consolidated and consolidating balance sheet, income statement and funds flow statement) of the Borrower for each month of such fiscal year in form reasonably satisfactory to the Administrative Agent;

(f) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by the Borrower or any Subsidiary with the SEC, or any Governmental Authority succeeding to any or all of the functions of said Commission, or with any national securities exchange, or distributed by the Borrower to its shareholders generally, as the case may be; and

(g) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of the Borrower or any Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent (acting at the request of any Lender) may reasonably request.

(h) Documents required to be delivered pursuant to clauses (a) and (b) of this Section 5.01 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which such documents are filed for public availability on the SEC's Electronic Data Gathering and Retrieval System; provided that the Borrower shall upon request provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance the Borrower shall be required to provide paper copies of the compliance certificates required by clause (c) of this Section 5.01 to the Administrative Agent.

SECTION 5.02 Notices of Material Events. The Borrower will furnish to the Administrative Agent for distribution to each Lender prompt written notice of the following:

(a) the occurrence of any Default;

- (b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Borrower or any Subsidiary thereof that, if adversely determined, could reasonably be expected to result in a Material Adverse Effect;
- (c) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect; and
- (d) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto. For the purposes of this Section 5.02, the public filing by the Borrower of any materials with the SEC shall be deemed to constitute written notice of the contents of such materials to the Administrative Agent.

SECTION 5.03 Existence; Conduct of Business. The Borrower will, and will cause each of its Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, qualifications, licenses, permits, privileges, franchises, governmental authorizations and intellectual property rights material to the conduct of its business, and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03.

SECTION 5.04 Payment of Obligations. The Borrower will, and will cause each of its Subsidiaries to, pay its obligations, including Tax liabilities, that, if not paid, could result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Borrower or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.05 Maintenance of Properties; Insurance. The Borrower will, and will cause each of its Subsidiaries to, (a) keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect and (b) maintain, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations.

SECTION 5.06 Books and Records; Inspection Rights. The Borrower will, and will cause each of its Subsidiaries to, keep proper books of record and account in which full, true and correct entries are made of all material financial dealings and transactions in relation to its business and activities. The Borrower will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent, upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested (but not more than once per fiscal year unless an Event of Default exists). The Borrower acknowledges that the Administrative Agent, after exercising its rights of inspection, may prepare and distribute to the Lenders certain reports pertaining to the Borrower and its Subsidiaries' assets for internal use by the

Administrative Agent and the Lenders. Notwithstanding the foregoing, neither the Borrower nor its Subsidiaries shall be required to disclose or discuss, or permit the inspection, examination or making of extracts of, any document, book, record or other matter that (i) constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent, such Lender or their representatives is then prohibited by applicable law or any agreement binding on the Borrower or its Subsidiaries or (iii) is protected from disclosure by the attorney-client privilege or the attorney work product privilege.

SECTION 5.07 Compliance with Laws and Material Contractual Obligations. The Borrower will, and will cause each of its Subsidiaries to, (i) comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property (including without limitation Environmental Laws) and (ii) perform in all material respects its obligations under material agreements to which it is a party, in each case except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.08 Use of Proceeds. The proceeds of the Loans will be used only to finance the working capital needs, and for general corporate purposes, of the Borrower and its Subsidiaries in the ordinary course of business (including acquisitions permitted by this Agreement). No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 5.09 Subsidiary Guaranty. As promptly as possible but in any event within thirty (30) days (or such later date as may be agreed upon by the Administrative Agent) after any Person becomes a Subsidiary or any Subsidiary ceases to be an Affected Foreign Subsidiary, the Borrower shall provide the Administrative Agent with written notice thereof setting forth information in reasonable detail describing the material assets of such Person and shall cause each such Subsidiary (other than an Affected Foreign Subsidiary) to deliver to the Administrative Agent a joinder to the Subsidiary Guaranty (in the form contemplated thereby) pursuant to which such Subsidiary agrees to be bound by the terms and provisions thereof, such Subsidiary Guaranty to be accompanied by appropriate corporate resolutions, other corporate documentation and legal opinions as may be reasonably requested and in form and substance reasonably satisfactory to the Administrative Agent and its counsel.

## ARTICLE VI

### Negative Covenants

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired or terminated or been collateralized on substantially the terms set forth in Section 2.06(j), in each case, without any pending draw, and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

SECTION 6.01 Indebtedness. The Borrower will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Indebtedness, except:

(a) the Obligations;

(b) Indebtedness existing on the date hereof and set forth in Schedule 6.01 and extensions, renewals and replacements of any such Indebtedness with Indebtedness of a similar type that does not increase the outstanding principal amount thereof;

(c) Indebtedness of the Borrower to any Subsidiary and of any Subsidiary to the Borrower or any other Subsidiary; provided that Indebtedness of any Subsidiary that is not a Loan Party to any Loan Party shall be subject to the limitations set forth in Section 6.04(d) (other than as permitted by clauses (c), (d) and (j) of Section 6.04);

(d) Guarantees by the Borrower of Indebtedness of any Subsidiary and by any Subsidiary of Indebtedness of the Borrower or any other Subsidiary;

(e) Indebtedness of the Borrower or any Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and refinancings, extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof; provided that (i) such Indebtedness is incurred prior to or within one hundred eighty (180) days after such acquisition or the completion of such construction or improvement and (ii) the aggregate principal amount of Indebtedness permitted by this clause (e) shall not exceed \$10,000,000 at any time outstanding;

(f) Indebtedness of the Borrower or any Subsidiary as an account party in respect of trade letters of credit;

(g) Indebtedness of the Borrower or any Subsidiary secured by a Lien on any asset of the Borrower or any Subsidiary; provided that the aggregate outstanding principal amount of Indebtedness permitted by this clause (g) shall not in the aggregate exceed \$10,000,000 at any time;

(h) Indebtedness arising in connection with customary cash management services and from the honoring by a bank or financial institution of a check, draft or similar instrument drawn against insufficient funds, in each case in the ordinary course of business; provided that such Indebtedness is extinguished within five (5) Business Days after its incurrence;

(i) customer deposits and advance payments received in the ordinary course of business from customers for goods or services purchased in the ordinary course of business;

(j) Indebtedness consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply agreements, in each case incurred in the ordinary course of business;

(k) Indebtedness of any Person that becomes a Subsidiary after the date hereof pursuant to a Permitted Acquisition; provided that such Indebtedness exists at the time such Person becomes a Subsidiary and is not created in contemplation of or in connection with such Person becoming a Subsidiary, which Indebtedness may be secured solely to the extent permitted by Section 6.02(c);

(l) Indebtedness of Foreign Subsidiaries, and guarantees thereof by Foreign Subsidiaries, in respect of local lines of credit, letters of credit, bank guarantees and similar extensions of credit, in an aggregate principal amount not to exceed \$10,000,000;

(m) Indebtedness arising from agreements providing for indemnification, adjustment of purchase price or similar obligations, or from guaranties, surety bonds or performance bonds securing the performance of the Borrower or any of its Subsidiaries pursuant to such agreements, in connection with Permitted Acquisitions or permitted dispositions;

- (n) Indebtedness representing deferred compensation, severance, pension, and health and welfare retirement benefits or the equivalent to current and former employees of the Borrower and its Subsidiaries incurred in the ordinary course of business or existing on the Effective Date; and
- (o) unsecured Indebtedness arising out of judgments not constituting an Event of Default.

SECTION 6.02 Liens. The Borrower will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof, except:

- (a) Permitted Encumbrances;
- (b) any Lien on any property or asset of the Borrower or any Subsidiary existing on the date hereof and set forth in Schedule 6.02 and any modifications, renewals and extensions thereof and any Lien granted as a replacement or substitute therefor; provided that (i) such Lien shall not apply to any other property or asset of the Borrower or any Subsidiary other than improvements thereon or proceeds from the disposition of such asset and (ii) such Lien shall secure only those obligations which it secures on the date hereof and refinancing, extensions, renewals or replacements thereof that do not increase the outstanding principal amount thereof (other than as permitted by Section 6.01 above);
- (c) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower or any Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary and any modifications, replacements, renewals or extensions thereof; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Borrower or any Subsidiary and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be, and refinancing, extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof (other than as permitted by Section 6.01 above);
- (d) Liens on fixed or capital assets acquired, constructed or improved by the Borrower or any Subsidiary; provided that (i) such security interests secure Indebtedness permitted by clause (e) of Section 6.01, (ii) such security interests and the Indebtedness secured thereby are incurred prior to or within one hundred eighty (180) days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such security interests shall not apply to any other property or assets of the Borrower or any Subsidiary;
- (e) Liens on assets of the Borrower and its Subsidiaries not otherwise permitted above so long as the aggregate principal amount of the Indebtedness and other obligations subject to such Liens does not at any time exceed \$10,000,000;
- (f) any license or sublicense entered into by the Borrower or any Subsidiary in the ordinary course of its business or any Additional License;
- (g) Liens on earnest money deposits of cash or cash equivalents made in connection with any Permitted Acquisition;

- (h) Liens in the nature of the right of setoff in favor of counterparties to contractual agreements with the Loan Parties in the ordinary course of business;
- (i) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into by the Borrower or any Subsidiary in the ordinary course of business in accordance with the past practices of the Borrower or such Subsidiary; and
- (j) Liens on insurance policies and the proceeds thereof securing Indebtedness permitted by Section 6.01(j).

SECTION 6.03 Fundamental Changes and Asset Sales. (a) The Borrower will not, and will not permit any Subsidiary to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions) any of its assets (including pursuant to a Sale and Leaseback Transaction), or any of the Equity Interests of any of its Subsidiaries (in each case, whether now owned or hereafter acquired), or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall have occurred and be continuing:

- (i) any Person may merge into the Borrower in a transaction in which the Borrower is the surviving corporation;
- (ii) any Subsidiary may merge into a Loan Party in a transaction in which the surviving entity is such Loan Party (provided that any such merger involving the Borrower must result in the Borrower as the surviving entity);
- (iii) any Subsidiary may sell, transfer, lease or otherwise dispose of all or a portion of its assets (including upon voluntary liquidation, dissolution or otherwise) to a Loan Party;
- (iv) the Borrower and its Subsidiaries may (A) sell inventory in the ordinary course of business, (B)(1) effect sales, trade-ins or dispositions of used equipment for value in the ordinary course of business consistent with past practice and (2) dispose of obsolete or worn out property, including involuntary loss, damage or destruction of property, (C) enter into licenses or sublicenses of technology in the ordinary course of business (including intercompany licensing of intellectual property between the Borrower and any Subsidiary and between Subsidiaries in connection with cost sharing arrangements, distribution, marketing, make-sell or other similar arrangements) or enter into licenses that are reasonably determined in good faith by a Financial Officer to be materially advantageous to, and not materially impair, the conduct of the business of the Borrower and its Subsidiaries (taken as a whole), as such business is conducted on the Effective Date or otherwise permitted under clause (b) below of this Section 6.03 (such licenses, "Additional Licenses"), and (D) make any other sales, transfers, leases or dispositions that, together with all other property of the Borrower and its Subsidiaries previously leased, sold or disposed of as permitted by this clause (D) during any fiscal year of the Borrower, does not exceed an amount equal to 5% of Consolidated Tangible Assets as of the most recently ended fiscal quarter of the Borrower for which financial statements have been delivered pursuant to Section 5.01(a) or (b) (or, if prior to the date of the delivery of the first financial statements to be delivered pursuant to Section 5.01(a) or (b), the most recent financial statements referred to in Section 3.04(a));
- (v) (A) any Subsidiary that is not a Loan Party may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders and (B) any Subsidiary that is

a Loan Party may liquidate or dissolve to facilitate internal reorganizations, provided that substantially all of the assets of such Subsidiary are transferred to a Loan Party as a result of such liquidation or dissolution;

(vi) the discount or sale, in each case without recourse and in the ordinary course of business, of past due receivables arising in the ordinary course of business, but only in connection with the compromise or collection thereof consistent with customary industry practice (and not as part of any bulk sale or financing of receivables);

(vii) to the extent constituting a transfer or disposition, (A) the making of any Investment permitted pursuant to Section 6.04 and (B) the creation, incurrence or assumption of any Lien permitted under Section 6.02 shall be permitted;

(viii) the use, transfer or disposition of cash or Permitted Investments in the ordinary course of business and in a manner that is not prohibited by the terms of this Agreement shall be permitted; and

(ix) sales, transfers or other dispositions of assets acquired pursuant to a Permitted Acquisition that in the judgment of the Borrower's management are not necessary or desirable to carry out the Borrower's business plans, to the extent binding agreements or letters of intent providing for such sales, transfers or other dispositions are entered into within 12 months after the acquisition of such assets;

provided that any such merger or consolidation involving a Person that is not a wholly-owned Subsidiary immediately prior to such merger or consolidation shall not be permitted unless it is also permitted by Section 6.04.

(b) The Borrower will not, and will not permit any of its Subsidiaries to, engage to any material extent in any business other than businesses of the type conducted by the Borrower and its Subsidiaries on the date of execution of this Agreement and businesses reasonably related thereto or similar or complementary thereto or reasonable extensions thereof, in each case, as reasonably determined in good faith by the board of directors of the Borrower.

(c) The Borrower will not, nor will it permit any of its Subsidiaries to, change its fiscal year from the basis in effect on the Effective Date.

SECTION 6.04 Investments, Loans, Advances, Guarantees and Acquisitions. The Borrower will not, and will not permit any of its Subsidiaries to, purchase, hold or acquire (including pursuant to any merger or consolidation with any Person that was not a directly or indirectly wholly owned Subsidiary prior to such merger or consolidation) any capital stock, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, Guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) substantially all of the assets of any Person or any assets of any other Person constituting a business unit, except:

(a) Permitted Investments;

(b) Permitted Acquisitions, including the formation of any Subsidiary in connection with such Permitted Acquisition and the capitalization of such Subsidiary whether by capital contribution or intercompany loan;

(c) (i) investments by the Borrower and its Subsidiaries existing on the date hereof in the capital stock of its Subsidiaries and (ii) investments, loans and advances existing on the date hereof by the Borrower in or to any Subsidiary and by any Subsidiary in or to the Borrower or any other Subsidiary and set forth on Schedule 6.04; including the conversion or restructuring of any such investment, loan or advance into other types of investments, loans, advances and capital contributions that do not increase the aggregate outstanding principal amount thereof on the Effective Date;

(d) investments, loans, advances or capital contributions made by the Borrower in or to any Subsidiary and made by any Subsidiary in or to the Borrower or any other Subsidiary (provided that not more than an aggregate amount of \$20,000,000 in investments, loans, advances or capital contributions may be made and remain outstanding, at any time, by Loan Parties to Subsidiaries which are not Loan Parties in reliance on the exemption provided by this Section 6.04(d));

(e) Guarantees constituting Indebtedness permitted by Section 6.01;

(f) Investments consisting of extensions of credit in the nature of accounts receivable (including intercompany receivables and intercompany charges of expenses) or notes receivable arising from the grant of trade credit in the ordinary course of business and any prepayments and other credits to suppliers or vendors made 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 or in connection with a bankruptcy or reorganization;

(g) Investments arising out of the receipt of non-cash consideration for any disposition permitted by Section 6.03 and any Investments that consist of or result from any merger or consolidation permitted by Section 6.03;

(h) advances to officers, directors and employees of the Borrower and its Subsidiaries made in the ordinary course of business and substantially consistent with past practice for travel, entertainment, relocation, commission advances and analogous ordinary business purposes;

(i) Investments of any Person that becomes a Subsidiary after the date hereof, provided that (i) such Investments exist at the time that such Person becomes a Subsidiary and (ii) such Investments were not made in anticipation of such Person becoming a Subsidiary;

(j) investments, loans, advances and capital contributions from a Loan Party to a Subsidiary that is not a Loan Party to provide for the payment for property used or acquired or services rendered or costs shared, in each case in connection with a customary transfer pricing transaction between such Loan Party and such Subsidiary in accordance with applicable law, rules and regulations; and

(k) any other investment, loan or advance (other than acquisitions) so long as the aggregate amount of all such investments, loans and advances does not exceed \$25,000,000 during the term of this Agreement.

SECTION 6.05 Swap Agreements. The Borrower will not, and will not permit any of its Subsidiaries to, enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which the Borrower or any Subsidiary has actual exposure (other than those in respect of Equity Interests of the Borrower or any of its Subsidiaries), and (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Borrower or any Subsidiary.



SECTION 6.06 Transactions with Affiliates. The Borrower will not, and will not permit any of its Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) in the ordinary course of business at prices and on terms and conditions not materially less favorable to the Borrower or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among the Borrower and its directly or indirectly wholly owned Subsidiaries not involving any other Affiliate, (c) any Restricted Payment permitted by Section 6.07, (d) transactions undertaken in good faith for the purpose of improving the consolidated tax efficiency of the Borrower and the Subsidiaries and (e) compensation and indemnification of, and other employment agreements and arrangements, employee benefit plans and stock incentive plans with, directors, officers and employees of the Borrower or any Subsidiary entered into in the ordinary course of business or with the approval of the Borrower's board of directors (or applicable committee thereof).

SECTION 6.07 Restricted Payments. The Borrower will not, and will not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except (a) the Borrower may declare and pay dividends with respect to its Equity Interests payable solely in additional shares of its common stock, (b) Subsidiaries may declare and pay dividends ratably with respect to their Equity Interests, (c) the Borrower may make Restricted Payments pursuant to and in accordance with stock option plans or other benefit plans for management, employees or independent consultants of the Borrower and its Subsidiaries, (d) the Borrower may distribute rights pursuant to a stockholder rights plan or redeem such rights, provided that such redemption is in accordance with the terms of such stockholder rights plan, (e) the Borrower may purchase, redeem or otherwise acquire Equity Interests issued by it with the proceeds received from the substantially concurrent issuance of its Equity Interests, (f) the Borrower may repurchase fractional shares of its Equity Interests arising out of stock dividends, splits or combinations, business combinations or conversions of convertible securities, (g) the Borrower or any Subsidiary may receive or accept the return to the Borrower or any Subsidiary of Equity Interests of the Borrower or any Subsidiary constituting a portion of the purchase price consideration in settlement of indemnification claims, (h) payments or distributions to dissenting stockholders pursuant to applicable law, (i) the Borrower may repurchase its Equity Interests pursuant to a stock repurchase program or plan so long (1) no Default or Event of Default has occurred and is continuing prior to making any such repurchase or would arise after giving effect (including giving effect on a pro forma basis) thereto and (2) Liquidity is not less than \$125,000,000 at all times during the term of such stock repurchase program or plan; provided that if, at any time during the term of any stock purchase program or plan, Liquidity is less than \$125,000,000, the Borrower may make such repurchases of its Equity Interests so long as the aggregate amount of all such repurchases made during the term of any stock purchase program or plan for which Liquidity was at any time less than \$125,000,000, does not exceed \$25,000,000 during the term of this Agreement, and (j) the Borrower and its Subsidiaries may make any other Restricted Payment so long as no Default or Event of Default has occurred and is continuing prior to making such Restricted Payment or would arise after giving effect (including giving effect on a pro forma basis) thereto and the aggregate amount of all such Restricted Payments during the term of this Agreement does not exceed \$5,000,000.

SECTION 6.08 Restrictive Agreements. The Borrower will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of the Borrower or any Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets, or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to holders of its Equity Interests or to make or repay loans or advances to the Borrower or any other Subsidiary or to Guarantee Indebtedness of the Borrower or any other Subsidiary; provided that (i) the foregoing shall not apply to restrictions and conditions imposed by law or by any Loan Document, (ii) the foregoing shall not apply to customary

restrictions and conditions contained in agreements relating to the sale of a Subsidiary or assets pending such sale, provided such restrictions and conditions apply only to the Subsidiary that is, or the assets that are, to be sold and such sale is permitted hereunder, (iii) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness, (iv) clause (a) of the foregoing shall not apply to customary provisions in leases, licenses and other contracts restricting the assignment thereof, (v) the foregoing shall not apply to restrictions and conditions imposed by agreements relating to Indebtedness of any Subsidiary in existence at the time such Subsidiary became a Subsidiary and any amendments or modifications thereof that do not materially expand the scope of any such restriction or condition taken as a whole, provided that such restrictions and conditions apply only to such Subsidiary, (vi) the foregoing shall not apply to customary net worth provisions or similar financial maintenance provisions contained in real property leases entered into by a Subsidiary, so long as the Borrower has determined in good faith that such net worth provisions could not reasonably be expected to impair the ability of the Borrower and the Subsidiaries to meet their ongoing obligations under the Loan Documents and (vii) the foregoing shall not apply to restrictions under any arrangement with any Governmental Authority imposed on any Foreign Subsidiary in connection with governmental grants, financial aid, tax holidays or similar benefits or economic interests.

SECTION 6.09 Subordinated Indebtedness and Amendments to Subordinated Indebtedness Documents. The Borrower will not, and will not permit any Subsidiary to, directly or indirectly voluntarily prepay, defease or in substance defease, purchase, redeem, retire or otherwise acquire, any Subordinated Indebtedness or any Indebtedness from time to time outstanding under the Subordinated Indebtedness Documents. Furthermore, the Borrower will not, and will not permit any Subsidiary to, amend the Subordinated Indebtedness Documents or any document, agreement or instrument evidencing any Indebtedness incurred pursuant to the Subordinated Indebtedness Documents (or any replacements, substitutions, extensions or renewals thereof) or pursuant to which such Indebtedness is issued where such amendment, modification or supplement provides for the following or which has any of the following effects:

- (a) increases the overall principal amount of any such Indebtedness or increases the amount of any single scheduled installment of principal or interest;
- (b) shortens or accelerates the date upon which any installment of principal or interest becomes due or adds any additional mandatory redemption provisions;
- (c) shortens the final maturity date of such Indebtedness or otherwise accelerates the amortization schedule with respect to such Indebtedness;
- (d) increases the rate of interest accruing on such Indebtedness;
- (e) provides for the payment of additional fees or increases existing fees;
- (f) amends or modifies any financial or negative covenant (or covenant which prohibits or restricts the Borrower or any Subsidiary from taking certain actions) in a manner which is more onerous or more restrictive in any material respect to the Borrower or such Subsidiary or which is otherwise materially adverse to the Borrower, any Subsidiary and/or the Lenders or, in the case of any such covenant, which places material additional restrictions on the Borrower or such Subsidiary or which requires the Borrower or such Subsidiary to comply with more restrictive financial ratios or which requires the Borrower to better its financial performance, in each case from that set forth in the existing applicable covenants in the Subordinated Indebtedness Documents or the applicable covenants in this Agreement; or

(g) amends, modifies or adds any affirmative covenant in a manner which (i) when taken as a whole, is materially adverse to the Borrower, any Subsidiary and/or the Lenders or (ii) is more onerous than the existing applicable covenant in the Subordinated Indebtedness Documents or the applicable covenant in this Agreement.

SECTION 6.10 Sale and Leaseback Transactions. The Borrower shall not, nor shall it permit any Subsidiary to, enter into any Sale and Leaseback Transaction.

SECTION 6.11 Capital Expenditures. (a) The Borrower will not, nor will it permit any Subsidiary to, expend, or be committed to expend, in excess of the Maximum CapEx Amount (in the aggregate) for Consolidated Capital Expenditures during any fiscal year of the Borrower. As used herein, "Maximum CapEx Amount" means (i) for the 2013 fiscal year of the Borrower, an amount equal to 20% of the consolidated revenues of the Borrower and its Subsidiaries for such fiscal year and (ii) for any other fiscal year of the Borrower, an amount equal to 15% of the consolidated revenues of the Borrower and its Subsidiaries for such fiscal year; provided that the Maximum CapEx Amount in respect of any fiscal year shall be increased by the unused amount of Consolidated Capital Expenditures that were permitted to be made during the immediately preceding fiscal year pursuant to this Section 6.11(a), without giving effect to any carryover amount (any such amount carried over for any fiscal year, the "Carryover CapEx Amount").

(b) Notwithstanding the foregoing, the Borrower and its Subsidiaries shall be permitted to expend, and be committed to expend, an additional \$40,000,000 for Consolidated Capital Expenditures during the term of this Agreement in excess of the aggregate amount of Consolidated Capital Expenditures permitted to be made pursuant to Section 6.11(a) above (the "New Program CapEx Amount") so long as (i) such Consolidated Capital Expenditures are made in connection with a new business opportunity with a customer of the Borrower that has committed to a material minimum revenue arrangement with the Borrower that is, in the reasonable good faith judgment of a Financial Officer, commensurate with the amount of Consolidated Capital Expenditures necessary to implement such opportunity and (ii) a Financial Officer of the Borrower shall notify the Administrative Agent of any such new business opportunity described in the foregoing clause (i), and the estimated amount of the New Program CapEx Amount to be applied in respect thereof, promptly after entering into any agreement to implement such opportunity.

(c) Consolidated Capital Expenditures in any fiscal year shall be deemed to use *first*, the amount for such fiscal year set forth in Section 6.11(a), *second*, any Carryover CapEx Amount applied to such fiscal year, and, *third*, any New Program CapEx Amount applied to such fiscal year.

SECTION 6.12 Sanctions Laws and Regulations.

(a) The Borrower shall not, and shall ensure that none of its Affiliates will, directly or indirectly use the proceeds of the Loans (i) for any purpose which would breach the U.K. Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions; (ii) to fund, finance or facilitate any activities, business or transaction of or with any Designated Person or in any Sanctioned Country, or otherwise in violation of Sanctions, as such Sanctions Lists or Sanctions are in effect from time to time; or (iii) in any other manner that will result in the violation of any applicable Sanctions by any party to this Agreement.

(b) The Borrower shall not, and shall ensure that none of its Affiliates will, use funds or assets obtained directly or indirectly from transactions with or otherwise relating to (i) Designated Persons; or (ii) any Sanctioned Country, to pay or repay any amount owing to the Lenders under this Agreement.

(c) The Borrower shall, and shall ensure that each of its affiliated companies will (i) conduct its business in compliance with Anti-Corruption Laws; (ii) maintain policies and procedures designed to promote and achieve compliance with Anti-Corruption Laws; and (iii) have appropriate controls and safeguards in place designed to prevent any proceeds of any Loans from being used contrary to the representations and undertakings set forth herein.

(d) The Borrower shall, and shall ensure that each of its Affiliates will, comply in all material respects with all foreign and domestic laws, rules and regulations (including the Patriot Act, foreign exchange control regulations, foreign asset control regulations and other trade-related regulations) now or hereafter applicable to this Agreement, the transactions underlying this Agreement or the Borrower's execution, delivery and performance of this Agreement.

#### SECTION 6.13 Financial Covenants.

(a) Maximum Leverage Ratio. The Borrower will not permit the ratio (the "Leverage Ratio"), determined as of the end of each of its fiscal quarters ending on and after December 31, 2013, of (i) Consolidated Total Indebtedness to (ii) Consolidated Adjusted EBITDA for the period of four (4) consecutive fiscal quarters ending with the end of such fiscal quarter, all calculated for the Borrower and its Subsidiaries on a consolidated basis, to be greater than 2.50 to 1.00.

(b) Minimum Interest Coverage Ratio. The Borrower will not permit the ratio (the "Interest Coverage Ratio"), determined as of the end of each of its fiscal quarters ending on and after December 31, 2013, of (i) Consolidated Adjusted EBITDA to (ii) Consolidated Interest Expense, in each case for the period of four (4) consecutive fiscal quarters ending with the end of such fiscal quarter, all calculated for the Borrower and its Subsidiaries on a consolidated basis, to be less than 3.00 to 1.00.

### ARTICLE VII

#### Events of Default

If any of the following events ("Events of Default") shall occur:

(a) the Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement or any other Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of three (3) Business Days;

(c) any representation or warranty made or deemed made by or on behalf of the Borrower or any Subsidiary in or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, or in any written report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any other Loan Document or any amendment or modification thereof or waiver thereunder, shall prove to have been incorrect in any material respect when made or deemed made;

(d) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02, 5.03 (with respect to the Borrower's existence), 5.08 or 5.09 or in Article VI;

(e) the Borrower or any Subsidiary Guarantor, as applicable, shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in clause (a), (b) or (d) of this Article) or any other Loan Document, and such failure shall continue unremedied for a period of thirty (30) days after notice thereof from the Administrative Agent to the Borrower (which notice will be given at the request of any Lender);

(f) the Borrower or any Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable after giving effect to any applicable grace periods;

(g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this clause (g) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any Subsidiary or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower or any Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) the Borrower or any Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of \$10,000,000 (to the extent not covered by an unaffiliated creditworthy insurer that has not denied coverage) shall be rendered against the Borrower, any Subsidiary or any combination thereof and the same shall remain undischarged for a period of thirty (30) consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor holding a judgment in excess of \$10,000,000 to attach or levy upon any assets of the Borrower or any Subsidiary to enforce any such judgment;

(l) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect;

(m) a Change in Control shall occur;

(n) the occurrence of any “default”, as defined in any Loan Document (other than this Agreement) or the material breach of any of the terms or provisions of any Loan Document (other than this Agreement), which default or material breach continues beyond any period of grace therein provided; or

(o) any material provision of any Loan Document for any reason ceases to be valid, binding and enforceable in accordance with its terms (or the Borrower or any Subsidiary shall challenge the enforceability of any Loan Document or shall assert in writing, or engage in any action or inaction based on any such assertion, that any provision of any of the Loan Documents has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms);

then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other Obligations of the Borrower accrued hereunder and under the other Loan Documents, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; and in case of any event with respect to the Borrower described in clause (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other Obligations accrued hereunder and under the other Loan Documents, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent may, and at the request of the Required Lenders shall, exercise any rights and remedies provided to the Administrative Agent under the Loan Documents or at law or equity.

#### ARTICLE VIII

##### The Administrative Agent

Each of the Lenders and the Issuing Bank hereby irrevocably appoints the Administrative Agent as its agent and authorizes the Administrative Agent to take such actions on its behalf, including execution of the other Loan Documents, and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto.

The bank 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 such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if it were not the Administrative Agent hereunder.

The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has

occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02), and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02) or 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 written notice thereof is given to the Administrative Agent by the Borrower or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or in connection with any Loan Document, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

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 believed by it to be genuine and to have been signed or sent 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 be made by the proper Person, and shall not incur any liability for relying thereon. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any and all its duties and exercise its rights and powers 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 its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Subject to the appointment and acceptance of a successor Administrative Agent as provided in this paragraph, the Administrative Agent may resign at any time by notifying the Lenders, the Issuing Bank and the Borrower. Upon any such resignation, the Required Lenders shall have the right to appoint a successor, subject to the Borrower's approval (not to be unreasonably withheld or delayed; provided that no such approval shall be required if an Event of Default has occurred and is continuing). If no successor shall have (i) been so appointed by the Required Lenders (and approved by the Borrower if so required) and (ii) accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Bank, appoint a successor Administrative Agent which shall be a bank with an office in New York, New York, or an Affiliate of any such bank. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring

Administrative Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the Administrative Agent's resignation hereunder, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent

Each Lender acknowledges and agrees that the extensions of credit made hereunder are commercial loans and letters of credit and not investments in a business enterprise or securities. Each Lender further represents that it is engaged in making, acquiring or holding commercial loans in the ordinary course of its business and has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement as a Lender, and to make, acquire or hold Loans hereunder. Each Lender shall, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Borrower and its Affiliates) 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 related agreement or any document furnished hereunder or thereunder and in deciding whether or to the extent to which it will continue as a lender or assign or otherwise transfer its rights, interests and obligations hereunder.

None of the Lenders, if any, identified in this Agreement as a Syndication Agent or Co-Documentation Agent shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of such Lenders shall have or be deemed to have a fiduciary relationship with any Lender. Each Lender hereby makes the same acknowledgments with respect to the relevant Lenders in their respective capacities as Syndication Agent or Co-Documentation Agents, as applicable, as it makes with respect to the Administrative Agent in the preceding paragraph.

The Lenders are not partners or co-venturers, and no Lender shall be liable for the acts or omissions of, or (except as otherwise set forth herein in case of the Administrative Agent) authorized to act for, any other Lender. The Administrative Agent shall have the exclusive right on behalf of the Lenders to enforce the payment of the principal of and interest on any Loan after the date such principal or interest has become due and payable pursuant to the terms of this Agreement.

ARTICLE IX  
Miscellaneous

SECTION 9.01 Notices. (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(i) if to the Borrower, to it at 200 Crossing Boulevard, 8th Floor, Bridgewater, New Jersey 08807, Attention of Lawrence R. Irving, Executive Vice President, Chief Financial Officer and Treasurer (Telecopy No. (908) 231-0762; Telephone No. (908) 547-1225) with a copy (in the case of a notice of Default) to it at 200 Crossing Boulevard, 8th Floor, Bridgewater, New Jersey 08807, Attention of Ronald Prague, Executive Vice President and General Counsel (Telecopy No. (908) 231-0762; Telephone No. (908) 547-1239);



(ii) if to the Administrative Agent, to JPMorgan Chase Bank, N.A., 10 South Dearborn Street, Floor 7, Chicago, Illinois 60603, Attention of Awri McKee (Telecopy No. (888) 303-9732), with a copy to JPMorgan Chase Bank, N.A., 695 Route 46 West, Fairfield, New Jersey 07004, Attention of Herman Dodson (Telecopy No. (973) 439-5019);

(iii) if to the Issuing Bank, to it at JPMorgan Chase Bank, N.A., Attention of Ajay Prabhu (Email: [chicago.lc.agency.team@jpmchase.com](mailto:chicago.lc.agency.team@jpmchase.com));

(iv) if to the Swingline Lender, to it at JPMorgan Chase Bank, N.A., 10 South Dearborn Street, Floor 7, Chicago, Illinois 60603, Attention of Awri McKee (Telecopy No. (888) 303-9732; Email: [jpm.agency.servicing.1@jpmchase.com](mailto:jpm.agency.servicing.1@jpmchase.com)); and

(v) if to any other Lender, to it at its address (or telecopy number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile 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 delivered through Electronic Systems, to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(b) Notices and other communications to the Lenders and the Issuing Bank hereunder may be delivered or furnished by using Electronic Systems pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the 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), 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; provided that, for both clauses (i) and (ii) above, if such notice, email 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.

(c) Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

(d) Electronic Systems.

(i) The Borrower agrees that the Administrative Agent may, but shall not be obligated to, make Communications (as defined below) available to the Issuing Bank and the

other Lenders by posting the Communications on Debt Domain, Intralinks, Syndtrak, ClearPar or a substantially similar Electronic System.

(ii) Any Electronic System used by the Administrative Agent is provided “as is” and “as available.” The Agent Parties (as defined below) do not warrant the adequacy of such Electronic Systems and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including, without limitation, 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 Communications or any Electronic System. In no event shall the Administrative Agent or any of its Related Parties (collectively, the “Agent Parties”) have any liability to any Loan Party, any Lender, the Issuing Bank or any other Person or entity for damages of any kind, including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of any Loan Party’s or the Administrative Agent’s transmission of Communications through an Electronic System. “Communications” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent, any Lender or the Issuing Bank by means of electronic communications pursuant to this Section, including through an Electronic System.

SECTION 9.02 Waivers; Amendments. (a) No failure or delay by the Administrative Agent, the Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Bank and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or the Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or by the Borrower and the Administrative Agent with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender directly affected thereby, (iii) postpone the scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender directly affected thereby, (iv) change Section 2.18(b) or (d) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender, (v) change any of the provisions of this Section or the definition of “Required Lenders” or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender or (vi) release all or substantially all of the

Subsidiary Guarantors from their obligations under the Subsidiary Guaranty, without the written consent of each Lender; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, the Issuing Bank or the Swingline Lender hereunder without the prior written consent of the Administrative Agent, the Issuing Bank or the Swingline Lender, as the case may be (it being understood that any change to Section 2.21 shall require the consent of the Administrative Agent, the Issuing Bank and the Swingline Lender). Notwithstanding the foregoing, no consent with respect to any amendment, waiver or other modification of this Agreement shall be required of any Defaulting Lender, except with respect to any amendment, waiver or other modification referred to in clause (i), (ii) or (iii) of the first proviso of this paragraph and then only in the event such Defaulting Lender shall be directly affected by such amendment, waiver or other modification.

(c) Notwithstanding the foregoing, this Agreement and any other Loan Document may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (x) to add one or more credit facilities to this Agreement and to permit extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Revolving Loans and the accrued interest and fees in respect thereof and (y) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and Lenders.

(d) If, in connection with any proposed amendment, waiver or consent requiring the consent of “each Lender” or “each Lender directly affected thereby,” the consent of the Required Lenders is obtained, but the consent of other necessary Lenders is not obtained (any such Lender whose consent is necessary but not obtained being referred to herein as a “Non-Consenting Lender”), then the Borrower may elect to replace a Non-Consenting Lender as a Lender party to this Agreement, provided that, concurrently with such replacement, (i) another bank or other entity which is reasonably satisfactory to the Borrower and the Administrative Agent shall agree, as of such date, to purchase for cash the Loans and other Obligations due to the Non-Consenting Lender pursuant to an Assignment and Assumption and to become a Lender for all purposes under this Agreement and to assume all obligations of the Non-Consenting Lender to be terminated as of such date and to comply with the requirements of clause (b) of Section 9.04, and (ii) the Borrower shall pay to such Non-Consenting Lender in same day funds on the day of such replacement (1) all interest, fees and other amounts then accrued but unpaid to such Non-Consenting Lender by the Borrower hereunder to and including the date of termination, including without limitation payments due to such Non-Consenting Lender under Sections 2.15 and 2.17, and (2) an amount, if any, equal to the payment which would have been due to such Lender on the day of such replacement under Section 2.16 had the Loans of such Non-Consenting Lender been prepaid on such date rather than sold to the replacement Lender.

(e) Notwithstanding anything to the contrary herein the Administrative Agent may, with the consent of the Borrower only, amend, modify or supplement this Agreement or any of the other Loan Documents to cure any ambiguity, omission, mistake, defect or inconsistency.

**SECTION 9.03 Expenses; Indemnity; Damage Waiver.** (a) The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable and documented fees, charges and disbursements of one primary counsel (and one local counsel in each applicable jurisdiction) for the Administrative Agent, in connection with the syndication and distribution (including, without limitation, via the internet or through a service such as Intralinks) of the credit facilities provided for herein, the preparation 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 and documented out-of-pocket expenses incurred by the Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand

for payment thereunder and (iii) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, the Issuing Bank or any Lender, including the reasonable and documented fees, charges and disbursements of any counsel for the Administrative Agent, the Issuing Bank or any Lender, in connection with the enforcement or protection of its rights in connection with this Agreement and any other Loan Document, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) The Borrower shall indemnify the Administrative Agent, the Issuing Bank and each Lender, 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 reasonable and documented out-of-pocket expenses, including the reasonable and documented out-of-pocket fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of any Loan Document or any agreement or instrument contemplated thereby, the performance by the parties hereto of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by the Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower 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 the Borrower or any of its Subsidiaries, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from (i) the gross negligence or willful misconduct of such Indemnitee or (ii) the material breach in bad faith by such Indemnitee of its express obligations under this Agreement pursuant to a claim initiated by the Borrower. This Section 9.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims or damages arising from any non-Tax claim.

(c) To the extent that the Borrower fails to pay any amount required to be paid by it to the Administrative Agent, the Issuing Bank or the Swingline Lender under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent, the Issuing Bank or the Swingline Lender, 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 (it being understood that the Borrower’s failure to pay any such amount shall not relieve the Borrower of any default in the payment thereof); 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, the Issuing Bank or the Swingline Lender in its capacity as such.

(d) To the extent permitted by applicable law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee (i) for any damages arising from the use by others of information or other materials obtained through telecommunications, electronic or other information transmission systems (including the Internet) other than damages that 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 (ii) on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument

contemplated hereby or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof.

(e) All amounts due under this Section shall be payable not later than fifteen (15) days after written demand therefor.

SECTION 9.04 Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Bank and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Persons (other than an Ineligible Institution) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld) of:

(A) the Borrower (provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received written notice thereof); provided, further, that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee;

(B) the Administrative Agent;

(C) the Issuing Bank; and

(D) the Swingline Lender.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000 unless each of the Borrower and the Administrative Agent otherwise consent, provided that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement, provided that this clause shall not be construed to prohibit the assignment of

a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500, such fee to be paid by either the assigning Lender or the assignee Lender or shared between such Lenders; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower and its affiliates and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws.

For the purposes of this Section 9.04(b), the term "Approved Fund" and "Ineligible Institution" have the following meanings:

"Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Ineligible Institution" means (a) a natural person, (b) a Defaulting Lender, (c) the Borrower, any of its Subsidiaries or any of its Affiliates, or (d) a company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all 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 2.15, 2.16, 2.17 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 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 paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices 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 Commitment of, and principal amount (and stated interest) of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent, the Issuing Bank and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.05(c), 2.06(d) or (e), 2.07(b), 2.18(e) or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) Any Lender may, without the consent of the Borrower, the Administrative Agent, the Issuing Bank or the Swingline Lender, sell participations to one or more banks or other entities (a "Participant"), other than an Ineligible Institution, in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged; (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations; and (C) the Borrower, the Administrative Agent, the Issuing Bank and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 (subject to the requirements and limitations therein, including the requirements under Section 2.17(f) (it being understood that the documentation required under Section 2.17(f) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 2.18 and 2.19 as if it were an assignee under paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Sections 2.15 or 2.17, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.18(d) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans, Letters of Credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 9.05 Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, the Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement or any other Loan Document is outstanding and unpaid or any Letter of Credit is outstanding (unless such Letter of Credit has been collateralized on substantially the terms set forth in Section 2.06(j)) and so long as the Commitments have not expired or terminated. The provisions of Sections 2.15, 2.16, 2.17 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any other Loan Document or any provision hereof or thereof.

SECTION 9.06 Counterparts; Integration; Effectiveness; Electronic Execution. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent 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 which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy, e-mailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries 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, physical delivery thereof 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 9.07 Severability. Any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.



SECTION 9.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final and in whatever currency denominated) at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of the Borrower or any Subsidiary Guarantor against any of and all of the Obligations held by such Lender, irrespective of whether or not such Lender shall have made any demand under the Loan Documents and although such obligations may be unmatured. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

SECTION 9.09 Governing Law; Jurisdiction; Consent to Service of Process. (a) This Agreement shall be construed in accordance with and governed by the law of the State of New York.

(b) The Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County, Borough of Manhattan, and of the United States District Court for the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to any Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, the Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party or its properties in the courts of any jurisdiction.

(c) The Borrower hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY 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 PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12 Confidentiality. Each of the Administrative Agent, the Issuing Bank and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority (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 to this Agreement, (e) in connection with the exercise of any remedies under this Agreement or any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing 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 Borrower and its obligations, (g) with the prior written consent of the Borrower or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, the Issuing Bank or any Lender on a nonconfidential basis from a source other than the Borrower. For the purposes of this Section, "Information" means all information received from the Borrower relating to the Borrower (or its Subsidiaries) or their respective business, other than any such information that is available to the Administrative Agent, the Issuing Bank or any Lender on a nonconfidential basis prior to disclosure by the Borrower; provided that, in the case of information received from the Borrower after the date hereof, 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 LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN THIS SECTION 9.12 FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWER AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.**

**ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWER, THE LOAN PARTIES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.**

SECTION 9.13 USA PATRIOT Act. Each Lender that is subject to the requirements of the Patriot Act hereby notifies each Loan Party that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the Patriot Act.

SECTION 9.14 Releases of Subsidiary Guarantors. (a) A Subsidiary Guarantor shall automatically be released from its obligations under the Subsidiary Guaranty upon the consummation of any transaction permitted by this Agreement as a result of which such Subsidiary Guarantor ceases to be a Subsidiary; provided that, if so required by this Agreement, the Required Lenders shall have consented to such transaction and the terms of such consent shall not have provided otherwise. In connection with any termination or release pursuant to this Section, the Administrative Agent shall (and is hereby irrevocably authorized by each Lender to) execute and deliver to any Loan Party, at such Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section shall be without recourse to or warranty by the Administrative Agent.

(b) Further, the Administrative Agent may (and is hereby irrevocably authorized by each Lender to), upon the request of the Borrower, release any Subsidiary Guarantor from its obligations under the Subsidiary Guaranty if such Subsidiary Guarantor is no longer a Subsidiary or becomes an Affected Foreign Subsidiary.

(c) At such time as the principal and interest on the Loans, all LC Disbursements, the fees, expenses and other amounts payable under the Loan Documents and the other Obligations (other than obligations under any Swap Agreement or any Banking Services Agreement, and other Obligations expressly stated to survive such payment and termination) shall have been paid in full in cash, the Commitments shall have been terminated and no Letters of Credit shall be outstanding, the Subsidiary Guaranty and all obligations (other than those expressly stated to survive such termination) of each Subsidiary Guarantor thereunder shall automatically terminate, all without delivery of any instrument or performance of any act by any Person.

SECTION 9.15 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.16 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), the Borrower acknowledges and agrees that: (i) (A) the arranging and other services regarding this Agreement provided by the Lenders are arm's-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Lenders and their Affiliates, on the other hand, (B) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the 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) each of the Lenders and their Affiliates 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 Borrower or any of its Affiliates, or any other Person and (B) no Lender or any of its Affiliates has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except, in the case of a Lender, those obligations expressly set forth herein and in the other Loan Documents; and (iii) each of the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and no Lender or any of its Affiliates has any obligation to disclose any of such interests to the Borrower or its Affiliates. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it may have against each of the Lenders and their Affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

[Signature Pages Follow]

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

SYNCHRONOSS TECHNOLOGIES, INC.,  
as the Borrower

By \_\_\_\_\_  
Name:  
Title:

JPMORGAN CHASE BANK, N.A., individually as a Lender, as the Swingline  
Lender, as the Issuing Bank and as Administrative Agent

By \_\_\_\_\_  
Name:  
Title:

[OTHER AGENTS AND LENDERS],

Signature Page to Credit Agreement  
Synchronoss Technologies, Inc.

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SCHEDULE 2.01

COMMITMENTS

<b>LENDER</b>		<b>COMMITMENT</b>
JPMORGAN CHASE BANK, N.A.	\$	35,000,000
WELLS FARGO BANK, NATIONAL ASSOCIATION	\$	25,000,000
CAPITAL ONE, NATIONAL ASSOCIATION	\$	20,000,000
KEYBANK NATIONAL ASSOCIATION	\$	20,000,000
<b>AGGREGATE COMMITMENT</b>	<b>\$</b>	<b>100,000,000</b>

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## ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the “Assignment and Assumption”) is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the “Assignor”) and [*Insert name of Assignee*] (the “Assignee”). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the “Credit Agreement”), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor’s rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any letters of credit, guarantees, and swingline loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the “Assigned Interest”). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor:
2. Assignee: [and is an Affiliate/Approved Fund of [identify Lender](1)]
3. Borrower(s): Synchronoss Technologies, Inc.
4. Administrative Agent: JPMorgan Chase Bank, N.A., as the administrative agent under the Credit Agreement

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(1) Select as applicable.

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5. Credit Agreement: The Credit Agreement dated as of September 27, 2013 among Synchronoss Technologies, Inc., the Lenders parties thereto, JPMorgan Chase Bank, N.A., as Administrative Agent, and the other agents parties thereto

6. Assigned Interest:

Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/ Loans Assigned	Percentage Assigned of Commitment/Loans(2)
\$	\$	%
\$	\$	%
\$	\$	%

Effective Date: \_\_\_\_\_, 20 [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: \_\_\_\_\_  
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By: \_\_\_\_\_  
Title:

(2) Set forth, so at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.



Consented to and Accepted:

JPMORGAN CHASE BANK, N.A., as  
Administrative Agent and Issuing Bank and Swingline Lender

By: \_\_\_\_\_  
Title:

[Consented to:](3)

SYNCHRONOSS TECHNOLOGIES, INC.

By: \_\_\_\_\_  
Title:

\_\_\_\_\_  
(3) To be added only if the consent of the Borrower is required by the terms of the Credit Agreement.

STANDARD TERMS AND CONDITIONS FOR  
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.01 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Acceptance and adoption of the terms of this Assignment and Assumption by

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the Assignee and the Assignor by Electronic Signature or delivery of an executed counterpart of a signature page of this Assignment and Assumption by any Electronic System shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

EXHIBIT B

OPINION OF COUNSEL FOR THE LOAN PARTIES

[Attached]

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EXHIBIT C

FORM OF INCREASING LENDER SUPPLEMENT

INCREASING LENDER SUPPLEMENT, dated \_\_\_\_\_, 20\_\_\_\_ (this "Supplement"), by and among each of the signatories hereto, to the Credit Agreement, dated as of September 27, 2013 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Synchronoss Technologies, Inc. (the "Borrower"), the Lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

WITNESSETH

WHEREAS, pursuant to Section 2.20 of the Credit Agreement, the Borrower has the right, subject to the terms and conditions thereof, to effectuate from time to time an increase in the Aggregate Commitment under the Credit Agreement by requesting one or more Lenders to increase the amount of its Commitment;

WHEREAS, the Borrower has given notice to the Administrative Agent of its intention to increase the Aggregate Commitment pursuant to such Section 2.20; and

WHEREAS, pursuant to Section 2.20 of the Credit Agreement, the undersigned Increasing Lender now desires to increase the amount of its Commitment under the Credit Agreement by executing and delivering to the Borrower and the Administrative Agent this Supplement;

NOW, THEREFORE, each of the parties hereto hereby agrees as follows:

1. The undersigned Increasing Lender agrees, subject to the terms and conditions of the Credit Agreement, that on the date of this Supplement it shall have its Commitment increased by \$[ \_\_\_\_\_ ], thereby making the aggregate amount of its total Commitments equal to \$[ \_\_\_\_\_ ].
  2. The Borrower hereby represents and warrants that no Default or Event of Default has occurred and is continuing on and as of the date hereof.
  3. Terms defined in the Credit Agreement shall have their defined meanings when used herein.
  4. This Supplement shall be governed by, and construed in accordance with, the laws of the State of New York.
  5. This Supplement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same document.
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IN WITNESS WHEREOF, each of the undersigned has caused this Supplement to be executed and delivered by a duly authorized officer on the date first above written.

[INSERT NAME OF INCREASING LENDER]

By: \_\_\_\_\_  
Name:  
Title:

Accepted and agreed to as of the date first written above:

SYNCHRONOSS TECHNOLOGIES, INC.

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged as of the date first written above:

JPMORGAN CHASE BANK, N.A.  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT D

FORM OF AUGMENTING LENDER SUPPLEMENT

AUGMENTING LENDER SUPPLEMENT, dated \_\_\_\_\_, 20\_\_\_\_ (this "Supplement"), by and among each of the signatories hereto, to the Credit Agreement, dated as of September 27, 2013 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Synchronoss Technologies, Inc. (the "Borrower"), the Lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

WITNESSETH

WHEREAS, the Credit Agreement provides in Section 2.20 thereof that any bank, financial institution or other entity may extend Commitments under the Credit Agreement subject to the approval of the Borrower and the Administrative Agent, by executing and delivering to the Borrower and the Administrative Agent a supplement to the Credit Agreement in substantially the form of this Supplement; and

WHEREAS, the undersigned Augmenting Lender was not an original party to the Credit Agreement but now desires to become a party thereto;

NOW, THEREFORE, each of the parties hereto hereby agrees as follows:

1. The undersigned Augmenting Lender agrees to be bound by the provisions of the Credit Agreement and agrees that it shall, on the date of this Supplement, become a Lender for all purposes of the Credit Agreement to the same extent as if originally a party thereto, with a Commitment with respect to Revolving Loans of \$[ \_\_\_\_\_ ].

2. The undersigned Augmenting Lender (a) represents and warrants that it is legally authorized to enter into this Supplement; (b) confirms that it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.01 thereof, as applicable, and has reviewed such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Supplement; (c) agrees that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement or any other instrument or document furnished pursuant hereto or thereto; (d) appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Credit Agreement or any other instrument or document furnished pursuant hereto or thereto as are delegated to the Administrative Agent by the terms thereof, together with such powers as are incidental thereto; and (e) agrees that it will be bound by the provisions of the Credit Agreement and will perform in accordance with its terms all the obligations which by the terms of the Credit Agreement are required to be performed by it as a Lender.

3. The undersigned's address for notices for the purposes of the Credit Agreement is as follows:

[ \_\_\_\_\_ ]

4. The Borrower hereby represents and warrants that no Default or Event of Default has occurred and is continuing on and as of the date hereof.

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5. Terms defined in the Credit Agreement shall have their defined meanings when used herein.

6. This Supplement shall be governed by, and construed in accordance with, the laws of the State of New York.

7. This Supplement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same document.

[remainder of this page intentionally left blank]



IN WITNESS WHEREOF, each of the undersigned has caused this Supplement to be executed and delivered by a duly authorized officer on the date first above written.

[INSERT NAME OF AUGMENTING LENDER]

By: \_\_\_\_\_  
Name:  
Title:

Accepted and agreed to as of the date first written above:

SYNCHRONOSS TECHNOLOGIES, INC.

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged as of the date first written above:

JPMORGAN CHASE BANK, N.A.  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT E

LIST OF CLOSING DOCUMENTS

**SYNCHRONOSS TECHNOLOGIES, INC.**

**CREDIT FACILITIES**

September 27, 2013

LIST OF CLOSING DOCUMENTS(1)

A. **LOAN DOCUMENTS**

1. Credit Agreement (the "Credit Agreement") by and among Synchronoss Technologies, Inc., a Delaware corporation (the "Borrower"), the institutions from time to time parties thereto as Lenders (the "Lenders") and JPMorgan Chase Bank, N.A., in its capacity as Administrative Agent for itself and the other Lenders (the "Administrative Agent"), evidencing a revolving credit facility to the Borrower from the Lenders in an initial aggregate principal amount of \$100,000,000.

SCHEDULES

Schedule 2.01	—	Commitments
<b>Schedule 3.01</b>	—	<b>Subsidiaries</b>
<b>Schedule 6.01</b>	—	<b>Existing Indebtedness</b>
<b>Schedule 6.02</b>	—	<b>Existing Liens</b>
<b>Schedule 6.04</b>	—	<b>Existing Intercompany Investments, Loans and Advances</b>

EXHIBITS

Exhibit A	—	Form of Assignment and Assumption
Exhibit B	—	Form of Opinion of Loan Parties' Counsel
Exhibit C	—	Form of Increasing Lender Supplement
Exhibit D	—	Form of Augmenting Lender Supplement
Exhibit E	—	List of Closing Documents
Exhibit F	—	Form of Subsidiary Guaranty
Exhibit G-1	—	Form of U.S. Tax Certificate (Foreign Lenders That Are Not Partnerships)
Exhibit G-2	—	Form of U.S. Tax Certificate (Foreign Participants That Are Not Partnerships)
Exhibit G-3	—	Form of U.S. Tax Certificate (Foreign Participants That Are Partnerships)
Exhibit G-4	—	Form of U.S. Tax Certificate (Foreign Lenders That Are Partnerships)
Exhibit H-1	—	Form of Borrowing Request
Exhibit H-2	—	Form of Interest Election Request

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(1) Each capitalized term used herein and not defined herein shall have the meaning assigned to such term in the above-defined Credit Agreement. Items appearing in **bold** and *italics* shall be prepared and/or provided by the Borrower and/or Borrower's counsel.

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2. Notes executed by the Borrower in favor of each of the Lenders, if any, which has requested a note pursuant to Section 2.10(e) of the Credit Agreement.
3. Guaranty executed by the initial Subsidiary Guarantors (collectively with the Borrower, the “Loan Parties”) in favor of the Administrative Agent

**B. CORPORATE DOCUMENTS**

4. *Certificate of the Secretary or an Assistant Secretary of each Loan Party certifying (i) that there have been no changes in the Certificate of Incorporation or other charter document of such Loan Party, as attached thereto and as certified as of a recent date by the Secretary of State (or analogous governmental entity) of the jurisdiction of its organization, since the date of the certification thereof by such governmental entity, (ii) the By-Laws or other applicable organizational document, as attached thereto, of such Loan Party as in effect on the date of such certification, (iii) resolutions of the Board of Directors or other governing body of such Loan Party authorizing the execution, delivery and performance of each Loan Document to which it is a party, and (iv) the names and true signatures of the incumbent officers of each Loan Party authorized to sign the Loan Documents to which it is a party, and (in the case of the Borrower) authorized to request a Borrowing or the issuance of a Letter of Credit under the Credit Agreement.*
5. *Good Standing Certificate for each Loan Party from the Secretary of State of the jurisdiction of its organization (to the extent that such concept is applicable in such jurisdiction).*

**C. OPINIONS**

6. *Opinion of Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP, counsel for the Loan Parties.*

**D. CLOSING CERTIFICATES AND MISCELLANEOUS**

7. *A Certificate signed by the President, a Vice President or a Financial Officer of the Borrower certifying the following: (i) all of the representations and warranties of the Borrower set forth in the Credit Agreement are true and correct and (ii) no Default or Event of Default has occurred and is then continuing.*

EXHIBIT F

FORM OF SUBSIDIARY GUARANTY

GUARANTY

THIS GUARANTY (as amended, restated, supplemented or otherwise modified from time to time, this "Guaranty") is made as of [ ], 2013, by and among each of the undersigned (the "Initial Guarantors" and along with any additional Subsidiaries of the Borrower which become parties to this Guaranty by executing a supplement hereto in the form attached as Annex I, the "Guarantors") in favor of the Administrative Agent, for the ratable benefit of the Holders of Guaranteed Obligations (as defined below), under the Credit Agreement referred to below.

WITNESSETH

WHEREAS, Synchronoss Technologies, Inc., a Delaware corporation (the "Borrower"), the institutions from time to time parties thereto as lenders (the "Lenders"), and JPMorgan Chase Bank, N.A., in its capacity as administrative agent (the "Administrative Agent"), have entered into a certain Credit Agreement dated as of September 27, 2013 (as the same may be amended, modified, supplemented and/or restated, and as in effect from time to time, the "Credit Agreement"), providing, subject to the terms and conditions thereof, for extensions of credit and other financial accommodations to be made by the Lenders to the Borrower;

WHEREAS, it is a condition precedent to the extensions of credit by the Lenders under the Credit Agreement that each of the Guarantors (constituting all of the Subsidiaries of the Borrower required to execute this Guaranty pursuant to Section 5.09 of the Credit Agreement) execute and deliver this Guaranty, whereby each of the Guarantors shall guarantee the payment when due of all Obligations; and

WHEREAS, in consideration of the direct and indirect financial and other support that the Borrower has provided, and such direct and indirect financial and other support as the Borrower may in the future provide, to the Guarantors, and in order to induce the Lenders and the Administrative Agent to enter into the Credit Agreement, each of the Guarantors is willing to guarantee the Obligations of the Borrower;

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. Definitions. Terms defined in the Credit Agreement and not otherwise defined herein have, as used herein, the respective meanings provided for therein.

SECTION 2. Representations, Warranties and Covenants. Each of the Guarantors represents and warrants (which representations and warranties shall be deemed to have been renewed at the time of the making, conversion or continuation of any Loan or issuance, amendment, renewal or extension of any Letter of Credit) that:

(A) It is a corporation, partnership or limited liability company duly and properly incorporated or organized, as the case may be, validly existing and (to the extent such concept applies to such entity) in good standing under the laws of its jurisdiction of incorporation, organization or formation and has all requisite authority to conduct its business in each

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jurisdiction in which its business is conducted, except to the extent that the failure to have such authority could not reasonably be expected to have a Material Adverse Effect.

(B) It (to the extent applicable) has the requisite power and authority and legal right to execute and deliver this Guaranty and to perform its obligations hereunder. The execution and delivery by each Guarantor of this Guaranty and the performance by each of its obligations hereunder have been duly authorized by proper proceedings, and this Guaranty constitutes a legal, valid and binding obligation of such Guarantor, respectively, enforceable against such Guarantor, respectively, in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

(C) Neither the execution and delivery by it of this Guaranty, nor the consummation by it of the transactions herein contemplated, nor compliance by it with the provisions hereof will (i) violate any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on it or its articles or certificate of incorporation (or equivalent charter documents), limited liability company or partnership agreement, certificate of partnership, articles or certificate of organization, by-laws, or operating agreement or other management agreement, as the case may be, or result in a default under any indenture, material instrument or material agreement to which the Borrower or any of its Subsidiaries is a party or is subject, or by which it, or its property, is bound, or (ii) result in or require the creation or imposition of any Lien in, of or on its property pursuant to the terms of any such indenture, material instrument or material agreement (other than any Loan Document). No order, consent, adjudication, approval, license, authorization, or validation of, or filing, recording or registration with, or exemption by, or other action in respect of any governmental or public body or authority, or any subdivision thereof, which has not been obtained by it, is required to be obtained by it in connection with the execution, delivery and performance by it of, or the legality, validity, binding effect or enforceability against it of, this Guaranty, except such as have been obtained or made and are in full force and effect.

In addition to the foregoing, each of the Guarantors covenants that, so long as any Lender has any Commitment outstanding under the Credit Agreement or any amount payable under the Credit Agreement or any other Guaranteed Obligations shall remain unpaid, it will, and, if necessary, will enable the Borrower to, fully comply with those covenants and agreements of the Borrower applicable to such Guarantor set forth in the Credit Agreement.

SECTION 3. The Guaranty. Each of the Guarantors hereby unconditionally guarantees, jointly with the other Guarantors and severally, the full and punctual payment and performance when due (whether at stated maturity, upon acceleration or otherwise) of the Obligations, including, without limitation, (i) the principal of and interest on each Loan made to the Borrower pursuant to the Credit Agreement, (ii) any obligations of the Borrower to reimburse LC Disbursements ("Reimbursement Obligations"), (iii) all obligations of the Borrower owing to any Lender or any affiliate of any Lender under any Swap Agreement or Banking Services Agreement, (iv) all other amounts payable by the Borrower or any of its Subsidiaries under the Credit Agreement, any Swap Agreement, any Banking Services Agreement and the other Loan Documents and (v) the punctual and faithful performance, keeping, observance, and fulfillment by the Borrower of all of the agreements, conditions, covenants, and obligations of the Borrower contained in the Loan Documents (all of the foregoing being referred to collectively as the "Guaranteed Obligations" and the holders from time to time of the Guaranteed Obligations being referred to collectively as the "Holders of Guaranteed Obligations"). Upon (x) the failure by the Borrower or any of its Affiliates, as applicable, to pay punctually any such amount or perform such obligation, and (y) such failure continuing beyond any applicable grace or notice and cure period, each of the Guarantors agrees that it shall forthwith on demand pay such amount or perform such obligation at the place and in the manner specified in the Credit Agreement, any Swap Agreement,

any Banking Services Agreement or the relevant Loan Document, as the case may be. Each of the Guarantors hereby agrees that this Guaranty is an absolute, irrevocable and unconditional guaranty of payment and is not a guaranty of collection.

Each of the Guarantors hereby irrevocably and unconditionally agrees, jointly and severally with the other Guarantors, that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Holders of Guaranteed Obligations immediately on demand against any cost, loss or liability they incur as a result of the Borrower or any of its Affiliates not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by such Guarantor under this Guaranty on the date when it would have been due (but so that the amount payable by each Guarantor under this indemnity will not exceed the amount which it would have had to pay under this Guaranty if the amount claimed had been recoverable on the basis of a guaranty) .

SECTION 4. Guaranty Unconditional. The obligations of each of the Guarantors hereunder shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

(A) any extension, renewal, settlement, indulgence, compromise, waiver or release of or with respect to the Guaranteed Obligations or any part thereof or any agreement relating thereto, or with respect to any obligation of any other guarantor of any of the Guaranteed Obligations, whether (in any such case) by operation of law or otherwise, or any failure or omission to enforce any right, power or remedy with respect to the Guaranteed Obligations or any part thereof or any agreement relating thereto, or with respect to any obligation of any other guarantor of any of the Guaranteed Obligations;

(B) any modification or amendment of or supplement to the Credit Agreement, any Swap Agreement, any Banking Services Agreement or any other Loan Document, including, without limitation, any such amendment which may increase the amount of, or the interest rates applicable to, any of the Obligations guaranteed hereby;

(C) any release, surrender, compromise, settlement, waiver, subordination or modification, with or without consideration, of any collateral securing the Guaranteed Obligations or any part thereof, any other guaranties with respect to the Guaranteed Obligations or any part thereof, or any other obligation of any person or entity with respect to the Guaranteed Obligations or any part thereof, or any nonperfection or invalidity of any direct or indirect security for the Guaranteed Obligations;

(D) any change in the corporate, partnership or other existence, structure or ownership of the Borrower or any other guarantor of any of the Guaranteed Obligations, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Borrower or any other guarantor of the Guaranteed Obligations, or any of their respective assets or any resulting release or discharge of any obligation of the Borrower or any other guarantor of any of the Guaranteed Obligations;

(E) the existence of any claim, setoff or other rights which the Guarantors may have at any time against the Borrower, any other guarantor of any of the Guaranteed Obligations, the Administrative Agent, any Holder of Guaranteed Obligations or any other Person, whether in connection herewith or in connection with any unrelated transactions; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim;

(F) the enforceability or validity of the Guaranteed Obligations or any part thereof or the genuineness, enforceability or validity of any agreement relating thereto or with respect to any collateral securing the Guaranteed Obligations or any part thereof, or any other invalidity or unenforceability relating to or against the Borrower or any other guarantor of any of the Guaranteed Obligations, for any reason related to the Credit Agreement, any Swap Agreement, any Banking Services Agreement, any other Loan Document, or any provision of applicable law, decree, order or regulation of any jurisdiction purporting to prohibit the payment by the Borrower or any other guarantor of the Guaranteed Obligations, of any of the Guaranteed Obligations or otherwise affecting any term of any of the Guaranteed Obligations;

(G) the failure of the Administrative Agent to take any steps to perfect and maintain any security interest in, or to preserve any rights to, any security or collateral for the Guaranteed Obligations, if any;

(H) the election by, or on behalf of, any one or more of the Holders of Guaranteed Obligations, in any proceeding instituted under Chapter 11 of Title 11 of the United States Code (11 U.S.C. 101 et seq.) (the "Bankruptcy Code"), of the application of Section 1111(b)(2) of the Bankruptcy Code;

(I) any borrowing or grant of a security interest by the Borrower, as debtor-in-possession, under Section 364 of the Bankruptcy Code;

(J) the disallowance, under Section 502 of the Bankruptcy Code, of all or any portion of the claims of the Holders of Guaranteed Obligations or the Administrative Agent for repayment of all or any part of the Guaranteed Obligations;

(K) the failure of any other guarantor to sign or become party to this Guaranty or any amendment, change, or reaffirmation hereof; or

(L) any other act or omission to act or delay of any kind by the Borrower, any other guarantor of the Guaranteed Obligations, the Administrative Agent, any Holder of Guaranteed Obligations or any other Person or any other circumstance whatsoever which might, but for the provisions of this Section 4, constitute a legal or equitable discharge of any Guarantor's obligations hereunder except as provided in Section 5.

SECTION 5. Continuing Guarantee; Discharge Only Upon Payment In Full; Reinstatement In Certain Circumstances. Each of the Guarantors' obligations hereunder shall constitute a continuing and irrevocable guarantee of all Guaranteed Obligations now or hereafter existing and shall remain in full force and effect until all Guaranteed Obligations shall have been paid in full in cash and the Commitments and all Letters of Credit issued under the Credit Agreement shall have terminated, expired or been collateralized on substantially the terms set forth in Section 2.06(j) of the Credit Agreement. If at any time any payment of the principal of or interest on any Loan, any Reimbursement Obligation or any other amount payable by the Borrower or any other party under the Credit Agreement, any Swap Agreement, any Banking Services Agreement or any other Loan Document (including a payment effected through exercise of a right of setoff) is rescinded, or is or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of the Borrower or otherwise (including pursuant to any settlement entered into by a Holder of Guaranteed Obligations in its discretion), each of the Guarantors' obligations hereunder with respect to such payment shall be reinstated as though such payment had been due but not made at such time. The parties hereto acknowledge and agree that each of the Guaranteed Obligations shall be due and payable in the same currency as such Guaranteed Obligation is denominated, but if currency control or exchange regulations are imposed in the country which issues such currency

with the result that such currency (the "Original Currency") no longer exists or the relevant Guarantor is not able to make payment in such Original Currency, then all payments to be made by such Guarantor hereunder in such currency shall instead be made when due in Dollars in an amount equal to the Dollar Amount (as of the date of payment) of such payment due, it being the intention of the parties hereto that each Guarantor takes all risks of the imposition of any such currency control or exchange regulations.

SECTION 6. General Waivers: Additional Waivers.

(A) General Waivers. Each of the Guarantors irrevocably waives acceptance hereof, presentment, demand or action on delinquency, protest, the benefit of any statutes of limitations and, to the fullest extent permitted by law, any notice not provided for herein, as well as any requirement that at any time any action be taken by any Person against the Borrower, any other guarantor of the Guaranteed Obligations, or any other Person.

(B) Additional Waivers. Notwithstanding anything herein to the contrary, each of the Guarantors hereby absolutely, unconditionally, knowingly, and expressly waives:

(i) any right it may have to revoke this Guaranty as to future indebtedness arising under the Loan Documents or notice of acceptance hereof;

(ii) (a) notice of acceptance hereof; (b) notice of any loans or other financial accommodations made or extended under the Loan Documents or the creation or existence of any Guaranteed Obligations; (c) notice of the amount of the Guaranteed Obligations, subject, however, to each Guarantor's right to make inquiry of Administrative Agent and Holders of Guaranteed Obligations to ascertain the amount of the Guaranteed Obligations at any reasonable time; (d) notice of any adverse change in the financial condition of the Borrower or of any other fact that might increase such Guarantor's risk hereunder; (e) notice of presentment for payment, demand, protest, and notice thereof as to any instruments among the Loan Documents; (f) notice of any Default or Event of Default; and (g) all other notices (except if such notice is specifically required to be given to such Guarantor hereunder or under the Loan Documents) and demands to which each Guarantor might otherwise be entitled;

(iii) its right, if any, to require the Administrative Agent and the other Holders of Guaranteed Obligations to institute suit against, or to exhaust any rights and remedies which the Administrative Agent and the other Holders of Guaranteed Obligations has or may have against, the other Guarantors or any third party, or against any collateral provided by the other Guarantors, or any third party; and each Guarantor further waives any defense arising by reason of any disability or other defense (other than the defense that the Guaranteed Obligations shall have been fully and finally performed and indefeasibly paid) of the other Guarantors or by reason of the cessation from any cause whatsoever of the liability of the other Guarantors in respect thereof;

(iv) (a) any rights to assert against the Administrative Agent and the other Holders of Guaranteed Obligations any defense (legal or equitable), set-off, counterclaim, or claim which such Guarantor may now or at any time hereafter have against the other Guarantors or any other party liable to the Administrative Agent and the other Holders of Guaranteed Obligations; (b) any defense, set-off, counterclaim, or claim, of any kind or nature, arising directly or indirectly from the present or future lack of perfection, sufficiency, validity, or enforceability of the Guaranteed Obligations or any security therefor; (c) any defense such Guarantor has to performance hereunder, and any right



such Guarantor has to be exonerated, arising by reason of: the impairment or suspension of the Administrative Agent's and the other Holders of Guaranteed Obligations' rights or remedies against the other Guarantors; the alteration by the Administrative Agent and the other Holders of Guaranteed Obligations of the Guaranteed Obligations; any discharge of the other Guarantors' obligations to the Administrative Agent and the other Holders of Guaranteed Obligations by operation of law as a result of the Administrative Agent's and the other Holders of Guaranteed Obligations' intervention or omission; or the acceptance by the Administrative Agent and the other Holders of Guaranteed Obligations of anything in partial satisfaction of the Guaranteed Obligations; and (d) the benefit of any statute of limitations affecting such Guarantor's liability hereunder or the enforcement thereof, and any act which shall defer or delay the operation of any statute of limitations applicable to the Guaranteed Obligations shall similarly operate to defer or delay the operation of such statute of limitations applicable to such Guarantor's liability hereunder; and

(v) any defense arising by reason of or deriving from (a) any claim or defense based upon an election of remedies by the Administrative Agent and the other Holders of Guaranteed Obligations; or (b) any election by the Administrative Agent and the other Holders of Guaranteed Obligations under Section 1111(b) of Title 11 of the United States Code entitled "Bankruptcy", as now and hereafter in effect (or any successor statute), to limit the amount of, or any collateral securing, its claim against the Guarantors.

**SECTION 7.      Subordination of Subrogation; Subordination of Intercompany Indebtedness .**

(A)      Subordination of Subrogation. Until the Guaranteed Obligations have been fully and finally performed and indefeasibly paid in full in cash, the Guarantors (i) shall have no right of subrogation with respect to such Guaranteed Obligations, (ii) waive any right to enforce any remedy which the Holders of Guaranteed Obligations, the Issuing Bank or the Administrative Agent now have or may hereafter have against the Borrower, any endorser or any guarantor of all or any part of the Guaranteed Obligations or any other Person, and (iii) waive any benefit of, and any right to participate in, any security or collateral given to the Holders of Guaranteed Obligations, the Issuing Bank and the Administrative Agent to secure the payment or performance of all or any part of the Guaranteed Obligations or any other liability of the Borrower to the Holders of Guaranteed Obligations or the Issuing Bank. Should any Guarantor have the right, notwithstanding the foregoing, to exercise its subrogation rights, each Guarantor hereby expressly and irrevocably (A) subordinates any and all rights at law or in equity to subrogation, reimbursement, exoneration, contribution, indemnification or set off that such Guarantor may have to the indefeasible payment in full in cash of the Guaranteed Obligations and (B) waives any and all defenses available to a surety, guarantor or accommodation co-obligor until the Guaranteed Obligations are indefeasibly paid in full in cash. Each Guarantor acknowledges and agrees that this subordination is intended to benefit the Administrative Agent and the other Holders of Guaranteed Obligations and shall not limit or otherwise affect such Guarantor's liability hereunder or the enforceability of this Guaranty, and that the Administrative Agent, the other Holders of Guaranteed Obligations and their respective successors and assigns are intended third party beneficiaries of the waivers and agreements set forth in this Section 7(A).

(B)      Subordination of Intercompany Indebtedness. Each Guarantor agrees that any and all claims of such Guarantor against the Borrower or any other Guarantor hereunder (each an "Obligor") with respect to any "Intercompany Indebtedness" (as hereinafter defined), any endorser, obligor or any other guarantor of all or any part of the Guaranteed Obligations, or

against any of its properties shall be subordinate and subject in right of payment to the prior payment, in full and in cash, of all Guaranteed Obligations; provided that, as long as no Event of Default has occurred and is continuing, such Guarantor may receive payments of principal and interest from any Obligor with respect to Intercompany Indebtedness. Notwithstanding any right of any Guarantor to ask, demand, sue for, take or receive any payment from any Obligor, all rights, liens and security interests of such Guarantor, whether now or hereafter arising and howsoever existing, in any assets of any other Obligor shall be and are subordinated to the rights of the Holders of Guaranteed Obligations and the Administrative Agent in those assets. No Guarantor shall have any right to possession of any such asset or to foreclose upon any such asset, whether by judicial action or otherwise, unless and until all of the Guaranteed Obligations shall have been fully paid and satisfied (in cash) and all financing arrangements pursuant to any Loan Document, any Swap Agreement or any Banking Services Agreement have been terminated. If all or any part of the assets of any Obligor, or the proceeds thereof, are subject to any distribution, division or application to the creditors of such Obligor, whether partial or complete, voluntary or involuntary, and whether by reason of liquidation, bankruptcy, arrangement, receivership, assignment for the benefit of creditors or any other action or proceeding, or if the business of any such Obligor is dissolved or if substantially all of the assets of any such Obligor are sold, then, and in any such event (such events being herein referred to as an “Insolvency Event”), any payment or distribution of any kind or character, either in cash, securities or other property, which shall be payable or deliverable upon or with respect to any indebtedness of any Obligor to any Guarantor (“Intercompany Indebtedness”) shall be paid or delivered directly to the Administrative Agent for application on any of the Guaranteed Obligations, due or to become due, until such Guaranteed Obligations shall have first been fully paid and satisfied (in cash). Should any payment, distribution, security or instrument or proceeds thereof be received by the applicable Guarantor upon or with respect to the Intercompany Indebtedness after any Insolvency Event and prior to the satisfaction of all of the Guaranteed Obligations and the termination of all financing arrangements pursuant to any Loan Document among the Borrower and the Holders of Guaranteed Obligations, such Guarantor shall receive and hold the same in trust, as trustee, for the benefit of the Holders of Guaranteed Obligations and shall forthwith deliver the same to the Administrative Agent, for the benefit of the Holders of Guaranteed Obligations, in precisely the form received (except for the endorsement or assignment of the Guarantor where necessary), for application to any of the Guaranteed Obligations, due or not due, and, until so delivered, the same shall be held in trust by the Guarantor as the property of the Holders of Guaranteed Obligations. If any such Guarantor fails to make any such endorsement or assignment to the Administrative Agent, the Administrative Agent or any of its officers or employees is irrevocably authorized to make the same. Each Guarantor agrees that until the Guaranteed Obligations (other than the contingent indemnity obligations) have been paid in full (in cash) and satisfied and all financing arrangements pursuant to any Loan Document among the Borrower and the Holders of Guaranteed Obligations have been terminated, no Guarantor will assign or transfer to any Person (other than the Administrative Agent) any claim any such Guarantor has or may have against any Obligor.

SECTION 8. Contribution with Respect to Guaranteed Obligations.

(A) To the extent that any Guarantor shall make a payment under this Guaranty (a “Guarantor Payment”) which, taking into account all other Guarantor Payments then previously or concurrently made by any other Guarantor, exceeds the amount which otherwise would have been paid by or attributable to such Guarantor if each Guarantor had paid the aggregate Guaranteed Obligations satisfied by such Guarantor Payment in the same proportion as such Guarantor’s “Allocable Amount” (as defined below) (as determined immediately prior to such Guarantor Payment) bore to the aggregate Allocable Amounts of each of the Guarantors as

determined immediately prior to the making of such Guarantor Payment, then, following indefeasible payment in full in cash of the Guaranteed Obligations and termination of the Credit Agreement, the Swap Agreements and the Banking Services Agreements, such Guarantor shall be entitled to receive contribution and indemnification payments from, and be reimbursed by, each other Guarantor for the amount of such excess, pro rata based upon their respective Allocable Amounts in effect immediately prior to such Guarantor Payment.

(B) As of any date of determination, the “Allocable Amount” of any Guarantor shall be equal to the excess of the fair saleable value of the property of such Guarantor over the total liabilities of such Guarantor (including the maximum amount reasonably expected to become due in respect of contingent liabilities, calculated, without duplication, assuming each other Guarantor that is also liable for such contingent liability pays its ratable share thereof), giving effect to all payments made by other Guarantors as of such date in a manner to maximize the amount of such contributions.

(C) This Section 8 is intended only to define the relative rights of the Guarantors, and nothing set forth in this Section 8 is intended to or shall impair the obligations of the Guarantors, jointly and severally, to pay any amounts as and when the same shall become due and payable in accordance with the terms of this Guaranty.

(D) The parties hereto acknowledge that the rights of contribution and indemnification hereunder shall constitute assets of the Guarantor or Guarantors to which such contribution and indemnification is owing.

(E) The rights of the indemnifying Guarantors against other Guarantors under this Section 8 shall be exercisable upon the full and indefeasible payment of the Guaranteed Obligations in cash and the termination of the Credit Agreement, the Swap Agreements and the Banking Services Agreements.

SECTION 9. Limitation of Guaranty. Notwithstanding any other provision of this Guaranty, the amount guaranteed by each Guarantor hereunder shall be limited to the extent, if any, required so that its obligations hereunder shall not be subject to avoidance under Section 548 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law. In determining the limitations, if any, on the amount of any Guarantor’s obligations hereunder pursuant to the preceding sentence, it is the intention of the parties hereto that any rights of subrogation, indemnification or contribution which such Guarantor may have under this Guaranty, any other agreement or applicable law shall be taken into account.

SECTION 10. Stay of Acceleration. If acceleration of the time for payment of any amount payable by the Borrower under the Credit Agreement, any Swap Agreement, any Banking Services Agreement or any other Loan Document is stayed upon the insolvency, bankruptcy or reorganization of the Borrower, all such amounts otherwise subject to acceleration under the terms of the Credit Agreement, any Swap Agreement, any Banking Services Agreement or any other Loan Document shall nonetheless be payable by each of the Guarantors hereunder forthwith on demand by the Administrative Agent.

SECTION 11. Notices. All notices, requests and other communications to any party hereunder shall be given in the manner prescribed in Article IX of the Credit Agreement with respect to the Administrative Agent at its notice address therein and with respect to any Guarantor, in care of the Borrower at the address of the Borrower set forth in the Credit Agreement or such other address or

telecopy number as such party may hereafter specify for such purpose by notice to the Administrative Agent in accordance with the provisions of such Article IX.

SECTION 12. No Waivers. No failure or delay by the Administrative Agent or any other Holder of Guaranteed Obligations in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided in this Guaranty, the Credit Agreement, any Swap Agreement, any Banking Services Agreement and the other Loan Documents shall be cumulative and not exclusive of any rights or remedies provided by law.

SECTION 13. Successors and Assigns. This Guaranty is for the benefit of the Administrative Agent and the other Holders of Guaranteed Obligations and their respective successors and permitted assigns; provided, that, subject to the Credit Agreement, no Guarantor shall have any right to assign its rights or obligations hereunder without the consent of all of the Lenders, and any such assignment in violation of this Section 13 shall be null and void (provided further than nothing contained in this Section 13 shall prohibit or otherwise restrict any merger, sale or other transfer permitted by Section 6.03 of the Credit Agreement); and in the event of an assignment of any amounts payable under the Credit Agreement, any Swap Agreement, any Banking Services Agreement or the other Loan Documents in accordance with the respective terms thereof, the rights hereunder, to the extent applicable to the indebtedness so assigned, may be transferred with such indebtedness. This Guaranty shall be binding upon each of the Guarantors and their respective successors and assigns.

SECTION 14. Changes in Writing. Other than in connection with the addition of additional Subsidiaries, which become parties hereto by executing a supplement hereto in the form attached as Annex I, neither this Guaranty nor any provision hereof may be changed, waived, discharged or terminated orally, but only in writing signed by each of the Guarantors and the Administrative Agent.

SECTION 15. GOVERNING LAW. THIS GUARANTY SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

SECTION 16. CONSENT TO JURISDICTION; SERVICE OF PROCESS; JURY TRIAL; IMMUNITY.

(A) CONSENT TO JURISDICTION. EACH GUARANTOR HEREBY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR NEW YORK STATE COURT SITTING IN THE CITY OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY AND EACH GUARANTOR HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF THE ADMINISTRATIVE AGENT, THE ISSUING BANK OR ANY LENDER TO BRING PROCEEDINGS AGAINST ANY GUARANTOR IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY ANY GUARANTOR AGAINST THE ADMINISTRATIVE AGENT, THE ISSUING BANK OR ANY LENDER OR ANY AFFILIATE OF THE ADMINISTRATIVE AGENT, THE ISSUING BANK OR ANY LENDER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS GUARANTY OR ANY OTHER LOAN DOCUMENT SHALL BE BROUGHT ONLY IN A COURT IN THE CITY OF NEW YORK.

(B) WAIVER OF JURY TRIAL. EACH GUARANTOR HEREBY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR THE RELATIONSHIP ESTABLISHED THEREUNDER AND FURTHER WAIVES ANY RIGHT TO INTERPOSE ANY COUNTERCLAIM RELATED TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY IN SUCH ACTION.

(C) TO THE EXTENT THAT ANY GUARANTOR HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER FROM SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OF A JUDGMENT, EXECUTION OR OTHERWISE), EACH GUARANTOR HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS GUARANTY.

SECTION 17. No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Guaranty. In the event an ambiguity or question of intent or interpretation arises, this Guaranty shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Guaranty.

SECTION 18. Taxes, Expenses of Enforcement, Etc.

(A) Taxes.

(i) Each payment by any Guarantor hereunder or under any promissory note or application for a Letter of Credit shall be made without withholding for any Taxes, unless such withholding is required by any law. If any Guarantor determines, in its sole discretion exercised in good faith, that it is so required to withhold Taxes, then such Guarantor may so withhold and shall timely pay the full amount of withheld Taxes to the relevant Governmental Authority in accordance with applicable law. If such Taxes are Indemnified Taxes, then the amount payable by the Guarantor shall be increased as necessary so that, net of such withholding (including such withholding applicable to additional amounts payable under this Section), the applicable Recipient receives the amount it would have received had no such withholding been made.

(ii) In addition, such Guarantor shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(iii) As soon as practicable after any payment of Indemnified Taxes by any Guarantor to a Governmental Authority, such Guarantor shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(iv) The Guarantors shall jointly and severally indemnify each Recipient for any Indemnified Taxes that are paid or payable by such Recipient in connection with any Loan Document (including amounts payable under this Section 18(A)) and any reasonable expenses arising therefrom or with respect thereto, whether or not such

Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this Section 18(A) shall be paid within ten (10) days after the Recipient delivers to any Guarantor a certificate stating the amount of any Indemnified Taxes so payable by such Recipient. Such certificate shall be conclusive of the amount so payable absent manifest error. Such Recipient shall deliver a copy of such certificate to the Administrative Agent. In the case of any Lender making a claim under this Section 18(A) on behalf of any of its beneficial owners, an indemnity payment under this Section 18(A) shall be due only to the extent that such Lender is able to establish that, with respect to the applicable Indemnified Taxes, such beneficial owners supplied to the applicable Persons such properly completed and executed documentation necessary to claim any applicable exemption from, or reduction of, such Indemnified Taxes.

(v) By accepting the benefits hereof, each Lender agrees that it will comply with Section 2.17(f) of the Credit Agreement.

(B) Expenses of Enforcement, Etc. The Guarantors agree to reimburse the Administrative Agent and the other Holders of Guaranteed Obligations for any reasonable costs and out-of-pocket expenses (including attorneys' fees) paid or incurred by the Administrative Agent or any other Holder of Guaranteed Obligations in connection with the collection and enforcement of amounts due under the Loan Documents, including without limitation this Guaranty.

SECTION 19. Setoff. At any time after all or any part of the Guaranteed Obligations have become due and payable (by acceleration or otherwise), each Holder of Guaranteed Obligations (including the Administrative Agent) and its Affiliates may, without notice to any Guarantor and regardless of the acceptance of any security or collateral for the payment hereof, appropriate and apply in accordance with the terms of the Credit Agreement toward the payment of all or any part of the Guaranteed Obligations (i) any indebtedness due or to become due from such Holder of Guaranteed Obligations or the Administrative Agent to any Guarantor, and (ii) any moneys, credits or other property belonging to any Guarantor, at any time held by or coming into the possession of such Holder of Guaranteed Obligations (including the Administrative Agent) or any of their respective affiliates.

SECTION 20. Financial Information. Each Guarantor hereby assumes responsibility for keeping itself informed of the financial condition of the Borrower and any and all endorsers and/or other Guarantors of all or any part of the Guaranteed Obligations, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations, or any part thereof, that diligent inquiry would reveal, and each Guarantor hereby agrees that none of the Holders of Guaranteed Obligations (including the Administrative Agent) shall have any duty to advise such Guarantor of information known to any of them regarding such condition or any such circumstances. In the event any Holder of Guaranteed Obligations (including the Administrative Agent), in its sole discretion, undertakes at any time or from time to time to provide any such information to a Guarantor, such Holder of Guaranteed Obligations (including the Administrative Agent) shall be under no obligation (i) to undertake any investigation not a part of its regular business routine, (ii) to disclose any information which such Holder of Guaranteed Obligations (including the Administrative Agent), pursuant to accepted or reasonable commercial finance or banking practices, wishes to maintain confidential or (iii) to make any other or future disclosures of such information or any other information to such Guarantor.

SECTION 21. Severability. Wherever possible, each provision of this Guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under such 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 Guaranty.

SECTION 22. Merger. This Guaranty, together with the other Loan Documents, represents the final agreement of each of the Guarantors with respect to the matters contained herein and may not be contradicted by evidence of prior or contemporaneous agreements, or subsequent oral agreements, between the Guarantor and any Holder of Guaranteed Obligations (including the Administrative Agent).

SECTION 23. Headings. Section headings in this Guaranty are for convenience of reference only and shall not govern the interpretation of any provision of this Guaranty.

SECTION 24. Judgment Currency. If for the purposes of obtaining judgment in any court it is necessary to convert a sum due from any Guarantor hereunder in the currency expressed to be payable herein (the "specified currency") into another currency, the parties hereto agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the specified currency with such other currency at the Administrative Agent's main New York City office on the Business Day preceding that on which final, non-appealable judgment is given. The obligations of each Guarantor in respect of any sum due hereunder shall, notwithstanding any judgment in a currency other than the specified currency, be discharged only to the extent that on the Business Day following receipt by any Holder of Guaranteed Obligations (including the Administrative Agent), as the case may be, of any sum adjudged to be so due in such other currency such Holder of Guaranteed Obligations (including the Administrative Agent), as the case may be, may in accordance with normal, reasonable banking procedures purchase the specified currency with such other currency. If the amount of the specified currency so purchased is less than the sum originally due to such Holder of Guaranteed Obligations (including the Administrative Agent), as the case may be, in the specified currency, each Guarantor agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify such Holder of Guaranteed Obligations (including the Administrative Agent), as the case may be, against such loss, and if the amount of the specified currency so purchased exceeds (a) the sum originally due to any Holder of Guaranteed Obligations (including the Administrative Agent), as the case may be, in the specified currency and (b) amounts shared with other Holders of Guaranteed Obligations as a result of allocations of such excess as a disproportionate payment to such other Holder of Guaranteed Obligations under Section 2.18 of the Credit Agreement, such Holder of Guaranteed Obligations (including the Administrative Agent), as the case may be, agrees, by accepting the benefits hereof, to remit such excess to such Guarantor.

SECTION 25. Keepwell. Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Guarantor to honor all of its obligations under this Guaranty in respect of Specified Swap Obligations (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 25 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 25 or otherwise under this Guaranty voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 25 shall remain in full force and effect until a discharge of such Qualified ECP Guarantor's Guaranteed Obligations in accordance with the terms hereof and the other Loan Documents. Each Qualified ECP Guarantor intends that this Section 25 constitute, and this Section 25 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act. As used herein, "Qualified ECP Guarantor" means, in respect of any Specified Swap Obligation, each Guarantor that has total assets exceeding \$10,000,000 at the time the relevant Guarantee

or grant of the relevant security interest becomes or would become effective with respect to such Specified Swap Obligation or such other Person as constitutes an ECP and can cause another Person to qualify as an ECP at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

SECTION 26. Termination of Guaranty. The obligations of any Guarantor under this Guaranty shall automatically terminate in accordance with Section 9.14 of the Credit Agreement.

Remainder of Page Intentionally Blank.



IN WITNESS WHEREOF, each of the Initial Guarantors has caused this Guaranty to be duly executed by its authorized officer as of the day and year first above written.

[GUARANTORS]

By: \_\_\_\_\_

Name:

Title:

Acknowledged and Agreed  
as of the date first written above:  
JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

ANNEX I TO GUARANTY

Reference is hereby made to the Guaranty (the "Guaranty") made as of [ ], 2013, by and among [GUARANTORS TO COME] (the "Initial Guarantors") and along with any additional Subsidiaries of the Borrower, which become parties thereto and together with the undersigned, the "Guarantors") in favor of the Administrative Agent, for the ratable benefit of the Holders of Guaranteed Obligations, under the Credit Agreement. Capitalized terms used herein and not defined herein shall have the meanings given to them in the Guaranty. By its execution below, the undersigned [NAME OF NEW GUARANTOR], a [corporation] [partnership] [limited liability company] (the "New Guarantor"), agrees to become, and does hereby become, a Guarantor under the Guaranty and agrees to be bound by such Guaranty as if originally a party thereto. By its execution below, the undersigned represents and warrants as to itself that all of the representations and warranties contained in Section 2 of the Guaranty are true and correct in all respects as of the date hereof.

IN WITNESS WHEREOF, New Guarantor has executed and delivered this Annex I counterpart to the Guaranty as of this  
day of , 20 .

[NAME OF NEW GUARANTOR]

By: \_\_\_\_\_  
Its:

EXHIBIT G-1

FORM OF

U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of September 27, 2013 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Synchronoss Technologies, Inc. (the "Borrower"), the Lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: \_\_\_\_\_  
Name:  
Title:

Date: , 20[ ]

---

EXHIBIT G-2

FORM OF

U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of September 27, 2013 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Synchronoss Technologies, Inc. (the "Borrower"), the Lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_, 20[ ]

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EXHIBIT G-3

FORM OF

U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of September 27, 2013 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Synchronoss Technologies, Inc. (the "Borrower"), the Lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: \_\_\_\_\_  
Name:  
Title:

Date: , 20[ ]

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EXHIBIT G-4

FORM OF

U.S. TAX COMPLIANCE CERTIFICATE  
(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of September 27, 2013 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Synchronoss Technologies, Inc. (the "Borrower"), the Lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to the Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: \_\_\_\_\_  
Name:  
Title:

Date: , 20[ ]

---

EXHIBIT H-1

FORM OF BORROWING REQUEST

JPMorgan Chase Bank, N.A.,  
as Administrative Agent  
for the Lenders referred to below

[10 South Dearborn  
Chicago, Illinois 60603  
Attention: [            ] ]  
Facsimile: [            ] ]]

With a copy to:

[                    ] ]  
[                    ] ]  
Attention: [            ] ]  
Facsimile: [            ] ]

Re: Synchronoss Technologies, Inc.

[Date]

Ladies and Gentlemen:

Reference is hereby made to the Credit Agreement dated as of September 27, 2013 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Synchronoss Technologies, Inc. (the "Borrower"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent"). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement. The Borrower hereby gives you notice pursuant to Section 2.03 of the Credit Agreement that it requests a Borrowing under the Credit Agreement, and in that connection the Borrower specifies the following information with respect to such Borrowing requested hereby:

1. Aggregate principal amount of Borrowing:(1)
2. Date of Borrowing (which shall be a Business Day):
3. Type of Borrowing (ABR or Eurodollar):
4. Interest Period and the last day thereof (if a Eurodollar Borrowing):(2)
5. Location and number of the Borrower's account or any other account agreed upon by the Administrative Agent and the Borrower to which proceeds of Borrowing are to be disbursed:

[Signature Page Follows]

- 
- (1) Not less than applicable amounts specified in Section 2.02(c).
  - (2) Which must comply with the definition of "Interest Period" and end not later than the Maturity Date.
-



The undersigned hereby represents and warrants that the conditions to lending specified in Section[s] [4.01 and](1) 4.02 of the Credit Agreement are satisfied as of the date hereof.

Very truly yours,

SYNCHRONOSS TECHNOLOGIES, INC.,  
as the Borrower

By: \_\_\_\_\_

Name:

Title:

\_\_\_\_\_  
(1) To be included only for Borrowings on the Effective Date.

---

EXHIBIT H-2

FORM OF INTEREST ELECTION REQUEST

JPMorgan Chase Bank, N.A.,  
as Administrative Agent  
for the Lenders referred to below

[10 South Dearborn  
Chicago, Illinois 60603  
Attention: [        ]  
Facsimile: ([    ]) [    ]-[        ]]

Re: Synchronoss Technologies, Inc.

[Date]

Ladies and Gentlemen:

Reference is hereby made to the Credit Agreement dated as of September 27, 2013 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Synchronoss Technologies, Inc. (the "Borrower"), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent"). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement. The Borrower hereby gives you notice pursuant to Section 2.08 of the Credit Agreement that it requests to convert an existing Borrowing under the Credit Agreement, and in that connection the Borrower specifies the following information with respect to such conversion requested hereby:

1. List date, Type, principal amount and Interest Period (if applicable) of existing Borrowing:
2. Aggregate principal amount of resulting Borrowing:
3. Effective date of interest election (which shall be a Business Day):
4. Type of Borrowing (ABR or Eurodollar):
5. Interest Period and the last day thereof (if a Eurodollar Borrowing):(1)

[Signature Page Follows]

\_\_\_\_\_  
(1) Which must comply with the definition of "Interest Period" and end not later than the Maturity Date.

---

Very truly yours,

SYNCHRONOSS TECHNOLOGIES, INC.,  
as Borrower

By:  
Name:  
Title:

---

---

EXHIBIT I

[FORM OF]

NOTE

[ ], 2013

FOR VALUE RECEIVED, the undersigned, SYNCHRONOSS TECHNOLOGIES, INC., a Delaware (the "Borrower"), HEREBY UNCONDITIONALLY PROMISES TO PAY to the order of [NAME OF LENDER] (the "Lender") the aggregate unpaid principal amount of all Loans made by the Lender to the Borrower pursuant to the "Credit Agreement" (as defined below) on the Maturity Date or on such earlier date as may be required by the terms of the Credit Agreement. Capitalized terms used herein and not otherwise defined herein are as defined in the Credit Agreement.

The Borrower promises to pay interest on the unpaid principal amount of each Loan made to it from the date of such Loan until such principal amount is paid in full at a rate or rates per annum determined in accordance with the terms of the Credit Agreement. Interest hereunder is due and payable at such times and on such dates as set forth in the Credit Agreement.

At the time of each Loan, and upon each payment or prepayment of principal of each Loan, the Lender shall make a notation either on the schedule attached hereto and made a part hereof, or in such Lender's own books and records, in each case specifying the amount of such Loan, the respective Interest Period thereof (in the case of Eurodollar Loans) or the amount of principal paid or prepaid with respect to such Loan, as applicable; provided that the failure of the Lender to make any such recordation or notation shall not affect the Obligations of the Borrower hereunder or under the Credit Agreement.

This Note is one of the notes referred to in, and is entitled to the benefits of, that certain Credit Agreement dated as of September 27, 2013 by and among the Borrower, the financial institutions from time to time parties thereto as Lenders and JPMorgan Chase Bank, N.A., as Administrative Agent (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"). The Credit Agreement, among other things, (i) provides for the making of Loans by the Lender to the Borrower from time to time in an aggregate amount not to exceed at any time outstanding such Lender's Commitment, the indebtedness of the Borrower resulting from each such Loan to it being evidenced by this Note, and (ii) contains provisions for acceleration of the maturity hereof upon the happening of certain stated events and also for prepayments of the principal hereof prior to the maturity hereof upon the terms and conditions therein specified. Demand, presentment, protest and notice of nonpayment and protest are hereby waived by the Borrower.

Whenever in this Note reference is made to the Administrative Agent, the Lender or the Borrower, such reference shall be deemed to include, as applicable, a reference to their respective successors and assigns. The provisions of this Note shall be binding upon and shall inure to the benefit of said successors and assigns. The Borrower's successors and assigns shall include, without limitation, a receiver, trustee or debtor in possession of or for the Borrower. This Note shall be construed in accordance with and governed by the law of the State of New York.

SYNCHRONOSS TECHNOLOGIES, INC.

By: \_\_\_\_\_

Name:

Title:

---

SCHEDULE OF LOANS AND PAYMENTS OR PREPAYMENTS

Date	Amount of Loan	Interest Period/Rate	Amount of Principal Paid or Prepaid	Unpaid Principal Balance	Notation Made By

CONFIDENTIAL TREATMENT REQUESTED

**Subordinate Material and Services Agreement**

**No. SG021306.S.025**

**Between**

**Synchronoss Technologies, Inc.**

**And**

**AT&T Services, Inc.**

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CONFIDENTIAL TREATMENT REQUESTED  
SG021306.S.025  
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**Proprietary and Confidential**

This Agreement and information contained therein is not for use or disclosure outside of AT&T, its Affiliates, and third party representatives, and Supplier except under written agreement by the contracting parties.

CONFIDENTIAL TREATMENT REQUESTED  
SG021306.S.025  
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**Proprietary and Confidential**

This Agreement and information contained therein is not for use or disclosure outside of AT&T, its Affiliates, and third party representatives, and Supplier except under written agreement by the contracting parties.



**1.0 Preamble****1.1 Overview**

This Agreement No. SG021306.S.025 (the "Agreement") is pursuant to and hereby incorporates by reference the terms and conditions of that certain Master Services Agreement No. SG021306 dated September 1, 2005 as amended by the Parties (collectively the "Master Agreement"), except to the extent modified or supplemented below. Any such modifications or supplements are for the purpose of this Agreement only and shall not affect the Master Agreement or any other agreement. In the event of a conflict between this Agreement and the Master Agreement, the terms and conditions of this Agreement will govern for the purpose of this Agreement only.

**1.2 Preamble**

This Agreement is between Synchronoss Technologies, Inc., a Delaware corporation (hereinafter referred to as "Supplier"), and AT&T Services, Inc., a Delaware corporation (hereinafter referred to as "AT&T"), each of which may be referred to in the singular as a "Party" or in the plural as the "Parties."

**1.3 Scope of Agreement**

- a. Supplier shall provide to AT&T the Material and Services described in Appendix A, subject to the terms and conditions of this Agreement and pursuant to and in conformance with Orders submitted by AT&T. The applicable price for the Material and Services is specified in Appendix B and any Order(s) placed pursuant hereto.
- b. This Agreement outlines Supplier operation of the Order Management Center ("OMC") and ASP Solution for all participating AT&T business units as well as the provision of professional services to AT&T. Supplier shall, among other things, carry out sales transaction processing, inbound call handling and Customer contacts for AT&T eCommerce Channels. As such, Orders for Supplier Material and Services shall not be submitted by way of pre-printed purchasing forms or electronic Purchase Orders, but Orders will instead be documented by way of mutually-executed contracts supplemental to this Agreement. As of the date of this Agreement, and without limiting future Orders that may later be mutually agreed, the Parties have five such Orders prepared or in process at this time:
  1. SG021306.S.025.S.001 — \*\*\*\*
  2. SG021306.S.025.S.002 — \*\*\*\*
  3. SG021306.S.025.S.003 — \*\*\*\*
  4. SG021306.S.025.S.004 — \*\*\*\*

**1.4 Term of Agreement**

- a. After all Parties have signed, this Agreement shall be effective on August 1, 2013 (the "Effective Date"), and shall continue until July 31, 2016 unless earlier terminated as set forth herein (the "Initial Term"). AT&T, solely at its discretion, may renew this Agreement for \*\*\*\* from \*\*\*\* (the "Renewal Term") by providing at least \*\*\*\* written notice prior to the end of the Initial Term.
- b. As of the Effective Date, this Agreement shall supersede and replace Contract No. SG021306.S.007 dated January 1, 2009.
- c. The termination or expiration of this Agreement shall not affect the obligations of either Party to the other Party pursuant to any Order previously executed hereunder, and the terms and conditions of this Agreement shall continue to apply to such Order as if this Agreement were still in effect. Likewise, termination or expiration of the Master Agreement shall not affect the obligations of either Party to the other Party pursuant to this Agreement or any Order thereunder, and the terms and conditions

**Proprietary and Confidential**

This Agreement and information contained therein is not for use or disclosure outside of AT&T, its Affiliates, and third party representatives, and Supplier except under written agreement by the contracting parties.

---

\*\*\*\*CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

of the Master Agreement shall continue to apply to this Agreement or any Order thereunder as if the Master Agreement were still in effect.

## 2.0 Definitions

### 2.1 Agent

“Agent” shall mean any Supplier provided personnel providing Customer Care Support or support for Manual Transaction Processing.

### 2.2 Automated Order

“Automated Order” means any Customer Order that is able to be Completed for an AT&T Customer without human intervention.

### 2.3 AT&T eCommerce

“AT&T eCommerce” means the specific AT&T eCommerce business or other organizations or divisions authorized to receive Services under this Agreement or an applicable Order as of the Effective Date including but not limited to: \*\*\*\*. In the event any of these business organizations are renamed or reorganized, AT&T shall promptly provide the new name and organization to Supplier.

### 2.4 Channel

“Channel” means a unique point of sale, segment or division that requires an incremental dedicated infrastructure or environment (i.e., is separate from other points of sales) for support of the ASP Solution (typically such dedicated infrastructure is required as a result of unique services, processes, requirements and/or Transactions). Each of the following shall be a “Channel” as of the Effective Date: \*\*\*\*. In the event any of these business organizations are renamed or reorganized, AT&T shall promptly provide the new name and organization to Supplier. The need for such incremental dedicated infrastructure (including center or staffing) or environment must be approved by AT&T such approval not to be unreasonably withheld or delayed. For example, the addition of a new Customer Order or Transaction type, which may require software development, within an existing Channel does not constitute a new channel.

### 2.5 Contact

“Contact” shall mean a single in-coming request or inquiry from a Customer via telephone, email, online chat or, a single out-going (that is within the scope of the Services to be provided under an Order) telephone, email, online chat (i.e., a call back).

### 2.6 Click to Chat

“Click to Chat” or “Chat” means any interactive session using an online chat interface between a Customer and an Agent or the ASP Solution pertaining to such Customer requesting information or support for a Customer Order.

### 2.7 Completed

“Completed” means that a given Customer Order has reached the final status in the work or task flows applicable to and configured for such Customer Order in the ASP Solution. For the avoidance of doubt, and by way of example, such end status may result from a cancellation, rejection or completed provisioning of an AT&T service.

### 2.8 Customer

“Customer” shall mean any current or prospective customer of AT&T (or its Affiliates) that is the end user of the products or services of AT&T.

#### Proprietary and Confidential

This Agreement and information contained therein is not for use or disclosure outside of AT&T, its Affiliates, and third party representatives, and Supplier except under written agreement by the contracting parties.

---

\*\*\*\*CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

## 2.9 Customer Care Support

“**Customer Care Support**” means the support provided by Agents in assisting AT&T Customers or their representatives with Customer Orders or requests for information or support through AT&T Customer contact by Agents including, but not limited to (a) supporting Contacts and (b) Manual Transaction Processing.

## 2.10 Customer Information

“**Customer Information**” includes, but is not limited to, customer name, address, phone number, any customer or employee personal information, credit card and credit related information, health or financial information, authentication credentials, information concerning a customer’s calling patterns, unlisted customer numbers, any other information associated with a customer or with persons in the household of a customer, and any information available to AT&T and/or its suppliers by virtue of AT&T’s relationship with its customers as a provider of telecommunications, Internet, information or other services, including the quantity, technical configuration, location, type, destination, and amount of use of telecommunications or other services subscribed to, and information contained on the telephone bills of AT&T’s customers pertaining to telephone exchange service, telephone toll service or other services received by a customer of AT&T to the extent any of such is provided by AT&T or a Customer to Supplier.

## 2.11 Customer Order

“**Customer Order**” means a unique request related to provisioning, adding, modifying or terminating AT&T services for a given Customer that is received through the ASP Solution and is associated to a discreet workflow configured in the ASP Solution. Customer Orders may vary in complexity in the number of Transactions or tasks to be completed for a given Customer Order or the number and type of AT&T services under the Customer Order. By way of explanation, a Customer Order may be a request to provision a single service or multiple services for a given Customer.

## 2.12 Defect

“**Defect**” means a condition in ASP Solution that causes the solution not to perform in accordance with the applicable specifications set forth in this Order.

## 2.13 Inbound Call

“**Inbound Call**” means any inbound call to the Order Management Center (OMC) from an AT&T Customer requesting information or support or pertaining to a Customer Order or request for information or support.

## 2.14 Outbound Call

“**Outbound Call**” means any outbound call attempt made by an Agent or the ASP Solution to a Customer in performance of a particular purpose or task defined by the AT&T outbound call program(s).

## 2.15 Manual Transaction Processing

“**Manual Transaction Processing**” means the manual processing of one or more Transactions under a Customer Order by Supplier Agent, For the avoidance of doubt, manual Transaction Processing includes the manual tasks or process performed, excluding Contacts, required to manage and pursue to resolution issues or tasks related to Transactions which have fallen out of the automation processes or cannot reach Completion without investigation or support by an Agent. Manual Transaction Processing includes, but is not limited to data entry, “swivel chair” data entry Exception Handling, First Touch, Second Touch, etc., and tasks to manage and pursue to resolution, issues related to Transactions/Customer Orders.

## 2.16 Material

“**Material**” means a unit of equipment, apparatus, components, tools, supplies, material, Documentation, Hardware, or firmware thereto, or Managed Service(s) purchased or licensed hereunder by AT&T from Supplier or otherwise delivered by or on behalf of Supplier, including third party Material provided or furnished by Supplier. “Material” shall be deemed to include any replacement parts.

### Proprietary and Confidential

This Agreement and information contained therein is not for use or disclosure outside of AT&T, its Affiliates, and third party representatives, and Supplier except under written agreement by the contracting parties.

### 2.17 Order Management Center

“**Order Management Center**” or “**OMC**” means the center and facilities from which Agents support Contacts, Customer Care Support or Manual Transaction Processing

### 2.18 Special Terms and Conditions

“**Special Terms and Conditions**” means written terms and conditions that are (i) different from or additional to the terms and conditions set forth in this Agreement or the Master Agreement, (ii) specially negotiated by the Parties in reference to an Order, (iii) expressed in an Order or incorporated by reference to a document attached to an Order, such as a Scope of Work or Statement of Work, and (iv) executed by both Parties.

### 2.19 Subcontractor

“**Subcontractor**” or “**subcontractor**” means any person or entity (including an agent other than Supplier) supplying labor or materials to perform any or all of Supplier’s obligations under this Agreement, including any person or entity at any tier of subcontractors, and shall not be limited to those persons or entities with a direct relationship with Supplier.

### 2.20 Transaction

“**Transaction**” means a unique work step or set of related tasks that make up one of the required elements in the workflow of processing a Customer Order. Transactions may vary in type, complexity and number of work steps or tasks to be completed which are identified in the workflow or processes pertaining to such Customer Order. By way of explanation, a Transaction may be a unique request to obtain a credit check for a given Customer Order.

### 2.21 Transaction Type

“**Transaction Type**” shall mean a class or type of like or similar Transactions, tasks or Contacts for a given AT&T program that the Parties mutually agree to aggregate together for forecasting, billing, pricing, and Service Level reporting purposes with the makeup of such Transaction Type determined (and refined from time to time) by mutual agreement of the Parties in accordance with the terms of the applicable Order. For the avoidance of doubt, a “Transaction Type” may be a group of call types, chat types or manual task types.

### 2.22 Time Study

“**Time Study**” means a direct and continuous observation of a given task component using a timekeeping device to record the time taken to accomplish a task or series of related tasks (or component of a Transaction) using a Statistically Valid Sample Size. Under this Agreement, a Time Study is used only when the time measurements and averages on a given Transaction type or task are not able to be accurately reported from ASP Solution reporting tools (such inbound call tracking software or workflow software).

For a Time Study, the Parties shall mutually agree upon the design of the Time Study to be performed. Factors to be defined for a Time Study include: \*\*\*\*

### 2.23 Statistically Valid Sample Size

“**Statistically Valid Sample Size**” means a sample size and makeup of measurements (Transactions or tasks) that are the focus of a Time Study or quality study that are sufficient to determine, within an expected error factor of \*\*\*\*, the value of the anticipated data or analysis result (such as average time) for a given Time Study.

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### 3.0 General Terms

#### 3.1 Anticorruption Laws

Supplier hereby represents and warrants that the employees, temporary workers, agents, consultants, partners, officers, directors, members or representatives of Supplier and its Subcontractors, if any, performing Services or other activities under this Agreement (each and any of the foregoing individuals, for the purpose of this Section, a "Supplier Representative") shall comply with the US Foreign Corrupt Practices Act and all applicable anticorruption laws (including commercial bribery laws). Supplier Representatives shall not directly or indirectly pay, offer, give, promise to pay or authorize the payment of any portion of the compensation received in connection with this Agreement or any other monies or other things of value in connection with its performance to a Government Official, as such term is defined below, to obtain or retain business or secure any improper advantage nor shall it permit such actions by a third party acting on behalf of Supplier in connection with this Agreement. For purposes of this Section, "Government Official" means: (i) an officer or employee of any government or any department, agency, or instrumentality thereof, including government-owned or government-controlled commercial entities; (ii) an officer or employee of a public international organization; (iii) any person acting in an official capacity for or on behalf of any government or department, agency, or instrumentality or public international organization; (iv) any political party or official thereof; (v) any candidate for political office; or (vi) any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons or entities.

#### 3.2 Entire Agreement - Subordinate Agreement

The terms contained in this Agreement, and any Orders placed pursuant hereto, including all exhibits, appendices and subordinate documents attached to or referenced in this Agreement or any Orders placed pursuant hereto, together with Master Agreement No. SG021306, will constitute the entire integrated Agreement between Supplier and AT&T with regard to the subject matter. This Agreement supersedes all prior oral and written communications, agreements and understandings of the Parties, if any, with respect to the services being provided herein, except for Master Agreement No. SG021306 and any Orders placed pursuant thereto except that this Agreement shall supersede the AT&T Order Management Center Contract (SG021306.S.007) dated as of January 1, 2009 between the Parties with respect to the services similar to those being provided herein. Acceptance of Material or Services, payment or any inaction by AT&T shall not constitute AT&T's, or any inaction by Supplier shall not constitute Supplier's, consent to or Acceptance of any additional or different terms from those stated in this Agreement, except for terms in an Order placed by AT&T subject to this Agreement and signed by both Parties. Except as otherwise set forth in the Order, estimates furnished by AT&T are for planning purposes only and shall not constitute commitments.

#### 3.3 Government Contract Provisions

- a. To the extent that Supplier's performance is subject to certain executive orders (including E.O. 11246 and E.O. 13201) and statutes (including Section 503 of the Rehabilitation Act of 1973, as amended; the Vietnam Era Veteran's Readjustment Assistance Act of 1974; Section 8116 of the Defense Appropriations Act for Fiscal Year 2010 (Pub. L. 111-118); and the Jobs for Veterans Act) pertaining to government contractors, Supplier shall:
  1. comply with such executive orders and statutes, and their implementing regulations, as amended from time to time; and
  2. fulfill the obligations of a contractor under the clauses incorporated by this Section.
- b. This Section incorporates the following statutes and rules:
  1. "Affirmative Action For Workers With Disabilities" (at 48 CFR §52.222-36);
  2. "Employment Reports On Special Disabled Veterans, Veterans Of The Vietnam Era, and Other Eligible Veterans" (at 48 CFR §52.222-37);
  3. "Equal Employment Opportunity" (at 48 CFR §52.222-26);
  4. "Equal Employment Opportunity Clause" (at 41 CFR §60-1.4(a));

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5. "Equal Opportunity For Special Disabled Veterans And Veterans of the Vietnam Era" (at 41 CFR §60-250.5);
  6. "Equal Opportunity for Disabled Veterans, Recently Separated Veterans, Other Protected Veterans, and Armed Forces Service Medal Veterans" (at 41 CFR §60-300.5);
  7. "Equal Opportunity For Workers With Disabilities" (at 41 CFR §60-741.5);
  8. "Prohibition of Segregated Facilities" (at 48 CFR §52.222-21);
  9. "Small Business Subcontracting Plan" (at 48 CFR §52.219-9);
  10. "Utilization Of Small Business Concerns" (at 48 CFR §52.219-8);
  11. "Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009" (FAR 52.203-15);
  12. "American Recovery and Reinvestment Act - Reporting Requirements" (FAR 52.204-11);
  13. "GAO/IG Access" (FAR 52.212-5(d) (Alt. II), FAR 52.214-26(c) (Alt. I), FAR 52.215-2(d) (Alt. I));
  14. "Davis-Bacon Act" (FAR 52.222-6);
  15. "Buy American Act" (FAR 52.225-21, FAR 52.225-22, FAR 52.225-23, & FAR 52.225-24);
  16. "Whistleblower Protections" (Pub. L. No. 111-5, Section 1553);
  17. "Award term—Reporting and registration requirements under section 1512 of the Recovery Act" (2 CFR §176.50);
  18. "GAO/IG Access" (Pub. L. No. 111-5, Section 902, 1514 and 1515);
  19. "Award term—Wage Rate Requirements under Section 1606 of the Recovery Act" (2 CFR §176.190); and
  20. "Buy American Requirements" (2 CFR §176.140, 2 CFR §176.150, 2 CFR §176.160, & 2 CFR §176.170).
- c. If an Order includes a statement that performance is intended for a government contract and incorporates additional government contracting provisions, Supplier shall also fulfill the obligations of a contractor or offeror under those additional provisions.

### 3.4 Information

- a. In connection with this Agreement, including Supplier's performance of its obligations hereunder and AT&T's receipt of Work, either Party may find it beneficial to disclose to the other Party (which may include permitting or enabling the other Party's access to) certain of its Information. For the purpose of this clause, each Party's disclosure of Information to the other Party includes any Information that a Party receives, observes, collects, handles, stores, or accesses, in any way, in connection with this Agreement. Information of a disclosing Party shall be deemed to be confidential or proprietary when it is clearly marked or otherwise identified by the disclosing Party as being confidential or proprietary, provided that if it is orally or visually disclosed (including Information conveyed to an answering machine, voice mail box or similar medium), the disclosing Party shall designate it as confidential or proprietary at the time of such disclosure. A disclosing Party shall use commercially-reasonable efforts to mark or identify information subject to this confidentiality requirement, but the failure to mark or designate information as being confidential or proprietary will not waive the confidentiality where it is reasonably obvious, under the circumstances surrounding disclosure, that the Information is confidential or proprietary. Neither Party shall be expected to mark or identify AT&T Customer Information, since any and all such AT&T Customer Information (such as name, address, telephone number, and other personal identifiers) shall automatically be deemed to be confidential and proprietary. For greater certainty, Information provided by either Party to the other Party prior to the Effective Date of this Agreement in connection with the subject matter hereof, including any such Information provided under a separate non-disclosure agreement (howsoever denominated) is also subject to the terms of this Agreement. Neither Party shall disclose Information under this Agreement that includes, in any form, any of the following: customer or employee personal information, credit card and credit related information, health or financial information, and/or authentication credentials.
- b. With respect to the Information of the disclosing Party, the receiving Party shall:
1. hold all such Information in confidence with the same degree of care with which it protects its own confidential or proprietary Information, but with no less than reasonably prudent care;
  2. restrict disclosure of such Information solely to its employees, contractors, and agents (and also to its Affiliates' employees, contractors, and agents) with a need to know such Information, advise such persons of their confidentiality obligations with respect thereto, and ensure that such persons are bound by obligations of confidentiality reasonably comparable to those imposed in this Agreement;

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3. use such Information only as needed to perform its obligations (and, if AT&T is the receiving Party, to receive the benefits of the Work provided) under this Agreement;
  4. except as necessary under the immediately preceding clause (3), not copy, distribute, or otherwise use any such Information or allow anyone else to copy, distribute, or otherwise use such Information; and ensure that any and all copies bear the same notices or legends, if any, as the originals; and
  5. upon the disclosing Party's request, promptly return, or destroy all or any requested portion of the Information, including tangible and electronic copies, notes, summaries, extracts, mail or other communications, and provide written certification within \*\*\*\* to the disclosing Party that such Information has been returned or destroyed, provided that with respect to archival or back-up copies of Information that reside on the receiving Party's systems, the receiving Party shall be deemed to have complied with its obligations under this clause (5) if it makes reasonable efforts to expunge from such systems, or to permanently render irretrievable, such copies.
- c. Except for Customer Information, neither Party shall have any obligation to the other Party with respect to Information which:
1. at the time of disclosure was already known to the receiving Party free of any obligation to keep it confidential (as evidenced by the receiving Party's written records prepared prior to such disclosure);
  2. is or becomes publicly known through no wrongful act of the receiving Party (such obligations ceasing at the time such Information becomes publicly known);
  3. is lawfully received from a third party, free of any obligation to keep it confidential;
  4. is independently developed by the receiving Party or a third party, as evidenced by the receiving Party's written records, and where such development occurred without any direct or indirect use of or access to the Information received from the disclosing Party, or
  5. the disclosing Party consents in writing to be free of restriction.
- d. If a receiving Party is required to provide Information of a disclosing Party to any court or government agency pursuant to a written court order, subpoena, regulatory demand, request under the National Labor Relations Act (an "NLRA Request"), or process of law, the receiving Party must, unless prohibited by applicable law, first provide the disclosing Party with prompt written notice of such requirement and reasonable cooperation to the disclosing Party should it seek protective arrangements for the production of such Information. The receiving Party will (i) take reasonable steps to limit any such provision of Information to the specific Information required by such court or agency, and (ii) continue to otherwise protect all Information disclosed in response to such order, subpoena, regulation, NLRA Request, or process of law.
- e. A receiving Party's obligations with respect to any particular Information of a disclosing Party shall remain in effect, including after the expiration or termination of this Agreement, until such time as it qualifies under one of the exceptions set forth in clause (c) above. Notwithstanding anything to the contrary herein, Customer Information shall remain confidential indefinitely and shall never be disclosed or used without the prior written approval of an authorized representative of AT&T.

### 3.5 Invoicing and Payment

- a. Pursuant to the Section of the Master Agreement entitled "**Delivery, Performance and Acceptance**", Supplier shall render an invoice, in arrears on a \*\*\*\* basis promptly after performance of all Work required by the Order (unless the Order or an attached Appendix specifies that Supplier may submit invoices for progress payments prior to Acceptance, as provided below). The invoice must specify in detail, if applicable, (i) quantities of each ordered item, (ii) unit prices of each ordered item, (iii) whether the item is taxable and the amount of tax per item, (iv) item and commodity codes, (v) total amounts for each item, (vi) total amount of applicable sales or use taxes, (vii) discounts, (viii) shipping charges, if any, (ix) total amount due, (x) remit to address, (xi) Order number and line item sequence, (xii) description of Service, and (xiii) special service charges, if any. Except as provided in the provision for progress payments, AT&T shall pay Supplier within \*\*\*\* after receipt of the invoice in accordance with

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- b. the prices set forth in this Agreement or in the applicable Order. If AT&T disputes any invoice rendered or amount paid, AT&T shall so notify Supplier in writing. The Parties shall work in good faith to resolve invoicing and payment disputes expeditiously, and AT&T shall only pay the undisputed amount of any disputed invoice and shall not be obligated to make any payment with respect to the amount in dispute until the dispute is resolved or the error corrected. In the event that the dispute is not resolved or the error not corrected within \*\*\*\* of the date of AT&T's notice to Supplier, the Parties shall escalate the matter to their respective Vice Presidents responsible for the business areas involved in the dispute for resolution. The Vice Presidents of the Parties shall meet within \*\*\*\* to resolve the matter. Invoices received by AT&T more than \*\*\*\* after the Delivery of Work are untimely and AT&T has no obligation to pay such invoices.
- b. Invoices for or including freight charges must be accompanied by legible copies of prepaid freight bills, express receipts or bills of lading supporting the invoice amounts. Such invoices must include (i) the carrier's name, (ii) date of shipment, (iii) number of pieces, (iv) weight and (v) freight classification.
- c. AT&T may deduct any setoff or recoupment claims that it or its Affiliates may have against Supplier from amounts due or to become due to Supplier, whether under this Agreement or otherwise. Supplier shall pay any undisputed amount due to AT&T or its Affiliates that is not applied against the invoiced amounts within \*\*\*\* after written demand by AT&T.
- d. If an Order or an Appendix specifies that Supplier may submit invoices for progress payments prior to Acceptance, Supplier is permitted to submit invoices at the end of each month and AT&T shall make progress payments to Supplier \*\*\*\* after receipt of such invoices.

### 3.6 IP Ownership Additional Representations & Warranties — Offshore

- a. Representations & Warranties. Supplier represents and warrants that all development Work done for AT&T under this Contract shall be performed in a manner that will not materially conflict with provisions of the MSA to the extent that they grant to AT&T ownership of or licenses to Intellectual Property in the developed Work. For avoidance of doubt, the foregoing includes Supplier's representation and warranty that no Work will be done in any country having laws that interfere with, limit, diminish, or encumber rights of ownership or licenses granted by Supplier to AT&T under the terms of the MSA unless the Work is carried out in a way which does not materially interfere with or diminish such ownership rights or licenses of AT&T. Country laws that prevent the complete assignment of all rights in intellectual property or valid waiver of, or agreement not to enforce, Moral Rights, or which require additional compensation be paid to individuals so that developments they create may be used by a business that employs or hires them, will be deemed to interfere with, limit, diminish and/or encumber rights of ownership or licenses granted to AT&T unless the Supplier puts in place lawful and effective arrangements to ensure that the ownership rights or licenses of AT&T are not materially interfered with, limited, diminished or encumbered or to the extent that such laws do not result in a material diminishing or encumbering with respect to the ownership rights or licenses of AT&T. Supplier represents and warrants that contractual agreements either are or will be in place between all of the following Parties, as applicable:
  - i. Supplier and other entities doing Work in furtherance of the Contract (such as between Supplier and Supplier's Subcontractor(s));
  - ii. Entities doing Work in furtherance of the Contract (such as between Supplier's Subcontractor and its subcontractor(s)); and
  - iii. Supplier or other entities doing Work in furtherance of the Contract, on the one hand, and their respective employees, on the other hand,
 each of which agreements is or will be sufficient under applicable law (as in effect at the time of such agreement) to ensure that AT&T's rights of ownership or licenses to intellectual property in developed Work granted under the MSA, if any, are not materially interfered with, diminished or encumbered, as set forth above.

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Supplier's compliance with this Section, and all Services performed in Offshore Locations with AT&T's consent, shall be subject to the MSA section entitled "Records and Audit". Supplier shall ensure that Supplier's agreements with its employees and Subcontractors allow Supplier to comply with such Section.

- b. Waiver of Enforcement of Moral Rights. Notwithstanding the foregoing, if Supplier, its employees or Subcontractors retain Moral Rights (meaning an author's rights of attribution or integrity and right known as artist's rights or droit moral) in any developments Work developed under this Agreement that is assigned or licensed by Supplier to AT&T, Supplier hereby agrees (and will obtain necessary acknowledgements and undertakings from its employees and Subcontractors stating that they also agree, to the extent allowable by the laws of the jurisdictions to which such employees and Subcontractors are subject) that the employees of Supplier, its employees and Subcontractors:
- i. Do not require that any personally identifying information be used in connection with the developments, or any derivative works of or upgrades or updates thereto;
  - ii. Do not object to the publication, use, modification, deletion and exploitation of the developments by AT&T, or its licensees, successors and assigns;
  - iii. To the extent permitted by applicable law, forever waive and agree not to claim, assert or seek to enforce against AT&T, or its licensees, successors and assigns, any entitlement to any and all such developed Work; and
  - iv. To the extent permitted by applicable law, forever release AT&T, its licensees, successors and assigns, from any claims that Supplier, its employees and Subcontractors could otherwise assert against such Parties by virtue of any such Moral Rights.

### 3.7 MBE/WBE/DVBE Responsibilities

Pursuant to the Master Agreement Section entitled "**Utilization of, Minority, Women, and Disabled Veteran Owned Business Enterprises**" (and Appendix G), Supplier agrees to provide a Prime Supplier MBE/WBE/DVBE Participation Plan annually by the \*\*\*\*, as provided in Appendix G. Supplier will submit quarterly reports by the end of the \*\*\*\* following the close of each \*\*\*\* as directed in Appendix G.

### 3.8 Notices

- a. Each Party giving or making any notice, consent, request, demand, or other communication (each, a "Notice") pursuant to this Agreement must give the Notice in writing and use one of the following methods, each of which for purposes of this Agreement is a writing: in person; first class mail with postage prepaid; Express Mail, Registered Mail, or Certified Mail (in each case, return receipt requested and postage prepaid); internationally recognized overnight courier (with all fees prepaid); or email. If Notice is given by e-mail, it must be confirmed by a copy sent by any one of the other methods. Each Party giving Notice shall address the Notice to the appropriate person (the "Addressee") at the receiving Party at the address listed below:

For Supplier:

Synchronoss Technologies, Inc.  
 200 Crossing Blvd.  
 Bridgewater, NJ 08807  
 Attn: President  
 Email Address: legal@synchronoss.com  
 Fax Number: 908-231-0762

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For AT&T:

AT&T Services, Inc.  
4119 Broadway  
Room 650A16  
San Antonio, TX 78209  
Attn: Notices Administrator  
Email Address: g06586@att.com

B . A Notice is effective only if the Party giving notice has complied with the foregoing requirements of this Section and the Addressee has received the Notice. A Notice is deemed to have been received as follows:

1. If a Notice is delivered by first class mail, \*\*\*\* after deposit in the mail;
  2. If a Notice is furnished in person, or sent by Express Mail, Registered Mail, or Certified Mail, or internationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt;
  3. If a Notice is sent by e-mail, upon successful transmission to the recipient's email account, if such Notice is sent in time to allow it to be accessible by the Addressee before the time allowed for giving such notice expires, and a confirmation copy is sent by one of the other methods.
- c. The addresses and telephone numbers to which Notices may be given to the Addressees of either Party may be changed by written Notice given by such Party to the other pursuant to this Section.

### 3.9 Offshore Work Permitted Under Specified Conditions

- a. Supplier shall not perform any Services related to hosting, data backups and disaster recovery of Supplier's managed ASP Solution in a country other than the United States ("Offshore Location") under this Agreement, nor allow such performance by any Subcontractor. Further, Supplier shall not perform any other Services at an Offshore Location unless AT&T approves Work to be performed by Supplier or a Subcontractor at such Offshore Location. As of the date hereof, for each Offshore Location, Appendix K sets forth the Offshore Locations that AT&T has approved; the Services to be performed at such location; and, if applicable, the identity of any Subcontractor performing such Work. Prior to making any additions or deletions to the countries set forth in Appendix K, the Parties shall amend Appendix K. A change in the location where a Service is performed from one Offshore Location to another AT&T approved Offshore Location, or a change in the Subcontractor performing the Work at the Offshore Location, shall not require approval or an amendment to Appendix K except as expressly set forth in an applicable Order. The requirements of this Section shall be in addition to the Master Agreement Section entitled, "**Assignment**", and the Section of this Agreement entitled "**Work Done By Others**".
- b. AT&T shall have the right to withdraw its consent to the performance of Work at an Offshore Location (including any of the locations set forth in Appendix K) at any time by providing written notice to Supplier if AT&T reasonably determines that (i) there has been a breach of the terms of the Master Agreement and/or this Agreement with respect to an Offshore Location, (ii) a violation of any laws or regulations with respect to the Work performed at such Offshore Location, or (iii) the continuation of Work at said Offshore Location constitutes a risk to AT&T's financial or security interests or could reasonably damage AT&T's reputation, in which event Supplier shall use commercially reasonable efforts to perform such Work at a location within the United States, or at another approved Offshore Location, and the Parties shall amend this Agreement accordingly. If the relocation of the Work results in a change in Supplier's costs, then Supplier may propose modifications to the pricing terms if it reasonably determines that its costs will change due to such relocation. If the Parties are unable to agree to such pricing terms, the Parties should escalate and resolve such issue under the Dispute Resolution Section of this Agreement. .
- c. Supplier's compliance with this Section, and all Services performed in Offshore Locations with AT&T's consent, shall be subject to the Section of this Agreement entitled "**Records and Audit**". Supplier shall provide, and shall ensure all Subcontractors provide at no cost to AT&T, AT&T with physical access to inspect all Offshore Locations in accordance with such section.

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- d. Prior to interconnecting with, or otherwise accessing the AT&T internal company network, or doing any other Work at an Offshore Location, Supplier must be in compliance with all AT&T requirements for such interconnection, access or other Services.
- e. Any Services under this Agreement performed by Supplier or any Subcontractor in an Offshore Location without AT&T's prior written consent shall be a material breach of this Agreement and, in addition to any other legal rights or remedies available to AT&T in law or in equity, AT&T may immediately Cancel and/or Terminate this Agreement without cost, liability or penalty to AT&T.
- f. When AT&T has granted consent for Services to be performed in an Offshore Location, Supplier shall remain fully responsible for compliance with any applicable foreign, federal, state or local law for such Services regardless of whether the Service is being performed by Supplier or a Subcontractor. Nothing contained within this Agreement is intended to extend, nor does it extend, any rights or benefits to any Subcontractor, and no third party beneficiary right is intended or granted to any third party hereby.
- g. Supplier shall advise AT&T as early as possible prior to any change of Control of the Supplier or any of the entities performing the Work at the Offshore Location. "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies by one person or entity or a group of persons or entities acting in concert; provided, however, that the legal or beneficial ownership, directly or indirectly, by persons or entities, including governmental entities, acting alone or in concert, of more than \*\*\*\* of the voting stock for the election of directors of a Party shall always be deemed Control.

**3.10 Records and Audits**

- a. Supplier shall maintain complete and accurate records relating to the Work and the performance of this Agreement. AT&T and its auditors (including internal audit staff and external auditors) and governmental authorities shall have the right to review such records at Supplier's offices at mutually agreeable times ("AT&T Audits"), to verify the following:  
  
\*\*\*\*
- b. Supplier shall provide and shall require that its Subcontractors provide to AT&T, its auditors (including internal audit staff and external auditors), and governmental authorities access at all reasonable times to:
  - 1. any facility at which the Services or any portion thereof are being performed;
  - 2. systems and assets used to provide the Services or any portion thereof;
  - 3. Supplier employees and Subcontractor employees providing the Services or any portion thereof; and
  - 4. all Supplier and Subcontractor records, including financial records relating to the invoices and payment obligations and supporting documentation, pertaining to the Services.

The scope of AT&T Audits shall also include:

\*\*\*\*

AT&T's access to the records and other supporting documentation shall include the right to inspect and photocopy Supplier's documentation and the documentation of its Subcontractors, and the right to retain copies thereof

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outside of their physical location with appropriate safeguards, if such retention is deemed reasonably necessary by AT&T.

- c. AT&T Audits may be conducted \*\*\*\* (or more frequently if requested by governmental authorities who regulate AT&T's business, if required by applicable Law or if auditors require follow-up access to complete audit inquiries or if an audit uncovers any problems or deficiencies), upon at least \*\*\*\* advance written notice (unless otherwise mandated by Law) provided that the time of such audit does not adversely affect Supplier's operations or performance hereunder. Supplier will cooperate, and will ensure that its Subcontractors cooperate, in the AT&T Audits, and will make the information reasonably required to conduct the AT&T Audits available on a timely basis.
- d. If, as a result of an AT&T Audit, AT&T determines that Supplier overcharged AT&T, then AT&T will notify Supplier in writing of the amount of such overcharge and, provided that Supplier agrees with such determination, Supplier will promptly pay to AT&T the amount of the overcharge. If any such AT&T Audit is agreed to by Supplier reveals an overcharge to AT&T during any \*\*\*\* period exceeding \*\*\*\* of all charges in the aggregate paid by AT&T hereunder during such period, then Supplier will reimburse AT&T for the cost of such AT&T Audit. If, as a result of an AT&T Audit, AT&T determines (and Supplier agrees) that Supplier has not performed or has unsatisfactorily performed any obligation under this Agreement, then Supplier will promptly remedy the non-performance or unsatisfactory performance.
- e. Supplier will maintain and retain the records set forth in Subsection (a) during the term of the Agreement and for \*\*\*\* thereafter (unless a discovery or legal hold request is made with respect to such records, in which case AT&T shall notify Supplier in writing of such request and Supplier shall retain such records until AT&T notifies Supplier that such discovery or legal hold request has expired). Supplier will provide AT&T, at AT&T's request, with paper and electronic copies of documents and information reasonably necessary to verify Supplier's compliance with this Agreement. Upon notification by AT&T of a discovery or legal hold request, Supplier shall fully cooperate with such request and immediately preserve any Supplier records covered by such request and promptly provide such Supplier records requested by AT&T related to the inquiry.
- f. Except as provided in Subsection (d), all reasonable out-of-pocket costs and expenses incurred by AT&T in connection with an AT&T Audit shall be paid by AT&T. Supplier shall be solely responsible for all costs and expenses incurred by Supplier in connection with its obligations under this Section. In the event that either Party requires that an audit be performed by an independent auditor, unless otherwise specified herein, the Party requesting such independent auditor will be responsible for the costs and expenses associated with the independent auditor.
- g. With respect to AT&T requests for audits or inspections of Supplier subcontractors, the following applies:
- i) If Supplier's agreement with its applicable subcontractor permits an AT&T Audit, AT&T shall work through Supplier in connection with such audit. Supplier shall work with AT&T in facilitating the subcontractor's cooperation for an expeditious and thorough audit or inspection.
  - ii) If Supplier's contract with its applicable subcontractor precludes AT&T from directly conducting an audit or inspection, Supplier shall use reasonable best efforts to enable AT&T to perform an audit of the subcontractor with Supplier coordinating the audit process. Failing those efforts, Supplier shall, upon AT&T's request, conduct the audit or inspection on behalf of AT&T, subject to terms agreed to by Supplier and AT&T for the subcontractor audit, such as areas to be audited, applicable fees, and the timeframe for reporting audit results to AT&T. If AT&T's request for a Supplier audit or inspection arises from, in AT&T's good faith opinion, materially and consistently deficient Service provided by the subcontractor under AT&T's account, and the audit in both Parties' opinions confirms such deficiencies, Supplier shall not charge AT&T a fee for the Supplier's audit of its subcontractor.

### 3.11 Termination

- a. **Termination for Cause** - If either Party breaches any provision of this Agreement and/or any Order, and (i) if the breach is one that by its nature could be cured, and such breach is not cured within \*\*\*\* after the breaching Party receives written notice, or (ii) if the breach is material and one that by its nature cannot be cured, then, in addition to all other rights and remedies at law or in equity or otherwise, the non-breaching Party shall

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have the right upon written notice to immediately terminate this Agreement and/or any such Order without any obligation or liability. Failure of the non-breaching Party to immediately terminate this Agreement and/or any Order (x) following a breach which continues longer than such cure period, provided such breach has not been cured prior to the non-breaching Party's providing notice of termination, or (y) following a breach that cannot be cured or that constitutes a violation of Laws shall not constitute a waiver of the non-breaching Party's rights to terminate; provided, however, if the non-breaching Party does not exercise such termination right within \*\*\*\* of the date such right is triggered, the non-breaching Party shall waive its right to terminate with respect to such breach.

- b. **Termination for Convenience in Whole** - AT&T may at any time, for its own convenience and without cause, by providing Supplier written notice of at least \*\*\*\* prior to the effective date of the termination, terminate this Agreement in whole without any further liability to Supplier except as set forth herein. The termination or expiration of this Agreement shall not affect the obligations of either Party to the other Party pursuant to any Order previously executed hereunder, and the terms and conditions of this Agreement shall continue to apply to such Order as if this Agreement were still in effect. Likewise, termination or expiration of the Master Agreement shall not affect the obligations of either Party to the other Party pursuant to this Agreement or any Order thereunder, and the terms and conditions of the Master Agreement shall continue to apply to this Agreement or any Order thereunder as if the Master Agreement were still in effect. For the avoidance of doubt, (a) such termination of the Agreement shall not relieve AT&T of any obligations for any minimums under the Agreement and, (b) the provisions for termination of Services under an Order for convenience by AT&T shall be as set forth in each Order.
- c. In the event that all Orders under the Agreement are terminated, this Agreement will be deemed to be terminated as of the effective date of the termination of the last such Order.
- d. **Termination of Related Orders** - Whenever law or a provision of this Agreement permits AT&T to terminate any Order, AT&T may also terminate such other Orders as are related to the same transaction or series of transactions as the Order in question to the extent such other Orders cannot be performed if the original Order is terminated.
- e. **Return of Information Obligations upon Expiration or Termination**

Each Party shall, except as required under law or this Agreement, upon expiration or termination of this Agreement and after all Wind Down and Transition efforts have concluded, promptly return all papers, materials, and property of the other Party.

f. **Wind Down and Transitioning.**

1. The Parties acknowledge that upon the termination or expiration of the Agreement (provided that such termination is not a result of termination by Supplier for cause), existing Customers will need to be migrated to AT&T-hosted or to third party-hosted platforms. Because of the volume of Customer provisioning that is handled by Supplier at the time of execution of this Agreement, the Parties agree that they will need to develop a Transition Plan at that time in order to carry out an orderly, migration that mitigates disruption of operations for AT&T. For purposes of this section, Transition Plan shall be defined as a mutually negotiated, written document outlining the respective obligations of each Party in carrying out an incremental or phased cutover of Customer Order provisioning provided by Supplier under this Agreement to AT&T, including the continued payment of agreed unit prices under any supplemental Order, to the extent incurred, and the payment of any agreed time and material charges incurred above the existing unit prices.
2. The Parties agree to negotiate in good faith toward a Transition Plan that will cover at least the following points:
  - (i) Segmenting Customer Information from the view, modification, deletion or any other access by Supplier or Supplier-chosen subcontractors who will continue to work for Supplier on other, non-AT&T e-commerce businesses after the Transition Plan;
  - (i) Electronic capture, transfer and backup during Transition Plan of (a) Customer Information, including names, addresses, and IP addresses and other identifying information needed to carry out the

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migration and (b) pending trouble tickets, billing or provisioning corrections, and other data for Customer Orders in process; and

(iii) The length of time needed to complete the Transition Plan, including a schedule for phased or incremental cutovers.

3. Supplier shall not be required, pursuant to subsections (g) (1) and (g) (2) above or otherwise, to disclose or otherwise make available to the AT&T the proprietary technology, software, or source code of Supplier or Supplier subcontractors, as well as any Confidential Information relating thereto.

### **3.12 Third Party Beneficiaries**

The provisions of this Agreement are solely for the benefit of the Parties hereto and are not intended to confer upon any person or entity, except the Parties hereto, any rights or remedies hereunder. There are no third party beneficiaries of this Agreement, and this Agreement shall not provide any third person or entity with any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

## **4.0 Special Terms**

### **4.1 AT&T Supplier Information Security Requirements (SISR)**

Supplier agrees to comply with the AT&T Supplier Information Security Requirements (SISR) set forth in Appendix O attached hereto and incorporated by reference herein. Supplier agrees to cooperate fully with AT&T, including completing checklists or similar documentation, to ensure that Software and/or computer systems Supplier develops, designs, supports and/or uses under this Agreement comply with the standards and requirements set forth in the SISR. Supplier agrees to indemnify, defend at its expense, and hold AT&T, its Affiliates and its and their agents, employees and customers harmless against any Loss arising from or in connection with, or resulting from, any breach of the terms set forth in the SISR, in accordance with the Master Agreement Section entitled "Indemnity."

### **4.2 Reimbursable Expenses**

AT&T is not responsible for any travel, meal or other business related expense incurred by Supplier, whether or not incurred in its performance of its obligations under this Agreement, unless reimbursement of expenses is expressly authorized in this Agreement or an Order pursuant to this Agreement. If reimbursement of expenses is so authorized, in order to be reimbursable, each and every such expense must comply with the requirements of AT&T's Vendor Expense Policy attached hereto and incorporated herein as Appendix Z. Supplier must provide in a timely manner receipts and other documentation as required by the Vendor Expense Policy and such additional documentation or information requested by AT&T to substantiate expenses submitted by Supplier for reimbursement. All references to "Vendor" in Appendix Z apply to Supplier.

### **4.3 Supplier's Audited Financial Statements**

In the event that Supplier is not a publically traded corporation, Supplier shall provide to AT&T (or its third party delegate), upon request and at no charge, its bona fide and unedited audited fiscal year financial statements and other financial documents as reasonably requested by AT&T to allow an assessment of Supplier's financial condition. If Supplier is a subsidiary, owned, majority interest holder, or controlled by an entity (e.g., a parent company) that is not a publically traded corporation, then Supplier shall furnish such documents for both Supplier and its owning, controlling or parent company. If Supplier is a subsidiary, owned, majority interest holder, or controlled by an entity (e.g., a parent company) that is a publically traded corporation, then Supplier shall furnish such documents for both Supplier and its owning, controlling or parent company to the extent that such documents are not publically available.

### **4.4 Work Done By Others**

If any part of Supplier's Work is dependent upon Work performed by others or subcontracted consistent with the terms herein, Supplier shall inspect and promptly report to AT&T any defect that renders such other Work unsuitable for Supplier's proper performance. Any use of, including any changes to the use of, a Subcontractor must be approved by

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AT&T in writing before commencement of the Work. Supplier shall provide to AT&T, upon request, information about the Subcontractor including the identity of, the location of, and a complete description of the activities to be performed by such Subcontractor. Where a portion of the Work is approved to be subcontracted, Supplier remains fully responsible for performance thereof and shall be responsible to AT&T for the acts and omissions of any Subcontractor. Nothing in this Agreement shall create any contractual obligation or other liability of AT&T to any Subcontractor or its employees. Supplier agrees to bind every Subcontractor to terms consistent with the terms of this Agreement.

#### 4.5 Dispute Resolution

- a. Except for any claim or action concerning the breach of a license right, validity, enforceability or infringement of any patent, copyright, trademark (including trade dress and service mark) or other intellectual property right, nor a breach (or alleged breach) of a Party's obligations in the sections entitled "Information," "Ownership of Work Product," or "Publicity." If the Parties are unable promptly to resolve a dispute informally or by mediation, the Party alleging a material breach (the "Moving Party") may initiate arbitration by providing the other Party written notice of its intent to arbitrate; provided, however, nothing herein shall limit a Party's right to seek appropriate injunctive relief. If the Parties are unable to agree upon an arbitrator within \*\*\*\* of the Moving Party's written notice to arbitrate, the Moving Party may request the American Arbitration Association ("AAA") to appoint an arbitrator. The AAA shall select an arbitrator who can promptly proceed with and strive to conclude the arbitration as specified herein. If a dispute is submitted to an arbitrator, it shall be finally resolved through binding arbitration in Chicago, Illinois, according to the Commercial Arbitration Rules of the AAA, except as modified herein. The award rendered by the arbitrator shall be final and binding on the Parties and shall be deemed enforceable in any court having jurisdiction thereof. The arbitration shall be heard by a single arbitrator who shall by training, education, or experience have knowledge of the general subject matter of this Agreement. The arbitrator shall have only the power to award damages, injunctive relief and other remedies to the extent the same would be available in a court of law having jurisdiction of the matter, except that the arbitrator shall not have the power to vary the provisions of this Agreement. The arbitrator shall promptly commence the arbitration proceeding with the intent to conclude the proceedings and issue a written decision stating in reasonable detail the basis for the award, which must be supported by law and substantial evidence, as promptly as the circumstances demand and permit, but generally no later than \*\*\*\* after the arbitrator's appointment. Each Party acknowledges that it is giving up judicial rights to a jury trial, discovery and most grounds for appeal under the foregoing provision.
- b. The prevailing Party shall be entitled to recover from the non-prevailing Party the reasonable attorneys' fees, expenses and costs incurred by the prevailing Party in any arbitration.
- c. No provision of this Section shall limit the right of any Party to exercise its rights of setoff. The exercise of a remedy does not waive the right of either Party to resort to arbitration.
- d. During dispute resolution proceedings, including arbitration, the Parties shall continue to perform their obligations under this Agreement, except for those obligations directly related to the dispute at issue.

#### 4.6 Special Events

- a. AT&T and Supplier agree and acknowledge that from time to time "Special Events" (as defined below) may arise that will temporarily increase volumes of Customer Orders, Contacts and/or Manual Transaction Processing and may require changes in processes or processing requirements. The Parties will work in good faith to agree upon the appropriate temporary staffing levels to accommodate volume increases and process changes during such Special Events. Each Special Event of increased volume shall be forecasted and the requirements negotiated at least \*\*\*\* in advance of such Special Event "go live" date. Each Special Event will include a detailed "project plan" to be mutually agreed upon by the Parties containing at a minimum the following elements:

\*\*\*\*

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- b. For purposes of this Agreement, "Special Event" shall mean any event that is reasonably expected to result in \*\*\*\* where, and in each case, such condition \*\*\*\*.

#### 4.7 AT&T Data and AT&T Derived Data

- a. Definitions. For purposes of this Section:

1. "AT&T Data" means any data or information of AT&T or its customers, that is disclosed or provided to Supplier by, or otherwise obtained by Supplier from, AT&T or its customers, including Customer Information and customer proprietary network information (as that term is defined in Section 222 of the Communications Act of 1934, as amended, 47 U.S.C. 222), as well as data and information with respect to the businesses, customers, operations, networks, systems, facilities, products, rates, regulatory compliance, competitors, consumer markets, assets, expenditures, mergers, acquisitions, divestitures, billings, collections, revenues and finances of AT&T.
2. "AT&T Derived Data" means any data or information that is a result of or modification of, collection, adaption, revision, translation, abridgement, condensation, compilation, evaluation, expansion, or any other recasting or processing of the AT&T Data, for example, as a result of Supplier's observation, analysis, or visualization of AT&T Data in furtherance of this Agreement or an Order hereunder or arising out of the performance of Supplier's obligations under this Agreement or an Order or as a result of Supplier having access to AT&T infrastructure, systems, data, hardware, software or processes (for

example, through data processing input and output, service level measurements, or ascertainment of network and system information).

- b. Ownership of AT&T Data and AT&T Derived Data.

1. AT&T Data is the property of AT&T. To the extent needed to perfect AT&T's ownership in AT&T Data, Supplier hereby assigns all right, title and interest in AT&T Data to AT&T. No transfer of title in AT&T Data is implied or shall occur under this Agreement. Supplier shall promptly return AT&T Data, at no cost to AT&T, and in the format and on the media prescribed by AT&T (i) at any time at AT&T's request, regardless of the expiration or termination of this Agreement, (ii) at the expiration or termination of this Agreement, or (iii) with respect to particular AT&T Data, whenever such data is no longer needed by Supplier to perform its obligations under this Agreement. AT&T Data shall not be (a) utilized by Supplier for any purpose other than as required to fulfill its obligations under this Agreement, (b) sold, assigned, leased, commercially exploited or otherwise provided to or accessed by third Parties, whether by or on behalf of Supplier, (c) withheld from AT&T by Supplier, or (d) used by Supplier to assert any lien or other right against or to it. Supplier shall promptly notify AT&T if Supplier believes that any use of AT&T Data by Supplier contemplated under this Agreement or to be undertaken as part of the performance of this Agreement is inconsistent with the preceding sentence.

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2. AT&T shall own all right, title and interest to the AT&T Derived Data. To the extent needed to perfect AT&T's ownership in AT&T Derived Data, Supplier hereby assigns all right, title and interest in AT&T Derived Data to AT&T. AT&T grants to Supplier a license to access, use, and copy the AT&T Derived Data, with no right to grant sublicenses, solely for the performance of Supplier's obligations during the Term of this Agreement and solely in compliance with AT&T's privacy policies, including obligations relating to Customer Information. Supplier shall deliver AT&T Derived Data, at no cost to AT&T, in the format, on the media and in the timing prescribed by AT&T. For the avoidance of doubt, Supplier shall not create or develop AT&T Derived Data after the expiration or termination of this Agreement.
3. For the avoidance of doubt, AT&T Data and AT&T Derived Data that was disclosed to Supplier prior to the Effective Date shall be considered AT&T Data and AT&T Derived Data under this Agreement. Supplier's obligation to return AT&T Data and AT&T Derived Data upon AT&T's request shall survive the expiration or termination of this Agreement, but shall not apply to AT&T Data and AT&T Derived Data which, at the time of AT&T's request for return, is no longer retained by or on behalf of Supplier.

*(Signature Page to Follow Immediately Hereafter)*

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**5.0 Execution of Agreement**

**5.1 Transmission of Original Signatures and Executing Multiple Counterparts**

Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document (e.g., pdf or similar format) are true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as that of original signatures. This Agreement may be executed in multiple counterparts, each of which shall be deemed to constitute an original but all of which together shall constitute only one document.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed as of the Effective Date.

**Synchronoss Technologies, Inc.**

**AT&T Services, Inc.**

By: /s/ Stephen Waldis

By: /s/ Shervin Sadighian

Printed Name: Stephen Waldis

Printed Name: Shervin Sadighian

Title: Chief Executive Officer

Title: Director-IT Mobility/Enterprise Business Software Global  
Business and Operations Sourcing (IT)

Date: August 30, 2013

Date: August 30, 2013

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## Appendices

### Appendix A — Description of Supplier’s Material and/or Services

Supplier shall provide the following Material and Services:

#### 1.0 Order Management Center and ASP Solution (the “Managed Service”)

Supplier shall provide and manage a scalable, reliable and flexible OMC and ASP Solution for support of AT&T eCommerce operations. Supplier shall focus on meeting service level agreements (“SLAs”) for Customer Order processing, Manual Transaction Processing, Inbound Call handling and other Customer Contacts for AT&T eCommerce. Supplier shall, in all material respects, adhere to all of AT&T business processes and security standards set forth in this Agreement in performing its OMC Services to support an AT&T branded customer experience. Supplier shall support business from AT&T eCommerce consumer and business customers.

##### 1.1 Customer Order Processing

The primary source of Customer Order volumes will be generated from AT&T eCommerce front-end clients (applications or systems). Supplier shall utilize the OMC to strive to consistently deliver at or above the SLA commitments. The Supplier OMC operating hours will be flexible to support the overall AT&T eCommerce objectives and mutually agreed upon in writing by the Parties for each program and identified in the applicable Order. The OMC will operate seven days a week and will support the hours of operation agreed upon by the Parties and shall include \*\*\*\* OMC technical NOC support as set forth in Section 3.0 below.

##### 1.2 Order Management Center Work Flow

Supplier shall strive to consistently meet a the Customer Order cycle time objectives for the Customer Order or Transactions types identified herein (and excluding any Customer Orders or Transactions where Manual Processing is done by AT&T as set forth in Section 5 below) , in accordance with AT&T’s requirements identified in an applicable Order. In order to accomplish this, Supplier will strive to streamline the process by reducing the number of manual handoffs in the current process. In addition, Supplier’s Agents will manage all inbound and outbound AT&T Customer Contacts associated with AT&T eCommerce Customer Orders. The OMC will leverage Supplier’s integrated suite of the products described in Section 4.0 below to meet or exceed SLA objectives in this Agreement or an applicable Order.

#### 2.0 Supplier OMC

##### 2.1 Order Gateway

Supplier shall provide AT&T with access to the order gateway (“Order Gateway”) component of the ASP Solution. The Order Gateway is the functionality of the ASP solution supporting \*\*\*\*. The Order gateway is \*\*\*\*. The Order Gateway interfaces with \*\*\*\*. The Order Gateway provides a \*\*\*\*.

##### 2.2 Workflow Manager

The “Workflow Manager” is the web-based workflow component of the ASP Solution. The Workflow Manager is used to (a) \*\*\*\*. Supplier utilizes the Workflow Manager to provide \*\*\*\*. The key benefits are:

\*\*\*\*

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\*\*\*\*

### 2.3 Reporting Platform

Supplier shall provide AT&T eCommerce with operational metrics and visibility to all Customer Orders flowing through the Order Gateway and Workflow Manager. The reporting capability of the ASP Solution (“Reporting Platform”) provides \*\*\*\*. The Reporting Platform shall provide \*\*\*\*.

The following reporting tools are components of the Reporting Platform and will be managed by Supplier throughout the term of this Agreement, at no additional cost to AT&T:

\*\*\*\*

### 2.4 Integrated IVR Solution

Supplier will provide AT&T with a voice and/or DTMF enabled Interactive Voice Response (IVR) capability of the ASP Solution that will provide AT&T with the following capabilities for Inbound Calls: \*\*\*\*. The IVR will be implemented and managed by Supplier.

### 2.5 Email Manager

**Email Manager** is the functionality of the ASP Solution supporting \*\*\*\* via email. Supplier shall provide AT&T with the email manager functionality of the ASP Solution.

### 3.0 ASP Solution Hosting

Supplier shall host the ASP Solution. In addition to hosting the ASP Solution, Supplier will provide Tier 1—3 support for the ASP Solution and hosting environment including:

#### a) Tier 1 - NOC

Supplier’s Network Operations Center (NOC) provides first level support for all ASP Solution Defects or infrastructure related issues. The NOC monitors all Supplier ASP Solution systems \*\*\*\* utilizing an array of network an

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application management tools. The NOC also provides first line support for all AT&T end user questions and application account management requests received from designated AT&T staff.

**b) Tier 2 - MDF**

The Supplier's Managed Data Center Facility (MDF) team consists \*\*\*\* that provide second level support for all ASP Solution system-related issues. The MDF team works directly with the NOC to respond to any system generated alerts or end user reports of system issues or anomalies. The MDF team will address any issues related to ASP Solution system performance, hardware failures, OS and DBMS tuning and system configuration.

The MDF team will also work with AT&T to define and configure system integration points like VPN, shared security keys etc.

**c) Tier 3 - Application Support / R&D**

The Supplier's Application Support and R&D team works directly with the NOC and MDF teams to address any issues related to ASP Solution performance or functionality that require software development support. This team will participate in troubleshooting efforts that may point to code related or system integration issues and will develop any software patches/fixes required to address systems issues.

**3.1 Hosting Requirements**

Supplier will provide and maintain all facilities for hosting the ASP Solution, including: physical premises, server(s), database server(s), firewall(s), Internet connectivity and any other facilities required to support the Order Gateway and Order Manager.

Supplier shall provide sufficient hardware, software and equipment to meet applicable service levels defined in an applicable Order for the ASP Solution.

**3.2 Secure Environment**

The physical premises hosting and supporting the ASP Solution will provide security solutions designed to permit access only by authorized personnel.

\*\*\*\*.

**3.3 Access Security**

Supplier shall adhere to all AT&T access control requirements as defined in Section 4.1 of the Master Agreement. Supplier utilizes a combination of \*\*\*\*.

**3.4 Security and Privacy**

In the event Supplier receives AT&T Information, including AT&T Customer Information (as defined in Section 2.10 of this Agreement), Supplier shall not use such AT&T Information for any purpose other than the fulfillment of Supplier's obligations of this Agreement or an applicable Customer Order. Supplier shall not provide such AT&T Information to any third-party (other than Supplier's contractors who have a need to know such information in connection with performing Services on Supplier's behalf hereunder and have agreed in writing to keep such AT&T Data confidential and abide by the other obligations applicable to Supplier hereunder, in which case Supplier represents and warrants that it assumes all obligations of this Agreement on behalf of its contractors) for any reason, unless specifically authorized in writing by AT&T or to the extent such release is contemplated by the nature of the Services under an Order; provided, however, if Supplier is required to produce such AT&T Information to comply with any legal, regulatory or law enforcement requirement or law enforcement investigations, Supplier may do so after providing AT&T i) prior written notice of its intent to produce the AT&T Information (to the extent permitted under the law) and ii) an opportunity to seek a protective order or similar mechanism to prevent disclosure as AT&T deems necessary. Supplier shall comply with the AT&T security or privacy requirements set forth in Section 4.1 of this Agreement entitled "**AT&T Supplier Information Security Requirements (SISR)**" and attached Appendix O - Security Attachment (SISR). In the event such

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requirements are modified, AT&T shall provide such modifications to Supplier in writing. Such requirements include, but are not limited to, \*\*\*\*. At a minimum, Supplier will undertake the following measures to ensure the security of all AT&T Information and other AT&T Customer Information:

\*\*\*\*

### **3.5 Environmental Standards**

Supplier represents and warrants that any hardware required to perform the Services under this Agreement will be protected from damage by:

\*\*\*\*

In the event of a loss of commercial power, the facility is connected to \*\*\*\* capable of supporting the Supplier Managed Data Facility located in \*\*\*\* (“MDF”) for no less than \*\*\*\*.

### **3.6 Monitoring**

The following monitoring tools and practices will be provided by Supplier.

\*\*\*\*

The production system will reside in the Supplier MDF. The MDF is equipped with an automated WAN/LAN monitoring system, a spare parts cabinet, as well as various technical problem determination and resolution tools.

### **3.7 Backups**

Supplier shall automatically backup Data and applications \*\*\*\*. Supplier shall provide a real-time mechanism to ensure the safety and integrity of Order Gateway data. On the \*\*\*\*. The backup is an automated process. Additionally, the backup from the \*\*\*\* is stored \*\*\*\*.

### **4.0 Disaster Recovery (DR)**

Supplier shall provide a disaster recovery solution for the all Services required under this Agreement or an applicable Order that enables rapid restoration of all functions of the system in event of a long-term service disruption to the

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Supplier MDF. This section provides an overview of the infrastructure required to support the disaster recovery solution as well as the service levels associated with the solution.

#### 4.1 DR Solution Overview

Supplier shall leverage a \*\*\*\* to provide a highly available system that will restore Supplier's ASP Solution to be available to provide full service within \*\*\*\* of a total service outage that is anticipated to preclude use of its primary MDF (currently \*\*\*\*) for an extended period and enacting the DR plan. Supplier will place the current UAT \*\*\*\* in the alternate facility as the core component of this solution. This environment will be augmented to provide sufficient server hardware and software to be a functional equivalent to the current production environment in terms of handling the forecasted Customer Order volume and user load. The \*\*\*\* environment will contain a full compliment of network infrastructure including firewalls, load balancers and high-speed switches to ensure all network connectivity is materially equivalent to that used to support forecasted production needs.

A \*\*\*\* will be implemented to ensure that a full copy of the production database is maintained in the \*\*\*\* at all times. In the event of a total ASP Solution service disruption in the primary facility, upon enacting the DR plan, the \*\*\*\* will be reconfigured to access the production database and provide the production instance of the ASP Solution.

#### 4.2 DR Service Levels

Supplier shall meet or exceed the following DR solution service levels:

- a) Service restoration time: \*\*\*\*from enacting DR plan;
- b) System performance level: equal to production in terms of user and order volume; and
- c) ASP Solution System SLA's while in DR environment: same as for production.

NOTE: This solution will rely on the existing dedicated, private circuit (e.g. friends net connection) between Supplier's \*\*\*\* office and AT&T's \*\*\*\*. Service levels are subject to reasonable support being provided by AT&T in such restoration (i.e.: connectivity to AT&T applications from alternate site).

- d) A DR plan test will be performed \*\*\*\* at a mutually agreed to time by both Parties.

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**Appendix B — Supplier’s Prices**

Supplier shall provide the Managed Services and other Services, including any applicable deliverables set forth in the scope of such Services, for the following fees:

**1.0 Technology Fee**

The following rates shall be effective on the Effective Date of this Agreement. On or about the \*\*\*\*, Supplier shall provide AT&T with its calculation of the number of Customer Orders processed through the Order Gateway during the \*\*\*\* period immediately preceding such \*\*\*\* (the “Rolling \*\*\*\* Actual Orders Volumes”). The Technology Fee \*\*\*\* in such \*\*\*\* shall be based on the Rolling \*\*\*\* Actual Orders Volumes in accordance with Table 1 below. For each such \*\*\*\*, the “Aggregate \*\*\*\* Technology Fee” shall be equal to the product of \*\*\*\*.

Supplier shall invoice each Channel in arrears for its allocation of the Aggregate \*\*\*\* Technology Fee in accordance with such Channel’s applicable Customer Order volume as follows: \*\*\*\*.

The Technology Fee covers all costs related to the software maintenance and support of Supplier’s ASP Solution.

**Table 1 Technology Fee**

Band	****		Technology Fee (****)
	Actual Customer Order Volume Minimum of Range	Actual Customer Order Volume Maximum of Range	
1	****	****	****
2	****	****	****
3	****	****	****
4	****	****	****
5	****	****	****
6	****	****	****
7	****	****	****
8	****	****	****
9	****	****	****
10	****	****	****
11	****	****	****
12	****	****	****
13	****	****	****
14	****	****	****
15	****	****	****
16	****	****	****
17	****	****	****
18	****	****	****
19	****	****	****
20	****	****	****
21	****	****	****
22	****	****	****
23	****	****	****
24	****	****	****
25	****	****	****

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Band	****		****		Technology Fee (****)
	Actual Customer Order Volume Minimum of Range	****	Actual Customer Order Volume Maximum of Range	****	
26	****	****	****	****	****
27	****	****	****	****	****
28	****	****	****	****	****
29	****	****	****	****	****
30	****	****	****	****	****
31	****	****	****	****	****
32	****	****	****	****	****
33	****	****	****	****	****
34	****	****	****	****	****
35	****	****	****	****	****
36	****	****	****	****	****
37	****	****	****	****	****
38	****	****	****	****	****
39	****	****	****	****	****
40	****	****	****	****	****
41	****	****	****	****	****
42	****	****	****	****	****
43	****	****	****	****	****
44	****	****	****	****	****
45	****	****	****	****	****
46	****	****	****	****	****
47	****	****	****	****	****
48	****	****	****	****	****
49	****	****	****	****	****
50	****	****	****	****	****

Notwithstanding the foregoing, a minimum fee of \*\*\*\* shall apply for the Aggregate \*\*\*\* Technology Fee during each \*\*\*\* of the Initial Term or any Renewal Term. The calculation of the Rolling \*\*\*\* Actual Customer Order Volume shall be based on all Channels supported on the given billing \*\*\*\*. By way of example, \*\*\*\*.

**2.0 Hosting Fee**

For each Channel supported on the Effective Date of this Agreement, AT&T shall pay Supplier an annual “Hosting Fee” \*\*\*\* of the Initial Term or any Renewal Term.

Supplier shall invoice each Hosting Fee monthly in arrears in \*\*\*\* by Channel in accordance with the applicable Order for such Channel.

Upon the Effective Date of this Agreement Supplier shall ensure that each Channel has the necessary hosting infrastructure and network capacity to support up to \*\*\*\* the Customer Order volume of the of the highest monthly volume of Customer Orders processed by such Channel during preceding the \*\*\*\* period (the “Capacity Expectation”).

In the event that AT&T requests that Supplier increase such Channel’s capacity by greater the Capacity Expectation, then the Parties will work together through the Change Control process documented in the applicable Order with respect to the increased equipment or infrastructure required for Supplier to acquire to increase such capacity and to mutually determine if any additional fees are applicable. Any such increase in Customer Orders estimates provided by AT&T will follow the existing Technology Fees set forth in Table 1 (no change to the fees in Table 1).

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**3.0 IT Professional Services Fees**

Supplier shall provide a minimum number of \*\*\*\* of IT professional services, as shown in the Table below, to be performed by Supplier at AT&T's sole discretion and direction, with such \*\*\*\* consumed (a) across all Channels and (b) in reasonably even distribution for each Channel during each \*\*\*\* period. Unused \*\*\*\* may not be carried forward or applied as a credit against other services or fees.

Table 3

Agreement Period	Minimum ****	Period Begin Date	Period End Date
1	****	****	****
2	****	****	****
3	****	****	****

In the event of any Renewal Terms the minimum number of hours of IT professional services shall be \*\*\*\*.

Supplier shall invoice its IT professional services fees \*\*\*\*in arrears, by Channel, based on actual project \*\*\*\*worked in accordance with the following blended \*\*\*\*:

\*\*\*\*

In addition, in the event that Supplier provides IT professional service \*\*\*\* in excess of the \*\*\*\* Threshold for the applicable Period identified in the table below (in aggregate, across all Channels in any such Period), Supplier shall provide a credit to AT&T equal to \*\*\*\* for such IT professional services paid in such Period.

Table 3.1

Agreement Period	**** Threshold in Period	Period Begin Date	Period End Date
1	****	****	****
2	****	****	****
3	****	****	****

In the event of any Renewal Term, the \*\*\*\* Threshold for each \*\*\*\* period shall be \*\*\*\*.

Supplier agrees that projects will be scoped and resources forecasted and allocated in a manner consistent with professional industry practices (including advance planning timelines and forecasts for \*\*\*\* anticipated), and that projects with equivalent scope will have comparable costs under the above pricing. Supplier shall provide detailed documentation of proposed and actual utilization of \*\*\*\* as agreed by the Parties and Supplier shall provide \*\*\*\* the aggregate \*\*\*\* used to date in the then-current annual period and AT&T's attainment of \*\*\*\* towards the credit based on the discount above. The Parties agree that, unless otherwise agreed upon by the Parties, (i) Supplier shall not unreasonably withhold \*\*\*\* that have been incorporated in a forecast causing AT&T not to reach a credit threshold that would otherwise have been met but for the withholding of \*\*\*\* and where Supplier should reasonably be able to have supplied such resources based on prior \*\*\*\* billed over the prior \*\*\*\* period, and (b) Supplier shall not be obligated to work \*\*\*\* in excess of the forecasted and planned resource allocation for IT Professional Services in a compressed timeline in order to meet a threshold or provide a resource allocation that is more that \*\*\*\* than the average of the prior \*\*\*\* actual run rate in IT Professional Service \*\*\*\* billed.

Notwithstanding the foregoing, AT&T requires further clarification with respect to Supplier's estimating process for IT professional services work and time reporting capability and the determination of IP ownership relative to the delivered Work. Within \*\*\*\* of the Effective Date of this Agreement, AT&T shall provide proposed language that outlines the current process used and the Parties shall mutually agree to any changes required to such process.

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Notwithstanding anything to the contrary, AT&T shall provide Supplier with the opportunity to provide at least \*\*\*\* release \*\*\*\* dedicated to performance refactoring and scalability enhancements. Such release(s) shall be at no additional cost to AT&T and shall not be part of the annual IT professional services commitment referenced above or constitute a remedy for Supplier’s failure to miss an SLA.

**4.0 Customer Care Support and Manual Transaction Processing Fees**

4.1 The following rates shall be effective on the Effective Date of this Agreement. AT&T shall pay Supplier for Customer Care Support and Manual Transaction Processing as follows:

The Parties shall mutually agree if Manual Transaction Processing or Customer Care Support for a given program (or element of a program) shall be invoiced either on (a) an “FTE Pricing” basis or (b) a fixed fee per Transaction, Inbound Call, Outbound Call or Chat, as applicable, “Transaction Price” (or “Transaction Pricing”) basis. Both the FTE Pricing and the Transaction Price shall be determined using the Baseline Rate \*\*\*\* in Tables 4 and 5 below and using the methodology set forth below in this Section 4.1 and Section 4.2 and 4.3, respectively and adjusted pursuant to the terms of Section 4.4 below as applicable. In the event that Transaction Pricing Basis is agreed upon, the Parties shall mutually agree on the makeup of each “Transaction Type” as well as the effective date for such billing (if not previously in place). There may be multiple Transaction Types in a given program and each Transaction Type may have a unique Transaction Price.

Table 4: Baseline Rate Per Hour Table As of the Effective Date

Channel	Inbound Calls, Outbound Calls & Chats (the” Baseline Rate *****)	Manual Transaction Processing (non-Calls or Chats) (the” Baseline Rate *****)
<b>Business Mobility</b>	****	****
<b>Consumer Mobility</b>	****	****
<b>Consumer Wired</b>	****	****
<b>Indirect</b>	****	****

For any program element where Agents supporting Inbound Calls or Outbound Calls or Chats are located entirely at OMC locations within the United States and Canada (“North America Program(s)”) as of the Effective Date of this Agreement, AT&T may elect to permit Supplier to provide such support from approved countries (as set forth in Appendix K). For such North America Program(s) and for any program element \*\*\*\* where Agents support Inbound Calls or Outbound Calls or Chats at OMC locations within the United States and Canada (together with any North America Program, an “Eligible Program”), the Parties shall agree in writing on a threshold for the amount of volume of Contacts to be supported by Agents outside of the United States and Canada. Such threshold shall be either (a) up to \*\*\*\* of volume of Contacts in \*\*\*\*, or (b) up to \*\*\*\* of volume of Contacts in \*\*\*\*. Table 6 sets forth the threshold amount of volume of Contacts to be supported by Agents outside of the United States and Canada for each Channel as of the Effective Date. Supplier shall be permitted to process a volume of such Contacts in approved countries up to the agreed upon threshold amount agreed upon by the Parties. Such processing shall be in accordance with the terms of any Order, including service level. Upon production processing of Contacts outside of the United States and Canada for such Eligible Program (i.e. upon completion of Agent training and nesting), the applicable Baseline Rate \*\*\*\* set forth in Table 4 above shall be reduced as follows based on the agreed upon threshold (such reduction shall apply for such Eligible Program only; provided, however, that for an Eligible Program that no reduction shall be provided for any Eligible Program that is listed on Table 6 unless the Parties agree that the threshold amount for such Eligible Program changes from the threshold amount as of the Effective Date to a higher threshold amount):

Table 5

Threshold ID	New Threshold	Reduction in Baseline Rate **** in Table 4 for Eligible Program
Tier 1	****	****
Tier 2	****	****

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\* Note: The maximum reduction allowed per Table 5 is \*\*\*\* from the Baseline Rates \*\*\*\* shown in Table 4 and, for any Channel that is already within a Tier of Table 5 above, shall as shown in Table 6 below, the Baseline Rate shall be deemed to already include any such reduction for such Tier.

For purposes of illustration on the reduction of baseline rates \*\*\*\*, here are examples:

\*\*\*\*

Table 6 below establishes by program element each Channel’s current mix of onshore/offshore resources:

Table 6

****	****	****	****
****	****	****	****
****	****	****	****
****	****	****	****

\*\* Baseline Rate in Table 4 above already reflects Tier 1 reduction in Table 5 above.

Charges to AT&T by Supplier for Agent training and the related costs of migration shall be mutually agreed upon by the Parties in writing prior to any such change.

Supplier shall invoice its fees \*\*\*\* in arrears, by Channel, (i) in accordance with the Transaction pricing (each a “Transaction Price”) as described in the applicable Order or (ii), in situations where a Transaction Price has not been established or for periods where FTE Pricing applies, at the \*\*\*\* rates shown above based on the FTE Staff Plan (as defined below) for such \*\*\*\*.

4.2 “Transaction Pricing” for Customer Care Support and Manual Transaction Processing for a Transaction Type for given Channel and program:

Upon agreeing on the Transaction Types applicable for a Transaction Price, the fixed Transaction Price for each such Transaction Type shall be determined by the following calculations and such Transaction Price shall be effective on the Effective Date for Transaction Type(s) currently in use or the first day of the month in which the Transaction Type(s) is established:

**For Inbound Calls, Outbound Calls & Chats:**

\*\*\*\*

**For Non call or Non-Chat Manual Transaction Processing:**

\*\*\*\*

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The "CPH" for a given Transaction Type shall mean the \*\*\*\*, as agreed upon by the Parties. For the avoidance of doubt, as used above, the term CPH shall apply for \*\*\*\*, as applicable for the Transaction Type).

Average Handle Time (AHT) for Inbound Calls and Outbound Calls and Chats supported under an Order, means the \*\*\*\*. Average Handle Time for manual processing of Transactions supported under an Order, means \*\*\*\*. AHT shall be determined by applicable ASP Solution reports and, to the extent such reports are not available, a Time Study for such task or task component for which reporting data is not available. AHTs shall be determined assuming volumes within forecasted levels and distribution patterns and for Agent performance in compliance of required quality and other SLAs.

The foregoing pricing terms shall be subject to any additional terms and conditions set forth in Sections 4.4 and 4.5 below and in an applicable Order (such as forecast requirements, minimums and additional pricing assumptions). Upon determining applicable Transaction Prices, Synchronoss shall provide a chart of such Transaction Prices for each Transaction Price to AT&T (the "Price Chart"). Such Price Chart shall apply to applicable Transactions until modified or replaced pursuant to the terms of this Agreement or the Order. Upon any such modification, a modified Price Chart shall be supplied.

- 4.3 "FTE Pricing" for Customer Care Support where a Transaction Price does not apply or is not available for a given program or program element (i.e. in a new program) shall be determined as follows: \*\*\*\*. For such program for such period, AT&T will be invoiced based on the \*\*\*\*. Each \*\*\*\*. Synchronoss shall notify AT&T prior to its consuming any \*\*\*\* to be invoiced as Overtime \*\*\*\*. The foregoing pricing terms shall be subject to any additional terms and conditions set forth in an applicable Order (such as forecast requirements, minimums and pricing assumptions).
- 4.4 During periods where Customer Care Support is subject to an Exclusion (as defined in the applicable Order), in the event that Supplier determines that the number of available Agents for support of Contacts or Manual Transaction Processing may be able to be augmented or maintained by retaining Agents outside of or following the conclusion of their scheduled shift where such retention would require Overtime \*\*\*\* for such Agents, Supplier shall notify AT&T of such potential availability. Upon the written approval of AT&T, Supplier may bill, in addition to any Transaction Price, an amount of \*\*\*\* of the Baseline Rate \*\*\*\* applicable to the program for each Overtime \*\*\*\* authorized by AT&T (or other amount as agreed upon by the Parties in writing).

For the avoidance of doubt, the premiums in excess of base Transaction Prices or the applicable Baseline Rate \*\*\*\*(for FTE Pricing) set forth above are not billable to AT&T in the event that such Overtime \*\*\*\* are (i) not

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approved by AT&T in writing, or (ii) consumed, at Supplier's election, to maintain required service levels during periods where such Overtime \*\*\*\* are the result of Agent staffing shortages due to sick call outs or Agent attrition (and not the result of an Exclusion).

#### 4.5 Pricing Assumptions

Except as otherwise set forth in an Order, the following terms (the "Price Assumptions") shall apply to programs or program elements with Transaction Pricing:

- i) Supplier and AT&T will meet once every \*\*\*\* (as requested by either Party) to review and adjust, in accordance with the terms set forth herein and the Order, the applicable Transaction Price where appropriate based on changes in CPH or as set forth in this Section 4.5 below.
- ii) In the event that the ASP Solution reporting data or Time Studies reveal a material change in Supplier's or Customer Care Support costs greater than \*\*\*\* for a given Transaction Type, both Parties agree to review in detail the core reasons for such change. Except to the extent where a change in processing costs is attributed to Supplier not meeting its performance obligations and not to a change in the process or applications supporting the process, then both Parties will negotiate in good faith a change in the pricing to reflect such change factoring such metrics as \*\*\*\*.
- iii) Supplier anticipates Customer Care Support for additional Transaction Types or Contact types may be added from time to time. The fees for these new Transactions or Contact types could be priced at a different rate. The fee for processing for such new Transactions Types or Contacts would be determined by the complexity and processing requirements associated with the Transaction and the Transaction Price for Manually Transactions Processing or Contacts will be determined (in accordance with the terms of Section 4.2) after a large enough sample size is processed by the ASP Solution and will be mutually agreed to in writing by both Parties. During this period which shall not exceed \*\*\*\*, the Parties shall mutually agree on a price until an amendment to the Order is completed with mutually agreed upon pricing and associated SLA and remedies reflecting such new Transaction Types or Contacts.
- iv) New Customer Care Support elements or changes as set forth in this Section 4.5 above would be handled through a written change request. New Contact support or Manual Transaction Processing will require an initial trial period that will produce a large enough sample size to provide Transaction Pricing (and the respective Transaction Price) for such Contacts or Manually Processing. Service levels and remedies will not apply during the initial trial period, which shall not exceed \*\*\*\* unless mutually agreed by the Parties.
- v) Any modifications requested by AT&T that impact the CPH, configuration or processing methodology by Supplier may require adjustments to the fees herein. Upon receipt and review of AT&T's modification request, Supplier shall inform AT&T of any proposed increase to the fees. AT&T will have the sole option of whether or not to move forward with its requested modification.
- vi) Supplier shall be entitled to an additional period, not to exceed \*\*\*\*, upon a large ramp of Agents for a program or the addition, enhancement, upgrade or re-release of a material change to process or procedure requested by a AT&T, where the Parties agree (such agreement not to be unreasonably withheld) that such change can reasonably be expected to materially affect Supplier's ability to meet one or more Service Levels (each, an "SL Relief Period"). Such SL Relief Period shall apply only with respect to the Service Level(s) that the Parties agree are adversely affected by such addition, ramp, enhancement, upgrade, modification or re-release. During a SL Relief Periods, Remedies shall not be imposed with regard to the affected Service Level(s) for the impacted Services, however, that Supplier shall use commercially reasonable efforts to meet the Services Levels.
- vii) In the event that daily Contact or Transaction volumes for a program element are not sufficient to support a staff of \*\*\*\* (as demonstrated by typical statistical evaluations used in the industry that take into consideration program SLAs), Supplier may require a reasonable minimum number of

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Transactions and/or Contacts for such programs for such periods or elect to bill for such portion using FTE Pricing (as set forth in Section 4.2) above) applicable to the program. In addition, the Parties shall agree on changes to the Transaction Price (and \*\*\*\* fees if applicable) for additions to the normal days or hours of operation for a given program prior to implementing such change.

- viii) In the event that Manual Transaction Processing or Contact processing times are materially increased (or CPH materially decreased) as a result of an error, delay or increased as a result of an error or failure of an AT&T (or its agents) provided application or system or other Exclusion, Supplier, shall notify AT&T of such condition and the Parties shall discuss options to address such condition. Unless otherwise agreed by the Parties, Vendor, if such condition is not resolved in a reasonable period of time, Vendor, may, upon notification to AT&T, require for such impacted periods to bill using for Agents working such program during such period to be billed at the Baseline \*\*\*\* Rate \*\*\*\* applicable to the program in lieu of the applicable Transaction Price for Transactions or Contacts supported during such interval.
- ix) Pricing includes, for Inbound Calls, call recording with retention of such recordings for \*\*\*\*. AT&T shall have access to such recordings, in accordance with processes mutually agreed upon by the Parties, for purposes off monitoring and evaluation of Customer Care Support quality.

**5.0 \*\*\*\***

5.1 \*\*\*\*

5.2 \*\*\*\*

**6.0 Additional Channels**

AT&T may add additional Channels (which may be outside of AT&T eCommerce) to this Agreement at the same terms and conditions. In the event a new Channel requires material changes to the \*\*\*\*, Supplier shall inform AT&T of the cost variance and the Parties shall work together to

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determine whether or not to increase or decrease the Hosting Fee set forth in Section 2.0 for such new Channel or all Channels, as applicable.

For example if the \*\*\*\* systems architecture consists of \*\*\*\*, which are of substantially similar cost to support and maintain to the existing systems architecture with no incremental costs for \*\*\*\*, the Hosting Fee for such new Channel would not exceed the then current \*\*\*\* Channel Hosting Fee.

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Appendix G — Prime Supplier MBE/WBE/DVBE Participation Plan

PRIME SUPPLIER MBE/WBE/DVBE PARTICIPATION PLAN

YEAR REPORTING:

PRIME SUPPLIER NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

COMPANY E-MAIL: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

DESCRIBE GOODS OR SERVICES BEING PROVIDED UNDER THIS AGREEMENT:

(what product or service is the Prime Supplier providing to AT&T)

DESCRIBE YOUR M/WBE-DVBE OR SUPPLIER DIVERSITY PROGRAM AND THE PERSONNEL DEDICATED TO THAT PROGRAM

(Prime Supplier should note their outreach activities to diverse suppliers, membership in National Diversity Organizations, commitment from company leadership on engaging diversity suppliers, etc.)

THE FOLLOWING, TOGETHER WITH ANY ATTACHMENTS IS SUBMITTED AS AN MBE/WBE/DVBE PARTICIPATION PLAN.

1. GOALS

A. WHAT ARE YOUR MBE/WBE/DVBE PARTICIPATION GOALS?

MINORITY BUSINESS ENTERPRISES (MBEs)

WOMAN BUSINESS ENTERPRISES (WBEs)

DISABLED VETERAN BUSINESS ENTERPRISES (DVBEs)

B. WHAT IS THE ESTIMATED ANNUAL VALUE OF THIS CONTRACT: \$

C. WHAT ARE THE DOLLAR AMOUNTS OF YOUR PROJECTED MBE/WBE/DVBE PURCHASES:

*Multiply % in A. above against contract value listed in B. above*

MINORITY BUSINESS ENTERPRISES (MBEs) \$

WOMAN BUSINESS ENTERPRISES (WBEs) \$

DISABLED VETERAN BUSINESS ENTERPRISES (DVBEs) \$

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- 2. LIST THE PRINCIPAL GOODS AND SERVICES TO BE SUBCONTRACTED TO MBE/WBE/DVBEs OR DELIVERED THROUGH MBE/WBE/DVBE VALUE ADDED RESELLERS

(what part of the Prime Suppliers supply chain provides opportunities for diversity subcontracting)

**DETAILED PLAN FOR USE OF M/WBEs-DVBEs AS SUBCONTRACTORS, DISTRIBUTORS, VALUE ADDED RESELLERS**

For every product and service you intend to use, provide the following information. (attach additional sheets if necessary)

Company Name	Classification (MBE/WBE/DVBE)	Products/Services to be provided	\$ Value	Date to Begin
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- 3. SELLER AGREES THAT IT WILL MAINTAIN ALL NECESSARY DOCUMENTS AND RECORDS TO SUPPORT ITS EFFORTS TO ACHIEVE ITS MBE/WBE/DVBE PARTICIPATION GOAL(S). SELLER ALSO ACKNOWLEDGES THE FACT THAT IT IS RESPONSIBLE FOR IDENTIFYING, SOLICITING AND QUALIFYING MBE/WBE/DVBE SUBCONTRACTORS, DISTRIBUTORS AND VALUE ADDED RESELLERS.

- 4. THE FOLLOWING INDIVIDUAL, ACTING IN THE CAPACITY OF MBE/WBE/DVBE COORDINATOR FOR SELLER, WILL:

ADMINISTER THE MBE/WBE/DVBE PARTICIPATION PLAN, SUBMIT SUMMARY REPORTS, AND COOPERATE IN ANY STUDIES OR SURVEYS AS MAY BE REQUIRED IN ORDER TO DETERMINE THE EXTENT OF COMPLIANCE BY THE SELLER WITH THE PARTICIPATION PLAN.

**Within sixty (60) days from the Effective Date of this Agreement, Supplier shall email a copy of the initial annual plan to attsd@att.com. Thereafter, Supplier shall furnish its monthly results to AT&T in accordance with instructions to be provided to Supplier following AT&T's receipt of Supplier's initial annual plan.**

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_



Certification Agencies 2011.pd...

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**Appendix K — Approved Offshore Locations**

Country(ies) where services are authorized by AT&T to be performed (Offshore Locations)	Services to be performed from this approved country	Name of Supplier, Affiliate, and/or Subcontractor performing the Services
****	****	****
****	****	****
****	****	****

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**Appendix O — Supplier Information Security Requirements (SISR)**

(AT&amp;T Supplier Information Security Requirements (SISR) — v5.1, September, 2012)

The following AT&T Supplier Information Security Requirements (“Security Requirements”) apply to Supplier, its affiliates, its subcontractors, and each of their employees and/or temporary workers, contractors, vendors and/or agents who perform any Services for, on behalf of, and/or through AT&T and/or other obligations (for the purpose of this Appendix, each or all “Supplier”) **that include any of the following:**

\*\*\*\*

Supplier represents and warrants that during the term of the Agreement and thereafter (as applicable with respect to Supplier’s obligations under the Survival of Obligations clause) Supplier is, and shall continue to be, in compliance with its obligations as set forth herein. In addition to all other remedies specified in the Agreement, Supplier agrees that AT&T shall be entitled to seek an injunction, specific performance or other equitable relief and be reimbursed the costs (including reasonable attorney’s fees) by Supplier to enforce the obligations in these Security Requirements, including those that survive termination or expiration of the Agreement in accordance with the indemnification procedures and other limitations set forth in the Master Agreement. The provisions of this Appendix shall not be deemed to, and shall not, limit any more stringent security or other obligations of the Agreement. For the avoidance of doubt, these requirements apply to Supplier’s performance of Services from all locations, including primary, non-primary, remote, virtual, and/or telecommuting or telework locations, if any, used in connection with the Agreement. Section and paragraph headings contained in parentheses that follow the requirements below are for reference purposes only and are not to affect the meaning or interpretation of these Security Requirements.

AT&T reserves the right to update or modify its Security Requirements from time to time. Upon notification by AT&T of its need to modify the Security Requirements, Supplier agrees to promptly negotiate in good faith and expedite execution of an amendment to the Agreement to incorporate any such modification. Supplier acknowledges that AT&T may require modifications to Security Requirements:

1. Upon extension or renewal of the Agreement;
2. Upon any change in work scope or other substantive modification of the Agreement; or
3. At such time that AT&T deems necessary.

**Definitions:**

Unless otherwise set forth or expanded herein, defined terms shall have the same meaning as set forth in the main body of the Agreement.

“Customer Facing System(s)” means an Information Resource(s) accessible from public networks, intended for use by AT&T and/or its customers, which resides in a \*\*\*\*, as defined below, and where that \*\*\*\*:

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\*\*\*\*

Note: A Customer Facing System which also is used by AT&T employees, contractors, vendors or suppliers to perform work on behalf of AT&T is not considered a Customer Facing System when performing such work.

\*\*\*\*

The following must only be located within the trusted internal network:

\*\*\*\*

The following must not be located within the \*\*\*\*:

\*\*\*\*

“Incident Management Process” is a Supplier-developed documented procedure to be followed in the event of an actual or suspected attack upon, intrusion upon, unauthorized access to, loss of, or other breach involving AT&T’s Information Resources.

“Information Resource(s)” means systems, applications, networks, network elements, and other computing and information storage devices, including smart phones, tablets, and USB memory sticks, and AT&T’s Information stored, transmitted, or processed with these resources in conjunction with supporting AT&T and/or used by Supplier in fulfillment of its obligations under the Agreement.

“Mobile and Portable Devices” means mobile and/or portable computers, devices, media and systems capable of being easily carried, moved, transported or conveyed that are used in connection with the Agreement. Examples of such devices include laptop computers, tablets, USB hard drives, USB memory sticks, Personal Digital Assistants (PDAs), and wireless phones, such as smartphones.

“Nonpublic Information Resources” means those Information Resources used under the Agreement to which access is restricted and cannot be gained without proper authorization and identification.

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“Sensitive Personal Information” or “SPI” means any information that: (a) requires a high degree of protection by law and where loss or unauthorized disclosure would require notification by AT&T to government agencies, individuals or law enforcement, and (b) any information that, if made public, could expose individuals to a risk of physical harm, fraud, or identity theft. Examples of SPI include, but are not limited to, social security numbers, national government issued identification numbers, such as passport and visa numbers, state- or province-issued identification numbers, drivers license numbers, dates of birth, bank account numbers, credit card numbers, customer authentication credentials, and Protected Health Information (PHI) as defined by the Health Insurance Portability and Accountability Act (HIPAA). Note: \*\*\*\*.

“Security Gateway” means a set of control mechanisms between two or more networks having different trust levels which filter and log traffic passing, or attempting to pass, between networks, and the associated administrative and management servers. Examples of Security Gateways include \*\*\*\*.

“Strong Authentication” means the use of authentication mechanisms and authentication methodologies stronger than the passwords required by Security Requirement 34 herein. Examples of Strong Authentication mechanisms and methodologies include digital certificates, two-factor authentication, and one-time passwords.

“Strong Encryption” means the use of encryption technologies with minimum key lengths of \*\*\*\* whose strength provides reasonable assurance that it will protect the encrypted information from unauthorized access and is adequate to protect the confidentiality and privacy of the encrypted information, and which incorporates a documented policy for the management of the encryption keys and associated processes adequate to protect the confidentiality and privacy of the keys and passwords used as inputs to the encryption algorithm.

**In accordance with the foregoing, Supplier shall:**

#### System Security

1. Actively monitor industry resources (e.g., www.cert.org and pertinent software vendor mailing lists and websites) for timely notification of all applicable security alerts pertaining to Supplier’s Information Resources. (Security Alerts)
2. At least \*\*\*\*, and in addition immediately following all significant changes and upgrades, scan externally-facing Information Resources *related to the ASP Solution*, including, but not limited to, networks, servers, and applications, with applicable industry-standard security vulnerability scanning software to uncover security vulnerabilities. (Externally-facing System Scanning)
3. At least quarterly, and in addition immediately following all significant changes and upgrades, scan internal Information Resources, including, but not limited to, networks, servers, applications and databases, with applicable industry-standard security vulnerability scanning software to uncover security vulnerabilities, ensure that such Information Resources *related to the ASP Solution* are properly hardened as documented in Security Requirement 9 below, and identify any unauthorized wireless networks. (Internal System Scanning)
4. RESERVED
5. In environments where such technology is commercially available and to the extent practicable, deploy one or more Intrusion Detection Systems (IDS), Intrusion Prevention Systems (IPS), or Intrusion Detection and Prevention Systems (IDP) in an active mode of operation that monitors all traffic entering and leaving Information Resources in conjunction with the Agreement. (Intrusion Detection/Prevention Systems)
6. Have and use a documented process to remediate security vulnerabilities in the Information Resources, including, but not limited to, those \*\*\*\*, and apply appropriate security patches promptly with respect to the probability that such vulnerability can be or is in the process of being exploited. (Remediating/Patching Service Vulnerabilities)

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7. Assign security administration responsibilities for configuring host operating systems to specific individuals. (Security Administration Responsibilities)
8. Ensure that its information security staff has reasonable and necessary experience in information and network security. (Necessary Staff Experience)
9. Ensure that all of Supplier's Information Resources are and remain 'hardened' including, but not limited to, \*\*\*\*. (Hardened Systems)
10. Change all default account names and/or default passwords. (Changing Default Account Names and Passwords)
11. Limit system administrator (also known as root, privileged, or super user) access to operating systems intended for use by multiple users only to individuals requiring such high-level access in the performance of their jobs. (Limit Super User Privileges)
12. Require application, database, network and system administrators to restrict access by users to only the \*\*\*\* necessary for them to perform authorized functions. (Administrators to Restrict User Access)

**Physical Security**

13. Ensure that all of Supplier's Information Resources intended for use by multiple users are located in secure physical facilities with access limited and restricted to authorized individuals only. (Information Resources in Secure Facilities)
14. Monitor and record, for audit purposes, access to the physical facilities containing Information Resources intended for use by multiple users used in connection with Supplier's performance of its obligations under the Agreement. (Monitoring and Recording Access)

**Network Security**

15. When providing Internet-based services to AT&T, protect AT&T's Information by the implementation of a network DMZ. Web servers providing service to AT&T shall reside in the \*\*\*\*. Information Resources storing AT&T's Information (such as application and database servers) shall reside in a trusted internal network. (Internet Services Must Use \*\*\*\*)
16. Upon AT&T's request, provide to AT&T a logical network diagram documenting the Information Resources (including, but not limited to, \*\*\*\*) that will support AT&T. (Provision of Logical Network Diagram)
17. Have a documented process and controls in place to detect and handle unauthorized attempts to access AT&T's Information. (Detection and Handling of Unauthorized Access)
18. a. Use Strong Encryption for the transfer of AT&T's Information outside of AT&T- or Supplier-controlled facilities or when transmitting AT&T's Information over any untrusted network.
- b. By no later than \*\*\*\*, always use Strong Encryption to protect AT&T's customer proprietary network information ("CPNI"), as that term is defined in the Telecommunications Act of 1996, 47 U.S.C. §222 (h)(1), and

AT&T's SPI when transmitted. Exception: Where elsewhere authorized in writing by AT&T, AT&T's CPNI transmitted for distribution to AT&T's customers may be exempted from this requirement.

(Note: This also applies to AT&T's Information contained in email, or the attachments embedded within the email, as the case may be. For greater clarity, if, for example, the text in an email does not contain AT&T's Information, but the embedded attachments within that email do contain AT&T's Information, then the embedded attachments, but not the email, need to be encrypted.) (Encryption of Information in Transit)

19. Require Strong Authentication for any remote access use of Nonpublic Information Resources. (Remote Access Authentication)

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**Information Security**

20. Isolate AT&T's applications and AT&T's Information from any other customer's or Supplier's own applications and information either by using \*\*\*\* or alternatively by using \*\*\*\*. (Separate AT&T's Information from non-AT&T information)
21. Have documented procedures for the secure backup and recovery of AT&T's Information which shall include, at a minimum, procedures for the \*\*\*\* and, upon AT&T's request, provide such documented procedures to AT&T. (Secure Backup, Transport, Storage and Disposal of AT&T's Information)
22. Maintain and, upon AT&T's request, furnish to AT&T a documented business continuity plan that ensures that Supplier can meet its contractual obligations under the Agreement, including the requirements of any applicable Statement of Work or Service Level Agreement. Such plan shall include the requirement that the included procedures be regularly tested at least \*\*\*\*. Supplier shall promptly review its business continuity plan to address additional threat scenarios. (Business Continuity Plan)
23. Use Strong Encryption to protect AT&T's CPNI and AT&T's SPI when stored. (Encryption at Rest/Storage)
24. Limit access to AT&T's Information, including, but not limited to, paper hard copies, only to authorized persons or systems. (Limit Access to AT&T's Information Regardless of Form)
25. Be compliant with any applicable government- and industry-mandated information security standards. (Examples of such standards include, but are not limited to, the Payment Card Industry-Data Security Standards (PCI-DSS), National Automated Clearing House Associates (NACHA) Rules, and Electronic Data Interchange (EDI) standards, and the information security requirements documented within laws, such as HIPAA.) (Compliance with Industry and Government Requirements)
26. At no additional charge to AT&T:
  - a. Upon AT&T's request, provide copies of any of AT&T's Information to AT&T within \*\*\*\* of such request.
  - b. Return, or, at AT&T's option, destroy all of AT&T's Information, including electronic and hard copies, within \*\*\*\* after the sooner of:
    - i. expiration or Termination of the Agreement;
    - ii. AT&T's request for the return of AT&T's Information; or
    - iii. the date when Supplier no longer needs AT&T's Information to perform Services under the Agreement.
  - c. In the event that AT&T approves destruction as an alternative to returning AT&T's Information, then certify in writing the destruction (e.g., \*\*\*\*) as rendering AT&T's Information non-retrievable.
  - d. In the event that Supplier needs to retain copies of AT&T's Information more than \*\*\*\* past either the expiration or Termination of the Agreement, or AT&T's request for the return or destruction of AT&T's Information, Supplier shall be allowed to retain such copies when elsewhere agreed to in writing with AT&T. Exception: Copies of AT&T's Information retained as part of a backup-and-recovery, business continuity or disaster recovery process may be retained for more than \*\*\*\* past the expiration or Termination of the Agreement without obtaining agreement in writing from AT&T allowing such retention provided that all such copies are destroyed within no more than \*\*\*\* of the date of creation. (Return of AT&T's Information)
27. Unless otherwise instructed by AT&T in writing, when collecting, generating or creating Information for, through or on behalf of AT&T or under the AT&T brand, ensure that such Information shall be AT&T's Information and, whenever practicable, label such Information of AT&T as "AT&T Proprietary Information" or at a minimum, label AT&T's Information as "Confidential" or "Proprietary". Supplier acknowledges that AT&T's Information shall remain AT&T-owned Information irrespective of labeling or the absence thereof. (Confidential or Proprietary Markings)

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**Identification and Authentication**

28. Assign unique UserIDs to individual users. (Unique UserIDs)
29. Have and use a documented UserID lifecycle management process including, but not limited to, procedures for \*\*\*\* for all Information Resources and across all environments (e.g., production, test, development, etc.). Such process shall include review of access privileges and account validity to be performed at least \*\*\*\*. (UserID Life Cycle Management)
30. Enforce the rule of least privilege (i.e., \*\*\*\*). (Rule of Least Privilege)
31. Limit failed login attempts to no more than \*\*\*\* attempts and lock the user account upon reaching that limit. Access to the user account can be reactivated subsequently through a manual process requiring \*\*\*\* or, where such capability exists, can be automatically reactivated after at least \*\*\*\*. Exception: Where elsewhere authorized in writing by AT&T, AT&T customer usage of Customer Facing Systems may be exempted from this requirement. (Limit Failed Logins)
32. Terminate interactive sessions, or activate a secure, locking screensaver requiring authentication, after a period of inactivity not to exceed \*\*\*\*. Exception: Where elsewhere authorized in writing by AT&T, AT&T customer usage of Customer Facing Systems may be exempted from this requirement. (Terminate Inactive Interactive Sessions)
33. Require password expiration at regular intervals not to exceed \*\*\*\*. Exception: Where elsewhere authorized in writing by AT&T, AT&T customer usage of Customer Facing Systems may be exempted from this requirement. (Expire Passwords)
34. a. Use an authentication method based on the sensitivity of AT&T's Information. Whenever authentication credentials are stored, Supplier shall protect them using Strong Encryption.
- b. When passwords are used, they shall be complex and shall at least meet the following password construction requirements:
- \*\*\*\*
- Exception: Where elsewhere authorized in writing by AT&T, AT&T customer usage of Customer Facing Systems may be exempted from the password construction requirements.
- c. Applications housing more sensitive copies of AT&T's Information, as identified in writing by AT&T, may require an authentication mechanism stronger than passwords. In such case the authentication mechanism shall be mutually agreed to in advance in writing. Examples of stronger authentication methods include \*\*\*\*. (Passwords and Construction Rules)
35. Use a secure method for the conveyance of authentication credentials (e.g., passwords) and authentication mechanisms (e.g., tokens or smart cards). (Use Secure Method to Convey UserIDs and Passwords)

**Warning Banner**

36. For AT&T branded products or services or for software developed for AT&T, display a warning banner on login screens or pages as specified in writing by AT&T. (Display Warning Banners)

**Software and Data Integrity**

37. In environments *related to the ASP Solution* where antivirus software is commercially available and to the extent practicable, have current antivirus software installed and running to scan for and promptly remove or quarantine

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viruses and other malware. (Note: For the avoidance of doubt, this requirement also applies to Mobile and Portable Devices where antivirus software is commercially available.) (Scan and Remove Viruses)

38. Separate non-production Information Resources from production Information Resources. (Separate Production and Non-Production Information Resources)
39. Have a documented change control process including back-out procedures for all production environments. (Software Change Control Process)
40. For applications which utilize a database that allows modifications to AT&T's Information, have logging features enabled and retain logs pertaining to access, change and modification by users logs for a minimum of \*\*\*\*. (Utilize Database Transaction Logging)
41. a. For all software developed under the Agreement, review such software to find and remediate security vulnerabilities during initial implementation and upon any modifications and updates.
  - b. Where technically feasible, for all software used, furnished and/or supported under the Agreement, review such software to find and remediate security vulnerabilities during initial implementation and upon any modifications and updates. (Review Code for Vulnerabilities)
42. Perform quality assurance testing for the security components (e.g., \*\*\*\*), as well as any other activity designed to validate the security architecture, during initial implementation and upon any modifications and updates. (Quality Assurance Test Security Components)

#### Privacy Issues

43. Restrict access to any of AT&T's CPNI and AT&T's SPI to authorized individuals. (Restrict Access to AT&T CPNI and SPI)
44. Not store AT&T's CPNI and AT&T's SPI on removable media (e.g., USB flash drives, thumb drives, memory sticks, tapes, CDs, or external hard drives) except: (a) for backup, business continuity, disaster recovery, and data interchange purposes as allowed and required under contract, and (b) using Strong Encryption. Exception: Where elsewhere authorized in writing by AT&T, AT&T's CPNI stored for distribution to AT&T's customers may be exempted from this requirement. (Control AT&T CPNI and SPI on Removable Media)

#### Monitoring and Auditing Controls

45. Restrict access to security logs to authorized individuals, and protect security logs from unauthorized modification. (Restrict Access to Security Logs)
46. Review, on no less than a \*\*\*\* basis, all security and security-related audit logs for anomalies and document and resolve all logged security problems in a timely manner. (Review Security Logs and Resolve Security Problems)
47. Retain complete and accurate records relating to its performance of its obligations arising out of these Security Requirements and Supplier's compliance herewith in a format that will permit assessment or audit for a period of no less than \*\*\*\*, or longer as may be required pursuant to a court order or civil or regulatory proceeding. Notwithstanding the foregoing, Supplier shall only be required to maintain security logs for a minimum of \*\*\*\*. (Retain Records)
48. Permit AT&T to conduct an assessment or audit to verify Supplier's compliance with its contractual obligations in connection with these AT&T Supplier Information Security Requirements. Upon AT&T's request for audit, Supplier shall schedule a security audit to commence within \*\*\*\* from such request. In the event that AT&T, in its sole discretion, deems that a security breach has occurred, which has not been promptly reported to AT&T in compliance with the Supplier's Incident Management Process, Supplier shall schedule the audit to commence within \*\*\*\* of AT&T's notice requiring an audit. This provision shall not be deemed to, and shall not, limit any more stringent audit obligations permitting the examination of Supplier's records contained in the Agreement. (Audit Rights)
49. Within \*\*\*\* of receipt of the assessment or audit report, provide AT&T a written report outlining the corrective actions that Supplier has implemented or proposes to implement with the schedule and current status of

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each corrective action. Supplier shall update this report to AT&T every \*\*\*\*reporting the status of all corrective actions through the date of implementation. Supplier shall implement all corrective actions within \*\*\*\* of Supplier's receipt of the assessment or audit report. (Remediate Audit Findings)

#### **Reporting Violations**

50. Have and use an Incident Management Process and promptly notify AT&T whenever there is an attack upon, intrusion upon, unauthorized access to, loss of, or other breach of AT&T's Information Resources at:
- a. Asset Protection by telephone at 800-807-4205 from within the US and at 1-908-658-0380 from elsewhere, and
  - b. Supplier's contact within AT&T for Service-related issues.

(Maintain and Use Incident Response Procedures)

51. After notifying AT&T whenever there is an attack upon, intrusion upon, unauthorized access to, loss of, or other breach of AT&T's Information Resources, provide AT&T with regular status updates, including, but not limited to, actions taken to resolve such incident, at mutually agreed intervals or times for the duration of the incident and, within five (5) days of the closure of the incident, provide AT&T with a written report describing the incident, actions taken by the Supplier during its response and Supplier's plans for future actions to prevent a similar incident from occurring. (Provide AT&T Incident Response Status and Final Resolution)

#### **Software Development**

52. RESERVED

#### **Security Policies and Procedures**

53. Ensure that all personnel, subcontractors or representatives performing work under this Agreement are in compliance with these Security Requirements. (All Work to Be In Compliance with SISR)

54. RESERVED

55. Return all AT&T-owned or -provided access devices (including, but not limited to, \*\*\*\*) as soon as practicable, but in no event more than \*\*\*\* after the sooner of: (a) expiration or Termination of the Agreement; (b) AT&T's request for the return of such property; or (c) the date when Supplier no longer needs such devices. (Return all AT&T Owned or Provided Access Devices)

#### **Mobile and Portable Devices**

- 56 Use Strong Encryption to protect all of AT&T's Information stored on Mobile and Portable Devices.
- 57 Use Strong Encryption to protect all of AT&T's Information transmitted using or remotely accessed by network-aware Mobile and Portable Devices.
- 58
- a. When using network aware Mobile and Portable Devices that are not laptop computers to access and/or store AT&T's Information, such devices must be capable of deleting all stored copies of AT&T's Information upon receipt over the network of a properly authenticated command. (Note: Such capability is often referred to as a "remote wipe" capability.)
  - b. Have documented policies, procedures and standards in place to ensure that the authorized individual who should be in physical control of a network-aware Mobile and Portable Device that is not a laptop computer and that is storing AT&T's Information promptly initiates deletion of all AT&T's Information when the device becomes lost or stolen.
  - c. Have documented policies, procedures and standards in place to ensure that Mobile and Portable Devices that are not laptop computers and are not network aware, will automatically delete all stored copies of AT&T's Information after no more than three times the number of consecutive failed login attempts documented within Security Requirement 31.

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59. Have documented policies, procedures and standards in place which ensure that any Mobile and Portable Devices used to access and/or store AT&T's Information:
- Are in the physical possession of authorized individuals;
  - Are physically secured when not in the physical possession of authorized individuals; or
  - Have their data storage promptly and securely deleted when not in the physical possession of authorized individuals nor physically secured.
60. Prior to allowing access to AT&T's Information stored on or through the use of Mobile and Portable Devices, Supplier shall have and use a process to ensure that:
- The user is authorized for such access; and
  - The identity of the user has been authenticated.
61. Implement a policy that prohibits the use of any Mobile and Portable Devices that are not administered and/or managed by Supplier or AT&T to access and/or store AT&T's Information.
62. Review, at least annually, the use of, and controls for, all Supplier-administered or -managed Mobile and Portable Devices to ensure that the Mobile and Portable Devices can meet the applicable Security Requirements.

#### **Security Gateways**

63. Require Strong Authentication for administrative and/or management access to Security Gateways, including, but not limited to, any access for the purpose of reviewing log files.
64. Have and use documented controls, policies, processes and procedures to ensure that unauthorized users do not have administrative and/or management access to Security Gateways, and that user authorization levels to administer and manage Security Gateways are appropriate.
65. At least once every \*\*\*\*, ensure that Security Gateway configurations are hardened by selecting a sample of Security Gateways and verifying that each default rule set and set of configuration parameters ensures the following:
- \*\*\*\*
66. Ensure that monitoring tools are used to validate that all aspects of Security Gateways (e.g., hardware, firmware, and software) are continuously operational.
67. Ensure that all Security Gateways are configured and implemented such that all non-operational Security Gateways shall deny all access.

#### **Wireless Networking**

68. When using \*\*\*\* based wireless networking technologies to perform or support Services for AT&T, ensure that all of AT&T's Information transmitted is protected by the use of appropriate encryption technologies sufficient to protect the confidentiality of AT&T's Information; provided, however, that in any event such encryption shall use no less than key lengths of \*\*\*\*. Exception: The use of \*\*\*\* wireless headsets, keyboards, microphones, and pointing devices, such as mice, touch pads, and digital drawing tablets, is excluded from this requirement.

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**Connectivity Requirements**

69. In the event that a data connection agreement, such as a "Master Data Connection Agreement," "Data Connection Agreement," and/or "Connection Supplement" ("DCA") exists between the Parties, and incorporates the Agreement by reference, or is otherwise integrated with, or used to govern the Parties' connectivity obligations under, this Agreement, agree that any information security requirements incorporated within such DCA are hereby superseded by the terms of these Security Requirements, effective as of the date these Security Requirements become effective under the Agreement, and the terms of such DCA are amended to require that the Security Requirements and not the information security requirements incorporated within the DCA are controlling in the Agreement (as well as any agreements subordinate to the Agreement). Notwithstanding the foregoing, the DCA remains in full force and effect for all other agreements between the Parties to which it applies.
70. In the event that Supplier has, or will be provided, connectivity to AT&T's or AT&T's customers' Nonpublic Information Resources in conjunction with this Agreement, then in addition to the foregoing:
- a. Use only the mutually agreed upon facilities and connection methodologies to interconnect AT&T's and AT&T's customers' Nonpublic Information Resources with Supplier's Information Resources.
  - b. NOT establish interconnection to AT&T's and AT&T's customers' Nonpublic Information Resources without the prior consent of AT&T.
  - c. Provide AT&T access to any applicable Supplier facilities during normal business hours for the maintenance and support of any equipment (e.g., router) provided by AT&T under the Agreement for connectivity to AT&T's and AT&T's customers' Nonpublic Information Resources.
  - d. Use any equipment provided by AT&T under this Agreement for connectivity to AT&T's and AT&T's customers' Nonpublic Information Resources only for the furnishing of those Services or functions explicitly authorized in the Agreement.
  - e. If the agreed upon connectivity methodology requires that Supplier implement a Security Gateway, maintain logs of all sessions using such Security Gateway. These session logs must include sufficiently detailed information to identify the end user or application, origination IP address, destination IP address, ports/service protocols used and duration of access. These session logs must be retained for a minimum of \*\*\*\*.
71. In the event that Supplier has, or will be provided, connectivity to AT&T's or AT&T's customers' Nonpublic Information Resources in conjunction with this Agreement, in addition to other rights set forth herein, permit AT&T to:
- a. Gather information relating to access, including Supplier's access, to AT&T's and AT&T's customers' Nonpublic Information Resources. This information may be collected, retained and analyzed by AT&T to identify potential security risks without further notice. This information may include trace files, statistics, network addresses, and the actual data or screens accessed or transferred.
  - b. Immediately suspend or terminate any interconnection to AT&T's and AT&T's customers' Nonpublic Information Resources if AT&T, in its sole discretion, believes there has been a breach of security or unauthorized access to or misuse of AT&T data facilities or AT&T Information Resources.

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**Appendix Z - AT&T's Vendor Expense Policy (Updated 1/11/2013)****1.0 General**

The AT&T Vendor Expense Policy (VEP) provides guidelines to be followed by all vendors of AT&T in requesting reimbursement for business travel, meals and other business related expense. Expenses outside this policy are not reimbursable.

The following principles apply to requests for expense reimbursement:

When spending money that is to be reimbursed, vendors must ensure that an AT&T Company ("Company") receives proper value in return.

Personal expenditures reported for reimbursement should be billed exactly as they were incurred. The use of averages for any type expenditure or combination of expenditures is not permitted except as specifically provided or documented in a contract.

Every vendor and AT&T employee who certifies or approves the correctness of any voucher or bill should have reasonable knowledge the expense and amounts are proper and reasonable. In the absence of the adoption of such policy, or existing contractual agreements, these guidelines are considered the minimum requirements for requesting reimbursement of Company funds.

Deviations from this VEP *must be approved in writing* by the sponsoring Senior Manager or Officer of an AT&T Company.

Receipts will be requested and reviewed for any unusual or out of the ordinary expenses or where the approver cannot make a reasonable determination of the propriety of the invoice without a receipt.

**1.1 Non-Reimbursable Expenses**

The following is a list, although not all inclusive, of expenses considered not reimbursable:

- Airline club membership fees, dues, or upgrade coupon
- Barber/Hairstylist/Beautician Expenses
- Birthday cakes, lunches, balloons, and other personal celebration/recognition costs
- Break-room supplies for the vendor, such as coffee, creamer, paper products, soft drinks, snack food
- Car rental additional fees as an example: Global Positioning System (GPS) devices, or fee charged for airline frequent flyer miles.
- Car Washes
- Clothing, personal care items, and toiletries
- Credit card fees
- Dependent care
- Entertainment expenses
- Expenses associated with spouses or other travel companions
- Expenses to cover meals or expenses for an AT&T employee, whether in a home location or on official travel
- Flowers, cards and gifts
- Health Club and Fitness facilities
- Hotel pay-per-view movies, Video Games and/or mini bar items
- Hotel no-show or cancellation charges

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- Insurance for rental car and or flight
- Internet access in hotels (added to 3.5)
- Laundry (except when overnight travel is required for 7 or more consecutive nights)
- Lawn care
- Lost: luggage, cash, personal items and valuables, and tickets
- Magazines & newspapers
- Meals not consistent with AT&T's Global Employee Expense Policy and or meals not directly required for doing business on the AT&T account (e.g. vendors cannot voucher lunch with each other simply to talk about AT&T)
- Medical supplies
- Membership fees to exercise facilities or social/country clubs
- Movies purchased while on an airplane
- Office expenses of vendors for example: a calendar
- PC, cell phone, and other vendor support expenses (unless specifically authorized in the agreement)
- Personal entertainment
- Phone usage on airline unless AT&T business emergency
- Safe rentals during a hotel stay
- Souvenirs, personal gifts
- Surcharges for providing fast service (not related to delivery charges such as FedEx, UPS, etc.). AT&T expects all vendors to complete the terms of contracts in the shortest period practicable. Charges for shortening the timeframe in which contracts are fulfilled are not permissible.
- Tips for housekeeping and excessive tips, *i.e.*, in excess of 15% to 18% of cost of meal or services, excluding tax
- Tobacco Products
- Traffic or Parking Fines
- Travel purchased with prepaid air passes.
- Upgrades on airline, hotel, or car rental fees
- Water (bottled or dispensed by a supplier), (unless authorized for specific countries where it is recommended that bottled water is used)
- Fee charged for advanced reservation for airport parking

**The failure to comply with the above mentioned restrictions will result in the Company refusing payment of charges or pursuing restitution from the vendor.**

## 2.0 Responsibilities

### 2.1 Vendor's Responsibility

AT&T's sponsoring managers will ensure that vendors have been covered on this policy prior to incurring any expenditure. Vendors and their sponsoring AT&T managers are responsible for clarifying any questions or uncertainties they may have relative to reimbursable business expenses.

It is mandatory that financial transactions are recorded in a timely manner. **Out-of-pocket business expense(s) for vendors that are not submitted for reimbursement within 90 calendar days from the date incurred are considered non-reimbursable.** Company managers who are responsible for approving reimbursable expenses of vendors should ensure they are submitted and approved in a timely manner.

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### 3.0 Travel Policy

Vendors must first consider the feasibility of using videoconferencing or teleconferencing as an alternative to travel. Travel that is to be reimbursed by AT&T should be incurred only as necessary and pre-approved by AT&T (unless otherwise authorized in the agreement).

AT&T reserves the right to dispute any expense submittal and if not verifiable as valid may reject reimbursement. Reimbursements will be made to vendor only after expenses are verified as valid.

#### 3.1 Travel Authorization

Travel requiring overnight stays must be pre-approved by the sponsoring AT&T 3rd Level Manager or above and should be approved only if it is necessary for the vendor to travel to perform required work.

#### 3.2 Travel Reservations

Vendors are expected to procure the most cost efficient travel arrangements, preferably equivalent to the AT&T discount rate. AT&T does not reimburse for travel purchased with prepaid air passes.

#### 3.3 Travel Expense Reimbursement

Vendor travel expenses incurred for company business are reimbursable only as specified in these guidelines. Travel expenses may include the following:

- Transportation (airfare or other commercial transportation, car rental, personal auto mileage, taxi and shuttle service)
- Meals and lodging
- Parking and tolls
- Tips/porter service (if necessary and reasonable)
- Vendors who stay with friends or relatives or other vendor employees while on a Company business trip will **NOT** be reimbursed for lodging, nor will they be reimbursed for expenditures made to reciprocate their hospitality by buying groceries, being host at a restaurant, etc.

The expense must be ordinary and necessary, not lavish or extravagant, in the judgment of the AT&T sponsoring management. Any reimbursement request must be for actual expenditures only.

#### 3.4 Air Travel Arrangements

Vendors must select lowest logical airfare (fares available in the market at the time of booking, preferably well in advance of trip to attain lowest possible airfare). Vendors shall book coach class fares for all travel at all times. First class bookings are not reimbursable. Vendors can request business class when a single segment of flight time ("in air time" excluding stops, layovers and ground time) is greater than 8 hours providing the relevant manager pre-approves.

#### 3.5 Hotel Arrangements

AT&T has established Market-Based Room Rate Guidelines for vendors to reference when making hotel reservations in the United States (see Addendum A). U.S. vendors traveling outside the U.S. should reference the

GSA, Government Per Diem as a guide: [http://aoprals.state.gov/web920/per\\_diem.asp](http://aoprals.state.gov/web920/per_diem.asp). Non-US vendors may use these dollar per diems as a guide, but any locally specified per diems will take precedence. Vendors

are expected to abide by these guidelines when making hotel arrangements or use specified AT&T preferred hotels/maximum location rates or reasonably priced hotels outside of the U.S... The AT&T vendor

manager can advise which hotel/max rate to use if there is a hotel in the location concerned. AT&T will only reimburse vendors up to the established room rate guideline/AT&T preferred hotel rate in each market, or for actual hotel lodging charges incurred, whichever is less.

There must be a strong business justification for incurring any cost for internet access, and a request for reimbursement must be accompanied by a detailed explanation regarding reason for charge.

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**Note:** Vendors must indicate the number of room nights on the transaction line when invoicing for reimbursement of hotel expenses. Copies of all hotel bills must be made available for any invoice containing lodging charges.

### 3.6 Ground Transportation

While away from their home location overnight, vendors are expected to utilize rapid transit or local shuttle service. If the hotel provides a complimentary shuttle, vendors are to use this service before paying for transportation. If complimentary service is not provided a taxi or other local transportation is reimbursable as a business expense. Tips provided to taxi drivers cannot exceed 15% of the value of the total fare.

A rental car is appropriate when the anticipated business cost is less than that of other available public transportation. Except to the extent necessary to accommodate several travelers and/or luggage requirements, vendors will not be reimbursed for automobile rentals other than economy or mid-sized/intermediate models.

“Loss Damage Waiver” and “Extended Liability Coverage” are not considered reimbursable in the US. Prepaid fuel or refueling charges at the time of return are not reimbursable. Rental cars should be refueled before returning to the rental company, since gas purchased through the rental company carries an expensive refueling service charge.

### 3.7 Use of Personal Vehicle

When use of personal vehicle is required, the current locally approved mileage rate for miles driven for the business portion of the trip should be the maximum used to determine the amount to be reimbursed.

### 3.8 Parking

If airport parking is necessary, vendors must use long term parking facilities. Additional costs for short term, valet or covered parking are not reimbursable.

### 3.9 Entertainment

Entertainment expense is not reimbursable to vendors. Entertainment includes meal expense involving AT&T personnel, golf fees, tickets to events and related incidental expenses. Hotel charges for a pay-per-view movie, individual sightseeing tours, or other individual activities (i.e., golf, sporting event, movie, etc.) are not reimbursable.

### 3.10 Laundry and Cleaning

Reasonable laundry charges during business trips of seven or more **consecutive** nights are reimbursable based on actual expenses incurred.

### 3.11 Communications

- The actual cost of landline telephone calls for AT&T business is reimbursable. The use of AT&T products is required when available.
- AT&T will not reimburse vendors for cell phone bills unless approved under the contract. With prior consent of the sponsoring AT&T Senior Manager, only individual calls that **exceed** a vendor’s rate plan that are necessary to conduct business for AT&T may be reimbursed.
- Charges for high speed internet access are not reimbursable unless specifically approved in the contract.

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**3.12 Business Meals (Travel and Non-Travel)**

Vendors are expected to find reasonably priced dining alternatives. As a general rule, vendors are expected to spend USD **\$42.00 or less per day** (or local currency equivalent) inclusive of tax and gratuity or to abide by the legally specified per diem applicable in the Vendor's country. This includes all meals, beverages and refreshments purchased during the day. Requests for reimbursement should break out the amount for meals and list the related number of travel days. If breakfast is offered as part of the hotel accommodation rate, no additional reimbursement will be permitted for breakfast. Vendors may not submit expenses to cover meals or expenses for an AT&T employee, whether in a home location or on official travel.

AT&T managers authorizing invoices will be held accountable for ensuring that vendors are following this policy and are spending Company funds economically.

**3.13 Flowers, Greeting Cards, Gifts and Incentive Awards**

The cost of gifts, flowers, birthday lunches, or greeting cards is considered a personal expense and is not reimbursable. For example, vendors making a donation or providing a gift for a fund-raiser for AT&T may not submit such an expense to AT&T for reimbursement.

**3.14 Loss or Damage to Personal Property**

The Company assumes no responsibility for loss or damage to a vendor's personal property during business functions or hours.

**3.15 Publications**

Subscriptions to or purchases of magazines, newspapers and other publications are not reimbursable.

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**AT&T U.S. 2013 Hotel Room Rate Only Guidelines**

**This Chart applies to the U.S. locations. For Travel outside of the U.S., travelers should exercise prudent judgment and select reasonably priced hotels, based on local market conditions. Employees traveling outside the U.S. should reference the GSA, Government Per Diems as a guide. [http://aoprals.state.gov/web920/per\\_diem.asp](http://aoprals.state.gov/web920/per_diem.asp)**

**\*\*\*U.S. Cities not listed on this Hotel Room Rate Only Guideline Matrix, default to \$110.00 nightly rate. On occasion an AT&T Preferred Property may exceed the rate guideline for a season (s) or particular city, but has been added due to demand within the market. However, if an alternate Preferred Property within the guideline is offered it should be accepted when available. You may select the Preferred Property that is over the Guideline if it is the option that is available, selecting the appropriate reason code.**

City	St	2013 Guide line	City	St	2013 Guide line	City	St	2013 Guide line	City	St	2013 Guide line	City	St	2013 Guide line
Anchorage	AK	200	San Luis Obispo	CA	150	Des Plaines	IL	120	Festus	MO	90	Elk City	OK	90
Fairbanks	AK	150	San Mateo	CA	210	Downers Grove	IL	100	Independence	MO	70	Idabel	OK	90
Glennallen	AK	135	San Rafael	CA	145	Elk Grove	IL	120	Jackson	MO	70	McAlester	OK	90
Juneau	AK	160	San Ramon	CA	170	Elmhurst	IL	95	Joplin	MO	90	Miami	OK	90
Ketchikan	AK	150	Santa Ana	CA	145	Fairview Heights	IL	90	Kansas City	MO	140	Midwest	OK	90
Kodiak	AK	140	Santa Clara	CA	190	Gurnee	IL	90	Kennett	MO	70	Moore	OK	90
Soldotna	AK	160	Santa Monica	CA	285	Hoffman Estates	IL	120	Kirkwood	MO	90	Norman	OK	90
Valdez	AK	145	Santa Rosa	CA	120	Libertyville	IL	100	Lees Summit	MO	95	Oklahoma City	OK	125
Alexander City	AL	90	South San Francisco	CA	130	Lincolnshire	IL	135	Maryland Heights	MO	70	Owasso	OK	90
Birmingham	AL	125	Southington	CA	135	Lisle	IL	140	Merriam	MO	90	Ponca City	OK	115
Decatur	AL	90	Stevenson Ranch	CA	90	Lombard	IL	135	Poplar Bluff	MO	90	Tahlequah	OK	90
Dothan	AL	120	Susanville	CA	90	Mattoon	IL	90	Springfield	MO	95	Coos Bay	OR	90
Florence	AL	130	Temecula	CA	125	Moline	IL	100	St. Charles	MO	95	Lake Oswego	OR	100
Fultondale	AL	95	Thousand Oaks	CA	135	Mt. Vernon	IL	90	St. Louis	MO	125	Medford	OR	90
Gadsden	AL	80	Torrance	CA	125	Naperville	IL	95	Clinton	MS	90	Portland	OR	155
Huntsville	AL	125	Universal City	CA	170	Northbrook	IL	115	D'Iberville	MS	90	Tigard	OR	100
Montgomery	AL	90	Vacaville	CA	125	Oak Brook	IL	135	Gulfport	MS	130	Allentown	PA	95
Mobile	AL	125	Valencia	CA	120	Ofallon	IL	70	Hattiesburg	MS	115	Audubon	PA	125
Sylacouga	AL	80	Van Nuys	CA	115	Orland Park	IL	90	Jackson	MS	125	Bensalem	PA	90
Tuscaloosa	AL	95	Visalia	CA	90	Palatine	IL	90	Madison	MS	120	Bethlehem	PA	115
Blytheville	AR	95	Walnut Creek	CA	150	Peoria	IL	130	McComb	MS	90	Berwyn	PA	176
Bryant	AR	90	Watsonville	CA	90	Rolling Meadows	IL	90	Meridian	MS	100	Coranopolis	PA	120
Camden	AR	95	West Lake Village	CA	135	Rosemont	IL	120	Natchez	MS	70	Essington	PA	125
El Dorado	AR	95	West Sacramento	CA	90	Schaumburg	IL	120	Ocean Springs	MS	90	Glen Mills	PA	140
Fayetteville	AR	90	Willits	CA	90	Springfield	IL	95	Pearl	MS	95	Harrisburg	PA	120
Fort Smith	AR	100	Yuba City	CA	120	St. Charles	IL	90	Ridgeland	MS	125	King of Prussia	PA	140
Hardy	AR	70	Yorba Linda	CA	90	Tinley Park	IL	130	Southaven	MS	115	Langhorne	PA	120
Hot Springs	AR	90	Aurora	CO	165	Vernon Hills	IL	90	Tupelo	MS	90	New Castle	PA	120
Johnson	AR	95	Boulder	CO	185	Warrenville	IL	120	Bozeman	MT	120	Philadelphia	PA	176
Lake Village	AR	70	Colorado Springs	CO	125	Westmont	IL	90	Helena	MT	120	Pittsburgh	PA	155
Little Rock	AR	130	Denver	CO	185	Willowbrook	IL	95	Kalispell	MT	100	State College	PA	90

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City	St	line	City	St	line	City	St	line	City	St	line	City	St	line
Magnolia	AR	70	Englewood	CO	115	Bloomington	IN	90	Carolina Beach	NC	120	Uniontown	PA	115
Malvern	AR	90	Fort Collins	CO	120	Carmel	IN	115	Charlotte	NC	125	Wayne	PA	140
Monticello	AR	95	Greenwood Village	CO	125	Columbus	IN	90	Durham	NC	140	Coventry	RI	90
Mountain Home	AR	70	Glastonbury	CT	155	Evansville	IN	120	Fayetteville	NC	120	Lincoln	RI	150
North Litterock	AR	90	Groton	CT	130	Fishers	IN	90	Gastonia	NC	90	Middletown	RI	120
Pine Bluff	AR	95	Hamden	CT	100	Fort Wayne	IN	100	Greensboro	NC	90	Providence	RI	180
Rogers	AR	135	Hartford	CT	90	Indianapolis	IN	120	Greensboro	NC	125	Aiken	SC	90
Russellville	AR	90	Meriden	CT	90	Kokomo	IN	90	Hickory	NC	90	Anderson	SC	95
Springdale	AR	90	New Haven	CT	140	Madisonville	IN	90	Raleigh	NC	125	Charleston	SC	140
Texarkana	AR	90	New London	CT	95	Muncie	IN	70	Research Triangle Park	NC	95	Columbia	SC	115
VanBuren	AR	90	Norwalk	CT	135	Sellersburg	IN	90	Shelby	NC	90	Duncan	SC	90
West Memphis	AR	90	Rocky Hill	CT	115	South Bend	IN	90	Winston Salem	NC	100	Florence	SC	100
Chandler	AZ	135	Shelton	CT	130	Colby	KS	70	Wrightsville	NC	120	Myrtle Beach	SC	150
Douglas	AZ	90	Stamford	CT	115	Dodge City	KS	70	Fargo	ND	95	North Charleston	SC	125
Flagstaff	AZ	100	Stratford	CT	135	Hays	KS	95	Omaha	NE	160	Fort Pierre	SD	115
Mesa	AZ	125	Wallingford	CT	125	Liberal	KS	70	Manchester	NH	95	Brentwood	TN	115
Phoenix	AZ	150	Waterford	CT	125	Merriam	KS	90	Portsmouth	NH	150	Crossville	TN	70
Rio Rico	AZ	90	West Haven	CT	115	Overland Park	KS	125	Basking Ridge	NJ	200	Franklin	TN	115
Scottsdale	AZ	185	Washington	DC	325	Salina	KS	70	Bernardsville	NJ	200	Germantown	TN	115
Tempe	AZ	135	Wilmington	DE	185	Shawnee	KS	120	Bridgewater	NJ	245	Johnson City	TN	100
Tucson	AZ	160	Altamonte Springs	FL	115	Topeka	KS	100	Caranbury	NJ	120	Memphis	TN	125
Anaheim	CA	135	Aventura	FL	140	Ashland	KY	95	Eatontown	NJ	120	Nashville	TN	130
Arcadia	CA	150	Boca Raton	FL	155	Covington	KY	140	Edison	NJ	130	Addison	TX	150
Auburn	CA	115	Boynton Beach	FL	140	Louisville	KY	145	Elizabeth	NJ	120	Alpine	TX	90
Bakersfield	CA	90	Coconut Grove	FL	150	Paducah	KY	120	Fair Lawn	NJ	120	Arlington	TX	125
Barstow	CA	100	Dania Beach	FL	135	Alexandria	LA	125	Florham Park	NJ	180	Austin	TX	135
Berkeley	CA	145	Daytona	FL	95	Baton Rouge	LA	120	Hazlet	NJ	95	Beaumont	TX	95
Buena Park	CA	120	Fort Lauderdale	FL	150	Covington	LA	125	Jersey City	NJ	200	Bedford	TX	90
Burbank	CA	150	Fort Walton	FL	130	Gretna	LA	95	Lynhurst	NJ	150	Brownsville	TX	90
Burlingame	CA	150	Gainesville	FL	115	Houma	LA	95	Mahwah	NJ	150	Corpus Christi	TX	115
Calistoga	CA	135	Hallandale	FL	160	Kenner	LA	120	Morristown	NJ	200	Dallas	TX	155
Campbell	CA	125	Indialantic	FL	125	La Place	LA	120	Mt. Laurel	NJ	100	El Paso	TX	130
Capitola	CA	150	Jacksonville	FL	130	Metairie	LA	140	Newark	NJ	155	Fort Worth	TX	145
Carlsbad	CA	165	Jacksonville Beach	FL	115	Monroe	LA	115	Paramus	NJ	130	Frisco	TX	125
Carson	CA	135	Key Largo/Tavernier	FL	125	New Orleans	LA	160	Parsippany	NJ	200	Grapevine	TX	155
Castro Valley	CA	90	Key West	FL	215	Shreveport	LA	120	Piscataway	NJ	155	Houston	TX	135
Cerritos	CA	150	Lake City	FL	90	Boston	MA	285	Ramsey	NJ	90	Irving	TX	145
Chico	CA	90	Lake Mary	FL	115	Burlington	MA	200	Red Bank	NJ	140	Laredo	TX	135
City of Industry	CA	125	Maitland	FL	115	Cambridge	MA	250	Saddle Brook	NJ	120	Lubbock	TX	100

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City	St	line	City	St	line	City	St	line	City	St	line	City	St	line
Clovis	CA	100	Marathon	FL	135	Dedham	MA	150	Short Hills	NJ	165	Meallen	TX	95
Commerce	CA	130	Melbourne	FL	125	Foxborough	MA	140	Somerset	NJ	140	Mesquite	TX	90
Concord	CA	140	Miami	FL	155	Framingham	MA	165	Teaneck	NJ	120	Midland	TX	120
Coronado	CA	165	Miami Beach	FL	155	Lowell	MA	120	Tinton Falls	NJ	140	Orange	TX	100
Costa Mesa	CA	115	Orlando	FL	125	Mansfield	MA	120	Warren	NJ	150	Pharr	TX	90
Cupertino	CA	180	Palm Beach	FL	135	Marlborough	MA	150	Whippany	NJ	200	Plano	TX	130
Del Mar	CA	140	Panama City	FL	150	Natick	MA	165	Woodcliff Lake	NJ	200	Richardson	TX	130
Dublin	CA	130	Pensacola	FL	150	Newton	MA	200	Albuquerque	NM	120	San Antonio	TX	150
El Segundo	CA	160	Sarasota	FL	135	Stoughton	MA	165	Carlsbad	NM	120	Shertz	TX	115
Emeryville	CA	135	St. Petersburg	FL	140	Westborough	MA	135	Farmington	NM	115	Waxahachie	TX	90
Escondido	CA	100	Sunrise	FL	120	Annapolis	MD	115	Las Vegas	NV	145	The Woodlands	TX	130
Fairfield	CA	100	Tallahassee	FL	120	Baltimore	MD	140	Pahrump	NV	90	Cedar City	UT	125
Fort Bragg	CA	135	Tamarac	FL	120	Bethesda	MD	185	Albany	NY	125	Ogden	UT	130
Fresno	CA	125	Tampa	FL	145	Chevy Chase	MD	140	Brooklyn	NY	160	Salt Lake City	UT	135
Garden Grove	CA	135	Vero Beach	FL	100	Columbia	MD	135	Buffalo	NY	140	Alexandria	VA	180
Glendale (North)	CA	180	West Palm Beach	FL	135	Frederick	MD	125	Cheektowaga	NY	115	Arlington	VA	215
Hawthorne	CA	135	Athens	GA	115	Greenbelt	MD	155	East Syracuse	NY	125	Chantilly	VA	200
Hayward	CA	95	Atlanta	GA	160	Hanover	MD	140	Fiskkill	NY	150	Charlottesville	VA	120
Hollywood	CA	200	Augusta	GA	130	Linthicum	MD	140	Jamaica	NY	120	Dulles	VA	170
Irvine	CA	160	Carrollton	GA	95	Linthicum Heights	MD	140	Melville	NY	180	Fairfax	VA	180
La Jolla	CA	185	Columbus	GA	125	National Harbor	MD	175	New York	NY	385	Falls Church	VA	210
La Mirada	CA	130	Conyers	GA	90	Portland	ME	120	Newburgh	NY	125	Herndon	VA	200
Lompoc	CA	140	Covington	GA	90	South Portland	ME	160	Plainview	NY	200	Norfolk	VA	155
Long Beach	CA	160	Decatur	GA	115	Battlereck	MI	90	Rochester	NY	145	Reston	VA	180
Los Angeles	CA	185	Dublin	GA	90	Benton Harbor	MI	120	Rockville Center	NY	115	Richmond	VA	135
Manhattan Beach	CA	170	Duluth	GA	90	Canton	MI	90	Syracuse	NY	130	Springfield	VA	150
Merced	CA	120	Griffin	GA	90	Comstock	MI	90	Tarrytown	NY	200	Sterling	VA	120
Milpitas	CA	165	Kennesaw	GA	125	Detroit	MI	135	Verona	NY	155	Tyson's Corner	VA	225
Modesto	CA	95	Lawrenceville	GA	90	Farmington Hills	MI	90	Vestal	NY	130	Vienna	VA	225
Montebello	CA	120	Norcross	GA	90	Holland	MI	90	West Harrison	NY	200	Virginia Beach	VA	135
Monterey	CA	150	Peachtree City	GA	120	Kentwood	MI	95	White Plains	NY	200	Williamsburg	VA	120
Mount Shasta	CA	120	Roswell	GA	90	Lansing	MI	115	Woodbury	NY	150	South Burlington	VT	125
Mountain View	CA	165	Savannah	GA	115	Livonia	MI	100	Akron	OH	100	Bellevue	WA	200
Napa	CA	165	Tifton	GA	70	Marquette	MI	90	Beachwood	OH	115	Bothell	WA	145
Newport Beach	CA	170	Villa Rica	GA	70	Northville	MI	90	Boardman	OH	95	Kirkland	WA	180
Oakland	CA	130	Honolulu	HI	230	Norton Shores	MI	125	Centerville	OH	95	Lynnwood	WA	130
Ontario	CA	120	Kailua Kona	HI	150	Novi	MI	95	Columbus	OH	135	Redmond	WA	215
Palm Desert	CA	95	Kihei	HI	200	Port Huron	MI	90	Dayton	OH	100	Seattle	WA	180
Palo Alto	CA	325	Waikoloa	HI	200	Romulus	MI	120	Gahanna	OH	90	Spokane	WA	120

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Pasadena	CA	\$ 165	Coralville	IA	\$ 125	Saginaw	MI	\$ 135	Gallipolis	OH	\$ 90	Woodinville	WA	\$ 200
Pleasanton	CA	\$ 135	DesMoines	IA	\$ 135	Traverse City	MI	\$ 120	Independence	OH	\$ 125	Green Bay	WI	\$ 90
Rancho Cordova	CA	\$ 95	Johnston	IA	\$ 120	Troy	MI	\$ 120	Lancaster	OH	\$ 90	Kenosha	WI	\$ 90
Redding	CA	\$ 95	Urbandale	IA	\$ 90	Walker	MI	\$ 90	Mayfield Village	OH	\$ 95	Kimberly	WI	\$ 90
Redondo Beach	CA	\$ 130	West DesMoines	IA	\$ 120	Warren	MI	\$ 115	Miamisburg	OH	\$ 80	Madison	WI	\$ 95
Redwood City	CA	\$ 130	Ammon	ID	\$ 90	Baxter	MN	\$ 90	North Olmsted	OH	\$ 120	Milwaukee	WI	\$ 135
Reseda	CA	\$ 95	Boise	ID	\$ 120	Bloomington	MN	\$ 140	Orange Village	OH	\$ 90	Mukwonago	WI	\$ 70
Richmond	CA	\$ 125	Clarkston	ID	\$ 90	Cedar Rapids	MN	\$ 120	Perrysburg	OH	\$ 90	Oshkosh	WI	\$ 90
Riverside	CA	\$ 130	Alsip	IL	\$ 70	Edina	MN	\$ 115	Pickerington	OH	\$ 90	Racine	WI	\$ 70
Rocklin	CA	\$ 115	Arlington Heights	IL	\$ 120	Minneapolis	MN	\$ 185	Poland	OH	\$ 90	Waukesha	WI	\$ 70
Rohnert Park	CA	\$ 125	Barrington	IL	\$ 70	St. Paul	MN	\$ 125	Reynoldsburg	OH	\$ 70	Wauwatosa	WI	\$ 90
Rosemead	CA	\$ 135	Bedford Park	IL	\$ 160	Arnold	MO	\$ 90	Richfield	OH	\$ 90	Barboursville	WV	\$ 90
Sacramento	CA	\$ 135	Bourbonnais	IL	\$ 90	Bridgeton	MO	\$ 125	Springfield	OH	\$ 95	Charleston	WV	\$ 140
Salinas	CA	\$ 155	Champaign	IL	\$ 90	Chesterfield	MO	\$ 115	Altus	OK	\$ 70	Huntington	WV	\$ 115
San Diego	CA	\$ 180	Chicago	IL	\$ 180	Columbia	MO	\$ 90	Ardmore	OK	\$ 90	Marietta	WV	\$ 90
San Francisco	CA	\$ 250	Collinsville	IL	\$ 90	Earth City	MO	\$ 115	Bartlesville	OK	\$ 100	Casper	WY	\$ 100
San Gabriel	CA	\$ 140	Danville	IL	\$ 90	Fairview	MO	\$ 90	Clinton	OK	\$ 70	Gillette	WY	\$ 100
San Jose	CA	\$ 170	Decatur	IL	\$ 90	Fenton	MO	\$ 90	Edmond	OK	\$ 90	Jackson	WY	\$ 160
San Leandro	CA	\$ 115												

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**CONFIDENTIAL TREATMENT REQUESTED**

Order

No. SG021306.S.025.S.001

Between

Synchronoss Technologies, Inc.

And

AT&T Services, Inc.

**Proprietary and Confidential**

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**Order**

This Order No. SG021306.S.025.S.001 (the "Order") is by and between Synchronoss Technologies, Inc., a Delaware corporation ("Supplier") and AT&T Services, Inc., a Delaware corporation ("AT&T"), each of which may be referred to in the singular as "Party" or in the plural as "Parties," and shall be governed pursuant to the terms and conditions of that certain Subordinate Material and Services Agreement No. SG021306.S.025 dated August 1, 2013 (the "Agreement") between Supplier and AT&T, which by this reference are incorporated as if fully set forth herein. Unless otherwise stated in this Order, all terms defined in the Agreement shall have the same meaning in this Order. Any terms and conditions in this Order that modify, vary from or are inconsistent with the terms and conditions of the Agreement shall apply to this Order only. If there is an inconsistency or conflict between the terms and conditions of this Order and the Agreement, the terms of this Order shall control with respect to the subject matter of this Order.

**1. Definitions:**

Terms not defined herein shall have the meaning assigned in the Agreement or Master Agreement.

<b>Term</b>	<b>Definition</b>
Automation Report	For Customer Orders in a Customer Order Class that is Automation Eligible, the report shows the (a) total number of Customer Orders of such Order Class Completed in such **** that were Automated Orders in a given month, (b) the total number of Customer Orders of in such order Class Completed in such **** and (c) the percentage of such Customer Orders that were Automated Orders.
Automation Eligible	Customer Order Classes where the process requirements for such Customer Order Class that are configured in the ASP Solution support Completion of as Automated Orders if a Fallout condition is not encountered (ie: excluding Customer Orders that will, by the configured process, always encounter a Fallout condition).
Automation Rate	For a given period and Order Class, ****.
Business Rule Fallout	Any Fallout that occurs as an intended result of a configured business rule or process in the workflow of the ASP Solution that, when a Customer Order satisfies the criteria of such rule, is directed to a queue for Manual Transaction Processing or intervention by an Agent.
Expected Automation Rate	Means the minimum expected Automation Rate for a given Order Class for any given month of the Term mutually agreed upon by the Parties in accordance with Appendix B, Section 3.2.1 and 3.2.2
Fallout	A condition that occurs when a Customer Order ****.

(NOTE: a Contact that is not a result of (or in response to)

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<b>Term</b>	<b>Definition</b>
	Fallout does not change the status of classification as an Automated Order - such a status request call by a Subscriber on an Customer Order that flowed through without manual intervention)
Customer Order Class	A group of Customer Orders of a similar type or nature for a given Channel for reporting, tracking and management purposes.
Special Event	Shall have the meaning set forth in Section 4.6b of the Agreement.
Special Event Period	The time interval for a Special Event.

**2. Duration of Order:**

After all Parties have signed, this Order shall be effective on August 1, 2013 (the "Effective Date") and shall continue until July 31, 2016 unless earlier terminated as set forth herein (the "Initial Term"). AT&T, solely at its discretion, may renew this Order for \*\*\*\* (the "Renewal Term", and together with the Initial Term, the "Term") by providing at least \*\*\*\* written notice prior to the end of the Initial Term.

**3. Description of Material and/or Services:**

3.1 Background and Scope

The scope of this Order is to define the work activities, pricing, forecasting process, performance metrics and associated incentive credits and remedies associated with the Services performed by Supplier for AT&T eCommerce.

During the Term, Supplier shall provide its ASP Solution as a Supplier hosted, managed Service. The ASP Solution supports a streamline of the back office management process relating to the sale of telecommunications services by AT&T eCommerce, improved cycle times for such sales, intended to reduce the AT&T cost per Customer to perform such processes or tasks related to a Customer Order.

Supplier shall provide (as set forth in this Order):

- a. The process, tools and organizations that support AT&T eCommerce Transaction management. Transaction management includes, but is not limited to:
  - i. Automated Customer Order processing through the Order Gateway;
  - ii. Customer Care Support; and
  - iii. Manual Transaction Processing;
- b. Operational metrics and executive reporting set forth herein; and
- c. The ASP Solution configuration management, hosting and Tier 1-3 support (to designated AT&T IT staff) of the Order Gateway, Workflow Manager, Reporting Platform, Integrated IVR Solution, and Email Manager; and
- d. IT Professional Services (as defined in Section 3.0 of Appendix B to the Agreement).

3.2 Services and/or Specifications

Supplier shall perform the following Services under this Order:

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Order No. SG021306.S.025.S.001

- a. Supplier is responsible for providing AT&T eCommerce with access to the ASP Solution, Manual Transaction Processing, and Customer Care Support (collectively, the “Managed Services”) specific to the Business Mobility Channel, as specified in this Order. Supplier will provide the Managed Services required for processing Customer Orders, including Manual Transaction Processing and Customer Care Support assigned to the OMC. Supplier will provide the required staff of Agents, subject matter experts and managers (collectively, “Supplier Resources”), and access to the ASP Solution to handle the work items, all in accordance with the Agreement and this Order;
- b. Subject to any Exclusions (defined in Section 1.3 of Appendix B), Supplier shall provide the Services in accordance with the Service Level Performance Metrics set forth in Appendix B of this Order;
- c. Subject to any Exclusions, for breach of any agreed Service Level Performance Metrics in any \*\*\*\*, Supplier shall provide to AT&T service level credits to be applied to Supplier’s invoices as set out under Appendix B of this Order;
- d. For exceeding certain agreed Service Level Performance Metrics in any \*\*\*\*, Supplier shall invoice AT&T for service level debits to be applied to Supplier’s invoices as set out under Appendix B of this Order; and
- e. Additional Services may be added to this Order upon mutual written agreement of the Parties in accordance with the Change Control Process described in Appendix M of the Agreement.

3.3 Key Tasks and Deliverables

Supplier represents and warrants that its Services shall conform to the requirements contained in this Order and shall be performed in a professional, workman-like and timely manner.

The table below outlines the key tasks to be performed and deliverables to be provided by Supplier. Deliverables shall meet all mutually agreed-upon requirements and specifications by the Parties.

Tasks	Deliverables
a. Automated Order Processing using the ASP Solution	As set forth in Appendices A & B
b. Customer Care Support	As set forth in Appendices A & B
c. Manual Transaction Processing	As set forth in Appendices A & B
d. Operational Metrics and Reporting	As set forth in Appendix B and Exhibit R-1 respectively
e. IT Professional Services	ASP Solution functionality as set forth in mutually agreed upon specifications in accordance with Section 3.0 of Appendix B of the Agreement

3.4 Supplier Responsibilities

In addition to Supplier performing the Services described in Section 3.2 and providing the Deliverables defined in Section 3.3, and subject to AT&T meeting its responsibilities under this Order, Supplier shall provide the following:

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Order No. SG021306.S.025.S.001

- a. Manage and direct all aspects of the Supplier Resources to perform Services and provide the Deliverables defined by this Order;
- b. Provide adequately trained and otherwise qualified Supplier Resources in accordance with \*\*\*\*, including any agreed upon requirements specific to the \*\*\*\* Channel, to create the Deliverables and provide Services, as applicable, under this Order;
- c. Provide personnel management of Supplier Resources, including required training/orientation for any new resources that are added by Supplier;
- d. Provide IT Professional Services to maintain ASP Solution interface compatibility among system components in AT&T's operational environment;
- e. Subject to any Exclusions, meet all delivery dates agreed upon by the Parties and the Performance Metrics as specified in Appendix B this Order;
- f. Provide, for Supplier Resources billed on a time and materials or FTE basis, a suitable time reporting system for the collection of Supplier Resource work times related to this Order; and
- g. Timely response to open issues, problems and action items raised by AT&T.

3.5 AT&T Responsibilities

AT&T will be responsible for the following, in addition to other obligations under this Agreement or the Order:

- a. Management and direction of all AT&T team resources working in relationship with Supplier on this Order;
- b. Timely access to all AT&T subject matter experts that the Parties determine are required to provide Services or complete Deliverables;
- c. Timely communication of all changes related to deliverables, dependencies and requirements (including any changes to AT&T systems or processes);
- d. Timely response to open issues, problems and action items raised by Supplier; and
- e. Any content provided by AT&T.

**4. Personnel to Perform the Services:**

Supplier shall provide skilled and experienced resources to perform the Services described in Section 3.2 and provide the Deliverables defined in Section 3.3.

**5. Location:**

5.1 Onshore Location(s):

Supplier's U.S.-based resources shall provide the Services at its facilities located at the addresses set forth below. Additional sites located in the United States may be added by Supplier upon written notice to AT&T.

\*\*\*\*

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Order No. SG021306.S.025.S.001

\*\*\*\*

5.2 Offshore Location(s):

Except for hosting, data backups and disaster recovery of Supplier's ASP Solution, which may not be provided from any Offshore Location (as defined below), Supplier's offshore resources shall provide any of the other Services at Supplier's facilities located at the addresses set forth below. In addition, unless otherwise agreed upon in writing by the Parties, agents providing call support Services from locations in Canada are capped at \*\*\*\* across all Channels, the total number of such \*\*\*\* currently providing such Services as of the Effective Date of this Order.

\*\*\*\*

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\*\*\*\*

Supplier may add other countries not previously approved by AT&T where Supplier (or Subcontractors) has additional offshore locations upon prior written approval by AT&T Supply Chain & Fleet Operations of such additional country. In the event that Supplier transfers the Services provided under this Order from one approved physical location to another existing approved Supplier physical location within the same country or to an existing approved Supplier physical location in another previously approved country as shown in Appendix K of the Agreement, Supplier shall provide reasonable notice to AT&T of any such transfer.

Notwithstanding the foregoing and excluding any temporary transfer of Services to (i) maintain business continuity or Service recovery in times of impairment of Services provided under this Order, (ii) provide support for Special Events or (iii) meet agreed upon off-shore labor thresholds permitted under Section 4.1 Appendix B to the Agreement, Supplier shall require AT&T's written prior approval for such transfer of Services where (a) such existing Supplier center has failed to meet the same Service Level Performance Metrics in the \*\*\*\* or in any given \*\*\*\* over the \*\*\*\* or (b) such transfer is to a new physical location other than an existing approved Supplier location.

The Parties agree to work in good faith to review and discuss the distribution of Supplier's resources performing Customer Care Support under this Order.

Supplier agrees to abide by all AT&T security requirements provided in the Agreement.

**6. Fees & Payment Terms:**

- 6.1 Supplier shall perform the Services and provide the Deliverables described in this Order in accordance with the fee structures provided in Appendix A of this Order.
- 6.2 Supplier shall render invoices and all required supporting detail to AT&T in accordance with Section 3.5 of the Agreement by not later than the \*\*\*\* following the \*\*\*\* in which Services were provided. Payment terms are as set forth in Section 3.5 of the Agreement.
- 6.3 No travel and living expenses incurred by Supplier under this Order shall be reimbursed unless AT&T has provided prior written approval for such expenses.
- 6.4 All travel and living expenses shall be in accordance with the Reimbursable Expenses section of the Agreement and the AT&T Vendor Expense Policy attached to the Agreement as Appendix Z.
- 6.5 Supplier shall separately invoice AT&T \*\*\*\*, in arrears, for any travel and living expenses authorized (pre-approved) and such expenses will be payable to Supplier in accordance with Section 3.5 of the Agreement.

**7. Invoices/Billing Information:**

Invoices and billing information shall be issued \*\*\*\* in accordance with Section 3.5 of the Agreement and shall be sent to:

\*\*\*\*

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\*\*\*\*

**8. Points of Contact:**

Supplier agrees to respond to all changes to, interpretations of, additional purchase requirements and any other matters related to the provisions contained in this Order by contacting AT&T's representative below:

\*\*\*\*

For project management and coordination of Services under this Order, the Supplier and AT&T contacts are provided below.

The AT&T project managers and/or points of contact shall be:

\*\*\*\*

The Supplier project manager and/or point of contact shall be:

\*\*\*\*

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\*\*\*\*

**9. Name of Affiliate Ordering Services:**

AT&T Services, Inc.

**10. Transmission of Original Signatures and Executing Multiple Counterparts**

Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., .pdf or similar format) are true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as that of an original signature. This Order may be executed in multiple counterparts, each of which shall be deemed to constitute an original but all of which together shall constitute only one document.

*[Signature Page to Follow Immediately Hereafter]*

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**CONFIDENTIAL TREATMENT REQUESTED**

**IN WITNESS WHEREOF**, the Parties have caused this Order to be executed as of the Effective Date.

**Synchronoss Technologies, Inc.**

**AT&T Services, Inc.**

By: /s/ Stephen Waldis

By: /s/ Tim Harden

Printed Name: Stephen Waldis

Printed Name: Tim Harden

Title: Chief Executive Officer

Title: President - Supply Chain & Fleet Operations

Date: August 30, 2013

Date: August 30, 2013

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**Appendices**

**Appendix A — Managed Services Pricing and Termination Provisions**

Supplier shall provide the Managed Services, including any applicable deliverables set forth in the scope of such Services, for the following fees:

**1. Technology Fee**

- 1.1 Fees for the Use of the ASP Solution under this Order (Technology Fee) shall be as set forth in Section 1.0 of Appendix B of the Agreement.
- 1.2 Supplier shall invoice the Technology Fee to \*\*\*\* as set forth in Section 7 of the Order.

**2. Hosting Fee**

- 2.1 Hosting Fees for the ASP Solution under this Order (Hosting Fee) shall be as set forth in Section 2.0 of Appendix B of the Agreement.
- 2.2 Supplier shall invoice the Hosting Fee to \*\*\*\* as set forth in Section 7 of the Order.

**3. IT Professional Services Fees**

- 3.1 Fees for the IT Professional Services shall be as set forth in Section 3.0 of Appendix B of the Agreement.
- 3.2 Supplier shall invoice the IT Professional Services fees to \*\*\*\* as set forth in Section 7 of the Order.

**4. Customer Care Support and Manual Transaction Processing Fees**

- 4.1 AT&T shall pay Supplier Customer Care Support and Manual Transaction Processing fees as set forth in Section 4.0 of Appendix B of the Agreement.
- 4.2 Supplier shall invoice such Fees to \*\*\*\* as set forth in Section 7 of the Order.
- 4.3 For programs where Transaction Pricing has been agreed upon, the following provisions shall apply in addition to the terms in the Agreement:
  - i) Forecasting — \*\*\*\*

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\*\*\*\*

4.4 For programs where pricing is FTE based:

- i) "FTE Pricing" for Contacts or Manual Transaction Processing where a Transaction Price does not apply or is not available shall be pursuant to Section 4.3 of Appendix B of the Agreement.
- ii) In the event that Supplier invoices Manual Transaction Processing Fees or Customer Care Support Fees based on the FTE Pricing methodology described in this Section, Supplier shall provide detail at the time of its \*\*\*\* invoice that substantiates \*\*\*\* billing for the number of pre-approved FTEs agreed to in the

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FTE Staff Plan along with all Overtime \*\*\*\* authorized by AT&T, if any. The billing detail provided shall include the following information:

FTE Pricing — \*\*\*\*

<u>Invoice Area/Program Name</u>	<u>Agent Name</u>	<u>AT&amp;T UID</u>	<u>****</u>
Area/Program 1	Agent 1		
	Agent 2		
	Agent 3		
Area/Program 2	Agent 4		
	Agent 5		
	Agent 6		
Area/Program 3	Agent 7		
	Agent 8		
Totals			

4.5 Supplier shall provide up to \*\*\*\* of continuation training (“CE Training”) per Supplier Agent FTE who’s primary responsibility is support of Contacts (a “CSR”) for a given program per \*\*\*\* at \*\*\*\* to AT&T provided that materials and reasonable advance notice are provided by AT&T for such training. The use of CE Training \*\*\*\* must be preapproved by AT&T’s Vendor Manager in writing. CE Training \*\*\*\* may be used for sales training, coaching, program updates, changes to \*\*\*\* program, software and system updates and/or changes, scripting changes, or other topics related to the Order and the Services provided hereunder that AT&T reasonably request. Additional training for CSR performance improvement issues on a given CSR (recursive training) shall be \*\*\*\* to AT&T and shall not count toward the allocation for CE Training \*\*\*\*. Supplier must account for such CE training in providing staffing in accordance with Section 4.3 i) above. If this training is not completed in a \*\*\*\* solely due to Supplier’s inability to meet staff requirements reasonably anticipated to meet the volumes and volume distributions in the Locked Forecast resulting in a shortfall of CSRs for such \*\*\*\*, such training scheduled for such period under the CE Training allotment shall be completed in the following \*\*\*\* and such training will not be counted towards following \*\*\*\* allotment of CE Training \*\*\*\*. Except as set forth herein, any unused allocation of such training may not be carried forward to future \*\*\*\* or transferred between programs and no credits shall be provided for any unused allocation.

**5. Operations Management Support Fees**

As part of this Order, Supplier will provide AT&T with Operations Management support. The dedicated team will provide AT&T with the following services:

**Program Management:**

Responsibilities include project management, business analysis, and functional analysis to support new development, features and functionality. Additional Program Management responsibilities include bringing new clients onto the ASP Solution.

**Operations Management:**

Responsibilities include credit, activation, and order fulfillment, transaction queue management, service level monitoring and reporting, staffing, IVR management, training, and interacting with \*\*\*\* and \*\*\*\* and Care teams to ensure seamless, high quality customer service for eCommerce customers.

With the exception of performance issues by a resource, which shall be addressed in accordance with the terms of the Agreement or as otherwise set forth in Special Event or other written documentation agreed upon by the

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Parties, adjustments to increase the resources must be communicated in writing \*\*\*\* before the start of the next \*\*\*\* while \*\*\*\* minimum advance notice is required in writing to terminate a resource per Section 6.5 below. Resources requested to be added shall be subject to resource availability.

Table 5 below reflects the schedule and fee for each resource on the \*\*\*\* Operations Management Team as of the Effective Date of the Order.

**Table 5: Operations Management Fee Schedule**

Role	**** Rate Per Resource
Data Analyst	****
All Other Roles	****

**6. Termination Provisions**

6.1 **Termination for Cause** - If either Party breaches any provision of this Agreement and/or any Order, and (i) if the breach is one that by its nature could be cured, and such breach is not cured within \*\*\*\* after the breaching Party receives written notice, or (ii) if the breach is material and one that by its nature cannot be cured, then, in addition to all other rights and remedies at law or in equity or otherwise, the non-breaching Party shall have the right upon written notice to immediately terminate this Agreement and/or any such Order without any obligation or liability. Failure of the non-breaching Party to immediately terminate this Agreement and/or any Order (x) following a breach which continues longer than such cure period, provided such breach has not been cured prior to the non-breaching Party’s providing notice of termination, or (y) following a breach that cannot be cured or that constitutes a violation of Laws shall not constitute a waiver of the non-breaching Party’s rights to terminate; provided, however, if the non-breaching Party does not exercise such termination right within \*\*\*\* of the date such right is triggered, the non-breaching Party shall waive its right to terminate with respect to such breach.

6.2 **Termination for Convenience of the ASP Solution and IT Professional Services** — \*\*\*\*, during the Initial Term or Renewal Term, AT&T may at any time, for its own convenience and without cause, by providing Supplier written notice of at least \*\*\*\* prior to the effective date of the termination, terminate Supplier’s ASP Solution and IT Professional Services, provided under this Order, in whole. In the event AT&T terminates for convenience Supplier’s ASP Solution and IT Professional Services under this Order in whole, AT&T shall pay Supplier, as Supplier’s sole and exclusive remedy for detriment resulting from AT&T’s termination, the price of such Work or Services performed through the date of termination and a termination charge (provided however, such termination shall not relieve AT&T of any obligations for any minimums under the Agreement). The termination charge shall be calculated as shown in the table below.

Period	Notification Date On or After	Termination Notice	Termination Charge
Initial Term	****	****	****

6.3 **Termination for Convenience of up to \*\*\*\* of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats**

a. AT&T may at any time, for its own convenience and without cause, by providing Supplier written notice, terminate \*\*\*\* of the volume in any month during \*\*\*\* of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats (the “Threshold Percentage”), provided under this Order.

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- b. In the event AT&T terminates Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for convenience up to the Threshold Percentage, and elects, solely at its discretion, to perform the work itself or through its designated third party, AT&T shall notify Supplier via the forecasting process (identified in Section 4.3 and 4.4 above) the actual percentage of \*\*\*\* Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats AT&T intends to assume (or, if applicable, it requests for a third party to assume). Upon such election by AT&T, Supplier shall have no responsibility for any such Customer Care Support or Transactions requiring Manual Transaction Processing that AT&T elects to perform or have a third party perform.
- c. In the event AT&T elects for AT&T or other third party to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\* Supplier will provide AT&T or its designated third party employees and contractors who will be performing such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats access to the Workflow Manager, Call Tracker, and Reporting Platform and any other components of the ASP Solution and related Supplier system(s) access solely to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\* within \*\*\*\* after AT&T notifies Supplier. In addition, each employee or contractor of AT&T or such third party who will access the ASP Solution or related Supplier system(s) shall agree in writing to comply with Supplier's information security requirements. Supplier will work with AT&T to ensure that the allocations of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats to be processed by Supplier and to be processed by AT&T for \*\*\*\* are implemented as mutually agreed by the Parties in accordance with this Order. AT&T shall be responsible for the actions or inactions of such third parties granted access to the ASP Solution.
- d. In the event that AT&T elects to increase the amount of its Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats processed by AT&T (or its subcontractors) for \*\*\*\* in accordance with this Section, the Parties shall meet promptly to agree on a plan to initiate the performance of such services by AT&T or its designated third party provider to complete such transition within \*\*\*\* (subject to any forecasting requirements or minimums) unless the Parties mutually agree to a longer or shorter period. AT&T will be responsible for formally communicating to Supplier the percentage allocation they are ultimately targeting to achieve in connection with the transition of such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats. Supplier will then work with AT&T to implement the identified allocation percentage in \*\*\*\* intervals, of \*\*\*\* (e.g., AT&T communicates to Supplier they want to increase the percentage allocation by \*\*\*\* in total. Supplier will transition \*\*\*\* during the \*\*\*\*, \*\*\*\* during the \*\*\*\* period, and the \*\*\*\* during the \*\*\*\* until the additional \*\*\*\* (original percentage) is achieved). Supplier shall provide reasonable assistance to AT&T in connection with such transfer provided at no incremental fee except that if any professional services for AT&T or such designated provider are required, Supplier shall provide such reasonable professional services at Supplier's rates provided herein. Any transition to AT&T or third party of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats in accordance with this Section shall have no effect on the Technology Fees or Hosting Fee provided above.
- e. In the event AT&T makes such election and exceeds the percentage of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats (where such overage was incidental or a good faith error in estimation of volumes) set forth above in any \*\*\*\*, Supplier will not penalize AT&T for any such overage and, in such case, the Parties will promptly upon determining such overage, meet and negotiate in good faith a process to timely move to compliance with the then applicable requirements and percentage of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats AT&T should be handling pursuant to the terms of this Order.

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6.4 **Termination \*\*\*\* of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats**

- a. In the event that AT&T elects to perform the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats itself or through a third party for \*\*\*\* in excess of the Threshold Percentage and Supplier does not have the appropriate skill sets or such third party bid or pricing is at a lower cost than Supplier under this Order, Supplier shall have the opportunity to review the bid (subject to compliance with any obligations of confidentiality) and determine if Supplier can meet the same price and material terms to AT&T by such third party and/or skill set requirements as provided to AT&T in such bid. Promptly after receiving such bid, AT&T shall provide Supplier with the necessary information relating to such bid (including material terms, pricing and resources) for Supplier to make such determination; provided, however, AT&T shall not be required to provide any information which would cause it to violate its confidentiality obligations to a third party. Supplier shall take information provided by AT&T at face value in connection with such determination.
- b. Within \*\*\*\* (“Evaluation Period”) of receiving the necessary information from AT&T, Supplier shall provide written notice to AT&T whether it will (a) perform the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats that are the subject of the Evaluation Period for \*\*\*\* on the same fees, service level agreements, key performance indicators, quality requirements, productivity requirements, countries or locations from which service is supported, systems, training requirements, infrastructure or processing requirements (with materially equivalent legal terms and conditions as those that exist between the Parties, such as those pertaining to the allocation of risk and liabilities (e.g., limitation of liability, indemnification, payment terms and termination for convenience) as set forth in such bid when taken as a whole or aggregate offer (unless otherwise agreed upon by the Parties in writing) immediately upon completion of such evaluation within the Evaluation Period (or upon \*\*\*\* of completion of the Evaluation Period if such terms and conditions or modified pricing require or provide for a modification in Supplier centers performing Services (ie: off shore location) or training or of Agents) and the parties shall document such changes in the form of a written amendment to this Order, (b) allow AT&T or such third party to assume such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats for \*\*\*\* as provided in such bid, or (c) escalate to its respective executives in accordance with the provision below. In the event that Supplier does not provide written notice to AT&T within such \*\*\*\* period, AT&T may deem that Supplier elected not to match the applicable bid. In the case of notification by Supplier under item (b) above, such notification shall also contain estimation of cost increases, if any, for Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats retained by Supplier. Notwithstanding anything to the contrary, in the event that AT&T makes an election to move Customer Care Support from Supplier under the provisions of this Section in excess of the Threshold Percentage, such move must be to only to use the third party resources that were the subject of the bid used in the Evaluation Period and under the terms presented under such bid in all material respects. In the event that Supplier and AT&T do not agree on the results of such evaluation, an officer of Supplier and an officer of the respective division of AT&T shall meet to resolve such dispute within \*\*\*\* of the conclusion of the Evaluation Period. In the event that such executives cannot resolve such dispute, Supplier shall provide the third party which provided such bid or AT&T internal resources the same access to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats for \*\*\*\* as provided in Section 4.5 above.
- c. In the event that AT&T is entitled to increase the amount of its Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats in accordance with this Section, the Parties shall meet promptly to agree on a plan to initiate the performance of such services by its designated third party provider to complete such transition within \*\*\*\* of the conclusion of the Evaluation Period unless the Parties mutually agree in writing to a longer or shorter period. AT&T will be responsible for formally communicating to Supplier the percentage allocation they are ultimately targeting to achieve in connection with the transition of such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats. Supplier will then work with AT&T to implement the identified allocation percentage in \*\*\*\* intervals, of \*\*\*\*. (e.g., AT&T communicates

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to Supplier they want to increase the percentage allocation by \*\*\*\* in total. Supplier will transition \*\*\*\* during the \*\*\*\*, \*\*\*\* during the \*\*\*\*, and the \*\*\*\* during the \*\*\*\* until the additional \*\*\*\* (original percentage) is achieved). Supplier shall provide reasonable assistance to AT&T in connection with such transfer provided at no incremental fee except that if any professional services for AT&T or such designated provider are required, Supplier shall provide such reasonable professional services at Supplier's rates provided herein. Any transition to AT&T or third party of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats in accordance with this Section shall have no effect on the Technology Fee or Hosting Fee provided above provided however, in the event that this has AT&T exceeding the Threshold Percentage, Synchronoss may charge for, in addition to the Technology Fee and any other fees due under the Order, a price per Customer Order in excess of the Threshold Percentage that uses the Workflow Manager where any Manual Transaction Processing is by a party other than Supplier equal to a fee not to exceed \*\*\*\* (excluding any Synchronoss Agents) granted access to the Order Manager, Call Tracker, and Visibility Manager and any other components of the ASP Solution and related Supplier system(s) access solely to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\*.

- d. For the avoidance of doubt, notwithstanding anything to the contrary, termination of the Customer Care Support shall be permitted pursuant only under the terms of Sections "6.3" and "6.4" above. In the event of an election by AT&T to move Customer Care Support in excess of the Threshold Percentage from Supplier under Section "6.4" where such move alters the type or distribution on a program of any of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats retained by Supplier and is likely to adversely impact Supplier's costs or efficiency, Supplier shall provide the third party which provided such bid or AT&T internal resources the same access to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats for \*\*\* as provided in Section 4.5 above. The Parties agree to negotiate in good faith modifications to the pricing, the requirements or processes pertaining to remaining Contacts or Transactions and/or applicable Service where such increase reasonably reflects Suppliers increased average costs per Contact or Transaction and agreement shall not be unreasonably withheld by either Party. In the event that the Parties are unable to agree, the issue shall be resolved in accordance with Section 4.5 of the Agreement. For the avoidance of doubt, if the Parties are unable to agree on or have not agreed to modifications to the pricing, the requirements or processes pertaining to remaining Contacts or Transactions, AT&T may move Customer Care Support in excess of the Threshold Percentage from Supplier under Section "6.4" above. For the avoidance of doubt, if the Parties agree to a price increase or changes to process, then (a) any such price increase or changes to process shall only be effective when the Threshold Percentage is exceeded and shall not apply to Services retained by Supplier if the Threshold Percentage is not exceeded; and (b) the provision of Sections "6.3" and "6.4" above shall continue to apply to any Customer Care Support retained by Supplier; and (c) any such increase in pricing or changes to process shall be effective on the date that Customer Care Support is moved from Supplier.

- 6.5 **Termination for Convenience of Operations Management Support Services** — During the Initial Term or Renewal Term, AT&T may at any time, for its own convenience and without cause, by providing Supplier written notice of at least \*\*\*\* prior to the effective date of the termination, terminate Supplier's Operations Management Support Services, provided under this Order in whole or in part. In the event AT&T terminates for convenience Supplier's Operations Management Support Services under this Order, AT&T shall pay Supplier, as Supplier's sole and exclusive remedy for detriment resulting from AT&T's termination, the price of such Services performed through the date of termination.
- 6.6 **Failure to Meet Service Level Performance Metrics.** In the event that Supplier fails to meet or exceed (a) the same Service Level Performance Metric (as defined in Appendix B) for \*\*\*\* in any \*\*\*\* or \*\*\*\* in any \*\*\*\*, or (b) \*\*\*\* or more Service Level Performance Metric's for \*\*\*\* in any \*\*\*\* or \*\*\*\* in any \*\*\*\*, AT&T may elect to have AT&T or its designated third party perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and

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Chats for \*\*\*\* that failed such requirement in (a) or (b) above resulting in more than the Threshold Percentage of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats (up to \*\*\*\*) of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats processed. For purposes of this Order, Service Level Performance Metrics for \*\*\*\* shall have the meaning ascribed to such term in Appendix B specific to \*\*\*\*.

6.7 In the event that all Work or Services under this Order are terminated per Sections 6.2, 6.3, 6.4 and 6.5 above, this Order will be deemed to be terminated by AT&T as of the effective date of the termination of the last such Work or Services under this Order.

**6.8 Return of Information Obligations upon Expiration or Termination**

Each Party shall, except as required under law or this Order, upon expiration or termination of this Order and after all Wind Down and Transition efforts have concluded, promptly return all papers, materials, and property of the other Party.

**6.9 Wind Down and Transitioning.**

- a. The Parties acknowledge that upon the termination or expiration of the Agreement (provided that such termination is not a result of termination by Supplier for cause), existing Customers will need to be migrated to AT&T-hosted or to third party-hosted platforms. Because of the volume of Customer provisioning that is handled by Supplier at the time of execution of this Agreement, the Parties agree that they will need to develop a Transition Plan at that time in order to carry out an orderly, migration that mitigates disruption of operations for AT&T. For purposes of this section, Transition Plan shall be defined as a mutually negotiated, written document outlining the respective obligations of each Party in carrying out an incremental or phased cutover of Customer Order provisioning provided by Supplier under this Agreement to AT&T, including the continued payment of agreed unit prices under any supplemental Order, to the extent incurred, and the payment of any agreed time and material charges incurred above the existing unit prices.
- b. The Parties agree to negotiate in good faith toward a Transition Plan that will cover at least the following points:
  - (i) Segmenting Customer Information from the view, modification, deletion or any other access by Supplier or Supplier-chosen subcontractors who will continue to work for Supplier on other, non-AT&T e-commerce businesses after the Transition Plan;
  - (i) Electronic capture, transfer and backup during Transition Plan of (a) Customer Information, including names, addresses, and IP addresses and other identifying information needed to carry out the migration and (b) pending trouble tickets, billing or provisioning corrections, and other data for Customer Orders in process; and
  - (iii) The length of time needed to complete the Transition Plan, including a schedule for phased or incremental cutovers.
- c. Except as set forth in Section 6.3 (c) of this Order, Supplier shall not be required, pursuant to this Section 6.9 or otherwise, to disclose or otherwise make available to AT&T the proprietary technology, software, or source code of Supplier or Supplier subcontractors, as well as any Confidential Information relating thereto.

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**Exhibit P-1 — Price Chart, version 1.0, Effective Date: August 1, 2013**

**\*\*\*\* Rates for Transactions Requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats**

<b>Work Category</b>	<b>FTE Rate/****</b>
****	****
****	****
****	****
****	****
****	****
****	****
****	****
****	****
****	****
****	****
****	****
****	****

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**Appendix B — Performance Metrics, Discounts and Bonuses**

This Appendix B provides the Performance Metrics and the financial remuneration associated with these metrics for the \*\*\*\* eCommerce Channel. Such performance and remedies are, in each case, subject to the Exclusions noted herein. "Service Level Performance Metric" shall mean those service levels defined in this Appendix and that have a specific credit remedy defined herein associated with failure to meet such defined performance metric (with all other performance measures or metrics being "key performance metrics" for monitoring and analytical purposes only). Except as otherwise provided, Service Level Agreement applicable during Special Events will be reviewed and agreed upon on an individual basis for such event. AT&T and Supplier agree to meet and review Special Event requirements on as-needed basis. Supplier will apply commercially reasonable efforts to fulfill Special Event requirements and SLA requests for Special Events.

**1. Customer Performance Metrics and Remuneration**

AT&T and Supplier have developed the Performance Metrics set forth herein to ensure the delivery of high quality, efficient customer service and an optimal experience for AT&T's customers.

Supplier and AT&T will meet no less than once every \*\*\*\* to review the call types, performance metrics or targets and remedies under this Appendix B where appropriate to identify potential changes or modification to such call types, performance metrics or targets and remedies desired to address then current AT&T business and procedural requirements. The parties shall discuss such changes and mutually agree on any modifications to target ranges on existing metrics with such changes to be effective \*\*\*\* (or such other period as mutually agreed upon by the parties) after mutual discussion and agreement between the Parties on such changes. Changes that impact Transaction Prices or base \*\*\*\* Rates, add or remove metrics or adjust calculations on existing metrics shall be documented in a written amendment to this Order executed by the Parties.

AT&T will provide Performance Metric results to Supplier on a \*\*\*\* basis and Supplier shall identify and incorporate corresponding Discounts and Bonuses based on attainment of such Performance Metric on the following \*\*\*\* invoice.

**1.1 Performance Metric Description and Calculation:**

Source	Work Activity	Metric	Calculation	Description
****	****	****	****	****

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****	****	****	****	****
****	****	****	****	****
****	****	****	****	****
****	****	****	****	****

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\*\*\*\*

1.2 Target Ranges and At Risk Amounts:

Source	Work Activity	Metric	Target Range	SLA remedy when Metric attainment is not met (credit to AT&T as a percentage of fees applicable to such Transaction Type in such ****)	Incentive credit when Metric attainment is exceeded (bonus payment to Supplier as a percentage of fees applicable to such Transaction Type in such ****)
****	****	****	****	****	****
****	****	****	****	****	****
****	****	****	****	****	****
****	****	****	****	****	****
****	****	****	****	****	****

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Source	Work Activity	Metric	Target Range	SLA remedy when Metric attainment is not met (credit to AT&T as a percentage of fees applicable to such Transaction Type in such *****)	Incentive credit when Metric attainment is exceeded (bonus payment to Supplier as a percentage of fees applicable to such Transaction Type in such *****)
****	****	****	****	****	****

1.3 Performance Metric Waivers

1.3.1 No remedies for any error, failure or delay of Supplier shall be deemed to occur to the extent resulting from the following (collectively "Exclusions")

\*\*\*\*

1.3.2 Notwithstanding anything to the contrary herein, in addition to waivers or Exclusions set forth herein this Order, AT&T may choose to waive Performance Metrics and applicable Discount(s) at its sole discretion, by doing so in writing within \*\*\*\* of a missed Performance Metric.

1.3.3 Notwithstanding the existence of an Exclusion, Supplier shall nevertheless use commercially reasonable efforts to continue to meet Service Levels under this Order during the existence of an Exclusion. Transactions or Orders that failed to meet a performance metric as a result of the existence of an Exclusion shall be excluded from calculations in determining the credits or bonus.

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1.3.4 Special Events will be reviewed on an individual basis. AT&T and Supplier agree to meet and review Special Event requirements on as needed basis. Supplier will apply commercially reasonable efforts to fulfill requested SLAs and requirements for Special Events.

**2. ASP Solution Platform Service Levels and Remedies**

**2.1 Supplier Order Gateway and Workflow Manager Availability**

**System Availability:**

The Order Gateway and Workflow Manager shall be available and functioning in accordance with the OG SLA (as defined in Section 3.0 below) \*\*\*\* excluding 1) regularly scheduled downtimes to perform system upgrades, application administration, and any other planned events as agreed in advance in writing by the Parties and 2) Supplier written requests to AT&T for any unscheduled maintenance outage periods, if needed (“System Uptime”). System Availability is measured by ASP Solution component for each Channel and is calculated as follows:

\*\*\*\*

**ASP Solution Platform Elements and Service Levels Performance Metrics and KPI for System Availability:**

1. Order Gateway - \*\*\*\* System Availability Service Level Performance Metric
2. Email Service - \*\*\*\* System Availability Service Level Performance Metric
3. Workflow Manager - \*\*\*\* System Availability Key Performance Indicator
4. Web Portal- \*\*\*\* System Availability Key Performance Indicator
5. Reporting Platform — \*\*\*\* System Availability Key Performance Indicator

**Service Level Measurement Process:**

1. Statistics used to determine outages are collected using a suite of network and application monitoring tools as well as data collected by the application itself.
2. ASP Solution Platform element Service Level Performance Metric attainment is reviewed on a \*\*\*\* basis. All statistics from Supplier’s monitoring suite are reviewed and downtime recorded for that \*\*\*\* is summarized for each functional area of the ASP Solution platform (e.g. Order Gateway, email, Workflow etc.)
3. Supplier assumes that the Customer Order volume will not exceed an amount equal to \*\*\*\* of the average \*\*\*\* volume of Customer Orders processed by such Channel during the rolling period of the prior \*\*\*\*.
4. Functional element outages are determined using the guidelines in the tables below:

**Table 4: Supplier System Outage Guidelines**

<b>Platform</b>	<b>Outage Criteria</b>
Order Gateway	<ul style="list-style-type: none"> <li>• **** Order Gateway application servers are down (no response to “pings” for availability)</li> <li>• Gateway cannot process client transactions and “nacks” **** messages to the gateway</li> </ul>
Email Service	<ul style="list-style-type: none"> <li>• **** Email Service servers are down</li> <li>• **** email messages are forwarded from Supplier email service</li> </ul>
Workflow Manager	<ul style="list-style-type: none"> <li>• **** Workflow Manager servers are down</li> <li>• Greater than **** of the typical volume of end-users/agents cannot access Workflow Manager</li> </ul>

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Platform	Outage Criteria
Reporting Platform	An outage will be recorded if any one of the following occurs: <ul style="list-style-type: none"> <li>Real time reporting functionality of Reporting Platform is unavailable or is not updating data on a scheduled basis</li> <li>**** reports are not generated and delivered. System Availability will be measured as a percentage of the overall number of reports generated on a **** basis</li> </ul>

**ASP Solution Platform Element Eligible for Remedies:**

Order Gateway and Workflow Manager - \*\*\*\* System Availability in a \*\*\*\*

Supplier will calculate all downtime (time of an Outage as defined in Table 4 above) associated with both items listed above and provide one summary figure on a \*\*\*\* basis for overall availability. Failure to meet service levels will result in the remedies as defined in Table 5 below.

**Table 5: Supplier Combined Order Gateway and Workflow Manager System Availability Service Levels and Remedies**

Order Gateway and Workflow Manager Service Level	Credit* Against Total Technology Fee for This Channel for ****
Combined System Availability In A ****	
****	****
****	****
****	****
****	****

\* Service Credits will be applied in the \*\*\*\* in which the even giving rise to the credit/remedy is occurs

Scheduled System Maintenance requires a written notice up to \*\*\*\*, but not less than \*\*\*\* notice to AT&T and Supplier Decision Makers and their subsequent consent.

**2.2 Description for e-Mail Manager KPI**

Supplier will host an email infrastructure that reliably forwards all system generated emails to AT&T Online customers. This infrastructure will operate within the following service levels:

- \*\*\*\* mail relay servers to deliver expected \*\*\*\* System Availability
- Support \*\*\*\* email messages \*\*\*\* (reasonably spaced)
- \*\*\*\* retention of all sent email messages
- Message sizes may not exceed \*\*\*\* or contain attachments

**3. Order Gateway Performance Service Level Key Performance Indicator (“OG SLA”)**

Order Gateway under a Normal Transaction Flow (as described below) will respond to \*\*\*\* of the Customer Orders for a Channel within \*\*\*\* of its receipt by the Order Gateway in any given \*\*\*\* provided such Customer Order is in the documented format and has been submitted by AT&T per the published process documentation and successfully pass Supplier’s Order Gateway validations (as described below). AT&T will have the responsibility to produce reports from the Order Gateway, or request such reports from Supplier, to measure the results and determine if this SLA Key Performance Indicator is met. AT&T and Supplier shall mutually agree on the format of such reports. Measurement will be based on \*\*\*\* for a given Customer Order. Supplier will comply with AT&T’s requests for data in accordance with the measurement.

“Normal Transaction Flow” means:

- Volumes and distributions are within the expected capacity thresholds for ASP Solution as identified in the Agreement

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- b. The sending system emits a valid message for the activity desired per the agreed upon schema.
- c. The AT&T client is also sending messages at the rate both Parties have determined acceptable for the Channel and via the agreed upon protocol.
- d. AT&T systems are accepting and correctly processing responses from the Supplier platform.

During the Normal Transaction Flow, it is assumed that the client is sending the correct number of messages per Transaction.

Order Gateway Validations: Upon receipt of a message, the Order Gateway will validate the message against the specified schema and/or configured business rule. Additional security, database and business logic analysis will be performed to ensure the message can and should be processed by the Supplier system. If both of these activates are successful the Order is submitted for processing.

#### 4. Automation Rates, SLAs and Remedies for Customer Orders:

The Parties agree that measurement of automation levels and partial automation levels for Customer Orders is an important metric in overall subscriber satisfaction and the costs of both Parties. As such, the following parameters are established to review and monitor Automation Rates on agreed upon Customer Orders. The Parties acknowledge that the Actual Automation rate or Rate of Fallout may have many factors and causes including those that are not indicative of any failure or inadequate performance by a Party. As such, the Parties shall meet quarterly to establish and review the parameters and requirements for measuring Automation Rates and, discuss adjustments as may be reasonably agreed upon by the Parties from time to time. Any such adjustments shall be made pursuant to the Change Order Process under the Agreement.

##### 1. Establishing Expected Automation Rate.

The Parties shall mutually agree in writing on the Customer Orders that constitute the Customer Orders in the Customer Order Class. Such orders shall be:

- (a) supported by a Workflow and Order Manager configuration, process and flow that supports such Orders being capable of being an Automated Order (ie. is not a workflow or process that has, by business rule or otherwise, an anticipated Fallout condition for each such Customer Order), and
- (b) of a similar nature or type so as to provide meaningful Automation Reporting output for management purposes as reasonably agreed upon by the Parties without undo detail or quantities of measurements and reports.
- (c) Customer Orders with an established and tested Order Manager and Workflow configuration for at least \*\*\*\*.

Upon establishing the Customer Order Class, the Parties shall study the Automation Rate of the Customer Order Class for Completed Customer Orders in the Customer Order Class over the prior \*\*\*\* period that does not include a Special Event (an "Evaluation Period") where the following data is reasonably constant or static during such Evaluation Period (collectively, the "Baseline Data"):

- (a) Mix of the types of Customer Orders within the Customer Order Class and the Automation Rate for such Orders,
- (b) Volume and arrival distribution of such Customer Orders,
- (c) Relative occurrence of issues that impact or cause Fallout or a Customer Contact (excluding Fallout as a result in a Defect in the ASP Solution or error in configuration or implementation of a process or workflow in the ASP Solution by Supplier), and
- (d) Current processes, workflow and task requirements and the SLA requirements established for the Customer Orders in the Customer Order Class as well as average handle times and system response times for connected applications external to the ASP Solution that are applicable to the Orders and related parameters (such a system timeouts and "retries") (collectively, the "Requirements").

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The Parties shall use the Average Automation Rate for the Customer Order Class over each \*\*\*\* of the Evaluation Period less \*\*\*\* as the Expected Automation Rate for such Order Class. In the event that, for each \*\*\*\* of an Evaluation Period, the \*\*\*\* Automation Rate varies from the average Automation Rate in such Evaluation Period by more than \*\*\*\*, the Parties shall (a) defer the assignment of an Expected Automation Rate for such Customer Order Class or (b) conduct such evaluation on an extended or new Evaluation Period, as may be reasonable, until such discrepancy and deviation is less than or equal to \*\*\*\*.

For each Customer Order Class that has an established Expected Automation Rate, such rate shall remain the same during each \*\*\*\* of the Term.

2. Measurement and Reports.

Supplier will provide Automation Reports to AT&T for agreed upon Order Classes on a \*\*\*\* basis (each such \*\*\*\*, a "Measurement Period") setting forth (a) calculations of actual performance relative to the SLAs for the relevant \*\*\*\*; and (b) in the event that any SLAs are not achieved in any given \*\*\*\*, a description of the cause or causes believed to have caused such failure to achieve such SLA, and, to the extent such caused by a Defect, any corrective actions taken by Supplier to prevent re-occurrence.

Customer Order Processing Automation Rate

Customer Order Class	Expected Automation Rate
1. As mutually determined in Section 1 above.	1. As mutually determined in Section 1 above.

3. Adjustments to the Expected Automation Rate.

If, there are changes in the Requirements or Baseline Data for an Order Class or additions/deletions of Orders types in the Order Class (creating a new Order Class), Order class makeup, Expected Automation Rate and related obligations and rights shall be readjusted pursuant to the mutual agreement of the Parties, in good faith and in a manner consistent with the intent of this Agreement and Section 1 above, to reflect such changes. In the event of a process change requested by AT&T, the Parties will mutually agree on an appropriate period, if any, after such implementation when the SLAs will not apply.

4. SLA and Remedies.

SLA Category	Remedy
****	****

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**5. Service Levels Applicable During the Special Event Period:**

1. The Service Levels (and the applicable remedies/incentives) for System Availability of the ASP Solution set forth in Section 2.1 of Appendix B shall remain in effect during the Special Event Period. This System Availability Service Level shall not apply for any failure, error or delay resulting from volume in a given Special Event interval that exceeds the greater of: a) \*\*\*\* of the volume in the Locked Forecast for the Special Event period for such Transaction Type, or b) \*\*\*\* of the \*\*\*\* volume of Customer Orders processed by such Channel during the period of the \*\*\*\* immediately preceding the Special Event Period.
2. The Service Levels (and the applicable remedies/incentives) for Order Gateway Performance of the ASP Solution set forth in Section 3 of Appendix B shall remain in effect during the Special Event Period. This Order Gateway Performance Service Level shall not apply for any failure, error or delay resulting from volume in a given Special Event interval that exceeds the greater of: a) \*\*\*\* of the volume in Locked Forecast for the Special Event period for such Transaction Type, or b) \*\*\*\* of the average \*\*\*\* volume of Customer Orders processed by such Channel during the period of the \*\*\*\* immediately preceding the Special Event Period.

In the event that a Defect in the ASP Solution results in a failure to meet the Order Gateway Performance Service Level during the Special Event Period and, as a result during such period, the actual number of Inbound Calls supported is both (a) higher than the projected percentage of Inbound Calls to Customer Orders forecast in the Special Event Forecast and (b) the actual volume of Inbound Calls in the Special Event Forecast is exceeded, then, AT&T shall be entitled to a Credit calculated as follows:

\*\*\*\*

\*as reasonably estimated by status codes for the calls

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3. Supplier performance incentives applicable during the Special Event Period:

In the event that a condition caused by (a) error, failure, delay of AT&T or a third party supplier applications providing any data input, supporting any contingent task or component of the Workflow for such Customer Order, or (b) any error, delay or failure of AT&T to meet its obligation under this Agreement or Order or (c) incorrect, conflicting or incomplete data provided by AT&T, impacts a material number of Customer Orders in the Special Event Period and results in (or, if not remedied, would otherwise result in ) an increase in terminated Customer Orders, Contacts or manual intervention by Agents to process Customer Orders and such condition is remedied or a workaround is provided by Supplier, Supplier shall be entitled to and AT&T shall pay an incentive fee to Supplier calculated as follows:

\*\*\*\*

\*as reasonably estimated by status codes for the calls or report on impacted Customer Orders. Such incentive fees shall be in addition to other fees due under a given Customer Order.

**6. Assumptions**

**4.1 Methods and Procedures (M&P)**

Subject to the terms of this Order, Supplier's Services for Customer Care Support will adhere to AT&T's approved Methods and Procedures (M&P). Supplier must submit a change request and receive prior written approval from AT&T to deviate from the approved M&P.

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**Exhibit R-1 — Operational Reports**

<b>Channel</b>	<b>Report Name</b>	<b>Frequency</b>
****	****	****
****	****	****
****	****	****
****	****	****
****	****	****
****	****	****
****	****	****
****	****	****
****	****	****
****	****	****

Above list is subject to change upon mutual written agreement by the Parties.

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**CONFIDENTIAL TREATMENT REQUESTED**

Order

No. SG021306.S.025.S.002

Between

Synchronoss Technologies, Inc.

And

AT&T Services, Inc.

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Order No. SG021306.S.025.S.002

**Order**

This Order No. SG021306.S.025.S.002 (the "Order") is by and between Synchronoss Technologies, Inc., a Delaware corporation ("Supplier") and AT&T Services, Inc., a Delaware corporation ("AT&T"), each of which may be referred to in the singular as "Party" or in the plural as "Parties," and shall be governed pursuant to the terms and conditions of that certain Subordinate Material and Services Agreement No. SG021306.S.025 dated August 1, 2013 (the "Agreement") between Supplier and AT&T, which by this reference are incorporated as if fully set forth herein. Unless otherwise stated in this Order, all terms defined in the Agreement shall have the same meaning in this Order. Any terms and conditions in this Order that modify, vary from or are inconsistent with the terms and conditions of the Agreement shall apply to this Order only. If there is an inconsistency or conflict between the terms and conditions of this Order and the Agreement, the terms of this Order shall control with respect to the subject matter of this Order.

**1. Definitions:**

Terms not defined herein shall have the meaning assigned in the Agreement or Master Agreement.

<b>Term</b>	<b>Definition</b>
Automation Report	For Customer Orders in a Customer Order Class that is Automation Eligible, the report shows the (a) total number of Customer Orders of such Order Class Completed in such **** that were Automated Orders in a given month, (b) the total number of Customer Orders of in such order Class Completed in such **** and (c) the percentage of such Customer Orders that were Automated Orders.
Automation Eligible	Customer Order Classes where the process requirements for such Customer Order Class that are configured in the ASP Solution support Completion of as Automated Orders if a Fallout condition is not encountered (ie: excluding Customer Orders that will, by the configured process, always encounter a Fallout condition).
Automation Rate	For a given period and Order Class, ****.
Business Rule Fallout	Any Fallout that occurs as an intended result of a configured business rule or process in the workflow of the ASP Solution that, when a Customer Order satisfies the criteria of such rule, is directed to a queue for Manual Transaction Processing or intervention by an Agent.
Expected Automation Rate	Means the minimum expected Automation Rate for a given Order Class for any given month of the Term mutually agreed upon by the Parties in accordance with Appendix B, Section 3.2.1 and 3.2.2
Fallout	A condition that occurs when a Customer Order ****.

(NOTE: a Contact that is not a result of (or in response to) Fallout

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Term	Definition
Customer Order Class	does not change the status of classification as an Automated Order - such a status request call by a Subscriber on an Customer Order that flowed through without manual intervention) A group of Customer Orders of a similar type or nature for a given Channel for reporting, tracking and management purposes.

**2. Duration of Order:**

After all Parties have signed, this Order shall be effective on August 1, 2013 (the "Effective Date") and will continue until July 31, 2016 unless earlier terminated as set forth herein (the "Initial Term"). AT&T, solely at its discretion, may renew this Order for one \*\*\*\* (the "Renewal Term" and together with the Initial Term, the "Term") by providing at least \*\*\*\* written notice prior to the end of the Initial Term.

**3. Description of Material and/or Services:**

3.1 Background and Scope

The scope of this Order is to define the work activities, pricing, forecasting process, performance metrics and associated incentive credits and remedies associated with the Services performed by Supplier for AT&T eCommerce.

During the Term, Supplier shall provide its ASP Solution as Supplier hosted managed Service. The ASP Solution supports a streamline of the back office management process relating to the sale of telecommunications services by AT&T eCommerce, improved cycle times for such sales, intended to reduce the cost per Customer to perform such processes or tasks related to a Customer Order.

Supplier shall provide (as set forth in this Order):

- a. The process, tools and organizations that support AT&T eCommerce Transaction management. Transaction management includes, but is not limited to:
  - i. Automated Customer Order processing through the Order Gateway;
  - ii. Customer Care Support; and
  - iii. Manual Transaction Processing;
- b. Operational metrics and executive reporting set forth herein; and
- c. The ASP Solution configuration management, hosting and Tier 1-3 support (to designated AT&T IT staff) of the Order Gateway, Workflow Manager, Reporting Platform, Integrated IVR Solution, and Email Manager; and
- d. IT Professional Services (as defined in Section 3.0 of Attachment B to the Agreement).

3.2 Services and/or Specifications

Supplier shall perform the following Services under this Order:

- a. Supplier is responsible for providing AT&T eCommerce with access to the ASP Solution, Manual Transaction Processing and Customer Care Support (collectively the "Managed Services"), specific to the Consumer Mobility Channel, as specified in this Order. Supplier will provide the Managed Services required for processing Customer Orders, including Manual Transaction Processing and Customer Care Support assigned to the OMC. Supplier will provide the required staff of Agents, subject matter experts and managers (collectively "Supplier Resources"), and access to the ASP Solution to handle the work items, all in accordance with the Agreement and this Order;

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- b. Subject to any Exclusions (defined in Section 1.3 of Appendix B), Supplier shall provide the Services in accordance with the Service Level Performance Metrics set forth in Appendix B of this Order;
- c. Subject to any Exclusions, for breach of any agreed Service Level Performance Metrics in any \*\*\*, Supplier shall provide to AT&T service level credits to be applied to Supplier’s invoices as set out under Appendix B of this Order;
- d. For exceeding any Service Level Performance Metrics in any \*\*\*, Supplier shall invoice AT&T for service level debits to be applied to Supplier’s invoice as defined in Appendix B of this Order; and
- e. Additional Services may be added to this Order upon mutual written agreement of the Parties in accordance with the Change Control Process described in Appendix M of the Agreement.

3.3 Key Tasks and Deliverables

Supplier represents and warrants that its Services shall conform to the requirements contained in this Order and shall be performed in a professional workman-like and timely manner.

The table below outlines the key tasks to be performed and deliverables to be provided by Supplier. Deliverables shall meet all mutually agreed-upon requirements and specifications by the Parties.

Tasks	Deliverables
a. Automated Order Processing using the ASP Solution	As set forth in Appendices A & B
b. Customer Care Support	As set forth in Appendices A & B
c. Manual Transaction Processing	As set forth in Appendices A & B
d. Operational Metrics and Reporting	As set forth in Appendix B and Exhibit R-1 respectively
e. IT Professional Services	ASP Solution functionality as set forth in mutually agreed upon specifications in accordance with Section 3.0 of Appendix B of the Agreement

3.4 Supplier Responsibilities

In addition to Supplier performing the Services described in Section 3.2 and providing the Deliverables defined in Section 3.3, and subject to AT&T meeting its responsibilities under this Order, Supplier shall provide the following:

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- a. Manage and direct all aspects of the Supplier Resources to perform Services and provide the Deliverables defined by this Order;
- b. Provide adequately trained and otherwise qualified Supplier Resources in accordance with \*\*\*\*, including any agreed upon requirements specific to the \*\*\*\* Channel, to create the Deliverables and provide Services, as applicable, under this Order;
- c. Provide personnel management of Supplier Resources, including required training/orientation for any new resources that are added by Supplier;
- d. Provide IT Professional Services to maintain ASP Solution interface compatibility among system components in AT&T's operational environment;
- e. Subject to any Exclusions, meet all delivery dates agreed upon by the Parties and the Performance Metrics specified in Appendix B this Order;
- f. Provide, for Supplier Resources billed on a time and materials or FTE basis, a suitable time reporting system for the collection of Supplier Resource work times related to this Order; and
- g. Timely response to open issues, problems and action items raised by AT&T.

3.5 AT&T Responsibilities

AT&T will be responsible for the following in addition to other responsibilities under the Master Agreement or Agreement:

- a. Management and direction of all AT&T team resources working in relationship with Supplier on this Order;
- b. Timely access to all AT&T subject matter experts that the Parties determine are required to provide Services or complete Deliverables;
- c. Timely communication of all changes related to deliverables, dependencies and requirements (including any changes to AT&T systems or processes);
- d. Timely response to open issues, problems and action items raised by Supplier; and
- e. Any content provided by AT&T.

**4. Personnel to Perform the Services:**

Supplier shall provide skilled and experienced Supplier Resources to perform the Services described in Section 3.2 and provide the Deliverables defined in Section 3.3.

**5. Location:**

5.1 Onshore Location(s):

Supplier's U.S.-based resources shall provide the Services at its facilities located at the addresses set forth below. Additional sites located in the United States may be added by Supplier upon written notice to AT&T.

\*\*\*\*

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\*\*\*\*

5.2 Offshore Location(s):

Except for hosting, data backups and disaster recovery of Supplier's ASP Solution, which may not be provided from any Offshore Location (as defined below), Supplier's offshore resources shall provide any of the other Services at Supplier's facilities located at the addresses set forth below. In addition, unless otherwise agreed upon in writing by the Parties, agents providing call support Services from locations in Canada are capped at \*\*\*\* across all Channels, the total number of such \*\*\*\* currently providing such Services as of the Effective Date of this Order.

\*\*\*\*

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\*\*\*\*

Supplier may add other countries not previously approved by AT&T where Supplier (or Subcontractors) has additional offshore locations upon prior written approval by AT&T Supply Chain & Fleet Operations of such additional country. In the event that Supplier transfers the Services provided under this Order from one physical location to another physical location within the same country or to a physical location in another previously approved country as shown in Appendix K of the Agreement, Supplier shall provide reasonable notice to AT&T of any such transfer.

Notwithstanding the foregoing and excluding any temporary transfer of Services to (i) maintain business continuity or Service recovery in times of impairment of Services provided under this Order, (ii) provide support for Special Events or (iii) meet agreed upon off-shore labor thresholds permitted under Section 4.1 Appendix B to the Agreement, Supplier shall require AT&T's written prior approval for (a) such transfer of Services longer than thirty (30) days to an existing Supplier center that has failed to meet the same Service Level Performance Metrics in the \*\*\*\* or in any given \*\*\*\* over the \*\*\*\*, (b) such transfer of Services that has occurred at least \*\*\*\* in the \*\*\*\* to an existing Supplier center that has failed to meet Service Level Performance Metrics in the \*\*\*\* months or in any given \*\*\*\* over the \*\*\*\* or (c) such transfer of Services is to a new physical location other than an existing approved Supplier location.

The Parties agree to work in good faith to review and discuss the distribution of Supplier's resources performing Customer Care Support under this Order.

Supplier agrees to abide by all AT&T security requirements provided in the Agreement.

**6. Fees & Payment Terms:**

- 6.1 Supplier shall perform the Services and provide the Deliverables described in this Order in accordance with the fee structures provided in Appendix A of this Order.
- 6.2 Supplier shall render invoices and all required supporting detail to AT&T in accordance with Section 3.5 of the Agreement by not later than the \*\*\*\* following the \*\*\*\* in which Services were provided. Payment terms are as set forth in Section 3.5 of the Agreement.
- 6.3 No travel and living expenses incurred by Supplier under this Order shall be reimbursed unless AT&T has provided prior written approval for such expenses.
- 6.4 All travel and living expenses shall be in accordance with the Reimbursable Expenses section of the Agreement and the AT&T Vendor Expense Policy attached to the Agreement as Appendix Z.
- 6.5 Supplier shall separately invoice AT&T \*\*\*\* in arrears for any travel and living expenses authorized (pre-approved) and such expenses will be payable to Supplier in accordance with Section 3.5 of the Agreement.

**7. Invoices/Billing Information:**

Invoices and billing information shall be issued \*\*\*\* in accordance with Section 3.5 of the Agreement and shall be sent to:

\*\*\*\*

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\*\*\*\*

with copies of all such invoices to:

\*\*\*\*

**8. Points of Contact:**

Supplier agrees to respond to all changes to, interpretations of, additional purchase requirements and any other matters related to the provisions contained in this Order by contacting AT&T's representative below:

\*\*\*\*

For project management and coordination of Services under this Order, the Supplier and AT&T contacts are provided below.

The AT&T project managers and/or points of contact shall be:

\*\*\*\*

The Supplier project manager and/or point of contact shall be:

\*\*\*\*

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\*\*\*\*

9. **Name of Affiliate Ordering Services:**

AT&T Services, Inc.

10. **Transmission of Original Signatures and Executing Multiple Counterparts**

Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., .pdf or similar format) are true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as that of an original signature. This Order may be executed in multiple counterparts, each of which shall be deemed to constitute an original but all of which together shall constitute only one document.

*[Signature Page Follows Immediately Hereafter]*

**IN WITNESS WHEREOF**, the Parties have caused this Order to be executed as of the Effective Date.

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**Synchronoss Technologies, Inc.**

**AT&T Services, Inc.**

By:       /s/ Stephen Waldis      

By:       /s/ George Sloan      

Printed Name: Stephen Waldis

Printed Name: George Sloan

Title: Chief Executive Officer

Title: Vice President  
Global Business & Operations Sourcing

Date:                     August30, 2013                    

Date:                     August 30, 2013                    

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**Appendices**

**Appendix A — Managed Services Pricing and Termination Provisions**

Supplier shall provide the Managed Services, including any applicable deliverables set forth in the scope of such Services, for the following fees:

**1. Technology Fee**

1.1 Fees for the Use of the ASP Solution under this Order (Technology Fee) shall be as set forth in Section 1.0 of Appendix B of the Agreement.

1.2 Supplier shall invoice the Technology Fee to \*\*\*\* as set forth in Section 7 of the Order.

**2. Hosting Fee**

2.1 Hosting Fees for the ASP Solution under this Order (Hosting Fee) shall be as set forth in Section 2.0 of Appendix B of the Agreement.

2.2 Supplier shall invoice the Hosting Fee to \*\*\*\* as set forth in Section 7 of the Order.

**3. IT Professional Services Fees**

3.1 Fees for the IT Professional Services shall be as set forth in Section 3.0 of Appendix B of the Agreement.

3.2 Supplier shall invoice the IT Professional Services fees to \*\*\*\* as set forth in Section 7 of the Order.

**4. Customer Care Support and Manual Transaction Processing Fees**

4.1 AT&T shall pay Supplier Customer Care Support and Manual Transaction Processing fees as set forth in Section 4.0 of Appendix B of the Agreement.

4.2 Supplier shall invoice such Fees to \*\*\*\* as set forth in Section 7 of the Order.

4.3 For each program where pricing is Transaction based:

- i) Forecasting — \*\*\*\*

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\*\*\*\*

4.4 For programs where pricing is FTE based:

- i) "FTE Pricing" for Contacts or Manual Transaction Processing where a Transaction Price does not apply or is not available shall be pursuant to the terms of Section 4.3 of Appendix B of the Agreement.
- ii) In the event that Supplier invoices Manual Transaction Processing Fees or Customer Care and Support based on the FTE Pricing methodology described in this Section, Supplier shall provide detail at the time of its \*\*\*\* invoice that substantiates \*\*\*\* billing for the number of pre-approved FTEs agreed to in the FTE Staff Plan along with all Overtime \*\*\*\* authorized by AT&T, if any. The billing detail provided shall include the following information:

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FTE Pricing — \*\*\*\*

<b>Team Description</b>	<b># FTEs</b>	<b>****/FTE</b>	<b>****</b>	<b>Total</b>
Team A				
Team B				
Team C				
				<b>Total</b>

4.5 Supplier shall provide up to \*\*\*\* of continuation training (“CE Training”) per Supplier agent FTE who’s primary responsibility is support of Contacts (a “CSR”) for a given program per \*\*\*\* at \*\*\*\* to AT&T provided that materials and reasonable advance notice are provided by AT&T for such training. The use of CE Training \*\*\*\* must be preapproved by AT&T’s Vendor Manager in writing. CE Training \*\*\*\* may be used for sales training, coaching, program updates, changes to the \*\*\*\* program, software and system updates and/or changes, scripting changes, or other topics related to the Order and the Services provided hereunder that AT&T reasonably request. Additional training for CSR performance improvement issues on a given CSR (recursive training) shall be \*\*\*\* to AT&T and shall not count toward the allocation for CE Training \*\*\*\*. Supplier must account for such CE training in providing staffing in accordance with Section 4.3 i) above. If this training is not completed in a \*\*\*\* solely due to Supplier’s inability to meet staff requirements reasonably anticipated to meet the volumes and volume distributions in the Locked Forecast resulting in a shortfall of CSRs for such \*\*\*\*, such training scheduled for such period under the CE Training allotment shall be completed in the following \*\*\*\* and such training will not be counted towards following \*\*\*\* allotment of CE Training \*\*\*\*. Except as set forth herein, any unused allocation of such training may not be carried forward to future \*\*\*\* or transferred between programs and no credits shall be provided for any unused allocation.

**5. Operations Management Support Fees**

As part of this Order, Supplier will provide AT&T with Operations Management support. The dedicated team will provide AT&T with the following services:

**Program Management:**

Responsibilities include project management, business analysis, and functional analysis to support new development, features and functionality.

**Operations Management:**

Responsibilities include management of processes pertaining to: credit, activation, and Customer Order fulfillment, Customer Order or Transaction queue management, service level monitoring and reporting, staffing, IVR management, CSR training, and interacting with \*\*\*\* and \*\*\*\* and Care teams to ensure seamless, high quality customer service for eCommerce Customers.

With the exception of performance issues by a resource, which shall be addressed in accordance with the terms of the Agreement or as otherwise set forth in Special Event or other written documentation agreed upon by the Parties, adjustments to increase the resources must be communicated in writing \*\*\*\* before the start of the next \*\*\*\* while \*\*\*\* minimum advance notice is required in writing to terminate a resource per Section 6.5 below Resources requested to be added shall be subject to resource availability.

Table 5 below reflects the schedule and fee for each FTE on the \*\*\*\* Operations Management Team as of the Effective Date of the Order.

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**Table 5: Operations Management Fee Schedule**

Role	**** Rate Per FTE
Data Analyst	****
All Other Roles	****

**6. Termination Provisions.**

- 6.1 **Termination for Cause** - If either Party breaches any provision of this Agreement and/or any Order, and (i) if the breach is one that by its nature could be cured, and such breach is not cured within \*\*\*\* after the breaching Party receives written notice, or (ii) if the breach is material and one that by its nature cannot be cured, then, in addition to all other rights and remedies at law or in equity or otherwise, the non-breaching Party shall have the right upon written notice to immediately terminate this Agreement and/or any such Order without any obligation or liability. Failure of the non-breaching Party to immediately terminate this Agreement and/or any Order (x) following a breach which continues longer than such cure period, provided such breach has not been cured prior to the non-breaching Party’s providing notice of termination, or (y) following a breach that cannot be cured or that constitutes a violation of Laws shall not constitute a waiver of the non-breaching Party’s rights to terminate; provided, however, if the non-breaching Party does not exercise such termination right within \*\*\*\* of the date such right is triggered, the non-breaching Party shall waive its right to terminate with respect to such breach.
- 6.2 **Termination for Convenience of the ASP Solution and IT Professional Services** — \*\*\*\*, during the Initial Term or Renewal Term, AT&T may at any time, for its own convenience and without cause, by providing Supplier written notice of at least \*\*\*\* prior to the effective date of the termination, terminate Supplier’s ASP Solution and IT Professional Services, provided under this Order, in whole. In the event AT&T terminates for convenience Supplier’s ASP Solution and IT Professional Services under this Order in whole, AT&T shall pay Supplier, as Supplier’s sole and exclusive remedy for detriment resulting from AT&T’s termination, the price of such Work or Services performed through the date of termination and a termination charge (provided however, such termination shall not relieve AT&T of any obligations for any minimums under the Agreement). The termination charge shall be calculated as shown in the table below.

Period	Notification Date On or After	Termination Notice	Termination Charge
Initial Term	****	****	****

- 6.3 **Termination for Convenience of up to \*\*\*\* of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats**
- a. AT&T may at any time, for its own convenience and without cause, by providing Supplier written notice, terminate \*\*\*\* of the volume in any month during a \*\*\*\* of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats (the “Threshold Percentage”), provided under this Order.
- b. In the event AT&T terminates Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for convenience up to the Threshold Percentage, and elects, solely at its discretion, to perform the work itself or through its designated third party, AT&T shall notify Supplier via the forecasting process (identified in Section 4.3 and 4.4 above) the actual percentage of \*\*\*\* Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats AT&T intends to assume (or, if applicable, it requests for a third party to assume). Upon such election by

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AT&T, Supplier shall have no responsibility for any such Customer Care Support or Transactions requiring Manual Transaction Processing that AT&T elects to perform or have a third party perform.

- c. In the event AT&T elects for AT&T or other third party to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\*, Supplier will provide AT&T or its designated third party employees and contractors who will be performing such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats access to the Workflow Manager, Call Tracker, and Reporting Platform and any other components of the ASP Solution and related Supplier system(s) access solely to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\* within \*\*\*\* after AT&T notifies Supplier. In addition, each employee or contractor of AT&T or such third party who will access the ASP Solution or related Supplier system(s) shall agree in writing to comply with Supplier's information security requirements. Supplier will work with AT&T to ensure that the allocations of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats to be processed by Supplier and to be processed by AT&T for \*\*\*\* are implemented as mutually agreed by the Parties in accordance with this Order. AT&T shall be responsible for the actions or inactions of such third Parties granted access to the ASP Solution.
- d. In the event that AT&T elects to increase the amount of its Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats processed by AT&T (or its subcontractors) for \*\*\*\* in accordance with this Section, the Parties shall meet promptly to agree on a plan to initiate the performance of such services by AT&T or its designated third party provider to complete such transition within \*\*\*\* (subject to any forecasting requirements or minimums) unless the Parties mutually agree to a longer or shorter period. AT&T will be responsible for formally communicating to Supplier the percentage allocation they are ultimately targeting to achieve in connection with the transition of such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats. Supplier will then work with AT&T to implement the identified allocation percentage in \*\*\*\* intervals, of \*\*\*\* (e.g., AT&T communicates to Supplier they want to increase the percentage allocation by \*\*\*\* in total. Supplier will transition \*\*\*\* during the \*\*\*\*, \*\*\*\* during the \*\*\*\* period, and the \*\*\*\* during the \*\*\*\* until the additional \*\*\*\* (original percentage) is achieved). Supplier shall provide reasonable assistance to AT&T in connection with such transfer provided at no incremental fee except that if any professional services for AT&T or such designated provider are required, Supplier shall provide such reasonable professional services at Supplier's rates provided herein. Any transition to AT&T or third party of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats in accordance with this Section shall have no effect on the Technology Fees or Hosting Fee provided above.
- e. In the event AT&T makes such election and exceeds the percentage of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats (where such overage was incidental or a good faith error in estimation of volumes) set forth above in any \*\*\*\*, Supplier will not penalize AT&T for any such overage and, in such case, the Parties will promptly upon determining such overage, meet and negotiate in good faith a process to timely move to compliance with the then applicable requirements and percentage of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats AT&T should be handling pursuant to the terms of this Order.

**6.4 Termination \*\*\*\* of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats**

- a. In the event that AT&T elects to perform the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats itself or through a third party for \*\*\*\* in excess of the Threshold Percentage and Supplier does not have the appropriate skill sets or such third party bid or pricing is at a lower cost than Supplier under this Order, Supplier shall have the opportunity to review the bid (subject to compliance with any obligations of confidentiality) and determine if Supplier can meet the same price and material terms to AT&T by such third party and/or skill set requirements as provided to AT&T in such bid. Promptly after receiving such bid, AT&T shall provide Supplier with the necessary

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information relating to such bid (including material terms, pricing and resources) for Supplier to make such determination; provided, however, AT&T shall not be required to provide any information which would cause it to violate its confidentiality obligations to a third party. Supplier shall take information provided by AT&T at face value in connection with such determination.

- b. Within \*\*\*\* (“Evaluation Period”) of receiving the necessary information from AT&T, Supplier shall provide written notice to AT&T whether it will (a) perform the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats that are the subject of the Evaluation Period for \*\*\*\* on the same fees, service level agreements, key performance indicators, quality requirements, productivity requirements, countries or locations from which service is supported, systems, training requirements, infrastructure or processing requirements (with materially equivalent legal terms and conditions as those that exist between the Parties, such as those pertaining to the allocation of risk and liabilities (e.g., limitation of liability, indemnification, payment terms) and termination for convenience)) as set forth in such bid when taken as a whole or aggregate offer (unless otherwise agreed upon by the Parties in writing) immediately upon completion of such evaluation within the Evaluation Period (or upon \*\*\*\* of completion of the Evaluation Period if such terms and conditions or modified pricing require or provide for a modification in Supplier centers performing Services (ie: off shore location) or training or of Agents) and the Parties shall document such changes in the form of a written amendment to this Order, (b) allow AT&T or such third party to assume such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats for \*\*\*\* as provided in such bid, or (c) escalate to its respective executives in accordance with the provision below. In the event that Supplier does not provide written notice to AT&T within such fifteen \*\*\*\* period, AT&T may deem that Supplier elected not to match the applicable bid. In the case of notification by Supplier under item (b) above, such notification shall also contain estimation of cost increases, if any, for Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats retained by Supplier. Notwithstanding anything to the contrary, in the event that AT&T makes an election to move Customer Care Support from Supplier under the provisions of this Section in excess of the Threshold Percentage, such move must be to only to use the third party resources that were the subject of the bid used in the Evaluation Period and under the terms presented under such bid in all material respects. In the event that Supplier and AT&T do not agree on the results of such evaluation, an officer of Supplier and an officer of the respective division of AT&T shall meet to resolve such dispute within \*\*\*\* of the conclusion of the Evaluation Period. In the event that such executives cannot resolve such dispute, Supplier shall provide the third party which provided such bid or AT&T internal resources the same access to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats for \*\*\*\*as provided in Section 4.5 above.
  
- c. In the event that AT&T is entitled to increase the amount of its Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats in accordance with this Section, the Parties shall meet promptly to agree on a plan to initiate the performance of such services by its designated third party provider to complete such transition within \*\*\*\* of the conclusion of the Evaluation Period unless the Parties mutually agree in writing to a longer or shorter period. AT&T will be responsible for formally communicating to Supplier the percentage allocation they are ultimately targeting to achieve in connection with the transition of such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats. Supplier will then work with AT&T to implement the identified allocation percentage in \*\*\*\* intervals, of \*\*\*\*. (e.g., AT&T communicates to Supplier they want to increase the percentage allocation by \*\*\*\* in total. Supplier will transition \*\*\*\* during the \*\*\*\*, \*\*\*\* during the \*\*\*\*, and the \*\*\*\* during the \*\*\*\* until the additional \*\*\*\* (original percentage) is achieved). Supplier shall provide reasonable assistance to AT&T in connection with such transfer provided at no incremental fee except that if any professional services for AT&T or such designated provider are required, Supplier shall provide such reasonable professional services at Supplier’s rates provided herein. Any transition to AT&T or third party of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats in

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accordance with this Section shall have no effect on the Technology Fee or Hosting Fee provided above provided however, in the event that this has AT&T exceeding the Threshold Percentage, Synchronoss may charge for, in addition to the Technology Fee and any other fees due under the Order, a price per Customer Order in excess of the Threshold Percentage that uses the Workflow Manager where any Manual Transaction Processing is by a party other than Supplier equal to a fee not to exceed \*\*\*\* (excluding any Synchronoss Agents) granted access to the Order Manager, Call Tracker, and Visibility Manager and any other components of the ASP Solution and related Supplier system(s) access solely to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\*.

- d. For the avoidance of doubt, notwithstanding anything to the contrary, termination of the Customer Care Support shall be permitted pursuant only under the terms of Sections “6.3” and “6.4” above. In the event of an election by AT&T to move Customer Care Support in excess of the Threshold Percentage from Supplier under Section “6.4” where such move alters the type or distribution on a program of any of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats retained by Supplier and is likely to adversely impact Supplier’s costs or efficiency, Supplier shall provide the third party which provided such bid or AT&T internal resources the same access to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats for \*\*\*\* as provided in Section 4.5 above. The Parties agree to negotiate in good faith modifications to the pricing, the requirements or processes pertaining to remaining Contacts or Transactions and/or applicable Service where such increase reasonably reflects Suppliers increased average costs per Contact or Transaction and agreement shall not be unreasonably withheld by either Party. In the event that the Parties are unable to agree, the issue shall be resolved in accordance with Section 4.5 of the Agreement. For the avoidance of doubt, if the Parties are unable to agree on or have not agreed to modifications to the pricing, the requirements or processes pertaining to remaining Contacts or Transactions, AT&T may move Customer Care Support in excess of the Threshold Percentage from Supplier under Section “6.4” above. For the avoidance of doubt, if the Parties agree to a price increase or changes to process, then (a) any such price increase or changes to process shall only be effective when the Threshold Percentage is exceeded and shall not apply to Services retained by Supplier if the Threshold Percentage is not exceeded; and (b) the provision of Sections “6.3” and “6.4” above shall continue to apply to any Customer Care Support retained by Supplier; and (c) any such increase in pricing or changes to process shall be effective on the date that Customer Care Support is moved from Supplier.

- 6.5 **Termination for Convenience of Operations Management Support Services** — During the Initial Term or Renewal Term, AT&T may at any time, for its own convenience and without cause, by providing Supplier written notice of at least \*\*\*\* prior to the effective date of the termination, terminate Supplier’s Operations Management Support Services, provided under this Order in whole or in part. In the event AT&T terminates for convenience Supplier’s Operations Management Support Services under this Order, AT&T shall pay Supplier, as Supplier’s sole and exclusive remedy for detriment resulting from AT&T’s termination, the price of such Services performed through the date of termination.
- 6.6 **Failure to Meet Service Level Performance Metrics.** In the event that Supplier fails to meet or exceed (a) the same Service Level Performance Metric (as defined in Appendix B) for \*\*\*\* in any \*\*\*\* or \*\*\*\* in any \*\*\*\*, or (b) \*\*\*\* or more Service Level Performance Metric’s for \*\*\*\* in any \*\*\*\* or \*\*\*\* in any \*\*\*\*, AT&T may elect to have AT&T or its designated third party perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\* that failed such requirement in (a) or (b) above resulting in more than the Threshold Percentage of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats (up to \*\*\*\*) of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats processed. For purposes of this Order, Service Level Performance Metrics for \*\*\*\* shall have the meaning ascribed to such term in Appendix B specific to \*\*\*\*.

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6.7 In the event that all Work or Services under this Order are terminated per Sections 6.2, 6.3, 6.4 and 6.5 above, this Order will be deemed to be terminated by AT&T as of the effective date of the termination of the last such Work or Services under this Order.

**6.8 Return of Information Obligations upon Expiration or Termination**

Each Party shall, except as required under law or this Order, upon expiration or termination of this Order and after all Wind Down and Transition efforts have concluded, promptly return all papers, materials, and property of the other Party.

**6.9 Wind Down and Transitioning.**

- a. The Parties acknowledge that upon the termination or expiration of the Agreement (provided that such termination is not a result of termination by Supplier for cause), existing Customers will need to be migrated to AT&T-hosted or to third party-hosted platforms. Because of the volume of Customer provisioning that is handled by Supplier at the time of execution of this Agreement, the Parties agree that they will need to develop a Transition Plan at that time in order to carry out an orderly, migration that mitigates disruption of operations for AT&T. For purposes of this section, Transition Plan shall be defined as a mutually negotiated, written document outlining the respective obligations of each Party in carrying out an incremental or phased cutover of Customer Order provisioning provided by Supplier under this Agreement to AT&T, including the continued payment of agreed unit prices under any supplemental Order, to the extent incurred, and the payment of any agreed time and material charges incurred above the existing unit prices.
- b. The Parties agree to negotiate in good faith toward a Transition Plan that will cover at least the following points:
  - (i) Segmenting Customer Information from the view, modification, deletion or any other access by Supplier or Supplier-chosen subcontractors who will continue to work for Supplier on other, non-AT&T e-commerce businesses after the Transition Plan;
  - (i) Electronic capture, transfer and backup during Transition Plan of (a) Customer Information, including names, addresses, and IP addresses and other identifying information needed to carry out the migration and (b) pending trouble tickets, billing or provisioning corrections, and other data for Customer Orders in process; and
  - (iii) The length of time needed to complete the Transition Plan, including a schedule for phased or incremental cutovers.
- c. Except as set forth in Section 6.3(c) of this Order, Supplier shall not be required, pursuant to this Section 6.9 or otherwise, to disclose or otherwise make available to AT&T the proprietary technology, software, or source code of Supplier or Supplier subcontractors, as well as any Confidential Information relating thereto.

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**Exhibit P-1- Price Chart(s), version 1.0, Effective Date: August 1, 2013**

**Transaction Fees for Transactions Requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats**

<b>Channel</b>	<b>Inbound Calls, Outbound Calls &amp; Chats (the "Baseline Rate per ****")</b>	<b>Manual Transaction Processing (non-Calls or Chats) (the "Baseline Rate per Hour")</b>
****	****	****

**By not later than \*\*\*\*, the Parties shall meet and review the CPH estimates used in determining the Transaction Fees in the Version 21 price chart below and review for conformance with Section 4 of Appendix B (Supplier's Prices) of the Agreement.**

<b>Transaction Type</b>	<b>Price/Transaction</b>
****	****
****	****
****	****
****	****
****	****
****	****
****	****
****	****

**Note: Other Transactions Types billed using FTE Pricing**

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**Appendix B — Performance Metrics, Remedies and Bonuses**

**1. Service Level Requirements and Remedies**

This Appendix B provides the Service Level Agreement (SLA) and remedies for the \*\*\*\* eCommerce Channel. Such performance and remedies are, in each case, subject to the Exclusions noted herein. “Service Level Performance Metric” shall mean those service levels defined in this Appendix and that have a specific credit remedy defined herein associated with failure to meet such defined performance metric (with all other performance measures or metrics being “key performance metrics” for monitoring and analytical purposes only). Except as otherwise provided, Service Level Agreement Special Events will be reviewed on an individual basis. AT&T and Supplier agree to meet and review Special Event requirements on as-needed basis. Supplier will apply commercially reasonable efforts to fulfill Special Event requirement and SLA requests for Special Events. Supplier and AT&T will meet no less than \*\*\*\* to review and modify, as agreed upon, the call types, performance metrics and remedies where appropriate.

**1.1 Customer Order/Transaction Cycle Time Service Level Performance Metric for Customer Orders Requiring Manual Transaction Processing:**

- a. \*\*\*\* of all Customer Lines of Service (LOS) on a Customer Order accepted by the ASP Solution in a Customer Order in a given \*\*\*\* will be entered into the AT&T defined system of record within the “shipping cut off window” (as defined below).

In the event the **Customer Order/Transaction Cycle Time** Service Level Performance Metric is not met in a given \*\*\*\*, Supplier will provide to AT&T the credit set forth in Table 1 each such \*\*\*\*.

If the **Customer Order/Transaction Cycle Time** Service Level Performance Metric is exceeded in a given \*\*\*\*, Supplier will invoice AT&T the premium set forth in Table 1 each such \*\*\*\*.

**Table 1: Customer Order/Transaction Cycle Time Service Level Performance Metric for Manually Processed Orders.**

Attainment Tier	Requirement or Target Metric	\$ Bonus (paid by AT&T reflected as a positive percentage value or +%) or \$ Credit (AT&T credit reflected as a negative percentage value or -%)
OC 1	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 2	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 3	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 4	**** Transactions submitted within shipping cut off window	No credit or bonus applicable
OC 5	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 6	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 7	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 8	**** of Transactions submitted within	**** of Manual Transaction Processing Fees for

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<b>Attainment Tier</b>	<b>Requirement or Target Metric</b>	<b>\$ Bonus (paid by AT&amp;T reflected as a positive percentage value or +%) or \$ Credit (AT&amp;T credit reflected as a negative percentage value or -%)</b>
	shipping cut off window	such program element in such ****
OC 9	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 10	**** of Transactions submitted within shipping cut off window for ****	**** of Manual Transaction Processing Fees for such program element in such ****

“Shipping cut-off window” is defined as \*\*\*\* for Customer Orders accepted before \*\*\*\*.

In calculating the above **Customer Order/Transaction Cycle Time Service Level Performance Metric for Manually Processed Orders**, only those Customer Orders accepted in the ASP Solution in such \*\*\*\* that require \*\*\*\* Manual Transaction Processing shall be included in such calculation.

**1.2 Customer Order/Transaction for Manually Processed Orders Order/Transaction Quality Processing Service Level Performance Metric for Customer Orders requiring Manual Transaction Processing Only:**

- a. \*\*\*\* of LOS on a Customer Order accepted by the ASP Solution in a \*\*\*\* period will be entered by Supplier correctly (without data entry error or omission of data required) into the AT&T order entry and billing systems of record as such data was received by Supplier’s Order Gateway. Orders that deviate from AT&T eCommerce “Shipped As Ordered” (SAO) policy will be excluded from the calculation of attainment of the metric in this Section. Entry that was as completed as provided in the Customer Order shall be deemed to be “accurate” or “submitted accurately”.
- b. Supplier will audit a statistical valid sample size of such **Customer Orders requiring Manual Transaction Processing** to assess the quality levels for such Customer Orders. The results of such audit will be provided to AT&T on an agreed to schedule.
- c. The above quality assessment shall be a manual process augmented by a systematic “Shipped As Ordered” assessment approach, when available.
- d. Transactions that are not received through the ASP Solution will not be eligible for inclusion in the calculation or above Service Level Performance Metric.

In the event that the Service Level Performance Metric is not met in a given \*\*\*\*, Supplier will provide to AT&T the credit set forth below in Table 2.

In the event that the Service Level Performance Metric is exceeded by Supplier in a given \*\*\*\*, Supplier will invoice AT&T the premium set forth below in Table 2 on a \*\*\*\* basis.

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**Table 2: Customer Order/Transaction for Manually Processed Orders Order/Transaction Quality Processing Service Level Performance Metric for Customer Orders requiring Manual Transaction Processing Only**

<b>SLA ID</b>	<b>**** SLA Index</b>	<b>\$ Bonus (paid by AT&amp;T reflected as a positive percentage value or +%) or \$ Credit (AT&amp;T credit reflected as a negative percentage value or -%)</b>
OQ 1	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 2	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 3	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 4	**** of LOS submitted accurately	No credit or bonus applicable
OQ 5	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such month
OQ 6	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 7	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 8	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 9	**** of LOS submitted accurately for ****	**** of Manual Transaction Processing Fees for such program element in such ****

**1.3 Inbound Call & Chat Handling Service Levels Performance Metrics**

1. ASA — \*\*\*\*.
2. Abandon Rate for Inbound Calls — \*\*\*\*.
3. Chat Button Availability Rate for Inbound Chats — \*\*\*\*. AT&T systems shall base making the button available based on the anticipated availability of an Agent to support the chat based on \*\*\*\*. AT&T shall provide \*\*\*\* reporting of such availability rate. This metric shall not apply to any Chat Transaction Types when any portion of such Inbound Chats during such \*\*\*\* are allocated or distributed to any other entity other than Vendor during such \*\*\*\* or when AT&T applications are not making such button available in accordance with mutually agreed upon parameters or has not made required reporting available to Vendor. Within \*\*\*\* of the Effective Date of this Order, the Parties agree to develop mutually agreeable Bonus/Penalty metrics and implement same upon amendment to this Order.
4. Inbound Call Quality Monitoring. Supplier shall audit and score a minimum of \*\*\*\*

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\*\*\*\* using a mutually agreed upon quality measurement criteria. The results of the monitoring and scoring will be provided to AT&T on an agreed to schedule.

**Table 3: Inbound Call & Chat Handling Service Levels Performance Metrics**

SLA ID*	Service Level Category	**** Service Level Performance Metric
****	****	****
****	****	****
****	****	****

\* IC = Inbound Call Service Level; CH = Chat Service Level

**2. ASP Solution Platform Service Levels and Remedies**

**2.1 Supplier Order Gateway and Workflow Manager Availability**

**System Availability:**

The Order Gateway and Workflow Manager shall be available and functioning in accordance with the OG SLA (as defined in Section 3.0 below) \*\*\*\* excluding 1) regularly scheduled downtimes to perform system upgrades, application administration, and any other planned events as agreed in advance in writing by the Parties and 2) Supplier written requests to AT&T for any unscheduled maintenance outage periods, if needed (“System Uptime”). System Availability is measured by ASP Solution Element for each Channel and is calculated as:

\*\*\*\*

**ASP Solution Platform Elements and Service Levels Performance Metrics and KPI for System Availability:**

1. Order Gateway - \*\*\*\* System Availability Service Level Performance Metric
2. Email Service - \*\*\*\* System Availability Service Level Performance Metric
3. Workflow Manager - \*\*\*\* System Availability Key Performance Indicator
4. Web Portal - \*\*\*\* System Availability Key Performance Indicator
5. Reporting Platform — \*\*\*\* System Availability Key Performance Indicator

**Service Level Measurement Process:**

1. Statistics used to determine outages are collected using a suite of network and application monitoring tools as well as data collected by the application itself.
2. ASP Solution Platform Element Service Level Performance Metric attainment is reviewed on a \*\*\*\* basis. All statistics from Supplier’s monitoring suite are reviewed and downtime recorded for that \*\*\*\* is summarized for each functional area of the ASP Solution Platform Element (e.g. Order Gateway, email, Workflow etc.)
3. Supplier assumes that the Customer Order volume will not exceed an amount equal to \*\*\*\* of the average \*\*\*\* volume of Customer Orders processed by such Channel during the rolling period of the prior \*\*\*\*.
4. Functional area outages are determined using the guidelines in the tables below:

**Table 4: Supplier System Outage Guidelines**

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Platform	Outage Criteria
Order Gateway	<ul style="list-style-type: none"> <li>**** Order Gateway application servers are down (no response to pings for availability)</li> <li>Order Gateway cannot process Customer Order and “nacks” **** messages to the Order Gateway</li> </ul>
Email Service	<ul style="list-style-type: none"> <li>**** Email Service servers are down</li> <li>**** email messages are able to be forwarded from Supplier email service</li> </ul>
Workflow Manager	<ul style="list-style-type: none"> <li>**** Workflow Manager servers are down</li> <li>Greater than **** of the typical volume of Agents cannot access Workflow Manager to perform functions</li> </ul>
Reporting Platform	An outage will be recorded if any one of the following occurs: <ul style="list-style-type: none"> <li>Real time reporting functionality of Reporting Platform is unavailable or is not updating data on a scheduled basis</li> <li>**** reports are not generated and delivered. Availability will be measured as a percentage of the overall number of reports generated on a **** basis</li> </ul>

**ASP Solution Platform Element Service Level Performance Metric Remedies:**

Order Gateway and WorkFlow Manager - \*\*\*\* System Availability in a \*\*\*\*.

Supplier will calculate all “downtime” (time of an Outage as noted in Table 4 above) associated with both items listed above and provide one summary figure on a \*\*\*\* basis for overall availability. Failure to meet service levels will result in the remedies as defined in Table 5 below.

**Table 5: Supplier Combined Order Gateway and Workflow Manager System Availability Service Levels and Remedies**

Order Gateway and WorkFlow Manager Service Level Combined System Availability In A ****	Credit* Against Total Technology Fee for This Channel for ****
****	****
****	****
****	****
****	****

\* Service Credits will be applied in the \*\*\*\* in which the event giving rise to the remedy occurs

Scheduled System Maintenance requires a written notice up to \*\*\*\*, but not less than \*\*\*\* notice to AT&T and Supplier Decision Makers and their subsequent consent.

**2.2 Description for e-Mail Manager Key Performance Indicators**

Supplier will host an email infrastructure that reliably forwards all system generated emails to AT&T Online customers. This infrastructure will operate within the following service levels:

- Dual mail relay servers to deliver expected \*\*\*\* System Availability
- Support \*\*\*\* email messages \*\*\*\* (reasonably spaced)
- \*\*\*\* retention of all sent email messages
- Message sizes may not exceed \*\*\*\* or contain attachments

**3. Order Gateway Performance Service Level Key Performance Indicators (“OG SLA”)**

Order Gateway under a Normal Transaction Flow (as described below) will respond to \*\*\*\* of the Customer Orders for a Channel within \*\*\*\* of its receipt by the Order Gateway in any given \*\*\*\* provided such Customer Orders is in the documented format and has been submitted by AT&T per the published process documentation and successfully pass Supplier’s Order Gateway validations (as described below). AT&T will have

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the responsibility to produce reports from the Order Gateway, or request such reports from Supplier, to measure the results and determine if this SLA Key Performance Indicator is met. AT&T and Supplier shall mutually agree on the format of such reports. Measurement will be based on \*\*\*\* for a given Customer Order. Supplier will comply with AT&T’s reasonable requests for data in accordance with the measurement.

“Normal Transaction Flow” means:

- a. Volumes and distributions are within the expected capacity thresholds for ASP Solution as identified in the Agreement.
- b. The sending system emits a valid message for the activity desired per the agreed upon schema.
- c. The AT&T client is also sending messages at the rate both Parties have determined acceptable for the Channel and via the agreed upon protocol.
- d. AT&T’s systems are accepting and correctly processing responses from the Supplier platform.

During the Normal Transaction Flow, it is assumed that the client is sending the correct number of messages per Transaction.

Order Gateway validations: Upon receipt of a message, the Order Gateway will validate the message against the specified schema and/or configured business rules. Additional security, database and business logic analysis will be performed to ensure the message can and should be processed by the Supplier system. If both of these activities are successful, the Order is submitted for processing.

**4. Automation Rates, SLAs and Remedies for Customer Orders**

The Parties agree that measurement of automation levels and partial automation levels for Customer Orders is an important metric in overall subscriber satisfaction and the costs of both Parties. As such, the following parameters are established to review and monitor Automation Rates on agreed upon Customer Orders. The Parties acknowledge that the Actual Automation rate or Rate of Fallout may have many factors and causes including those that are not indicative of any failure or inadequate performance by a Party. As such, the Parties shall meet quarterly to establish and review the parameters and requirements for measuring Automation Rates and, discuss adjustments as may be reasonably agreed upon by the Parties from time to time. Any such adjustments shall be made pursuant to the Change Order Process under the Agreement.

**1. Establishing Expected Automation Rate.**

The Parties shall mutually agree in writing on the Customer Orders that constitute the Customer Orders in the Customer Order Class. Such orders shall be:

- (a) supported by a Workflow and Order Manager configuration, process and flow that supports such Orders being capable of being an Automated Order (ie. is not a workflow or process that has, by business rule or otherwise, an anticipated Fallout condition for each such Customer Order), and
- (b) of a similar nature or type so as to provide meaningful Automation Reporting output for management purposes as reasonably agreed upon by the Parties without undo detail or quantities of measurements and reports.
- (c) Customer Orders with an established and tested Order Manager and Workflow configuration for at least \*\*\*\*.

Upon establishing the Customer Order Class, the Parties shall study the Automation Rate of the Customer Order Class for Completed Customer Orders in the Customer Order Class over the \*\*\*\* period that does not include a Special Event (an “Evaluation Period”) where the following data is reasonably constant or static during such Evaluation Period (collectively, the “Baseline Data”):

- (a) Mix of the types of Customer Orders within the Customer Order Class and the Automation Rate for such Orders,

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- (b) Volume and arrival distribution of such Customer Orders,
- (c) Relative occurrence of issues that impact or cause Fallout or a Customer Contact (excluding Fallout as a result in a Defect in the ASP Solution or error in configuration or implementation of a process or workflow in the ASP Solution by Supplier), and
- (d) Current processes, workflow and task requirements and the SLA requirements established for the Customer Orders in the Customer Order Class as well as average handle times and system response times for connected applications external to the ASP Solution that are applicable to the Orders and related parameters (such as system timeouts and “retries”) (collectively, the “Requirements”).

The Parties shall use the Average Automation Rate for the Customer Order Class over each \*\*\*\* of the Evaluation Period less \*\*\*\* as the Expected Automation Rate for such Order Class. In the event that, for each \*\*\*\* of an Evaluation Period, the \*\*\*\* Automation Rate varies from the average Automation Rate in such Evaluation Period by more than \*\*\*\*, the Parties shall (a) defer the assignment of an Expected Automation Rate for such Customer Order Class or (b) conduct such evaluation on an extended or new Evaluation Period, as may be reasonable, until such discrepancy and deviation is less than or equal to \*\*\*\*.

For each Customer Order Class that has an established Expected Automation Rate, such rate shall remain the same during each \*\*\*\* of the Term.

2. Measurement and Reports.

Supplier will provide Automation Reports to AT&T for agreed upon Order Classes on a \*\*\*\* basis (each such \*\*\*\*, a “Measurement Period”) setting forth (a) calculations of actual performance relative to the SLAs for the relevant \*\*\*\*; and (b) in the event that any SLAs are not achieved in any given \*\*\*\*, a description of the cause or causes believed to have caused such failure to achieve such SLA, and, to the extent such caused by a Defect, any corrective actions taken by Supplier to prevent re-occurrence.

Customer Order Processing Automation Rate

Customer Order Class	Expected Automation Rate
1.	1.

3. Adjustments to the Expected Automation Rate.

If, there are changes in the Requirements or Baseline Data for an Order Class or additions/deletions of Orders types in the Order Class (creating a new Order Class), Order class makeup, Expected Automation Rate and related obligations and rights shall be readjusted pursuant to the mutual agreement of the Parties, in good faith and in a manner consistent with the intent of this Agreement and Section 1 above, to reflect such changes. In the event of a process change requested by AT&T, the Parties will mutually agree on an appropriate period, if any, after such implementation when the SLAs will not apply.

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4. SLA and Remedies.

SLA Category	Remedy
****	****

5. **Assumptions and Exclusions**

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**5.1 Methods and Procedures (M&P)**

Subject to the terms of this Order, Supplier's Customer Care Support will adhere to AT&T's approved Methods and Procedures (M&P). Supplier must submit a change request and receive prior written approval from AT&T to deviate from the approved M&P.

**5.2 Exclusions**

No remedies for any error, failure or delay of Supplier shall be deemed to occur to the extent resulting from the following (collectively "Exclusions")

1. Any failure, error or delay resulting from volume in a given interval exceeds the volume in Locked Forecast for such Contact to transaction type that interval by more than \*\*\*\*, except in the case of the ASP Solution Platform Availability SLA for which the threshold shall be \*\*\*\* of the \*\*\*\* volume of Customer Orders processed by such Channel during the rolling period of the \*\*\*\*;
2. An error, delay or failure of any AT&T network, application or system or service provided by or obtained from AT&T for use in supporting the Services;
3. Defects where normal intervals for ASP Solution testing of a release were not available as a result of accelerated timelines requested by AT&T;
4. Any incorrect or missing data provided by AT&T, its agents or its Customers;
5. An error, delay or failure resulting from acting on the instruction of AT&T or an event outside the reasonable control of Supplier or as a result of any other exclusion set forth in the Order or Agreement
6. Any failure by AT&T to meet its obligations under this Order or the Agreement;
7. Any error, delay or failure in the ASP solution that is not a result of a Defect

Notwithstanding the existence of an Exclusion, Supplier shall nevertheless use commercially reasonable efforts to continue to meet Service Levels under this Order during the existence of an Exclusion. Transactions or Customer Orders that failed to meet a performance metric as a result of the existence of an Exclusion shall be excluded from calculations in determining the credits or bonus.

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**Exhibit R-1 — Operational Reports**

<b>Channel</b>	<b>Report Name</b>	<b>Frequency</b>
****	****	****
****	****	****
****	****	****
****	****	****
****	****	****
****	****	****

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Order

No. SG021306.S.025.S.003

Between

Synchronoss Technologies, Inc.

And

AT&T Services, Inc.

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**Order**

This Order No. SG021306.S.025.S.003 (the "Order") is by and between Synchronoss Technologies, Inc., a Delaware corporation ("Supplier") and AT&T Services, Inc., a Delaware corporation ("AT&T"), each of which may be referred to in the singular as "Party" or in the plural as "Parties," and shall be governed pursuant to the terms and conditions of that certain Subordinate Material and Services Agreement No. SG021306.S.025 dated August 1, 2013 (the "Agreement") between Supplier and AT&T, which by this reference are incorporated as if fully set forth herein. Unless otherwise stated in this Order, all terms defined in the Agreement shall have the same meaning in this Order. Any terms and conditions in this Order that modify, vary from or are inconsistent with the terms and conditions of the Agreement shall apply to this Order only. If there is an inconsistency or conflict between the terms and conditions of this Order and the Agreement, the terms of this Order shall control with respect to the subject matter of this Order.

**1. Definitions:**

Terms not defined herein shall have the meaning assigned in the Agreement or Master Agreement.

<b>Term</b>	<b>Definition</b>
Automation Report	For Customer Orders in a Customer Order Class that is Automation Eligible, the report shows the (a) total number of Customer Orders of such Order Class Completed in such **** that were Automated Orders in a given month, (b) the total number of Customer Orders of in such order Class Completed in such **** and (c) the percentage of such Customer Orders that were Automated Orders.
Automation Eligible	Customer Order Classes where the process requirements for such Customer Order Class that are configured in the ASP Solution support Completion of as Automated Orders if a Fallout condition is not encountered (ie: excluding Customer Orders that will, by the configured process, always encounter a Fallout condition).
Automation Rate	For a given period and Order Class, ****.
Business Rule Fallout	Any Fallout that occurs as an intended result of a configured business rule or process in the workflow of the ASP Solution that, when a Customer Order satisfies the criteria of such rule, is directed to a queue for Manual Transaction Processing or intervention by an Agent.
Expected Automation Rate	Means the minimum expected Automation Rate for a given Order Class for any given month of the Term mutually agreed upon by the Parties in accordance with Appendix B, Section 3.2.1 and 3.2.2
Fallout	A condition that occurs when a Customer Order ****

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Term	Definition
	**** (NOTE: a Contact that is not a result of (or in response to) Fallout does not change the status of classification as an Automated Order - such a status request call by a Subscriber on an Customer Order that flowed through without manual intervention)
Customer Order Class	A group of Customer Orders of a similar type or nature for a given Channel for reporting, tracking and management purposes.

**2. Duration of Order:**

After all Parties have signed, this Order shall be effective on August 1, 2013 (the "Effective Date") and will continue until July 31, 2016 unless earlier terminated as set forth herein (the "Initial Term"). AT&T, solely at its discretion, may renew this Order for \*\*\*\* (the "Renewal Term" and together with the Initial term, the "Term") by providing at least \*\*\*\* written notice prior to the end of the Initial Term.

**3. Description of Material and/or Services:**

3.1 Background and Scope

The scope of this Order is to define the work activities, pricing, forecasting process, performance metrics and associated incentive credits and remedies associated with the Services performed by Supplier for AT&T eCommerce.

During the Term, Supplier shall provide its ASP Solution as Supplier hosted managed Service. The ASP Solution supports a streamline of the back office management process relating to the sale of telecommunications services by AT&T eCommerce, improved cycle times for such sales, intended to reduce the cost per Customer to perform such processes or tasks related to a Customer Order.

Supplier shall provide (as set forth in this Order):

- a. The process, tools and organizations that support AT&T eCommerce Transaction management. Transaction management includes, but is not limited to:
  - i. Automated Customer Order processing through the Order Gateway;
  - ii. Customer Care Support; and
  - iii. Manual Transaction Processing;
- b. Operational metrics and executive reporting set forth herein; and
- c. The ASP Solution configuration management, hosting and Tier 1-3 support (to designated AT&T IT staff) of the Order Gateway, Workflow Manager, Reporting Platform, Integrated IVR Solution, and Email Manager; and
- d. IT Professional Services (as defined in Section 3.0 of Attachment B to the Agreement).

3.2 Services and/or Specifications

Supplier shall perform the following Services under this Order:

- a. Supplier is responsible for providing AT&T eCommerce with access to the ASP Solution, Manual Transaction Processing and Customer Care Support (collectively the "Managed Services"), specific

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to the Consumer Wireline Channel, as specified in this Order. Supplier will provide the Managed Services required for processing Customer Orders, including Manual Transaction Processing and Customer Care Support assigned to the OMC. Supplier will provide the required staff of Agents, subject matter experts and managers (collectively "Supplier Resources"), and access to the ASP Solution to handle the work items, all in accordance with the Agreement and this Order;

- b. Subject to any Exclusions (defined in Section 1.3 of Appendix B), Supplier shall provide the Services in accordance with the Service Level Performance Metrics set forth in Appendix B of this Order;
- c. Subject to any Exclusions, for breach of any agreed Service Level Performance Metrics in any \*\*\*\*, Supplier shall provide to AT&T service level credits to be applied to Supplier's invoices as set out under Appendix B of this Order;
- d. For exceeding any Service Level Performance Metrics in any \*\*\*\*, Supplier shall invoice AT&T for service level debits to be applied to Supplier's invoice as defined in Appendix B of this Order; and
- e. Additional Services may be added to this Order upon mutual written agreement of the Parties in accordance with the Change Control Process described in Appendix M of the Agreement.

3.3 Key Tasks and Deliverables

Supplier represents and warrants that its Services shall conform to the requirements contained in this Order and shall be performed in a professional workman-like and timely manner.

The table below outlines the key tasks to be performed and deliverables to be provided by Supplier. Deliverables shall meet all mutually agreed-upon requirements and specifications by the Parties.

Tasks	Deliverables
a. Automated Order Processing using the ASP Solution	As set forth in Appendices A & B
b. Customer Care Support	As set forth in Appendices A & B
c. Manual Transaction Processing	As set forth in Appendices A & B
d. Operational Metrics and Reporting	As set forth in Appendix B and Exhibit R-1 respectively
e. IT Professional Services	ASP Solution functionality as set forth in mutually agreed upon specifications in accordance with Section 3.0 of Appendix B of the Agreement

3.4 Supplier Responsibilities

In addition to Supplier performing the Services described in Section 3.2 and providing the Deliverables defined in Section 3.3, and subject to AT&T meeting its responsibilities under this Order, Supplier shall provide the following:

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- a. Manage and direct all aspects of the Supplier Resources to perform Services and provide the Deliverables defined by this Order;
- b. Provide adequately trained and otherwise qualified Supplier Resources in accordance with \*\*\*\*, including any agreed upon requirements specific to the \*\*\*\* Channel, to create the Deliverables and provide Services, as applicable, under this Order;
- c. Provide personnel management of Supplier Resources, including required training/orientation for any new resources that are added by Supplier;
- d. Provide IT Professional Services to maintain ASP Solution interface compatibility among system components in AT&T's operational environment;
- e. Subject to any Exclusions, meet all delivery dates agreed upon by the Parties and the Performance Metrics specified in Appendix B this Order;
- f. Provide, for Supplier Resources billed on a time and materials or FTE basis, a suitable time reporting system for the collection of Supplier Resource work times related to this Order; and
- g. Timely response to open issues, problems and action items raised by AT&T.

3.5 AT&T Responsibilities

AT&T will be responsible for the following in addition to other responsibilities under the Master Agreement or Agreement:

- a. Management and direction of all AT&T team resources working in relationship with Supplier on this Order;
- b. Timely access to all AT&T subject matter experts that the Parties determine are required to provide Services or complete Deliverables;
- c. Timely communication of all changes related to deliverables, dependencies and requirements (including any changes to AT&T systems or processes);
- d. Timely response to open issues, problems and action items raised by Supplier; and
- e. Any content provided by AT&T.

**4. Personnel to Perform the Services:**

Supplier shall provide skilled and experienced Supplier Resources to perform the Services described in Section 3.2 and provide the Deliverables defined in Section 3.3.

**5. Location:**

5.1 Onshore Location(s):

Supplier's U.S.-based resources shall provide the Services at its facilities located at the addresses set forth below. Additional sites located in the United States may be added by Supplier upon written notice to AT&T.

\*\*\*\*

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\*\*\*\*

5.2 Offshore Location(s):

Except for hosting, data backups and disaster recovery of Supplier's ASP Solution, which may not be provided from any Offshore Location (as defined below), Supplier's offshore resources shall provide any of the other Services at Supplier's facilities located at the addresses set forth below. In addition, unless otherwise agreed upon in writing by the Parties, agents providing call support Services from locations in Canada are capped at \*\*\*\* across all Channels, the total number of such \*\*\*\* currently providing such Services as of the Effective Date of this Order.

\*\*\*\*

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\*\*\*\*

Supplier may add other countries not previously approved by AT&T where Supplier (or Subcontractors) has additional offshore locations upon prior written approval by AT&T Supply Chain & Fleet Operations of such additional country. In the event that Supplier transfers the Services provided under this Order from one physical location to another physical location within the same country or to a physical location in another previously approved country as shown in Appendix K of the Agreement, Supplier shall provide reasonable notice to AT&T of any such transfer.

Notwithstanding the foregoing and excluding any temporary transfer of Services to (i) maintain business continuity or Service recovery in times of impairment of Services provided under this Order, (ii) provide support for Special Events or (iii) meet agreed upon off-shore labor thresholds permitted under Section 4.1 Appendix B to the Agreement, Supplier shall require AT&T's written prior approval for (a) such transfer of Services longer than \*\*\*\* to an existing Supplier center that has failed to meet the same Service Level Performance Metrics in the past \*\*\*\* or in any given \*\*\*\* over the \*\*\*\*, (b) such transfer of Services that has occurred at least \*\*\*\* in the \*\*\*\* to an existing Supplier center that has failed to meet Service Level Performance Metrics in the \*\*\*\* or in any given \*\*\*\* over the \*\*\*\* or (c) such transfer of Services is to a new physical location other than an existing approved Supplier location.

The Parties agree to work in good faith to review and discuss the distribution of Supplier's resources performing Customer Care Support under this Order.

Supplier agrees to abide by all AT&T security requirements provided in the Agreement.

**6. Fees & Payment Terms:**

- 6.1 Supplier shall perform the Services and provide the Deliverables described in this Order in accordance with the fee structures provided in Appendix A of this Order.
- 6.2 Supplier shall render invoices and all required supporting detail to AT&T in accordance with Section 3.5 of the Agreement by not later than the \*\*\*\* following the \*\*\*\* in which Services were provided. Payment terms are as set forth in Section 3.5 of the Agreement.
- 6.3 No travel and living expenses incurred by Supplier under this Order shall be reimbursed unless AT&T has provided prior written approval for such expenses.
- 6.4 All travel and living expenses shall be in accordance with the Reimbursable Expenses section of the Agreement and the AT&T Vendor Expense Policy attached to the Agreement as Appendix Z.
- 6.5 Supplier shall separately invoice AT&T \*\*\*\* in arrears for any travel and living expenses authorized (pre-approved) and such expenses will be payable to Supplier in accordance with Section 3.5 of the Agreement.

**7. Invoices/Billing Information:**

Invoices and billing information shall be issued \*\*\*\* in accordance with Section 3.5 of the Agreement and shall be sent to:

\*\*\*\*

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\*\*\*\*

with copies of all such invoices to:

\*\*\*\*

**8. Points of Contact:**

Supplier agrees to respond to all changes to, interpretations of, additional purchase requirements and any other matters related to the provisions contained in this Order by contacting AT&T's representative below:

\*\*\*\*

For project management and coordination of Services under this Order, the Supplier and AT&T contacts are provided below.

The AT&T project managers and/or points of contact shall be:

\*\*\*\*

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The Supplier project manager and/or point of contact shall be:

\*\*\*\*

**9. Name of Affiliate Ordering Services:**

AT&T Services, Inc.

**10. Transmission of Original Signatures and Executing Multiple Counterparts**

Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., .pdf or similar format) are true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as that of an original signature. This Order may be executed in multiple counterparts, each of which shall be deemed to constitute an original but all of which together shall constitute only one document.

*[Signature Page Follows Immediately Hereafter]*

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IN WITNESS WHEREOF, the Parties have caused this Order to be executed as of the Effective Date.

**Synchronoss Technologies, Inc.**

**AT&T Services, Inc.**

By: /s/Stephen Waldis

By: /s/Tim Harden

Printed Name: Stephen Waldis

Printed Name: Tim Harden

Title: Chief Executive Officer

Title: President - Supply Chain & Fleet Operations

Date: August 30, 2013

Date: August 30, 2013

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**Appendices**

**Appendix A — Managed Services Pricing and Termination Provisions**

Supplier shall provide the Managed Services, including any applicable deliverables set forth in the scope of such Services, for the following fees:

**1. Technology Fee**

1.1 Fees for the Use of the ASP Solution under this Order (Technology Fee) shall be as set forth in Section 1.0 of Appendix B of the Agreement.

1.2 Supplier shall invoice the Technology Fee to \*\*\*\* as set forth in Section 7 of the Order.

**2. Hosting Fee**

2.1 Hosting Fees for the ASP Solution under this Order (Hosting Fee) shall be as set forth in Section 2.0 of Appendix B of the Agreement.

2.2 Supplier shall invoice the Hosting Fee to \*\*\*\* as set forth in Section 7 of the Order.

**3. IT Professional Services Fees**

3.1 Fees for the IT Professional Services shall be as set forth in Section 3.0 of Appendix B of the Agreement.

3.2 Supplier shall invoice the IT Professional Services fees to \*\*\*\* as set forth in Section 7 of the Order.

**4. Customer Care Support and Manual Transaction Processing Fees**

4.1 AT&T shall pay Supplier Customer Care Support and Manual Transaction Processing fees as set forth in Section 4.0 of Appendix B of the Agreement.

4.2 Supplier shall invoice such Fees to \*\*\*\* as set forth in Section 7 of the Order.

4.3 For each program where pricing is Transaction based:

- i) Forecasting — \*\*\*\*

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4.4 For programs where pricing is FTE based:

- i) "FTE Pricing" for Contacts or Manual Transaction Processing where a Transaction Price does not apply or is not available shall be pursuant to the terms of Section 4.3 of Appendix B of the Agreement.
- ii) In the event that Supplier invoices Manual Transaction Processing Fees or Customer Care and Support based on the FTE Pricing methodology described in this Section, Supplier shall provide detail at the time of its \*\*\*\* invoice that substantiates \*\*\*\* billing for the number of pre-approved FTEs agreed to in the FTE Staff Plan along with all Overtime \*\*\*\* authorized by AT&T, if any. The billing detail provided shall include the following information:

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FTE Pricing — \*\*\*\*

Team Description	# FTEs	****/FTE	**** Rate	Total
Team A				
Team B				
Team C				
				Total

4.5 Supplier shall provide up to \*\*\*\* of continuation training (“CE Training”) per Supplier agent FTE who’s primary responsibility is support of Contacts (a “CSR”) for a given program per \*\*\*\* at \*\*\*\* to AT&T provided that materials and reasonable advance notice are provided by AT&T for such training. The use of CE Training \*\*\*\* must be preapproved by AT&T’s Vendor Manager in writing. CE Training \*\*\*\* may be used for sales training, coaching, program updates, changes to the \*\*\*\* program, software and system updates and/or changes, scripting changes, or other topics related to the Order and the Services provided hereunder that AT&T reasonably request. Additional training for CSR performance improvement issues on a given CSR (recursive training) shall be \*\*\*\* to AT&T and shall not count toward the allocation for CE Training \*\*\*\*. Supplier must account for such CE training in providing staffing in accordance with Section 4.3 i) above. If this training is not completed in a \*\*\*\* solely due to Supplier’s inability to meet staff requirements reasonably anticipated to meet the volumes and volume distributions in the Locked Forecast resulting in a shortfall of CSRs for such \*\*\*\*, such training scheduled for such period under the CE Training allotment shall be completed in the following \*\*\*\* and such training will not be counted towards following \*\*\*\* allotment of CE Training \*\*\*\*. Except as set forth herein, any unused allocation of such training may not be carried forward to future \*\*\*\* or transferred between programs and no credits shall be provided for any unused allocation.

5. Operations Management Support Fees

As part of this Order, Supplier will provide AT&T with Operations Management support. The dedicated team will provide AT&T with the following services:

**Program Management:**

Responsibilities include project management, business analysis, and functional analysis to support new development, features and functionality.

**Operations Management:**

Responsibilities include management of processes pertaining to: credit, activation, and Customer Order fulfillment, Customer Order or Transaction queue management, service level monitoring and reporting, staffing, IVR management, CSR training, and interacting with \*\*\*\* and \*\*\*\* and Care teams to ensure seamless, high quality customer service for eCommerce Customers.

With the exception of performance issues by a resource, which shall be addressed in accordance with the terms of the Agreement or as otherwise set forth in Special Event or other written documentation agreed upon by the Parties, adjustments to increase the resources must be communicated in writing \*\*\*\* before the start of the next \*\*\*\* while \*\*\*\* minimum advance notice is required in writing to terminate a resource per Section 6.5 below Resources requested to be added shall be subject to resource availability.

Table 5 below reflects the schedule and fee for each FTE on the \*\*\*\* Operations Management Team as of the Effective Date of the Order.

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**Table : Operations Management Fee Schedule**

Role	**** Rate Per FTE
Data Analyst	****
All Other Roles	****

**6. Termination Provisions.**

- 6.1 **Termination for Cause** - If either Party breaches any provision of this Agreement and/or any Order, and (i) if the breach is one that by its nature could be cured, and such breach is not cured within \*\*\*\* after the breaching Party receives written notice, or (ii) if the breach is material and one that by its nature cannot be cured, then, in addition to all other rights and remedies at law or in equity or otherwise, the non-breaching Party shall have the right upon written notice to immediately terminate this Agreement and/or any such Order without any obligation or liability. Failure of the non-breaching Party to immediately terminate this Agreement and/or any Order (x) following a breach which continues longer than such cure period, provided such breach has not been cured prior to the non-breaching Party’s providing notice of termination, or (y) following a breach that cannot be cured or that constitutes a violation of Laws shall not constitute a waiver of the non-breaching Party’s rights to terminate; provided, however, if the non-breaching Party does not exercise such termination right within \*\*\*\* of the date such right is triggered, the non-breaching Party shall waive its right to terminate with respect to such breach.
  
- 6.2 **Termination for Convenience of the ASP Solution and IT Professional Services** - \*\*\*\*, during the Initial Term or Renewal Term, AT&T may at any time, for its own convenience and without cause, by providing Supplier written notice of at least \*\*\*\* prior to the effective date of the termination, terminate Supplier’s ASP Solution and IT Professional Services, provided under this Order, in whole. In the event AT&T terminates for convenience Supplier’s ASP Solution and IT Professional Services under this Order in whole, AT&T shall pay Supplier, as Supplier’s sole and exclusive remedy for detriment resulting from AT&T’s termination, the price of such Work or Services performed through the date of termination and a termination charge (provided however, such termination shall not relieve AT&T of any obligations for any minimums under the Agreement). The termination charge shall be calculated as shown in the table below.

Period	Notification Date On or After	Termination Notice	Termination Charge
Initial Term	****	****	****

- 6.3 **Termination for Convenience of up to \*\*\*\* of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats**
  - a. AT&T may at any time, for its own convenience and without cause, by providing Supplier written notice, terminate \*\*\*\* of the volume in any month during a \*\*\*\* of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats (the “Threshold Percentage”), provided under this Order.
  
  - b. In the event AT&T terminates Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for convenience up to the Threshold Percentage, and elects, solely at its discretion, to perform the work itself or through its designated third party, AT&T shall notify Supplier via the forecasting process (identified in Section 4.3 and 4.4 above) the actual percentage of \*\*\*\* Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats

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AT&T intends to assume (or, if applicable, it requests for a third party to assume). Upon such election by AT&T, Supplier shall have no responsibility for any such Customer Care Support or Transactions requiring Manual Transaction Processing that AT&T elects to perform or have a third party perform.

- c. In the event AT&T elects for AT&T or other third party to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\*, Supplier will provide AT&T or its designated third party employees and contractors who will be performing such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats access to the Workflow Manager, Call Tracker, and Reporting Platform and any other components of the ASP Solution and related Supplier system(s) access solely to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\* within \*\*\*\* after AT&T notifies Supplier. In addition, each employee or contractor of AT&T or such third party who will access the ASP Solution or related Supplier system(s) shall agree in writing to comply with Supplier's information security requirements. Supplier will work with AT&T to ensure that the allocations of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats to be processed by Supplier and to be processed by AT&T for \*\*\*\* are implemented as mutually agreed by the Parties in accordance with this Order. AT&T shall be responsible for the actions or inactions of such third Parties granted access to the ASP Solution.
- d. In the event that AT&T elects to increase the amount of its Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats processed by AT&T (or its subcontractors) for \*\*\*\* in accordance with this Section, the Parties shall meet promptly to agree on a plan to initiate the performance of such services by AT&T or its designated third party provider to complete such transition within \*\*\*\* (subject to any forecasting requirements or minimums) unless the Parties mutually agree to a longer or shorter period. AT&T will be responsible for formally communicating to Supplier the percentage allocation they are ultimately targeting to achieve in connection with the transition of such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats. Supplier will then work with AT&T to implement the identified allocation percentage in three 30 day intervals, of \*\*\*\* (e.g., AT&T communicates to Supplier they want to increase the percentage allocation by \*\*\*\* in total. Supplier will transition \*\*\*\* during the \*\*\*\*, \*\*\*\* during the \*\*\*\* period, and the \*\*\*\* during the \*\*\*\* until the additional \*\*\*\* (original percentage) is achieved). Supplier shall provide reasonable assistance to AT&T in connection with such transfer provided at no incremental fee except that if any professional services for AT&T or such designated provider are required, Supplier shall provide such reasonable professional services at Supplier's rates provided herein. Any transition to AT&T or third party of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats in accordance with this Section shall have no effect on the Technology Fees or Hosting Fee provided above.
- e. In the event AT&T makes such election and exceeds the percentage of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats (where such overage was incidental or a good faith error in estimation of volumes) set forth above in any \*\*\*\*, Supplier will not penalize AT&T for any such overage and, in such case, the Parties will promptly upon determining such overage, meet and negotiate in good faith a process to timely move to compliance with the then applicable requirements and percentage of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats AT&T should be handling pursuant to the terms of this Order.

**6.4 Termination \*\*\*\* of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats**

- a. In the event that AT&T elects to perform the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats itself or through a third party for \*\*\*\* in excess of the Threshold Percentage and Supplier does not have the appropriate skill sets or such third party bid or pricing is at a lower cost than Supplier under this Order, Supplier shall have the opportunity to review the bid (subject to compliance with any obligations of confidentiality) and determine if Supplier can meet

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the same price and material terms to AT&T by such third party and/or skill set requirements as provided to AT&T in such bid. Promptly after receiving such bid, AT&T shall provide Supplier with the necessary information relating to such bid (including material terms, pricing and resources) for Supplier to make such determination; provided, however, AT&T shall not be required to provide any information which would cause it to violate its confidentiality obligations to a third party. Supplier shall take information provided by AT&T at face value in connection with such determination.

- b. Within \*\*\*\* (“Evaluation Period”) of receiving the necessary information from AT&T, Supplier shall provide written notice to AT&T whether it will (a) perform the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats that are the subject of the Evaluation Period for \*\*\*\* on the same fees, service level agreements, key performance indicators, quality requirements, productivity requirements, countries or locations from which service is supported, systems, training requirements, infrastructure or processing requirements (with materially equivalent legal terms and conditions as those that exist between the Parties, such as those pertaining to the allocation of risk and liabilities (e.g., limitation of liability, indemnification, payment terms and termination for convenience)) as set forth in such bid when taken as a whole or aggregate offer (unless otherwise agreed upon by the Parties in writing) immediately upon completion of such evaluation within the Evaluation Period (or upon \*\*\*\* of completion of the Evaluation Period if such terms and conditions or modified pricing require or provide for a modification in Supplier centers performing Services (ie: off shore location) or training or of Agents) and the Parties shall document such changes in the form of a written amendment to this Order, (b) allow AT&T or such third party to assume such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats for \*\*\*\* as provided in such bid, or (c) escalate to its respective executives in accordance with the provision below. In the event that Supplier does not provide written notice to AT&T within such \*\*\*\* period, AT&T may deem that Supplier elected not to match the applicable bid. In the case of notification by Supplier under item (b) above, such notification shall also contain estimation of cost increases, if any, for Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats retained by Supplier. Notwithstanding anything to the contrary, in the event that AT&T makes an election to move Customer Care Support from Supplier under the provisions of this Section in excess of the Threshold Percentage, such move must be to only to use the third party resources that were the subject of the bid used in the Evaluation Period and under the terms presented under such bid in all material respects. In the event that Supplier and AT&T do not agree on the results of such evaluation, an officer of Supplier and an officer of the respective division of AT&T shall meet to resolve such dispute within \*\*\*\* of the conclusion of the Evaluation Period. In the event that such executives cannot resolve such dispute, Supplier shall provide the third party which provided such bid or

AT&T internal resources the same access to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats for \*\*\*\* as provided in Section 4.5 above.

- c. In the event that AT&T is entitled to increase the amount of its Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats in accordance with this Section, the Parties shall meet promptly to agree on a plan to initiate the performance of such services by its designated third party provider to complete such transition within \*\*\*\* of the conclusion of the Evaluation Period unless the Parties mutually agree in writing to a longer or shorter period. AT&T will be responsible for formally communicating to Supplier the percentage allocation they are ultimately targeting to achieve in connection with the transition of such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats. Supplier will then work with AT&T to implement the identified allocation percentage in \*\*\*\* intervals, of \*\*\*\*. (e.g., AT&T communicates to Supplier they want to increase the percentage allocation by \*\*\*\* in total. Supplier will transition \*\*\*\* during the \*\*\*\*, \*\*\*\* during the \*\*\*\*, and the \*\*\*\* during the \*\*\*\* until the additional \*\*\*\* (original percentage) is achieved). Supplier shall provide reasonable assistance to AT&T in connection with such transfer provided at no incremental fee except that if any professional

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services for AT&T or such designated provider are required, Supplier shall provide such reasonable professional services at Supplier's rates provided herein. Any transition to AT&T or third party of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats in accordance with this Section shall have no effect on the Technology Fee or Hosting Fee provided above provided however, in the event that this has AT&T exceeding the Threshold Percentage, Synchronoss may charge for, in addition to the Technology Fee and any other fees due under the Order, a price per Customer Order in excess of the Threshold Percentage that uses the Workflow Manager where any Manual Transaction Processing is by a party other than Supplier equal to a fee not to exceed \*\*\*\* (excluding any Synchronoss Agents) granted access to the Order Manager, Call Tracker, and Visibility Manager and any other components of the ASP Solution and related Supplier system(s) access solely to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\*.

- d. For the avoidance of doubt, notwithstanding anything to the contrary, termination of the Customer Care Support shall be permitted pursuant only under the terms of Sections "6.3" and "6.4" above. In the event of an election by AT&T to move Customer Care Support in excess of the Threshold Percentage from Supplier under Section "6.4" where such move alters the type or distribution on a program of any of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats retained by Supplier and is likely to adversely impact Supplier's costs or efficiency, Supplier shall provide the third party which provided such bid or AT&T internal resources the same access to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats for \*\*\*\* as provided in Section 4.5 above. The Parties agree to negotiate in good faith modifications to the pricing, the requirements or processes pertaining to remaining Contacts or Transactions and/or applicable Service where such increase reasonably reflects Suppliers increased average costs per Contact or Transaction and agreement shall not be unreasonably withheld by either Party. In the event that the Parties are unable to agree, the issue shall be resolved in accordance with Section 4.5 of the Agreement. For the avoidance of doubt, if the Parties are unable to agree on or have not agreed to modifications to the pricing, the requirements or processes pertaining to remaining Contacts or Transactions, AT&T may move Customer Care Support in excess of the Threshold Percentage from Supplier under Section "6.4" above. For the avoidance of doubt, if the Parties agree to a price increase or changes to process, then (a) any such price increase or changes to process shall only be effective when the Threshold Percentage is exceeded and shall not apply to Services retained by Supplier if the Threshold Percentage is not exceeded; and (b) the provision of Sections "6.3" and "6.4" above shall continue to apply to any Customer Care

Support retained by Supplier; and (c) any such increase in pricing or changes to process shall be effective on the date that Customer Care Support is moved from Supplier.

- 6.5 **Termination for Convenience of Operations Management Support Services** — During the Initial Term or Renewal Term, AT&T may at any time, for its own convenience and without cause, by providing Supplier written notice of at least \*\*\*\* prior to the effective date of the termination, terminate Supplier's Operations Management Support Services, provided under this Order in whole or in part. In the event AT&T terminates for convenience Supplier's Operations Management Support Services under this Order, AT&T shall pay Supplier, as Supplier's sole and exclusive remedy for detriment resulting from AT&T's termination, the price of such Services performed through the date of termination.
- 6.6 **Failure to Meet Service Level Performance Metrics.** In the event that Supplier fails to meet or exceed (a) the same Service Level Performance Metric (as defined in Appendix B) for \*\*\*\* in any \*\*\*\* or \*\*\*\* in any \*\*\*\*, or (b) \*\*\*\* or more Service Level Performance Metric's for \*\*\*\* in any \*\*\*\* or \*\*\*\* in any \*\*\*\*, AT&T may elect to have AT&T or its designated third party perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\* that failed such requirement in (a) or (b) above resulting in more than the Threshold Percentage of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats (up to \*\*\*\*) of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or

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Chats processed. For purposes of this Order, Service Level Performance Metrics for \*\*\*\* shall have the meaning ascribed to such term in Appendix B specific to \*\*\*\*.

6.7 In the event that all Work or Services under this Order are terminated per Sections 6.2, 6.3, 6.4 and 6.5 above, this Order will be deemed to be terminated by AT&T as of the effective date of the termination of the last such Work or Services under this Order.

**6.8 Return of Information Obligations upon Expiration or Termination**

Each Party shall, except as required under law or this Order, upon expiration or termination of this Order and after all Wind Down and Transition efforts have concluded, promptly return all papers, materials, and property of the other Party.

**6.9 Wind Down and Transitioning.**

- a. The Parties acknowledge that upon the termination or expiration of the Agreement (provided that such termination is not a result of termination by Supplier for cause), existing Customers will need to be migrated to AT&T-hosted or to third party-hosted platforms. Because of the volume of Customer provisioning that is handled by Supplier at the time of execution of this Agreement, the Parties agree that they will need to develop a Transition Plan at that time in order to carry out an orderly, migration that mitigates disruption of operations for AT&T. For purposes of this section, Transition Plan shall be defined as a mutually negotiated, written document outlining the respective obligations of each Party in carrying out an incremental or phased cutover of Customer Order provisioning provided by Supplier under this Agreement to AT&T, including the continued payment of agreed unit prices under any supplemental Order, to the extent incurred, and the payment of any agreed time and material charges incurred above the existing unit prices.
- b. The Parties agree to negotiate in good faith toward a Transition Plan that will cover at least the following points:
  - (i) Segmenting Customer Information from the view, modification, deletion or any other access by Supplier or Supplier-chosen subcontractors who will continue to work for Supplier on other, non-AT&T e-commerce businesses after the Transition Plan;
  - (i) Electronic capture, transfer and backup during Transition Plan of (a) Customer Information, including names, addresses, and IP addresses and other identifying information needed to carry out the migration and (b) pending trouble tickets, billing or provisioning corrections, and other data for Customer Orders in process; and
  - (iii) The length of time needed to complete the Transition Plan, including a schedule for phased or incremental cutovers.
- c. Except as set forth in Section 6.3(c) of this Order, Supplier shall not be required, pursuant to this Section 6.9 or otherwise, to disclose or otherwise make available to AT&T the proprietary technology, software, or source code of Supplier or Supplier subcontractors, as well as any Confidential Information relating thereto.

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Exhibit P-1- Price Chart(s), version 1.0, Effective Date: August 1, 2013

**Transaction Fees for Transactions Requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats**

Channel	Inbound Calls, Outbound Calls & Chats (the "Baseline Rate per ****")	Manual Transaction Processing (non-Calls or Chats) (the "Baseline Rate per ****")
****	****	****

By not later than September 27, 2013, the Parties shall meet and review the CPH estimates used in determining the Transaction Fees in the Version 21 price chart below and review for conformance with Section 4 of Appendix B (Supplier's Prices) of the Agreement.

**SYNCHRONOSS TRANSACTION RATE CARD v26, EFFECTIVE AUGUST 1, 2013**

Transaction Type	22-States										****				****
	****	****	****	****	****	****	****	****	****	****	****	****	****	****	****
<b>Inbound Call Rate</b>	****	****	****	****	****	****	****	****	****	****	****	****	****	****	****
<b>Order Triage</b>	****	****	****	****	****	****	****	****	****	****	****	****	****	****	****
<b>Order Processing - Complete</b>	****	****	****	****	****	****	****	****	****	****	****	****	****	****	****
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**Appendix B — Performance Metrics, Remedies and Bonuses**

**1. Service Level Requirements and Remedies**

This Appendix B provides the Service Level Agreement (SLA) and remedies for the \*\*\*\* eCommerce Channel. Such performance and remedies are, in each case, subject to the Exclusions noted herein. “Service Level Performance Metric” shall mean those service levels defined in this Appendix and that have a specific credit remedy defined herein associated with failure to meet such defined performance metric (with all other performance measures or metrics being “key performance metrics” for monitoring and analytical purposes only). Except as otherwise provided, Service Level Agreement applicable during Special Events will be reviewed and agreed upon on an individual basis for such event. AT&T and Supplier agree to meet and review Special Event requirements on as-needed basis. Supplier will apply commercially reasonable efforts to fulfill Special Event requirement and SLA requests for Special Events. Supplier and AT&T will meet no less than \*\*\*\* to review and modify, as agreed upon, the call types, performance metrics and remedies where appropriate.

**1.1 Customer Order/Transaction Cycle Time Service Level Performance Metric for Customer Orders Requiring Manual Transaction Processing:**

- a. \*\*\*\* of all Customer Lines of Service (LOS) on a Customer Order accepted by the ASP Solution in a Customer Order in a given \*\*\*\* will be entered into the AT&T defined system of record within the “shipping cut off window” (as defined below).

In the event the **Customer Order/Transaction Cycle Time** Service Level Performance Metric is not met in a given \*\*\*\*, Supplier will provide to AT&T the credit set forth in Table 1 each such \*\*\*\*.

If the **Customer Order/Transaction Cycle Time** Service Level Performance Metric is exceeded in a given \*\*\*\*, Supplier will invoice AT&T the premium set forth in Table 1 each such \*\*\*\*.

**Table 1: Customer Order/Transaction Cycle Time Service Level Performance Metric for Manually Processed Orders.**

<b>Attainment Tier</b>	<b>Requirement or Target Metric</b>	<b>\$ Bonus (paid by AT&amp;T reflected as a positive percentage value or +%) or \$ Credit (AT&amp;T credit reflected as a negative percentage value or -%)</b>
OC 1	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 2	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 3	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 4	**** Transactions submitted within shipping cut off window	No credit or bonus applicable
OC 5	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 6	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 7	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 8	**** of Transactions submitted within	**** of Manual Transaction Processing Fees for

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Attainment Tier	Requirement or Target Metric	\$ Bonus (paid by AT&T reflected as a positive percentage value or +%) or \$ Credit (AT&T credit reflected as a negative percentage value or -%)
OC 9	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 10	**** of Transactions submitted within shipping cut off window for ****	**** of Manual Transaction Processing Fees for such program element in such ****

“Shipping cut-off window” is defined as \*\*\*\* for Customer Orders accepted before \*\*\*\*.

In calculating the above **Customer Order/Transaction Cycle Time Service Level Performance Metric for Manually Processed Orders** , only those Customer Orders accepted in the ASP Solution in such \*\*\*\* that require \*\*\*\* Manual Transaction Processing shall be included in such calculation.

**1.2 Customer Order/Transaction for Manually Processed Orders Order/Transaction Quality Processing Service Level Performance Metric for Customer Orders requiring Manual Transaction Processing Only:**

- a. \*\*\*\* of LOS on a Customer Order accepted by the ASP Solution in a \*\*\*\* period will be entered by Supplier correctly (without data entry error or omission of data required) into the AT&T order entry and billing systems of record as such data was received by Supplier’s Order Gateway. Orders that deviate from AT&T eCommerce “Shipped As Ordered” (SAO) policy will be excluded from the calculation of attainment of the metric in this Section. Entry that was as completed as provided in the Customer Order shall be deemed to be “accurate” or “submitted accurately”.
- b. Supplier will audit a statistical valid sample size of such **Customer Orders requiring Manual Transaction Processing** to assess the quality levels for such Customer Orders. The results of such audit will be provided to AT&T on an agreed to schedule.
- c. The above quality assessment shall be a manual process augmented by a systematic “Shipped As Ordered” assessment approach, when available.
- d. Transactions that are not received through the ASP Solution will not be eligible for inclusion in the calculation or above Service Level Performance Metric.

In the event that the Service Level Performance Metric is not met in a given \*\*\*\*, Supplier will provide to AT&T the credit set forth below in Table 2.

In the event that the Service Level Performance Metric is exceeded by Supplier in a given \*\*\*\*, Supplier will invoice AT&T the premium set forth below in Table 2 on a \*\*\*\* basis.

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**Table 2: Customer Order/Transaction for Manually Processed Orders Order/Transaction Quality Processing Service Level Performance Metric for Customer Orders requiring Manual Transaction Processing Only**

SLA ID	**** SLA Index	\$ Bonus (paid by AT&T reflected as a positive percentage value or +%) or \$ Credit (AT&T credit reflected as a negative percentage value or -%)
OQ 1	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 2	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 3	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 4	**** of LOS submitted accurately	No credit or bonus applicable
OQ 5	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 6	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 7	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 8	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 9	**** of LOS submitted accurately for ****	**** of Manual Transaction Processing Fees for such program element in such ****

**1.3 Inbound Call & Chat Handling Service Levels Performance Metrics**

1. ASA — \*\*\*\*.
2. Abandon Rate for Inbound Calls — \*\*\*\*.
3. Chat Button Availability Rate for Inbound Chats — \*\*\*\*. AT&T systems shall base making the button available based on the anticipated availability of an Agent to support the chat based on \*\*\*\*. AT&T shall provide \*\*\*\* reporting of such availability rate. This metric shall not apply to any Chat Transaction Types when any portion of such Inbound Chats during such \*\*\*\* are allocated or distributed to any other entity other than Vendor during such \*\*\*\* or when AT&T applications are not making such button available in accordance with mutually agreed upon parameters or has not made required reporting available to Vendor. Within \*\*\*\* of the Effective Date of this Order, the Parties agree to develop mutually agreeable Bonus/Penalty metrics and implement same upon amendment to this Order.
4. Inbound Call Quality Monitoring. Supplier shall audit and score a minimum of \*\*\*\*

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\*\*\*\* using a mutually agreed upon quality measurement criteria. The results of the monitoring and scoring will be provided to AT&T on an agreed to schedule.

**Table 3: Inbound Call & Chat Handling Service Levels Performance Metrics**

SLA ID*	Service Level Category	**** Service Level Performance Metric
****	****	****
****	****	****
****	****	****

\* IC = Inbound Call Service Level; CH = Chat Service Level

**2. ASP Solution Platform Service Levels and Remedies**

**2.1 Supplier Order Gateway and Workflow Manager Availability**

**System Availability:**

The Order Gateway and Workflow Manager shall be available and functioning in accordance with the OG SLA (as defined in Section 3.0 below) \*\*\*\* excluding 1) regularly scheduled downtimes to perform system upgrades, application administration, and any other planned events as agreed in advance in writing by the Parties and 2) Supplier written requests to AT&T for any unscheduled maintenance outage periods, if needed (“System Uptime”). System Availability is measured by ASP Solution Element for each Channel and is calculated as:

\*\*\*\*

**ASP Solution Platform Elements and Service Levels Performance Metrics and KPI for System Availability:**

1. Order Gateway - \*\*\*\* System Availability Service Level Performance Metric
2. Email Service - \*\*\*\* System Availability Service Level Performance Metric
3. Workflow Manager - \*\*\*\* System Availability Key Performance Indicator
4. Web Portal - \*\*\*\* System Availability Key Performance Indicator
5. Reporting Platform — \*\*\*\* System Availability Key Performance Indicator

**Service Level Measurement Process:**

1. Statistics used to determine outages are collected using a suite of network and application monitoring tools as well as data collected by the application itself.
2. ASP Solution Platform Element Service Level Performance Metric attainment is reviewed on a \*\*\*\* basis. All statistics from Supplier’s monitoring suite are reviewed and downtime recorded for that \*\*\*\* is summarized for each functional area of the ASP Solution Platform Element (e.g. Order Gateway, email, Workflow etc.)
3. Supplier assumes that the Customer Order volume will not exceed an amount equal to \*\*\*\* of the prior \*\*\*\* rolling average volume for such Orders processed by such Channel.
4. Functional area outages are determined using the guidelines in the tables below:

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**Table 4: Supplier System Outage Guidelines**

<b>Platform</b>	<b>Outage Criteria</b>
Order Gateway	<ul style="list-style-type: none"> <li>• **** Order Gateway application servers are down (no response to pings for availability)</li> <li>• Order Gateway cannot process Customer Order and “nacks” **** messages to the Order Gateway</li> </ul>
Email Service	<ul style="list-style-type: none"> <li>• **** Email Service servers are down</li> <li>• **** email messages are able to be forwarded from Supplier email service</li> </ul>
Workflow Manager	<ul style="list-style-type: none"> <li>• **** Workflow Manager servers are down</li> <li>• Greater than **** of the typical volume of Agents cannot access Workflow Manager to perform functions</li> </ul>
Reporting Platform	<p>An outage will be recorded if any one of the following occurs:</p> <ul style="list-style-type: none"> <li>• Real time reporting functionality of Reporting Platform is unavailable or is not updating data on a scheduled basis</li> <li>• **** reports are not generated and delivered. Availability will be measured as a percentage of the overall number of reports generated on a **** basis</li> </ul>

**ASP Solution Platform Element Service Level Performance Metric Remedies:**

Order Gateway and WorkFlow Manager - \*\*\*\* System Availability in a \*\*\*\*

Supplier will calculate all “downtime” (time of an Outage as noted in Table 4 above) associated with both items listed above and provide one summary figure on a \*\*\*\* basis for overall availability. Failure to meet service levels will result in the remedies as defined in Table 5 below.

**Table 5: Supplier Combined Order Gateway and Workflow Manager System Availability Service Levels and Remedies**

<b>Order Gateway and WorkFlow Manager Service Level Combined System Availability In A ****</b>	<b>Credit* Against Total Technology Fee for This Channel for ****</b>
****	****
****	****
****	****
****	****

\* Service Credits will be applied in the \*\*\*\* in which the event giving rise to the remedy occurs

Scheduled System Maintenance requires a written notice up to \*\*\*\*, but not less than \*\*\*\* notice to AT&T and Supplier Decision Makers and their subsequent consent.

**2.2 Description for e-Mail Manager Key Performance Indicators**

Supplier will host an email infrastructure that reliably forwards all system generated emails to AT&T Online customers. This infrastructure will operate within the following service levels:

1. \*\*\*\* mail relay servers to deliver expected \*\*\*\* System Availability
2. Support \*\*\*\* email messages \*\*\*\* (reasonably spaced)
3. \*\*\*\* retention of all sent email messages
4. Message sizes may not exceed \*\*\*\* or contain attachments

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**3. Order Gateway Performance Service Level Key Performance Indicators (“OG SLA”)**

Order Gateway under a Normal Transaction Flow (as described below) will respond to \*\*\*\* of the Customer Orders for a Channel within \*\*\*\* of its receipt by the Order Gateway in any given \*\*\*\* provided such Customer Orders is in the documented format and has been submitted by AT&T per the published process documentation and successfully pass Supplier’s Order Gateway validations (as described below). AT&T will have the responsibility to produce reports from the Order Gateway, or request such reports from Supplier, to measure the results and determine if this SLA Key Performance Indicator is met. AT&T and Supplier shall mutually agree on the format of such reports. Measurement will be based on \*\*\*\* for a given Customer Order. Supplier will comply with AT&T’s reasonable requests for data in accordance with the measurement.

“Normal Transaction Flow” means:

- a. Volumes and distributions are within the expected capacity thresholds for ASP Solution as identified in the Agreement.
- b. The sending system emits a valid message for the activity desired per the agreed upon schema.
- c. The AT&T client is also sending messages at the rate both Parties have determined acceptable for the Channel and via the agreed upon protocol.
- d. AT&T’s systems are accepting and correctly processing responses from the Supplier platform.

During the Normal Transaction Flow, it is assumed that the client is sending the correct number of messages per Transaction.

Order Gateway validations: Upon receipt of a message, the Order Gateway will validate the message against the specified schema and/or configured business rules. Additional security, database and business logic analysis will be performed to ensure the message can and should be processed by the Supplier system. If both of these activates are successful the Order is submitted for processing.

**4. Automation Rates, SLAs and Remedies for Customer Orders**

The Parties agree that measurement of automation levels and partial automation levels for Customer Orders is an important metric in overall subscriber satisfaction and the costs of both Parties. As such, the following parameters are established to review and monitor Automation Rates on agreed upon Customer Orders. The Parties acknowledge that the Actual Automation rate or Rate of Fallout may have many factors and causes including those that are not indicative of any failure or inadequate performance by a Party. As such, the Parties shall meet quarterly to establish and review the parameters and requirements for measuring Automation Rates and, discuss adjustments as may be reasonably agreed upon by the Parties from time to time. Any such adjustments shall be made pursuant to the Change Order Process under the Agreement.

1. Establishing Expected Automation Rate.

The Parties shall mutually agree in writing on the Customer Orders that constitute the Customer Orders in the Customer Order Class. Such orders shall be:

- (a) supported by a Workflow and Order Manager configuration, process and flow that supports such Orders being capable of being an Automated Order (i.e., is not a workflow or process that has, by business rule or otherwise, an anticipated Fallout condition for each such Customer Order), and
- (b) of a similar nature or type so as to provide meaningful Automation Reporting output for management purposes as reasonably agreed upon by the Parties without undo detail or quantities of measurements and reports.
- (c) Customer Orders with an established and tested Order Manager and Workflow configuration for at least \*\*\*\*.

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Upon establishing the Customer Order Class, the Parties shall study the Automation Rate of the Customer Order Class for Completed Customer Orders in the Customer Order Class over the \*\*\*\* that does not include a Special Event (an "Evaluation Period") where the following data is reasonably constant or static during such Evaluation Period (collectively, the "Baseline Data"):

- (a) Mix of the types of Customer Orders within the Customer Order Class and the Automation Rate for such Orders,
- (b) Volume and arrival distribution of such Customer Orders,
- (c) Relative occurrence of issues that impact or cause Fallout or a Customer Contact (excluding Fallout as a result in a Defect in the ASP Solution or error in configuration or implementation of a process or workflow in the ASP Solution by Supplier), and
- (d) Current processes, workflow and task requirements and the SLA requirements established for the Customer Orders in the Customer Order Class as well as average handle times and system response times for connected applications external to the ASP Solution that are applicable to the Orders and related parameters (such a system timeouts and "retries") (collectively, the "Requirements").

The Parties shall use the Average Automation Rate for the Customer Order Class over each \*\*\*\* of the Evaluation Period less \*\*\*\* as the Expected Automation Rate for such Order Class. In the event that, for each \*\*\*\* of an Evaluation Period, the \*\*\*\* Automation Rate varies from the average Automation Rate in such Evaluation Period by more than \*\*\*\*, the Parties shall (a) defer the assignment of an Expected Automation Rate for such Customer Order Class or (b) conduct such evaluation on an extended or new Evaluation Period, as may be reasonable, until such discrepancy and deviation is less than or equal to \*\*\*\*.

For each Customer Order Class that has an established Expected Automation Rate, such rate shall remain the same during each \*\*\*\* of the Term.

2. Measurement and Reports.

Supplier will provide Automation Reports to AT&T for agreed upon Order Classes on a \*\*\*\* basis (each such \*\*\*\*, a "Measurement Period") setting forth (a) calculations of actual performance relative to the SLAs for the relevant \*\*\*\*; and (b) in the event that any SLAs are not achieved in any given \*\*\*\*, a description of the cause or causes believed to have caused such failure to achieve such SLA, and, to the extent such caused by a Defect, any corrective actions taken by Supplier to prevent re-occurrence.

Customer Order Processing Automation Rate

Customer Order Class	Expected Automation Rate
1.	1.

3. Adjustments to the Expected Automation Rate.

If, there are changes in the Requirements or Baseline Data for an Order Class or additions/deletions of Orders types in the Order Class (creating a new Order Class), Order class makeup, Expected Automation Rate and related obligations and rights shall be readjusted pursuant to the mutual agreement of the Parties, in good faith and in a manner consistent with the intent of this Agreement and Section 1 above, to reflect such changes. In the event of a process change requested by AT&T, the Parties will mutually agree on an appropriate period, if any, after such implementation when the SLAs will not apply.

4. SLA and Remedies.

SLA Category	Remedy
****	****

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**5. Assumptions and Exclusions**

**5.1 Methods and Procedures (M&P)**

Subject to the terms of this Order, Supplier's Customer Care Support will adhere to AT&T's approved Methods and Procedures (M&P). Supplier must submit a change request and receive prior written approval from AT&T to deviate from the approved M&P.

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**5.2 Exclusions**

No remedies for any error, failure or delay of Supplier shall be deemed to occur to the extent resulting from the following (collectively “Exclusions”)

1. Any failure, error or delay resulting from volume in a given interval exceeds the volume in Locked Forecast for such Contact to transaction type that interval by more than \*\*\*\*, except in the case of the ASP Solution Platform Availability SLA for which the threshold shall be \*\*\*\* of the \*\*\*\* rolling average volume of Customer Orders processed by such Channel;
2. An error, delay or failure of any AT&T network, application or system or service provided by or obtained from AT&T for use in supporting the Services;
3. Defects where normal intervals for ASP Solution testing of a release were not available as a result of accelerated timelines requested by AT&T;
4. Any incorrect or missing data provided by AT&T, its agents or its Customers;
5. An error, delay or failure resulting from acting on the instruction of AT&T or an event outside the reasonable control of Supplier or as a result of any other exclusion set forth in the Order or Agreement
6. Any failure by AT&T to meet its obligations under this Order or the Agreement;
7. Any error, delay or failure in the ASP solution that is not a result of a Defect

Notwithstanding the existence of an Exclusion, Supplier shall nevertheless use commercially reasonable efforts to continue to meet Service Levels under this Order during the existence of an Exclusion. Transactions or Customer Orders that failed to meet a performance metric as a result of the existence of an Exclusion shall be excluded from calculations in determining the credits or bonus.

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**Exhibit R-1 — Operational Reports**

<b>Channel</b>	<b>Report Name</b>	<b>Frequency</b>
****		
****		
****		
****		
****		
****		

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**CONFIDENTIAL TREATMENT REQUESTED**

Order

No. SG021306.S.025.S.004

Between

Synchronoss Technologies, Inc.

And

AT&T Services, Inc.

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Order No. SG021306.S.025.S.004

**Order**

This Order No. SG021306.S.025.S.004 (the "Order") is by and between Synchronoss Technologies, Inc., a Delaware corporation ("Supplier") and AT&T Services, Inc., a Delaware corporation ("AT&T"), each of which may be referred to in the singular as "Party" or in the plural as "Parties," and shall be governed pursuant to the terms and conditions of that certain Subordinate Material and Services Agreement No. SG021306.S.025 dated August 1, 2013 (the "Agreement") between Supplier and AT&T, which by this reference are incorporated as if fully set forth herein. Unless otherwise stated in this Order, all terms defined in the Agreement shall have the same meaning in this Order. Any terms and conditions in this Order that modify, vary from or are inconsistent with the terms and conditions of the Agreement shall apply to this Order only. If there is an inconsistency or conflict between the terms and conditions of this Order and the Agreement, the terms of this Order shall control with respect to the subject matter of this Order.

**1. Definitions:**

Terms not defined herein shall have the meaning assigned in the Agreement or Master Agreement.

<b>Term</b>	<b>Definition</b>
Automation Report	For Customer Orders in a Customer Order Class that is Automation Eligible, the report shows the (a) total number of Customer Orders of such Order Class Completed in such **** that were Automated Orders in a given month, (b) the total number of Customer Orders of in such order Class Completed in such **** and (c) the percentage of such Customer Orders that were Automated Orders.
Automation Eligible	Customer Order Classes where the process requirements for such Customer Order Class that are configured in the ASP Solution support Completion of as Automated Orders if a Fallout condition is not encountered (ie: excluding Customer Orders that will, by the configured process, always encounter a Fallout condition).
Automation Rate	For a given period and Order Class, ****.
Business Rule Fallout	Any Fallout that occurs as an intended result of a configured business rule or process in the workflow of the ASP Solution that, when a Customer Order satisfies the criteria of such rule, is directed to a queue for Manual Transaction Processing or intervention by an Agent.
Expected Automation Rate	Means the minimum expected Automation Rate for a given Order Class for any given month of the Term mutually agreed upon by the Parties in accordance with Appendix B, Section 3.2.1 and 3.2.2
Fallout	A condition that occurs when a Customer Order ****. (NOTE: a Contact that is not a result of (or in response to) Fallout does not change the status of classification as an Automated Order - such a status request call by a Subscriber on an Customer Order that flowed through without manual intervention)

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<b>Term</b>	<b>Definition</b>
Customer Order Class	A group of Customer Orders of a similar type or nature for a given Channel for reporting, tracking and management purposes.
Special Event	Shall have the meaning set forth in Section 4.6b of the Agreement.

**2. Duration of Order:**

After all Parties have signed, this Order shall be effective on August 1, 2013 (the “Effective Date”) and will continue until July 31, 2016 unless earlier terminated as set forth herein (the “Initial Term”). AT&T, solely at its discretion, may renew this Order for \*\*\*\* (the “Renewal Term” and together with the Initial Term, the “Term”) by providing at least \*\*\*\* written notice prior to the end of the Initial Term.

**3. Description of Material and/or Services:**

3.1 Background and Scope

The scope of this Order is to define the work activities, pricing, forecasting process, performance metrics and associated incentive credits and remedies associated with the Services performed by Supplier for AT&T eCommerce.

During the Term, Supplier shall provide its ASP Solution as Supplier hosted managed Service. The ASP Solution supports a streamline of the back office management process relating to the sale of telecommunications services by AT&T eCommerce, improved cycle times for such sales, intended to reduce the cost per Customer to perform such processes or tasks related to a Customer Order.

Supplier shall provide (as set forth in this Order):

- a. The process, tools and organizations that support AT&T eCommerce Transaction management. Transaction management includes, but is not limited to:
  - i. Automated Customer Order processing through the Order Gateway;
  - ii. Customer Care Support; and
  - iii. Manual Transaction Processing;
- b. Operational metrics and executive reporting set forth herein; and
- c. The ASP Solution configuration management, hosting and Tier 1-3 support (to designated AT&T IT staff) of the Order Gateway, Workflow Manager, Reporting Platform, Integrated IVR Solution, and Email Manager; and
- d. IT Professional Services (as defined in Section 3.0 of Attachment B to the Agreement).

3.2 Services and/or Specifications

Supplier shall perform the following Services under this Order:

- a. Supplier is responsible for providing AT&T eCommerce with access to the ASP Solution, Manual Transaction Processing and Customer Care Support (collectively the “Managed Services”), specific to the Indirect Channel, as specified in this Order. Supplier will provide the Managed Services required for processing Customer Orders, including Manual Transaction Processing and Customer Care Support assigned to the OMC. Supplier will provide the required staff of Agents, subject matter experts and managers (collectively “Supplier Resources”), and access to the ASP Solution to handle the work items, all in accordance with the Agreement and this Order;

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- b. Subject to any Exclusions (defined in Section 1.3 of Appendix B), Supplier shall provide the Services in accordance with the Service Level Performance Metrics set forth in Appendix B of this Order;
- c. Subject to any Exclusions, for breach of any agreed Service Level Performance Metrics in any \*\*\*\*, Supplier shall provide to AT&T service level credits to be applied to Supplier’s invoices as set out under Appendix B of this Order;
- d. For exceeding any Service Level Performance Metrics in any \*\*\*\*, Supplier shall invoice AT&T for service level debits to be applied to Supplier’s invoice as defined in Appendix B of this Order; and
- e. Additional Services may be added to this Order upon mutual written agreement of the Parties in accordance with the Change Control Process described in Appendix M of the Agreement.

3.3 Key Tasks and Deliverables

Supplier represents and warrants that its Services shall conform to the requirements contained in this Order and shall be performed in a professional workman-like and timely manner.

The table below outlines the key tasks to be performed and deliverables to be provided by Supplier. Deliverables shall meet all mutually agreed-upon requirements and specifications by the Parties.

Tasks	Deliverables
a. Automated Order Processing using the ASP Solution	As set forth in Appendices A & B
b. Customer Care Support	As set forth in Appendices A & B
c. Manual Transaction Processing	As set forth in Appendices A & B
d. Operational Metrics and Reporting	As set forth in Appendix B and Exhibit R-1 respectively
e. IT Professional Services	ASP Solution functionality as set forth in mutually agreed upon specifications in accordance with Section 3.0 of Appendix B of the Agreement

3.4 Supplier Responsibilities

In addition to Supplier performing the Services described in Section 3.2 and providing the Deliverables defined in Section 3.3, and subject to AT&T meeting its responsibilities under this Order, Supplier shall provide the following:

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- a. Manage and direct all aspects of the Supplier Resources to perform Services and provide the Deliverables defined by this Order;
- b. Provide adequately trained and otherwise qualified Supplier Resources in accordance with \*\*\*\*\*, including any agreed upon requirements specific to the \*\*\*\* Channel, to create the Deliverables and provide Services, as applicable, under this Order;
- c. Provide personnel management of Supplier Resources, including required training/orientation for any new resources that are added by Supplier;
- d. Provide IT Professional Services to maintain ASP Solution interface compatibility among system components in AT&T's operational environment;
- e. Subject to any Exclusions, meet all delivery dates agreed upon by the Parties and the Performance Metrics specified in Appendix B this Order;
- f. Provide, for Supplier Resources billed on a time and materials or FTE basis, a suitable time reporting system for the collection of Supplier Resource work times related to this Order; and
- g. Timely response to open issues, problems and action items raised by AT&T.

3.5 AT&T Responsibilities

AT&T will be responsible for the following in addition to other responsibilities under the Master Agreement or Agreement:

- a. Management and direction of all AT&T team resources working in relationship with Supplier on this Order;
- b. Timely access to all AT&T subject matter experts that the Parties determine are required to provide Services or complete Deliverables;
- c. Timely communication of all changes related to deliverables, dependencies and requirements (including any changes to AT&T systems or processes);
- d. Timely response to open issues, problems and action items raised by Supplier; and
- e. Any content provided by AT&T.

**4. Personnel to Perform the Services:**

Supplier shall provide skilled and experienced Supplier Resources to perform the Services described in Section 3.2 and provide the Deliverables defined in Section 3.3.

**5. Location:**

5.1 Onshore Location(s):

Supplier's U.S.-based resources shall provide the Services at its facilities located at the addresses set forth below. Additional sites located in the United States may be added by Supplier upon written notice to AT&T.

\*\*\*\*

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5.2 Offshore Location(s):

Except for hosting, data backups and disaster recovery of Supplier's ASP Solution, which may not be provided from any Offshore Location (as defined below), Supplier's offshore resources shall provide any of the other Services at Supplier's facilities located at the addresses set forth below. In addition, unless otherwise agreed upon in writing by the Parties, agents providing call support Services from locations in Canada are capped at \*\*\*\* across all Channels, the total number of such \*\*\*\* currently providing such Services as of the Effective Date of this Order.

\*\*\*\*

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Supplier may add other countries not previously approved by AT&T where Supplier (or Subcontractors) has additional offshore locations upon prior written approval by AT&T Supply Chain & Fleet Operations of such additional country. In the event that Supplier transfers the Services provided under this Order from one physical location to another physical location within the same country or to a physical location in another previously approved country as shown in Appendix K of the Agreement, Supplier shall provide reasonable notice to AT&T of any such transfer.

Notwithstanding the foregoing and excluding any temporary transfer of Services to (i) maintain business continuity or Service recovery in times of impairment of Services provided under this Order, (ii) provide support for Special Events or (iii) meet agreed upon off-shore labor thresholds permitted under Section 4.1 Appendix B to the Agreement, Supplier shall require AT&T's written prior approval for such transfer of Services where (a) such existing Supplier center has failed to meet the same Service Level Performance Metrics in the \*\*\*\* months or in any given \*\*\*\* over the \*\*\*\* or (b) such transfer is to a new physical location other than an existing approved Supplier location.

The Parties agree to work in good faith to review and discuss the distribution of Supplier's resources performing Customer Care Support under this Order.

Supplier agrees to abide by all AT&T security requirements provided in the Agreement.

**6. Fees & Payment Terms:**

- 6.1 Supplier shall perform the Services and provide the Deliverables described in this Order in accordance with the fee structures provided in Appendix A of this Order.
- 6.2 Supplier shall render invoices and all required supporting detail to AT&T in accordance with Section 3.5 of the Agreement by not later than the \*\*\*\* following the \*\*\*\* in which Services were provided. Payment terms are as set forth in Section 3.5 of the Agreement.
- 6.3 No travel and living expenses incurred by Supplier under this Order shall be reimbursed unless AT&T has provided prior written approval for such expenses.
- 6.4 All travel and living expenses shall be in accordance with the Reimbursable Expenses section of the Agreement and the AT&T Vendor Expense Policy attached to the Agreement as Appendix Z.
- 6.5 Supplier shall separately invoice AT&T \*\*\*\* in arrears for any travel and living expenses authorized (pre-approved) and such expenses will be payable to Supplier in accordance with Section 3.5 of the Agreement.

**7. Invoices/Billing Information:**

Invoices and billing information shall be issued \*\*\*\* in accordance with Section 3.5 of the Agreement and shall be sent to:

\*\*\*\*

**With copies of all invoices to:**

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**8. Points of Contact:**

Supplier agrees to respond to all changes to, interpretations of, additional purchase requirements and any other matters related to the provisions contained in this Order by contacting AT&T's representative below:

\*\*\*\*

For project management and coordination of Services under this Order, the Supplier and AT&T contacts are provided below.

The AT&T project managers and/or points of contact shall be:

\*\*\*\*

The Supplier project manager and/or point of contact shall be:

\*\*\*\*

**9. Name of Affiliate Ordering Services:**

AT&T Services, Inc.

*[Signature Page Follows Immediately Hereafter]*

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**10. Transmission of Original Signatures and Executing Multiple Counterparts**

Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., .pdf or similar format) are true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as that of an original signature. This Order may be executed in multiple counterparts, each of which shall be deemed to constitute an original but all of which together shall constitute only one document.

**IN WITNESS WHEREOF**, the Parties have caused this Order to be executed as of the Effective Date.

**Synchronoss Technologies, Inc.**

**AT&T Services, Inc.**

By: /s/ Stephen Waldis

By: /s/ Tim Harden

Printed Name: Stephen Waldis

Printed Name: Tim Harden

Title: Chief Executive Officer

Title: President - Supply Chain & Fleet Operations

Date: August 30, 2013

Date: August 30, 2013

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**Appendices**

**Appendix A — Managed Services Pricing and Termination Provisions**

Supplier shall provide the Managed Services, including any applicable deliverables set forth in the scope of such Services, for the following fees:

**1. Technology Fee**

1.1 Fees for the Use of the ASP Solution under this Order (Technology Fee) shall be as set forth in Section 1.0 of Appendix B of the Agreement.

1.2 Supplier shall invoice the Technology Fee to \*\*\*\* as set forth in Section 7 of the Order.

**2. Hosting Fee**

2.1 Hosting Fees for the ASP Solution under this Order (Hosting Fee) shall be as set forth in Section 2.0 of Appendix B of the Agreement.

2.2 Additionally, there shall be a \*\*\*\* fee for hosting of the While Label Portal module of the ASP Solution supporting \*\*\*\* Channel eCommerce sales order volume.

2.3 Supplier shall invoice the Hosting Fee to \*\*\*\* as set forth in Section 7 of the Order.

**3. IT Professional Services Fees**

3.1 Fees for the IT Professional Services shall be as set forth in Section 3.0 of Appendix B of the Agreement.

3.2 Supplier shall invoice the IT Professional Services fees to \*\*\*\* as set forth in Section 7 of the Order.

**4. Customer Care Support and Manual Transaction Processing Fees**

4.1 AT&T shall pay Supplier Customer Care Support and Manual Transaction Processing fees as set forth in Section 4.0 of Appendix B of the Agreement.

4.2 Supplier shall invoice such Fees to \*\*\*\* as set forth in Section 7 of the Order.

4.3 For each program where pricing is Transaction based:

- i) Forecasting — \*\*\*\*

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4.4 For programs where pricing is FTE based:

- i) "FTE Pricing" for Contacts or Manual Transaction Processing where a Transaction Price does not apply or is not available shall be pursuant to the terms of Section 4.3 of Appendix B of the Agreement.
- ii) In the event that Supplier invoices Manual Transaction Processing Fees or Customer Care and Support based on the FTE Pricing methodology described in this Section, Supplier shall provide detail at the time of its \*\*\*\* invoice that substantiates \*\*\*\* billing for the number of pre-approved FTEs agreed to in the FTE

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Staff Plan along with all Overtime \*\*\*\* authorized by AT&T, if any. The billing detail provided shall include the following information:

FTE Pricing — \*\*\*\*

<u>Team Description</u>	<u># FTEs</u>	<u>**** /FTE</u>	<u>****</u>	<u>Total</u>
Team A				
Team B				
Team C				
			<b>Total</b>	

**4.5 Continuation Training:**

Supplier shall provide up to \*\*\*\* of continuation training (“CE Training”) per Supplier agent FTE who’s primary responsibility is support of Contacts (a “CSR”) for a given program per \*\*\*\* at \*\*\*\* to AT&T provided that materials and reasonable advance notice are provided by AT&T for such training. The use of CE Training \*\*\*\* must be preapproved by AT&T’s Vendor Manager in writing. CE Training \*\*\*\* may be used for sales training, coaching, program updates, changes to the \*\*\*\* program, software and system updates and/or changes, scripting changes, or other topics related to the Order and the Services provided hereunder that AT&T reasonably request. Additional training for CSR performance improvement issues on a given CSR (recursive training) shall be \*\*\*\* to AT&T and shall not count toward the allocation for CE Training \*\*\*\*. Supplier must account for such CE training in providing staffing in accordance with Section 4.3 i) above. If this training is not completed in a \*\*\*\* solely due to Supplier’s inability to meet staff requirements reasonably anticipated to meet the volumes and volume distributions in the Locked Forecast resulting in a shortfall of CSRs for such \*\*\*\*, such training scheduled for such period under the CE Training allotment shall be completed in the following \*\*\*\* and such training will not be counted towards following \*\*\*\* allotment of CE Training \*\*\*\*. Except as set forth herein, any unused allocation of such training may not be carried forward to future \*\*\*\* or transferred between programs and no credits shall be provided for any unused allocation.

**5. Operations Management Support Fees**

As part of this Order, Supplier will provide AT&T with Operations Management support. The dedicated team will provide AT&T with the following services:

**Program Management:**

Responsibilities include project management, business analysis, and functional analysis to support new development, features and functionality.

**Operations Management:**

Responsibilities include management of processes pertaining to: credit, activation, and Customer Order fulfillment, Customer Order or Transaction queue management, service level monitoring and reporting, staffing, IVR management, CSR training, and interacting with \*\*\*\* and \*\*\*\* and Care teams to ensure seamless, high quality customer service for eCommerce Customers.

With the exception of performance issues by a resource, which shall be addressed in accordance with the terms of the Agreement or as otherwise set forth in Special Event or other written documentation agreed upon by the Parties, adjustments to increase the resources must be communicated in writing \*\*\*\* before the start of the next \*\*\*\* while \*\*\*\* minimum advance notice is required in writing to terminate a resource per Section 6.5 below. Resources requested to be added shall be subject to resource availability.

Table 5 below reflects the schedule and fee for each FTE on the \*\*\*\* Management Team and shall be effective on the first day of the \*\*\*\* of the Effective Date of the Order.

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**Table 5: Operations Management Fee Schedule**

<u>Role</u>	<u>**** Rate Per FTE</u>
Data Analyst	****
All Other Roles	****

**6. Termination Provisions.**

- 6.1 **Termination for Cause** - If either Party breaches any provision of this Agreement and/or any Order, and (i) if the breach is one that by its nature could be cured, and such breach is not cured within \*\*\*\* after the breaching Party receives written notice, or (ii) if the breach is material and one that by its nature cannot be cured, then, in addition to all other rights and remedies at law or in equity or otherwise, the non-breaching Party shall have the right upon written notice to immediately terminate this Agreement and/or any such Order without any obligation or liability. Failure of the non-breaching Party to immediately terminate this Agreement and/or any Order (x) following a breach which continues longer than such cure period, provided such breach has not been cured prior to the non-breaching Party’s providing notice of termination, or (y) following a breach that cannot be cured or that constitutes a violation of Laws shall not constitute a waiver of the non-breaching Party’s rights to terminate; provided, however, if the non-breaching Party does not exercise such termination right within \*\*\*\* of the date such right is triggered, the non-breaching Party shall waive its right to terminate with respect to such breach.
- 6.2 **Termination for Convenience of the ASP Solution and IT Professional Services** — \*\*\*\*, during the Initial Term or Renewal Term, AT&T may at any time, for its own convenience and without cause, by providing Supplier written notice of at least \*\*\*\* prior to the effective date of the termination, terminate Supplier’s ASP Solution and IT Professional Services, provided under this Order, in whole. In the event AT&T terminates for convenience Supplier’s ASP Solution and IT Professional Services under this Order in whole, AT&T shall pay Supplier, as Supplier’s sole and exclusive remedy for detriment resulting from AT&T’s termination, the price of such Work or Services performed through the date of termination and a termination charge (provided however, such termination shall not relieve AT&T of any obligations for any minimums under the Agreement). The termination charge shall be calculated as shown in the table below.

<u>Period</u>	<u>Notification Date On or After</u>	<u>Termination Notice</u>	<u>Termination Charge</u>
Initial Term	****	****	****

- 6.3 **Termination for Convenience of \*\*\*\* of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats**
- a. AT&T may at any time, for its own convenience and without cause, by providing Supplier written notice, terminate \*\*\*\* of the volume in any month during a \*\*\*\* of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats (the “Threshold Percentage”), provided under this Order.
  - b. In the event AT&T terminates Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for convenience up to the Threshold Percentage, and elects, solely at its discretion, to perform the work itself or through its designated third party, AT&T shall notify Supplier via the forecasting process (identified in Section 4.3 and 4.4 above) the actual percentage of \*\*\*\*

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Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats AT&T intends to assume (or, if applicable, it requests for a third party to assume). Upon such election by AT&T, Supplier shall have no responsibility for any such Customer Care Support or Transactions requiring Manual Transaction Processing that AT&T elects to perform or have a third party perform.

- c. In the event AT&T elects for AT&T or other third party to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\*, Supplier will provide AT&T or its designated third party employees and contractors who will be performing such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats access to the Workflow Manager, Call Tracker, and Reporting Platform and any other components of the ASP Solution and related Supplier system(s) access solely to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\* within \*\*\*\* after AT&T notifies Supplier. In addition, each employee or contractor of AT&T or such third party who will access the ASP Solution or related Supplier system(s) shall agree in writing to comply with Supplier's information security requirements. Supplier will work with AT&T to ensure that the allocations of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats to be processed by Supplier and to be processed by AT&T for \*\*\*\* are implemented as mutually agreed by the Parties in accordance with this Order. AT&T shall be responsible for the actions or inactions of such third Parties granted access to the ASP Solution.
- d. In the event that AT&T elects to increase the amount of its Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats processed by AT&T (or its subcontractors) for \*\*\*\* in accordance with this Section, the Parties shall meet promptly to agree on a plan to initiate the performance of such services by AT&T or its designated third party provider to complete such transition within \*\*\*\* (subject to any forecasting requirements or minimums) unless the Parties mutually agree to a longer or shorter period. AT&T will be responsible for formally communicating to Supplier the percentage allocation they are ultimately targeting to achieve in connection with the transition of such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats. Supplier will then work with AT&T to implement the identified allocation percentage in \*\*\*\* intervals, of \*\*\*\* (e.g., AT&T communicates to Supplier they want to increase the percentage allocation by \*\*\*\* in total. Supplier will transition \*\*\*\* during the \*\*\*\*, \*\*\*\* during the \*\*\*\* period, and the \*\*\*\* during the \*\*\*\* until the additional \*\*\*\* (original percentage) is achieved). Supplier shall provide reasonable assistance to AT&T in connection with such transfer provided at no incremental fee except that if any professional services for AT&T or such designated provider are required, Supplier shall provide such reasonable professional services at Supplier's rates provided herein. Any transition to AT&T or third party of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats in accordance with this Section shall have no effect on the Technology Fees or Hosting Fee provided above.
- e. In the event AT&T makes such election and exceeds the percentage of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats (where such overage was incidental or a good faith error in estimation of volumes) set forth above in any \*\*\*\*, Supplier will not penalize AT&T for any such overage and, in such case, the Parties will promptly upon determining such overage, meet and negotiate in good faith a process to timely move to compliance with the then applicable requirements and percentage of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats AT&T should be handling pursuant to the terms of this Order.

**6.4 Termination \*\*\*\* of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats**

- a. In the event that AT&T elects to perform the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats itself or through a third party for \*\*\*\* in excess of the Threshold Percentage and Supplier does not have the appropriate skill sets or such third party bid or pricing is at a lower cost than Supplier under this Order, Supplier shall have the opportunity to review the bid (subject to compliance with any obligations of confidentiality) and determine if Supplier can meet the

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same price and material terms to AT&T by such third party and/or skill set requirements as provided to AT&T in such bid. Promptly after receiving such bid, AT&T shall provide Supplier with the necessary information relating to such bid (including material terms, pricing and resources) for Supplier to make such determination; provided, however, AT&T shall not be required to provide any information which would cause it to violate its confidentiality obligations to a third party. Supplier shall take information provided by AT&T at face value in connection with such determination.

- b. Within \*\*\*\* (“Evaluation Period”) of receiving the necessary information from AT&T, Supplier shall provide written notice to AT&T whether it will (a) perform the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats that are the subject of the Evaluation Period for \*\*\*\* on the same fees, service level agreements, key performance indicators, quality requirements, productivity requirements, countries or locations from which service is supported, systems, training requirements, infrastructure or processing requirements (with materially equivalent legal terms and conditions as those that exist between the Parties, such as those pertaining to the allocation of risk and liabilities (e.g., limitation of liability, indemnification, payment terms and termination for convenience)) as set forth in such bid when taken as a whole or aggregate offer (unless otherwise agreed upon by the Parties in writing) immediately upon completion of such evaluation within the Evaluation Period (or upon \*\*\*\* of completion of the Evaluation Period if such terms and conditions or modified pricing require or provide for a modification in Supplier centers performing Services (i.e.: off shore location) or training or of Agents) and the Parties shall document such changes in the form of a written amendment to this Order, (b) allow AT&T or such third party to assume such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats for \*\*\*\* as provided in such bid, or (c) escalate to its respective executives in accordance with the provision below. In the event that Supplier does not provide written notice to AT&T within such \*\*\*\* period, AT&T may deem that Supplier elected not to match the applicable bid. In the case of notification by Supplier under item (b) above, such notification shall also contain estimation of cost increases, if any, for Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats retained by Supplier. Notwithstanding anything to the contrary, in the event that AT&T makes an election to move Customer Care Support from Supplier under the provisions of this Section in excess of the Threshold Percentage, such move must be to only use the third party resources that were the subject of the bid used in the Evaluation Period and under the terms presented under such bid in all material respects. In the event that Supplier and AT&T do not agree on the results of such evaluation, an officer of Supplier and an officer of the respective division of AT&T shall meet to resolve such dispute within \*\*\*\* of the conclusion of the Evaluation Period. In the event that such executives cannot resolve such dispute, Supplier shall provide the third party which provided such bid or AT&T internal resources the same access to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats for \*\*\*\* as provided in Section 4.5 above.
  
- c. In the event that AT&T is entitled to increase the amount of its Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats in accordance with this Section, the Parties shall meet promptly to agree on a plan to initiate the performance of such services by its designated third party provider to complete such transition within \*\*\*\* of the conclusion of the Evaluation Period unless the Parties mutually agree in writing to a longer or shorter period. AT&T will be responsible for formally communicating to Supplier the percentage allocation they are ultimately targeting to achieve in connection with the transition of such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats. Supplier will then work with AT&T to implement the identified allocation percentage in \*\*\*\* intervals, \*\*\*\*. (e.g., AT&T communicates to Supplier they want to increase the percentage allocation by \*\*\*\* in total. Supplier will transition \*\*\*\* during the \*\*\*\*, \*\*\*\* during the \*\*\*\*, and the \*\*\*\* during the \*\*\*\* until the additional \*\*\*\* (original percentage) is achieved). Supplier shall provide reasonable assistance to AT&T in connection with such transfer provided at no incremental fee except that if any professional services for AT&T or such designated provider are required, Supplier shall provide such reasonable professional services at Supplier’s rates provided herein. Any transition to AT&T or third party of

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Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats in accordance with this Section shall have no effect on the Technology Fee or Hosting Fee provided above provided however, in the event that this has AT&T exceeding the Threshold Percentage, Synchronoss may charge for, in addition to the Technology Fee and any other fees due under the Order, a price per Customer Order in excess of the Threshold Percentage that uses the Workflow Manager where any Manual Transaction Processing is by a party other than Supplier equal to a fee not to exceed \*\*\*\* (excluding any Synchronoss Agents) granted access to the Order Manager, Call Tracker, and Visibility Manager and any other components of the ASP Solution and related Supplier system(s) access solely to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\*.

- d. For the avoidance of doubt, notwithstanding anything to the contrary, termination of the Customer Care Support shall be permitted pursuant only under the terms of Sections “6.3” and “6.4” above. In the event of an election by AT&T to move Customer Care Support in excess of the Threshold Percentage from Supplier under Section “6.4” where such move alters the type or distribution on a program of any of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats retained by Supplier and is likely to adversely impact Supplier’s costs or efficiency, Supplier shall provide the third party which provided such bid or AT&T internal resources the same access to perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound calls and/or Chats for \*\*\*\* as provided in Section 4.5 above. The Parties agree to negotiate in good faith modifications to the pricing, the requirements or processes pertaining to remaining Contacts or Transactions and/or applicable Service where such increase reasonably reflects Suppliers increased average costs per Contact or Transaction and agreement shall not be unreasonably withheld by either Party. In the event that the Parties are unable to agree, the issue shall be resolved in accordance with Section 4.5 of the Agreement. For the avoidance of doubt, if the Parties are unable to agree on or have not agreed to modifications to the pricing, the requirements or processes pertaining to remaining Contacts or Transactions, AT&T may move Customer Care Support in excess of the Threshold Percentage from Supplier under Section “6.4” above. For the avoidance of doubt, if the Parties agree to a price increase or changes to process, then (a) any such price increase or changes to process shall only be effective when the Threshold Percentage is exceeded and shall not apply to Services retained by Supplier if the Threshold Percentage is not exceeded; and (b) the provision of Sections “6.3” and “6.4” above shall continue to apply to any Customer Care Support retained by Supplier; and (c) any such increase in pricing or changes to process shall be effective on the date that Customer Care Support is moved from Supplier.

**6.5 Termination for Convenience of Operations Management Support Services** — During the Initial Term or Renewal Term, AT&T may at any time, for its own convenience and without cause, by providing Supplier written notice of at least \*\*\*\* prior to the effective date of the termination, terminate Supplier’s Operations Management Support Services, provided under this Order in whole or in part. In the event AT&T terminates for convenience Supplier’s Operations Management Support Services under this Order, AT&T shall pay Supplier, as Supplier’s sole and exclusive remedy for detriment resulting from AT&T’s termination, the price of such Services performed through the date of termination.

**6.6 Failure to Meet Service Level Performance Metrics.** In the event that Supplier fails to meet or exceed (a) the same Service Level Performance Metric (as defined in Appendix B) for \*\*\*\* in any \*\*\*\* or \*\*\*\* in any \*\*\*\*, or (b) \*\*\*\* or more Service Level Performance Metric’s for \*\*\*\* in any \*\*\*\* or \*\*\*\* in any \*\*\*\*, AT&T may elect to have AT&T or its designated third party perform such Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats for \*\*\*\* that failed such requirement in (a) or (b) above resulting in more than the Threshold Percentage of Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats (up to \*\*\*\*) of the Transactions requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and/or Chats processed. For purposes of this Order, Service Level Performance Metrics for \*\*\*\* shall have the meaning ascribed to such term in Appendix B specific to \*\*\*\*.

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6.7 In the event that all Work or Services under this Order are terminated per Sections 6.2, 6.3, 6.4 and 6.5 above, this Order will be deemed to be terminated by AT&T as of the effective date of the termination of the last such Work or Services under this Order.

**6.8 Return of Information Obligations upon Expiration or Termination**

Each Party shall, except as required under law or this Order, upon expiration or termination of this Order and after all Wind Down and Transition efforts have concluded, promptly return all papers, materials, and property of the other Party.

**6.9 Wind Down and Transitioning.**

- a. The Parties acknowledge that upon the termination or expiration of the Agreement (provided that such termination is not a result of termination by Supplier for cause), existing Customers will need to be migrated to AT&T-hosted or to third party-hosted platforms. Because of the volume of Customer provisioning that is handled by Supplier at the time of execution of this Agreement, the Parties agree that they will need to develop a Transition Plan at that time in order to carry out an orderly, migration that mitigates disruption of operations for AT&T. For purposes of this section, Transition Plan shall be defined as a mutually negotiated, written document outlining the respective obligations of each Party in carrying out an incremental or phased cutover of Customer Order provisioning provided by Supplier under this Agreement to AT&T, including the continued payment of agreed unit prices under any supplemental Order, to the extent incurred, and the payment of any agreed time and material charges incurred above the existing unit prices.
- b. The Parties agree to negotiate in good faith toward a Transition Plan that will cover at least the following points:
  - (i) Segmenting Customer Information from the view, modification, deletion or any other access by Supplier or Supplier-chosen subcontractors who will continue to work for Supplier on other, non-AT&T e-commerce businesses after the Transition Plan;
  - (i) Electronic capture, transfer and backup during Transition Plan of (a) Customer Information, including names, addresses, and IP addresses and other identifying information needed to carry out the migration and (b) pending trouble tickets, billing or provisioning corrections, and other data for Customer Orders in process; and
  - (iii) The length of time needed to complete the Transition Plan, including a schedule for phased or incremental cutovers.
- c. Except as set forth in Section 6.3(c) of the Order, Supplier shall not be required, pursuant to this Section 6.9 or otherwise, to disclose or otherwise make available to AT&T the proprietary technology, software, or source code of Supplier or Supplier subcontractors, as well as any Confidential Information relating thereto.

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**Exhibit P-1 - Price Chart(s), version 1.0, Effective Date: August 1, 2013**

**Transaction Fees for Transactions Requiring Manual Transaction Processing, Inbound Calls, Outbound Calls and Chats**

Channel	Inbound Calls, Outbound Calls & Chats (the "Baseline Rate per ****")					Manual Transaction Processing (non-Calls or Chats) (the "Baseline Rate per ****")					
	****	****	****	****	****	****	****	****	****	****	****

By not later than \*\*\*\*, the Parties shall meet and review the CPH estimates used in determining the Transaction Fees in the Version 21 price chart below and review for conformance with Section 4 of Appendix B (Supplier's Prices) of the Agreement.

**SYNCHRONOSS TRANSACTION RATE CARD v21, EFFECTIVE AUGUST 1, 2013**

Transaction	Southeast	Southwest	West	Midwest	East	Spanish	VIP Warm Transfers	Partner Escalation Line	Red Ventures Warm Transfers	Other Partner Warm Transfers	Voice Care
Inbound Call TN(s)	888-573-4107	888-573-4108	888-573-4109	888-573-4110	888-573-4111	877-312-4710	888-573-4108	888-697-6987	888-908-2801	888-573-4108	877-312-3793
<b>Inbound Call Rate</b>	\$ 9.40	\$ 8.34	\$ 8.15	\$ 7.84	\$ 7.81	\$ 8.31	\$ 8.31	\$ 8.31	\$ 8.31	\$ 8.31	\$ 5.65
<b>Order Processing - Complete</b>											
Access	\$ 20.48	\$ 19.64	\$ 19.64	\$ 20.07	\$ 21.73						
Access Stage 2 Automated	\$ 16.30	\$ 15.46	\$ 15.46	\$ 15.89	\$ 17.55						
DSL	\$ 19.23	\$ 16.30	\$ 20.48	\$ 18.81	\$ 25.91						
DSL Stage 1 Automated										\$ 8.36	
DSL Stage 2 Automated	\$ 10.87	\$ 7.94	\$ 12.12	\$ 10.46	\$ 17.55						
Access + DSL	\$ 21.32	\$ 22.16	\$ 24.25	\$ 28.84	\$ 30.52						
Access + DSL Stage 2 Automated	\$ 17.04	\$ 17.88	\$ 19.97	\$ 24.56	\$ 26.24						
U-verse Order										\$ 17.14	
U-verse Stage 1 Automated										\$ 6.97	
U-verse Stage 2 Automated										\$ 10.18	
Wireless	\$ 5.56	\$ 5.56	\$ 5.56	\$ 5.56	\$ 5.56						
<b>Order Processing - Cancel</b>											
Access	\$ 12.29	\$ 11.78	\$ 11.78	\$ 12.04	\$ 13.04						
Access Stage 2 Automated	\$ 9.78	\$ 9.28	\$ 9.28	\$ 9.53	\$ 10.53						
DSL	\$ 11.54	\$ 9.78	\$ 12.29	\$ 11.29	\$ 15.55						
DSL Stage 1 Automated										\$ 5.02	
DSL Stage 2 Automated	\$ 6.52	\$ 4.76	\$ 7.27	\$ 6.28	\$ 10.53						
Access + DSL	\$ 12.79	\$ 13.30	\$ 14.55	\$ 17.30	\$ 18.31						
Access + DSL Stage 2 Automated	\$ 10.22	\$ 10.73	\$ 11.98	\$ 14.74	\$ 15.74						
U-verse Order										\$ 10.28	
U-verse Stage 1 Automated										\$ 4.18	
U-verse Stage 2 Automated										\$ 6.11	
Wireless	\$ 3.34	\$ 3.34	\$ 3.34	\$ 3.34	\$ 3.34						

Note: Manual Order Transaction Processing rate where the final disposition of the Manual Order is canceled is charged at \*\*\*\* of the above Order Processing fee for the applicable transaction.

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**Appendix B — Performance Metrics, Remedies and Bonuses**

**1. Service Level Requirements and Remedies**

This Appendix B provides the Service Level Agreement (SLA) and remedies for the \*\*\*\* eCommerce Channel. Such performance and remedies are, in each case, subject to the Exclusions noted herein. “Service Level Performance Metric” shall mean those service levels defined in this Appendix and that have a specific credit remedy defined herein associated with failure to meet such defined performance metric (with all other performance measures or metrics being “key performance metrics” for monitoring and analytical purposes only). Except as otherwise provided, Service Level Agreement Special Events will be reviewed on an individual basis. AT&T and Supplier agree to meet and review Special Event requirements on as-needed basis. Supplier will apply commercially reasonable efforts to fulfill Special Event requirement and SLA requests for Special Events. Supplier and AT&T will meet no less than \*\*\*\* to review and modify, as agreed upon, the call types, performance metrics and remedies where appropriate.

**1.1 Customer Order/Transaction Cycle Time Service Level Performance Metric for Customer Orders Requiring Manual Transaction Processing:**

- a. \*\*\*\* of all Customer Lines of Service (LOS) on a Customer Order accepted by the ASP Solution in a Customer Order in a given \*\*\*\* will be entered into the AT&T defined system of record within the “shipping cut off window” (as defined below).

In the event the **Customer Order/Transaction Cycle Time** Service Level Performance Metric is not met in a given \*\*\*\*, Supplier will provide to AT&T the credit set forth in Table 1 each such \*\*\*\*.

If the **Customer Order/Transaction Cycle Time** Service Level Performance Metric is exceeded in a given \*\*\*\*, Supplier will invoice AT&T the premium set forth in Table 1 each such \*\*\*\*.

**Table 1: Customer Order/Transaction Cycle Time Service Level Performance Metric for Manually Processed Orders.**

<b>Attainment Tier</b>	<b>Requirement or Target Metric</b>	<b>\$ Bonus (paid by AT&amp;T reflected as a positive percentage value or +%) or \$ Credit (AT&amp;T credit reflected as a negative percentage value or -%)</b>
OC 1	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 2	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 3	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 4	**** Transactions submitted within shipping cut off window	No credit or bonus applicable
OC 5	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 6	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 7	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 8	**** of Transactions submitted within	**** of Manual Transaction Processing Fees for

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Attainment Tier	Requirement or Target Metric	\$ Bonus (paid by AT&T reflected as a positive percentage value or +%) or \$ Credit (AT&T credit reflected as a negative percentage value or -%)
	shipping cut off window	such program element in such ****
OC 9	**** of Transactions submitted within shipping cut off window	**** of Manual Transaction Processing Fees for such program element in such ****
OC 10	**** of Transactions submitted within shipping cut off window ****	**** of Manual Transaction Processing Fees for such program element in such ****

“Shipping cut-off window” is defined as entered into the AT&T defined system of record within the \*\*\*\* of initial order receipt.

Exception: Due to East region system unavailability on \*\*\*\*, all orders received on \*\*\*\* have a \*\*\*\* Order Cycle Time SLA from time of initial receipt and all orders received on \*\*\*\* will be processed by \*\*\*\*.

In calculating the above **Customer Order/Transaction Cycle Time Service Level Performance Metric for Manually Processed Orders**, only those Customer Orders accepted in the ASP Solution in such \*\*\*\* that require \*\*\*\* Manual Transaction Processing shall be included in such calculation.

**1.2 Customer Order/Transaction for Manually Processed Orders Order/Transaction Quality Processing Service Level Performance Metric for Customer Orders requiring Manual Transaction Processing Only:**

- a. \*\*\*\* of LOS on a Customer Order accepted by the ASP Solution in a \*\*\*\* period will be entered by Supplier correctly (without data entry error or omission of data required) into the AT&T order entry and billing systems of record as such data was received by Supplier’s Order Gateway. Orders that deviate from AT&T eCommerce “Shipped As Ordered” (SAO) policy will be excluded from the calculation of attainment of the metric in this Section. Entry that was as completed as provided in the Customer Order shall be deemed to be “accurate” or “submitted accurately”.
- b. Supplier will audit a statistical valid sample size of such **Customer Orders requiring Manual Transaction Processing** to assess the quality levels for such Customer Orders. The results of such audit will be provided to AT&T on an agreed to schedule.
- c. The above quality assessment shall be a manual process augmented by a systematic “Shipped As Ordered” assessment approach, when available.
- d. Transactions that are not received through the ASP Solution will not be eligible for inclusion in the calculation or above Service Level Performance Metric.

In the event that the Service Level Performance Metric is not met in a given \*\*\*\*, Supplier will provide to AT&T the credit set forth below in Table 2.

In the event that the Service Level Performance Metric is exceeded by Supplier in a given \*\*\*\*, Supplier will invoice AT&T the premium set forth below in Table 2 on a \*\*\*\* basis.

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**Table 2: Customer Order/Transaction for Manually Processed Orders Order/Transaction Quality Processing Service Level Performance Metric for Customer Orders requiring Manual Transaction Processing Only**

<b>SLA ID</b>	<b>**** SLA Index</b>	<b>\$ Bonus (paid by AT&amp;T reflected as a positive percentage value or +%) or \$ Credit (AT&amp;T credit reflected as a negative percentage value or -%)</b>
OQ 1	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 2	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 3	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 4	**** of LOS submitted accurately	No Credit or Bonus Applicable
OQ 5	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 6	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 7	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 8	**** of LOS submitted accurately	**** of Manual Transaction Processing Fees for such program element in such ****
OQ 9	**** of LOS submitted accurately for ****	**** of Manual Transaction Processing Fees for such program element in such ****

**1.3 Inbound Call & Chat Handling Service Levels Performance Metrics**

- 1.
2. ASA — \*\*\*\*.
3. Abandon Rate for Inbound Calls — \*\*\*\*.
4. Chat Button Availability Rate for Inbound Chats — \*\*\*\*. AT&T systems shall base making the button available based on the anticipated availability of an Agent to support the chat based on \*\*\*\*. AT&T shall provide \*\*\*\* reporting of such availability rate. This metric shall not apply to any Chat Transaction Types when any portion of such Inbound Chats during such \*\*\*\* are allocated or distributed to any other entity other than Vendor during such \*\*\*\* or when AT&T applications are not making such button available in accordance with mutually agreed upon parameters or has not made required reporting available to Vendor.
5. Inbound Call Quality Monitoring. Supplier shall audit and score a minimum of \*\*\*\* using a mutually agreed upon quality measurement criteria. The results of the monitoring and scoring will be provided to AT&T on an agreed to schedule.

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**Table 3: Inbound Call Handling Service Levels Performance Metrics**

SLA ID*	Service Level Category	**** Service Level Performance Metric
****	****	****
****	****	****

\* IC = Inbound Call Service Level

**2. ASP Solution Platform Service Levels and Remedies**

**2.1 Supplier Order Gateway and Workflow Manager Availability**

**System Availability:**

The Order Gateway and Workflow Manager shall be available and functioning in accordance with the OG SLA (as defined in Section 3.0 below) \*\*\*\* excluding 1) regularly scheduled downtimes to perform system upgrades, application administration, and any other planned events as agreed in advance in writing by the Parties and 2) Supplier written requests to AT&T for any unscheduled maintenance outage periods, if needed (“System Uptime”). System Availability is measured by ASP Solution Element for each Channel and is calculated as:

\*\*\*\*

**ASP Solution Platform Elements and Service Levels Performance Metrics and KPI for System Availability:**

1. Order Gateway - \*\*\*\* System Availability Service Level Performance Metric
2. Email Service - \*\*\*\* System Availability Service Level Performance Metric
3. Workflow Manager - \*\*\*\* System Availability Key Performance Indicator
4. Web Portal - \*\*\*\* System Availability Key Performance Indicator
5. Reporting Platform — \*\*\*\* System Availability Key Performance Indicator

**Service Level Measurement Process:**

1. Statistics used to determine outages are collected using a suite of network and application monitoring tools as well as data collected by the application itself.
2. ASP Solution Platform Element Service Level Performance Metric attainment is reviewed on a \*\*\*\* basis. All statistics from Supplier’s monitoring suite are reviewed and downtime recorded for that \*\*\*\* is summarized for each functional area of the ASP Solution Platform Element (e.g. Order Gateway, email, Workflow etc.)
3. Supplier assumes that the Customer Order volume will not exceed an amount equal \*\*\*\* of the average \*\*\*\* volume of Customer Orders processed by such Channel during the rolling period of the prior \*\*\*\*.
4. Functional area outages are determined using the guidelines in the tables below:

**Table 4: Supplier System Outage Guidelines**

Platform	Outage Criteria
Order Gateway	<ul style="list-style-type: none"> <li>• **** Order Gateway application servers are down (no response to pings for availability)</li> <li>• Order Gateway cannot process Customer Order and “nacks” **** messages to the Order Gateway</li> </ul>

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<b>Platform</b>	<b>Outage Criteria</b>
Email Service	<ul style="list-style-type: none"> <li>**** Email Service servers are down</li> <li>**** email messages are able to be forwarded from Supplier email service</li> </ul>
Workflow Manager	<ul style="list-style-type: none"> <li>**** Workflow Manager servers are down</li> <li>Greater than **** of the typical volume of Agents cannot access Workflow Manager to perform functions</li> </ul>
Reporting Platform	An outage will be recorded if any one of the following occurs: <ul style="list-style-type: none"> <li>Real time reporting functionality of Reporting Platform is unavailable or is not updating data on a scheduled basis</li> <li>**** reports are not generated and delivered. Availability will be measured as a percentage of the overall number of reports generated on a **** basis</li> </ul>

**ASP Solution Platform Element Service Level Performance Metric Remedies:**

Order Gateway and WorkFlow Manager - \*\*\*\* System Availability in a \*\*\*\*

Supplier will calculate all “downtime” (time of an Outage as noted in Table 4 above) associated with both items listed above and provide one summary figure on a \*\*\*\* basis for overall availability. Failure to meet service levels will result in the remedies as defined in Table 5 below.

**Table 5: Supplier Combined Order Gateway and Workflow Manager System Availability Service Levels and Remedies**

**Order Gateway and WorkFlow Manager Service Level Combined**

<b>System Availability In A ****</b>	<b>Credit* Against Total Technology Fee for This Channel for ****</b>
****	****
****	****
****	****
****	****

\* Service Credits will be applied in the \*\*\*\* in which the event giving rise to the remedy occurs

Scheduled System Maintenance requires a written notice up to \*\*\*\*, but not less than \*\*\*\* notice to AT&T and Supplier Decision Makers and their subsequent consent.

**2.2 Description for e-Mail Manager Key Performance Indicators**

Supplier will host an email infrastructure that reliably forwards all system generated emails to AT&T Online customers. This infrastructure will operate within the following service levels:

- \*\*\*\* mail relay servers to deliver expected \*\*\*\* System Availability
- Support \*\*\*\* email messages \*\*\*\* (reasonably spaced)
- \*\*\*\* retention of all sent email messages
- Message sizes may not exceed \*\*\*\* or contain attachments

**3. Order Gateway Performance Service Level Key Performance Indicators (“OG SLA”)**

Order Gateway under a Normal Transaction Flow (as described below) will respond to \*\*\*\* of the Customer Orders for a Channel within \*\*\*\* of its receipt by the Order Gateway in any given \*\*\*\* provided such Customer Orders is in the documented format and has been submitted by AT&T per the published process documentation and successfully pass Supplier’s Order Gateway validations (as described below). AT&T will have the responsibility to produce reports from the Order Gateway, or request such reports from Supplier, to measure

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the results and determine if this SLA Key Performance Indicator is met. AT&T and Supplier shall mutually agree on the format of such reports. Measurement will be based on \*\*\*\* for a given Customer Order. Supplier will comply with AT&T's reasonable requests for data in accordance with the measurement.

“Normal Transaction Flow” means:

- a. Volumes and distributions are within the expected capacity thresholds for ASP Solution as identified in the Agreement.
- b. The sending system emits a valid message for the activity desired per the agreed upon schema.
- c. The AT&T client is also sending messages at the rate both Parties have determined acceptable for the Channel and via the agreed upon protocol.
- d. AT&T's systems are accepting and correctly processing responses from the Supplier platform.

During the Normal Transaction Flow, it is assumed that the client is sending the correct number of messages per Transaction.

Order Gateway validations: Upon receipt of a message, the Order Gateway will validate the message against the specified schema and/or configured business rules. Additional security, database and business logic analysis will be performed to ensure the message can and should be processed by the Supplier system. If both of these activates are successful the Order is submitted for processing.

**4. Automation Rates, SLAs and Remedies for Customer Orders**

The Parties agree that measurement of automation levels and partial automation levels for Customer Orders is an important metric in overall subscriber satisfaction and the costs of both Parties. As such, the following parameters are established to review and monitor Automation Rates on agreed upon Customer Orders. The Parties acknowledge that the Actual Automation rate or Rate of Fallout may have many factors and causes including those that are not indicative of any failure or inadequate performance by a Party. As such, the Parties shall meet quarterly to establish and review the parameters and requirements for measuring Automation Rates and, discuss adjustments as may be reasonably agreed upon by the Parties from time to time. Any such adjustments shall be made pursuant to the Change Order Process under the Agreement.

1. Establishing Expected Automation Rate.

The Parties shall mutually agree in writing on the Customer Orders that constitute the Customer Orders in the Customer Order Class. Such orders shall be:

- (a) supported by a Workflow and Order Manager configuration, process and flow that supports such Orders being capable of being an Automated Order (ie. is not a workflow or process that has, by business rule or otherwise, an anticipated Fallout condition for each such Customer Order), and
- (b) of a similar nature or type so as to provide meaningful Automation Reporting output for management purposes as reasonably agreed upon by the Parties without undo detail or quantities of measurements and reports.
- (c) Customer Orders with an established and tested Order Manager and Workflow configuration for at least \*\*\*\*.

Upon establishing the Customer Order Class, the Parties shall study the Automation Rate of the Customer Order Class for Completed Customer Orders in the Customer Order Class over the \*\*\*\* period that does not include a Special Event (an “Evaluation Period”) where the following data is reasonably constant or static during such Evaluation Period (collectively, the “Baseline Data”):

- (a) Mix of the types of Customer Orders within the Customer Order Class and the Automation Rate for such Orders,

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- (b) Volume and arrival distribution of such Customer Orders,
- (c) Relative occurrence of issues that impact or cause Fallout or a Customer Contact (excluding Fallout as a result in a Defect in the ASP Solution or error in configuration or implementation of a process or workflow in the ASP Solution by Supplier), and
- (d) Current processes, workflow and task requirements and the SLA requirements established for the Customer Orders in the Customer Order Class as well as average handle times and system response times for connected applications external to the ASP Solution that are applicable to the Orders and related parameters (such a system timeouts and “retries”) (collectively, the “Requirements”).

The Parties shall use the Average Automation Rate for the Customer Order Class over each \*\*\*\* of the Evaluation Period less \*\*\*\* as the Expected Automation Rate for such Order Class. In the event that, for each \*\*\*\* of an Evaluation Period, the \*\*\*\* Automation Rate varies from the average Automation Rate in such Evaluation Period by more than \*\*\*\*, the Parties shall (a) defer the assignment of an Expected Automation Rate for such Customer Order Class or (b) conduct such evaluation on an extended or new Evaluation Period, as may be reasonable, until such discrepancy and deviation is less than or equal to \*\*\*\*.

For each Customer Order Class that has an established Expected Automation Rate, such rate shall remain the same during each \*\*\*\* of the Term.

2. Measurement and Reports.

Supplier will provide Automation Reports to AT&T for agreed upon Order Classes on a \*\*\*\* basis (each such \*\*\*\*, a “Measurement Period”) setting forth (a) calculations of actual performance relative to the SLAs for the relevant \*\*\*\*; and (b) in the event that any SLAs are not achieved in any given \*\*\*\*, a description of the cause or causes believed to have caused such failure to achieve such SLA, and, to the extent such caused by a Defect, any corrective actions taken by Supplier to prevent re-occurrence.

Customer Order Processing Automation Rate

Customer Order Class	Expected Automation Rate
1. As mutually determined in Section 1 above.	1. As mutually determined in Section 1 above.

3. Adjustments to the Expected Automation Rate.

If, there are changes in the Requirements or Baseline Data for an Order Class or additions/deletions of Orders types in the Order Class (creating a new Order Class), Order class makeup, Expected Automation Rate and related obligations and rights shall be readjusted pursuant to the mutual agreement of the Parties, in good faith and in a manner consistent with the intent of this Agreement and Section 1 above, to reflect such changes. In the event of a process change requested by AT&T, the Parties will mutually agree on an appropriate period, if any, after such implementation when the SLAs will not apply.

4. SLA and Remedies.

SLA Category	Remedy
****	****
****	****

**Proprietary and Confidential**

This Order and information contained therein is not for use or disclosure outside of AT&T, its Affiliates, and third party representatives, and Supplier its Affiliates, and third party representatives except under written agreement by the contracting Parties.

\*\*\*\*CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

**CONFIDENTIAL TREATMENT REQUESTED**

Order No. SG021306.S.025.S.004

**5. Assumptions and Exclusions**

**5.1 Methods and Procedures (M&P)**

Subject to the terms of this Order, Supplier's Customer Care Support will adhere to AT&T's approved Methods and Procedures (M&P). Supplier must submit a change request and receive prior written approval from AT&T to deviate from the approved M&P.

**5.2 Exclusions**

No remedies for any error, failure or delay of Supplier shall be deemed to occur to the extent resulting from the following (collectively "Exclusions")

1. Any failure, error or delay resulting from volume in a given interval exceeds the volume in Locked Forecast for such Contact to transaction type that interval by more than \*\*\*\*, except in the case of the ASP Solution Platform Availability SLA for which the threshold shall be \*\*\*\* of the \*\*\*\* volume of Customer Orders processed by such Channel during the rolling period of the \*\*\*\*.

**Proprietary and Confidential**

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\*\*\*\*CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

**CONFIDENTIAL TREATMENT REQUESTED**

2. An error, delay or failure of any AT&T network, application or system or service provided by or obtained from AT&T for use in supporting the Services;
3. Defects where normal intervals for ASP Solution testing of a release were not available as a result of accelerated timelines requested by AT&T;
4. Any incorrect or missing data provided by AT&T, its agents or its Customers;
5. An error, delay or failure resulting from acting on the instruction of AT&T or an event outside the reasonable control of Supplier or as a result of any other exclusion set forth in the Order or Agreement
6. Any failure by AT&T to meet its obligations under this Order or the Agreement;
7. Any error, delay or failure in the ASP solution that is not a result of a Defect

Notwithstanding the existence of an Exclusion, Supplier shall nevertheless use commercially reasonable efforts to continue to meet Service Levels under this Order during the existence of an Exclusion. Transactions or Customer Orders that failed to meet a performance metric as a result of the existence of an Exclusion shall be excluded from calculations in determining the credits or bonus.

**Proprietary and Confidential**

This Order and information contained therein is not for use or disclosure outside of AT&T, its Affiliates, and third party representatives, and Supplier except under written agreement by the contracting Parties.

**CONFIDENTIAL TREATMENT REQUESTED**

**Exhibit R-1 — Operational Reports**

<b>Channel</b>	<b>Report Name</b>	<b>Frequency</b>
****	****	****
****	****	****
****	****	****
****	****	****
****	****	****

**Proprietary and Confidential**

This Order and information contained therein is not for use or disclosure outside of AT&T, its Affiliates, and third party representatives, and Supplier except under written agreement by the contracting Parties.

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\*\*\*\*CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.



**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER  
PURSUANT TO SECURITIES AND EXCHANGE COMMISSION RULE 13a-14(a)**

I, Stephen G. Waldis, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Synchronoss Technologies, Inc. for the quarter ended September 30, 2013;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rule 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 5, 2013

/s/ Stephen G. Waldis

Stephen G. Waldis  
Chairman of the Board of Directors &  
Chief Executive Officer

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**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER  
PURSUANT TO SECURITIES AND EXCHANGE COMMISSION RULE 13a-14(a)**

I, Lawrence R. Irving, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Synchronoss Technologies, Inc. for the quarter ended September 30, 2013;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rule 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 5, 2013

/s/ Lawrence R. Irving

Lawrence R. Irving  
Executive Vice President, Chief Financial Officer &  
Treasurer

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**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER  
PURSUANT TO 18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Synchronoss Technologies, Inc. (the "Company") for the quarter ended September 30, 2013, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Stephen G. Waldis, the Chairman of the Board of Directors, President & Chief Executive Officer of the Company, hereby certify, pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge and belief that:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, as amended, and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

This certification is being provided pursuant to 18 U.S.C. 1350 and is not to be deemed a part of the Report, nor is it to be deemed to be "filed" for any purpose whatsoever.

Date: November 5, 2013

/s/ Stephen G. Waldis  
Stephen G. Waldis  
Chairman of the Board of Directors &  
Chief Executive Officer

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER  
PURSUANT TO 18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Synchronoss Technologies, Inc. (the "Company") for the quarter ended September 30, 2013, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Lawrence R. Irving, the Chief Financial Officer & Treasurer of the Company, hereby certify, pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge and belief that:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, as amended, and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

This certification is being provided pursuant to 18 U.S.C. 1350 and is not to be deemed a part of the Report, nor is it to be deemed to be "filed" for any purpose whatsoever.

Date: November 5, 2013

/s/ Lawrence R. Irving

Lawrence R. Irving  
Executive Vice President, Chief Financial Officer &  
Treasurer

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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