

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, 2004

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 1-14443

GARTNER, INC.  
(Exact name of Registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

04-3099750  
(I.R.S. Employer  
Identification Number)

56 Top Gallant Road  
P.O. Box 10212  
Stamford, CT  
Address of principal executive offices)

06904-2212  
(Zip Code)

Registrant's telephone number, including area code: (203) 316-1111

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

Indicate by check mark whether the registrant is an accelerated filer (as  
defined in Exchange Act Rule 12b-2) YES ☒ NO ☐.

The number of shares outstanding of the Registrant's capital stock as of  
October 31, 2004 was 88,171,795 shares of Class A Common Stock and 22,613,138  
shares of Class B Common Stock.

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PART I FINANCIAL INFORMATION  
ITEM 1. FINANCIAL STATEMENTS

GARTNER, INC.  
Condensed Consolidated Balance Sheets  
(in thousands)

	September 30, 2004 ----- (audited)	December 31, 2003 -----
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 156,641	\$ 229,962
Fees receivable, net	215,587	266,122
Deferred commissions	26,967	27,751
Prepaid expenses and other current assets	31,700	25,642
	-----	-----
Total current assets	430,895	549,477
Property, equipment and leasehold improvements, net	64,911	66,541
Goodwill	229,555	230,387
Intangible assets, net	328	985
Other assets	68,601	69,874
	-----	-----
<b>TOTAL ASSETS</b>	<b>\$ 794,290</b>	<b>\$ 917,264</b>
	=====	=====
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable and accrued liabilities	\$ 140,553	\$ 175,609
Deferred revenues	299,929	315,524
Current portion of long term debt	40,000	-
	-----	-----
Total current liabilities	480,482	491,133
Other liabilities	50,461	50,385
Long term debt	160,000	-
	-----	-----
<b>TOTAL LIABILITIES</b>	<b>690,943</b>	<b>541,518</b>
<b>STOCKHOLDERS' EQUITY</b>		
Preferred stock	-	-
Common stock	75	72
Additional paid-in capital	467,025	408,504
Unearned compensation, net	(1,559)	(1,846)
Accumulated other comprehensive income, net	3,584	1,530
Accumulated earnings	185,588	173,936
Treasury stock, at cost	(551,366)	(206,450)
	-----	-----
<b>TOTAL STOCKHOLDERS' EQUITY</b>	<b>103,347</b>	<b>375,746</b>
	-----	-----
<b>TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY</b>	<b>\$ 794,290</b>	<b>\$ 917,264</b>
	=====	=====

See the accompanying notes to the condensed consolidated financial statements.

GARTNER, INC.  
Condensed Consolidated Statements of Operations  
(Unaudited, in thousands, except per share amounts)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
	----	----	----	----
Revenues:				
Research	\$ 119,004	\$ 115,830	\$ 360,212	\$ 349,347
Consulting	60,073	62,998	192,308	191,302
Events	18,675	15,904	74,057	64,705
Other	4,136	2,172	11,835	9,150
	-----	-----	-----	-----
Total revenues	201,888	196,904	638,412	614,504
Costs and expenses:				
Cost of services and product development	100,196	94,378	310,058	300,151
Selling, general and administrative	85,090	79,169	254,312	243,403
Depreciation	6,589	9,046	21,370	27,835
Amortization of intangibles and goodwill impairments	203	320	1,329	1,063
Other charges	4,333	-	23,909	5,426
	-----	-----	-----	-----
Total costs and expenses	196,411	182,913	610,978	577,878
	-----	-----	-----	-----
Operating income	5,477	13,991	27,434	36,626
(Loss) gain from investments, net	(2,184)	102	(2,145)	5,624
Interest (expense) income, net	(602)	(5,774)	13	(16,928)
Other (expense) income, net	(189)	(148)	(3,625)	348
	-----	-----	-----	-----
Income before income taxes	2,502	8,171	21,677	25,670
Provision for income taxes	2,342	2,697	10,025	8,854
	-----	-----	-----	-----
Net income	\$ 160	\$ 5,474	\$ 11,652	\$ 16,816
	=====	=====	=====	=====
Income per common share:				
Basic	\$ 0.00	\$ 0.07	\$ 0.09	\$ 0.21
Diluted	\$ 0.00	\$ 0.07	\$ 0.09	\$ 0.21
Weighted average shares outstanding:				
Basic	121,767	78,026	128,044	79,251
Diluted	124,318	128,934	130,923	128,363

See the accompanying notes to the condensed consolidated financial statements.

GARTNER, INC.  
Condensed Consolidated Statements of Cash Flows  
(Unaudited, in thousands)

	Nine Months Ended September 30,	
	2004	2003
	----	----
OPERATING ACTIVITIES:		
Net income	\$ 11,652	\$ 16,816
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization, including goodwill impairments	22,699	28,898
Non-cash compensation	1,273	758
Tax benefit associated with employees' exercise of stock options	8,262	1,423
Deferred taxes	409	88
Loss (gain) from investments, net	2,145	(5,624)
Accretion of interest and amortization of debt issue costs	744	17,909
Non-cash charges associated with South America closings	2,943	-
Changes in assets and liabilities:		
Fees receivable, net	49,352	68,646
Deferred commissions	698	2,249
Prepaid expenses and other current assets	(6,215)	1,300
Other assets	(1,320)	(2,014)
Deferred revenues	(14,107)	(11,964)
Accounts payable and accrued liabilities	(32,261)	(2,557)
	-----	-----
CASH PROVIDED BY OPERATING ACTIVITIES	46,274	15,928
	-----	-----
INVESTING ACTIVITIES:		
Proceeds from insurance recovery	-	5,464
Investments	-	(1,507)
Additions to property, equipment and leasehold improvements	(19,036)	(16,401)
	-----	-----
CASH USED IN INVESTING ACTIVITIES	(19,036)	(12,444)
	-----	-----
FINANCING ACTIVITIES:		
Proceeds from stock issued for stock plans	56,472	20,956
Proceeds from issuance of debt	200,000	-
Payments for debt issuance costs	(2,821)	(570)
Purchases of stock via tender offer, net of costs	(346,148)	-
Purchases of treasury stock	(6,114)	(32,380)
	-----	-----
CASH USED IN FINANCING ACTIVITIES	(98,611)	(11,994)
	-----	-----
NET (DECREASE) INCREASE IN CASH AND CASH EQUIVALENTS	(71,373)	91,490
EFFECTS OF EXCHANGE RATES ON CASH AND CASH EQUIVALENTS	(1,948)	5,790
CASH AND CASH EQUIVALENTS, BEGINNING OF PERIOD	229,962	109,657
	-----	-----
CASH AND CASH EQUIVALENTS, END OF PERIOD	\$ 156,641	\$ 206,937
	=====	=====

See the accompanying notes to the condensed consolidated financial statements.

## NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

## Note 1 - Basis of Presentation

These interim condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles ("GAAP") for interim financial information and with the instructions to Form 10-Q and should be read in conjunction with the consolidated financial statements and related notes of the Company filed in our Annual Report on Form 10-K for the year ended December 31, 2003. The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities, and the reported amounts of operating revenues and expenses. These estimates are based on management's knowledge and judgments. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation of financial position, results of operations and cash flows at the dates and for the periods presented have been included. The results of operations for the three and nine months ended September 30, 2004 may not be indicative of the results of operations for the remainder of 2004. Certain prior year amounts have been reclassified to conform to the current year presentation.

## Note 2 - Comprehensive Income

The components of comprehensive income for the three and nine months ended September 30, 2004 and 2003 are as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
	-----	-----	-----	-----
Net income	\$ 160	\$ 5,474	\$ 11,652	\$ 16,816
Other comprehensive income (loss):				
Foreign currency translation adjustments	858	(259)	(916)	5,696
Reclassification adjustment of foreign currency translation adjustments to net income upon closing of foreign operations	-	-	2,943	-
Net unrealized gains on investments, net of tax	3	8	28	1
	-----	-----	-----	-----
Other comprehensive income (loss)	861	(251)	2,055	5,697
	-----	-----	-----	-----
Comprehensive income	\$ 1,021	\$ 5,223	\$ 13,707	\$ 22,513
	=====	=====	=====	=====

The balance of unrealized holding losses on investments, net of tax, at September 30, 2004 was immaterial. During the nine months ended September 30, 2004, we reclassified \$2.9 million of accumulated translation adjustments associated with certain operations in South America into net income as a result of our closure of operations. The reclassification adjustment was recorded as a loss within Other (expense) income, net.

### Note 3 - Computations of Income per Share of Common Stock

The following table sets forth the reconciliation of the basic and diluted income per share (in thousands, except per share data):

	Three Months Ended September 30, 2004		Nine Months Ended September 30, 2004	
	2004	2003	2004	2003
	-----	-----	-----	-----
NUMERATOR:				
Net income used for calculating basic income per share	\$ 160	\$ 5,474	\$ 11,652	\$ 16,816
After-tax interest on convertible long-term debt	-	3,341	-	9,908
	-----	-----	-----	-----
Income used for calculating diluted income per share	\$ 160	\$ 8,815	\$ 11,652	\$ 26,724
	=====	=====	=====	=====
DENOMINATOR:				
Weighted average number of common shares used in the calculation of basic income per share	121,767	78,026	128,044	79,251
Common stock equivalents associated with stock Compensation plans	2,551	1,878	2,879	797
	-----	-----	-----	-----
Weighted average number of shares associated with convertible long-term debt	-	49,030	-	48,315
	-----	-----	-----	-----
Shares used in the calculation of diluted income per share	124,318	128,934	130,923	128,363
	=====	=====	=====	=====
	-----	-----	-----	-----
Basic income per share	\$ 0.00	\$ 0.07	\$ 0.09	\$ 0.21
	=====	=====	=====	=====
Diluted income per share	\$ 0.00	\$ 0.07	\$ 0.09	\$ 0.21
	=====	=====	=====	=====

For the three and nine months ended September 30, 2004 and 2003, unvested restricted stock awards were not included in the computation of diluted income per share because the effect would have been anti-dilutive. For the three months ended September 30, 2004 and 2003, options to purchase 13.0 million and 19.0 million shares, respectively, of Class A Common Stock of the Company were not included in the computation of diluted income per share because the effect would have been anti-dilutive. For the nine months ended September 30, 2004 and 2003, options to purchase 11.9 million and 26.7 million shares, respectively, of Class A Common Stock of the Company were not included in the computation of diluted income per share because the effect would have been anti-dilutive.

### Note 4 - Accounting for Stock-Based Compensation

The Company has several stock-based compensation plans. The Company applies APB Opinion No. 25 "Accounting for Stock Issued to Employees" ("APB 25") in accounting for its employee stock options and purchase rights and applies Statement of Financial Accounting Standards No. 123 "Accounting for Stock Issued to Employees" ("SFAS 123") for disclosure purposes only. Under APB 25, the intrinsic value method is used to account for stock-based employee compensation plans. The SFAS 123 disclosures include pro forma net (loss) income and (loss) income per share as if the fair value-based method of accounting had been used.

If compensation for employee options had been determined based on SFAS 123, the Company's pro forma net (loss) income, and pro forma (loss) income per share would have been as follows (in thousands, except per share data):

	Three Months Ended September 30, 2004		Nine Months Ended September 30, 2004	
	-----	-----	-----	-----
Net income as reported	\$ 160	\$ 5,474	\$ 11,652	\$ 16,816
Add: Stock-based compensation expense included in net income, net of tax	48	161	827	493
Deduct: Pro forma employee stock-based compensation cost, net of tax	(3,809)	(4,314)	(9,596)	(13,614)
Pro forma net (loss) income	=====	=====	=====	=====
	\$ (3,601)	\$ 1,321	\$ 2,883	\$ 3,695
Basic income (loss) per share:				
As reported	\$ 0.00	\$ 0.07	\$ 0.09	\$ 0.21
Pro forma	\$ (0.03)	\$ 0.02	\$ 0.02	\$ 0.05
Diluted income (loss) per share:				
As reported	\$ 0.00	\$ 0.07	\$ 0.09	\$ 0.21
Pro forma	\$ (0.03)	\$ 0.02	\$ 0.02	\$ 0.05

The fair value of the Company's stock plans was estimated on the date of grant using the Black-Scholes option-pricing model with the following weighted-average assumptions:

	Three Months Ended September 30, 2004		Nine Months Ended September 30, 2004	
	-----	-----	-----	-----
Expected dividend yield	0%	0%	0%	0%
Expected stock price volatility	34%	43%	40%	43%
Risk-free interest rate	3.3%	2.2%	3.0%	1.9%
Expected life in years	4.0	4.0	3.8	3.4

The weighted average fair values of our stock options granted during the three months ended September 30, 2004 and 2003, were \$3.88 and \$3.48, respectively. The weighted average fair values of our stock options granted during the nine months ended September 30, 2004 and 2003, were \$4.20 and 2.59, respectively.

#### Note 5 - Segment Information

The Company manages its business in three reportable segments organized on the basis of differences in its products and services: Research, Consulting, and Events. Research consists primarily of subscription-based research products. Consulting consists primarily of consulting and measurement engagements. Events consist of various symposia, expositions and conferences.

The Company evaluates reportable segment performance and allocates resources based on gross contribution margin. Gross contribution, as presented below, is the profit or loss from operations before interest income and expense, certain selling, general and administrative costs, amortization, income taxes, other expenses, and foreign exchange gains and losses. The accounting policies used by the reportable segments are the same as those used by the Company.



The Company does not identify or allocate assets, including capital expenditures, by operating segment. Accordingly, assets are not reported by segment because the information is not available and is not reviewed in the evaluation of segment performance.

The following tables present information about reportable segments (in thousands). The "Other" column consists primarily of software sales and certain other revenues and related expenses that do not meet the segment reporting quantitative thresholds. There are no inter-segment revenues.

	Research -----	Consulting -----	Events -----	Other -----	Consolidated -----
THREE MONTHS ENDED SEPTEMBER 30, 2004:					
Revenues	\$ 119,004	\$ 60,073	\$ 18,675	\$ 4,136	\$ 201,888
Gross Contribution	72,050	20,738	6,571	3,753	103,112
Corporate and other expenses					(97,635)
Operating income					\$ 5,477 =====
THREE MONTHS ENDED SEPTEMBER 30, 2003:					
Revenues	\$ 115,830	\$ 62,998	\$ 15,904	\$ 2,172	\$ 196,904
Gross Contribution	73,330	21,680	5,163	1,375	101,548
Corporate and other expenses					(87,557)
Operating income					\$ 13,991 =====
NINE MONTHS ENDED SEPTEMBER 30, 2004:					
Revenues	\$ 360,212	\$ 192,308	\$ 74,057	\$ 11,835	\$ 638,412
Gross Contribution	224,082	70,816	30,537	10,523	335,985
Corporate and other expenses					(308,551)
Operating income					\$ 27,434 =====
NINE MONTHS ENDED SEPTEMBER 30, 2003:					
Revenues	\$ 349,347	\$ 191,302	\$ 64,705	\$ 9,150	\$ 614,504
Gross Contribution	222,381	65,308	24,095	6,335	318,119
Corporate and other expenses					(281,493)
Operating income					\$ 36,626 =====

## Note 6 - Goodwill and Intangible Assets

The changes in the carrying amount of goodwill, by reporting segment, for the nine months ended September 30, 2004 are as follows (in thousands):

	Balance December 31, 2003	Impairments	Currency Translation Adjustments	Balance September 30, 2004
	-----	-----	-----	-----
Research	\$ 128,896	\$ -	\$ (260)	\$ 128,636
Consulting	68,803	(739)	105	68,169
Events	30,606	-	-	30,606
Other	2,082	-	-	2,082
	-----	-----	-----	-----
Total goodwill	\$ 230,387	\$ (739)	\$ (155)	\$ 229,493
	=====	=====	=====	=====

During the first quarter of 2004, we recorded a \$0.7 million impairment loss for goodwill recorded for certain operations in South America as a result of our decision to close those operations.

The following table presents the Company's intangible assets subject to amortization (in thousands):

	September 30, 2004	December 31, 2003
	-----	-----
Non-compete agreements:		
Gross cost	\$ 13,156	\$ 13,257
Accumulated amortization	(12,979)	(12,599)
	-----	-----
Non-compete agreements, net	177	658
Trademarks and tradenames:		
Gross cost	1,807	1,811
Accumulated amortization	(1,594)	(1,484)
	-----	-----
Trademarks and tradenames, net	213	327
	-----	-----
Intangible assets, net	\$ 390	\$ 985
	=====	=====

Aggregate amortization expense for the three month period ended September 30, 2004 and 2003 was \$0.2 million and \$0.3 million, respectively. Aggregate amortization expense for the nine month period ended September 30, 2004 and 2003 was \$0.6 million and \$1.1 million, respectively. The estimated future amortization expense of purchased intangibles is as follows (in thousands):

2004 (remaining three months)	\$ 128
2005	199
2006	53
2007	9
2008	1
	-----
	\$ 390
	=====

## Note 7 - Other Charges

On September 28, 2004, the Company announced that CEO, Eugene Hall, would assume direct responsibility for the business operations. As a result of this change, Maureen O'Connell, President and Chief Operating Officer, decided to leave the Company as of October 21, 2004. Further, the position of President and Chief Operating Officer has been eliminated. In connection with her departure, Ms. O'Connell entered into a separation agreement on September 27, 2004. Pursuant to the terms of the agreement, Ms. O'Connell received: (a) a single lump sum severance payment equal to \$3.2 million; (b) at our cost, group health benefits pursuant to our standard programs for herself, her spouse and any children for two years or until she obtains other employment, if that occurs sooner; and (c) reasonable office support for one year, or until she obtains other employment, if that occurs sooner. These costs have been recognized during the third quarter of 2004 as an expense within Other charges.

In addition, in accordance with her previously existing employment agreement with regards to equity arrangements, Ms. O'Connell received: (a) continued vesting until October 21, 2006 of all outstanding stock options; and (b) the ability to exercise all outstanding equity arrangements until October 21, 2007.

On April 29, 2004, Michael Fleisher, our then Chairman and CEO, announced his intention to leave Gartner sometime prior to the end of 2004. In connection with his departure, Mr. Fleisher entered into an amendment to his employment agreement pursuant to which he agreed to continue to serve in the capacity of Chief Executive Officer for up to six months. In satisfaction of existing obligations under his original employment agreement and in consideration of his assistance during this transition period, the Board of Directors agreed that Mr. Fleisher would receive: (a) payments totaling \$4.3 million, which includes his 2003 bonus and compensation in respect of the transition period; (b) at our cost, group health benefits pursuant to our standard programs for himself, his spouse and any children for two years or until he obtains other employment, if that occurs sooner; and (c) reasonable office support for one year, or until he obtains other employment, if that occurs sooner. The majority of these costs, excluding compensation during the transition period, have been recognized during the second quarter of 2004 as an expense within Other charges.

In addition, in accordance with his previously existing employment agreement with regards to equity arrangements, Mr. Fleisher received (a) acceleration in full of vesting of all equity arrangements subject to vesting and granted prior to October 1, 2002; (b) continued vesting until October 29, 2006 of all outstanding equity awards granted on or after October 1, 2002; and (c) the ability to exercise all equity arrangements granted after October 1, 2001 until October 29, 2007 and all equity arrangements granted on or prior to October 1, 2001 until October 29, 2005. The Company recorded a non-cash charge of \$0.4 million related to the acceleration of equity arrangements in the second quarter of 2004.

During the third quarter of 2004, the Company recorded other charges of \$4.3 million, which included \$3.1 million of costs related to Ms. O'Connell's separation, as well as \$0.5 million costs associated with the elimination of one additional position. The charge also includes \$0.8 million related to Mr. Fleisher's employment agreement amendment.

During the second quarter of 2004, the Company recorded other charges of \$9.1 million, which included \$3.8 million of costs related to Mr. Fleisher's departure, as well as \$5.3 million of costs associated with the realignment of the Company's workforce. This workforce realignment resulted in the termination of an additional 30 employees during the second quarter of 2004.

During the first quarter of 2004, the Company recorded other charges of \$10.5 million, of which \$10.4 million was associated with the realignment of our workforce and \$0.1 million was associated with costs

to close certain operations in South America. The workforce realignment portion of the charge is for costs for employee severance payments and related benefits. This workforce realignment was a continuation of the action plan initiated during the fourth quarter of 2003 and resulted in the termination of 132 employees during the first quarter of 2004.

During the first quarter of 2003, the Company recorded other charges of \$5.4 million associated with workforce reductions. The charge related to costs associated with employee termination severance payments and related benefits. This workforce reduction resulted in the termination of 92 employees during the three months ended March 31, 2003.

The following table summarizes the activity related to the liability for the restructuring and other severance programs recorded as other charges (in thousands):

	Workforce Reduction Costs	Excess Facilities Costs	Other	Total
	-----	-----	-----	-----
Accrued Liability at December 31, 2002	11,723	15,936	-	27,659
Charges during Nine months ended September 30, 2003	5,426	-	-	5,426
Payments	(15,038)	(5,158)	-	(20,196)
	-----	-----	-----	-----
Accrued Liability at September 30, 2003	2,111	10,778	-	12,889
Charges during remainder of 2003	14,574	9,716	-	24,290
Non-cash charges	(123)	-	-	(123)
Payments	(3,746)	(1,335)	-	(5,081)
	-----	-----	-----	-----
Accrued Liability at December 31, 2003	12,816	19,159	-	31,975
Charges during nine months ended September 30, 2004	23,806	-	103	23,909
Non-cash charges	(496)	-	(66)	(562)
Payments	(25,804)	(3,922)	(37)	(29,763)
	-----	-----	-----	-----
Accrued Liability at September 30, 2004	\$ 10,322	\$ 15,237	\$ -	\$ 25,559
	=====	=====	=====	=====

The non-cash charges for workforce reductions result from the establishment of a new measurement date for certain equity compensation arrangements upon the modification of the terms of the related agreement. The accrued severance of \$10.3 million at September 30, 2004 is expected to be paid by March 31, 2005. We will fund these costs from existing cash.

#### Note 8 - Investments

During the quarter ending September 30, 2004, the Company recorded a non-cash charge of \$2.2 million. This charge is related to the transfer of the Company's investment in TruSecure to SI II, as well as a decrease in the Company's ownership percentage in SI II of seven basis points. As a result of this transfer and the decrease in ownership, the Company has been relieved of all future capital calls, which totaled \$4 million. For the nine month period ended September 30, 2003, the Company recorded insurance proceeds of approximately \$5.5 million related to a claim associated with a settlement arising from the sale of GartnerLearning.

Total investments in equity securities were \$7.8 million and \$10.9 million at September 30, 2004 and December 31, 2003, respectively.

#### Note 9 - Stock Programs

##### Tender Offer

On August 10, 2004, the Company announced the final results of its "Dutch Auction Tender Offer". The Company repurchased 11.3 million shares of its Class A Common Stock and 5.5 million shares of its Class B Common Stock at a purchase price of \$13.30 and \$12.50 per share, respectively. Additionally, the Company repurchased 9.2 million Class A shares from Silver Lake Partners and certain of its affiliates ("Silver Lake") at a purchase price of \$13.30 per share. The total cost of the tender was \$346.1 million including transaction costs of \$3.8 million.

Stock Repurchase Program On July 17, 2001, the Board of Directors approved the repurchase of up to \$75 million of our Common Stock. On July 25, 2002, the Board of Directors increased the authorized stock repurchase program from the previously approved \$75 million to up to \$125 million of our Common Stock. On July 24, 2003, the Board of Directors authorized an additional increase of \$75 million in the stock repurchase program bringing the total authorization to \$200 million. During the six months ended June 30, 2004, the Company repurchased 413,225 shares of its Class A Common Stock and 114,600 shares of its Class B Common Stock at an aggregate cost of \$6.1 million under this program. On a cumulative basis at June 30, 2004, the Company has purchased \$133.2 million of our Common Stock under this program. In conjunction with the tender offer, the Board of Directors terminated this Stock Repurchase Program during June 2004.

#### Restricted Stock Award

During the first quarter of 2004, we awarded 175,000 shares of restricted stock at \$11.15 per share on which restrictions will lapse over a three-year period in the event that certain revenue and earnings metrics are achieved. During the second quarter of 2004, we awarded 33,000 shares of restricted stock at \$11.96 per share, on which the restrictions lapse ratably over a three-year period. During the third quarter of 2004, we awarded 33,000 shares of restricted stock at \$12.78 per share on which the restrictions lapse ratably over a three-year period. Additionally, due to an employee termination in the fourth quarter of 2004, the 175,000 shares of restricted stock issued in the first quarter will be forfeited.

#### Note 10 - Contingencies

The Company is involved in legal proceedings and litigation arising in the ordinary course of business. The Company believes the outcome of all current proceedings, claims and litigation will not have a material effect on our financial position or results of operations when resolved in future periods.

The Company has various agreements in which we may be obligated to indemnify the other party with respect to certain matters. Generally, these indemnification provisions are included in contracts arising in the normal course of business. We customarily agree to hold the other party harmless against losses arising from a breach of representations related to such matters as title to assets sold and licensed or certain intellectual property rights. It is not possible to predict the maximum potential amount of future payments under these indemnification provisions due to the conditional nature of our obligations and the unique facts of each particular agreement. Historically, payments made by the Company under these agreements have not been material. As of September 30, 2004, the Company is not aware of any indemnification agreements that would require material payments.

#### Note 11 - Income Taxes

The Company's provision for income taxes was 93.6% and 33.0% of income before income taxes for the third quarter of 2004 and 2003, respectively. The provision for income taxes was 46.3% and 34.5% during the first nine months of 2004 and 2003, respectively. The effective tax rate increased during the third quarter of 2004 as compared to the third quarter of 2003 due to limitations on certain deductions included in the other charges and the loss on investments. The effective tax rate increased during the first nine months of 2004 as compared to the first nine months of 2003 due to other charges, the goodwill impairment and the non-cash write-off of our accumulated foreign currency translation adjustments associated with the closing of certain operations in South America for which there is no tax benefit.

#### Note 12 - Debt

The Company assumed debt during the third quarter of 2004. The Company's credit agreement provides for a \$200.0 million term A loan facility and a five year \$100 million revolving credit facility. The

facilities bear interest equal to LIBOR plus an applicable margin which varies based on specified leverage ratios. At September 30, 2004, the current interest rate was 3.08%. The term A loan facility is payable in equal quarterly installments over a five year period ending August 12, 2009. The credit facilities are subject to mandatory prepayments from a portion of proceeds from assets sale and proceeds from certain future debt issuances. The credit agreement includes customary affirmative, negative and financial covenants primarily based on the Company's financial results and other measures such as contract value. The facilities also include commitment fees on the unused portion of the revolving credit facility not subject to letters of credit. At September 30, 2004, there was \$200 million outstanding on the term loan facility and \$3.5 million of letters of credit outstanding under the revolving credit facility. As a result of these letters of credit, the Company's borrowing availability at September 30, 2004 was \$96.5 million. Note 13 - Subsequent Event

On October 27, 2004, the Company announced it is contemplating a charge in the fourth quarter of 2004 related to closing certain facilities, restructuring within its international operations and non-cash charges related to the restructuring of certain internal systems. The Company will provide additional guidance when a final decision is made.

On October 15, 2004, the Company announced it entered into an employment agreement with Mr. Eugene A. Hall. Mr. Hall officially joined the Company as Chief Executive Officer on August 4, 2004, succeeding Michael Fleisher who had previously announced his intention to depart as Gartner's chairman and chief executive officer. Additionally, the Company announced that Mr. Hall received an inducement grant of 500,000 shares of restricted stock for which the market value on the date of grant was \$12.05 per share. The shares are in addition to non-qualified options to purchase 800,000 shares of Gartner's Class A Common Stock granted in the third quarter of 2004 at a price of \$12.11 per share. As long as Mr. Hall remains an employee, the restriction on the 500,000 shares of restricted stock will lapse upon the earlier of (a) Gartner's 60 day average stock price meeting certain targets, or (b) a change in control of Gartner. The price targets are \$20 for the first 300,000 shares, \$25 for the next 100,000 shares and \$30 for the remaining 100,000 shares. If Gartner's 60 day average stock price exceeds the stipulated per share target during the 60 day measurement period, the Company will be required to record a non-cash compensation charge equal to Gartner's 60 day average stock price times the number of shares associated with the applicable target. For example, if the Company's average 60 days stock price is \$22 per share, the first lapse shall result in the Company recording a \$6.6 million non-cash compensation charge (300,000 shares at \$22/share).

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

The purpose of the following Management's Discussion and Analysis (MD&A) is to help facilitate the understanding of significant factors influencing the operating results, financial condition and cash flows of Gartner, Inc. Additionally, the MD&A also conveys our expectations of the potential impact of known trends, events or uncertainties that may impact future results. You should read this discussion in conjunction with our condensed consolidated financial statements and related notes included in this report and in our Annual Report on Form 10-K for the year ended December 31, 2003. Historical results and percentage relationships are not necessarily indicative of operating results for future periods.

References to "the Company," "we," "our," and "us" are to Gartner, Inc. and its subsidiaries.

### FORWARD-LOOKING STATEMENTS

In addition to historical information, this Quarterly Report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements are any statements other than statements of historical fact, including statements regarding our expectations, beliefs, hopes, intentions or strategies regarding the future. In some cases, forward-looking statements can be identified by the use of words such as "may," "will," "expects," "should," "believes," "plans," "anticipates," "estimates," "predicts," "potential," "continue," or other words of similar meaning. Forward-looking statements are subject to risks and uncertainties that could cause actual results to differ materially from those discussed in, or implied by, the forward-looking statements. Factors that might cause such a difference include, but are not limited to, those discussed in "Factors That May Affect Future Performance" and elsewhere in this report and in our Annual Report on Form 10-K for the year ended December 31, 2003. Readers should not place undue reliance on these forward-looking statements, which reflect management's opinion only as of the date on which they were made. Except as required by law, we disclaim any obligation to review or update these forward-looking statements to reflect events or circumstances as they occur. Readers also should review carefully any risk factors described in other reports filed by us with the Securities and Exchange Commission.

### OVERVIEW

With the convergence of IT and business, technology has become increasingly more important - not just to technology professionals, but also to business executives. We are an independent and objective research and advisory firm that helps IT and business executives use technology to build, guide and grow their enterprises.

We employ a diversified business model that leverages the breadth and depth of our research intellectual capital while enabling us to maintain and grow our market-leading position and brand franchise. Our strategy is to align our resources and our infrastructure to leverage that intellectual capital into additional revenue streams through effective packaging, campaigning and cross-selling of our products and services. Our diversified business model provides multiple entry points and synergies that facilitate increased client spending on our research, consulting and events. A key strategy is to increase business volume with our most valuable clients, identifying relationships with the greatest sales potential and expanding those relationships by offering strategically relevant research and analysis.

We intend to maintain a balance between (1) pursuing opportunities and applying resources with a strict focus on growing our businesses and (2) generating profitability through a streamlined cost structure.

We have been organized into three business segments: research, consulting and events.



- - RESEARCH products and services highlight industry developments, review new products and technologies, provide quantitative market research, and analyze industry trends within a particular technology or market sector.
- - CONSULTING consists primarily of consulting, measurement engagements and strategic advisory services (paid one-day analyst engagements) ("SAS"), which provide assessments of cost, performance, efficiency and quality focused on the IT industry.
- - EVENTS consists of various symposia, conferences and exhibitions focused on the IT industry.

We believe the following business measurements are important performance indicators for our business segments.

BUSINESS SEGMENT	BUSINESS MEASUREMENTS
Research	<p>CONTRACT VALUE represents the value attributable to all of our subscription-related research products that recognize revenue on a ratable basis. Contract value is calculated as the annualized value of all subscription research contracts in effect at a specific point in time, without regard to the duration of the contract.</p> <p>CLIENT RETENTION RATE represents a measure of client satisfaction and renewed business relationships at a specific point in time. Client retention is calculated on a percentage basis by dividing our current clients, who were also clients a year ago, by all clients from a year ago.</p> <p>WALLET RETENTION RATE represents a measure of the amount of contract value we have retained with clients over a twelve-month period. Wallet retention is calculated on a percentage basis by dividing the contract value of clients, who were clients one year earlier, by the total contract value from a year earlier. When wallet retention exceeds client retention, it is an indication of retention of higher-spending clients.</p>
Consulting	<p>CONSULTING BACKLOG represents future revenue to be derived from in-process consulting, measurement and SAS engagements.</p> <p>UTILIZATION RATES represent a measure of productivity of our consultants. Utilization rates are calculated for billable headcount on a percentage basis by dividing total hours billed by total hours available to bill.</p>
Events	<p>NUMBER OF EVENTS represents the total number of hosted events completed during the period.</p>

#### EXECUTIVE SUMMARY OF OPERATIONS AND FINANCIAL POSITION

Technology spending is beginning to show improvement after several years of steady decline. As a result, sales of our IT related research are improving as well. During the last several years, we have been focused on stabilizing and then growing revenue in our core Research business. This continued focus began to yield the desired outcome during the latter half of 2003. We ended the latter half of 2003 with two consecutive quarters of sequential increases in contract value after seven consecutive quarters of sequentially decreasing contract value. Contract value increased sequentially again in the first quarter of 2004, decreased slightly during the second quarter and increased sequentially again in the third quarter of 2004. Additionally, contract value increased 4% on a year-over-year comparison primarily due to the effects of foreign currency. Our research client retention rates maintained the strong rate of 78% from

December 2003 through the third quarter of 2004.

Our Consulting business ended 2003 with a positive trend, showing two consecutive quarters of sequential increases in backlog after two consecutive quarters of sequential decreases. As we noted in our Annual Report on Form 10-K, we have been exiting certain less profitable consulting practices and geographies as part of the realignment previously discussed. Due to this plan of exiting certain practices and geographies, consulting backlog decreased to \$92 million at March 31, 2004 from \$100 million at December 31, 2003, but backlog has quickly recovered to \$103 million at September 30, 2004 as business has ramped up in our areas of focus. We also mentioned in our Annual Report on Form 10-K that we expect this realignment to address our sub-optimal utilization rates and our lack of scale in some regions. During 2004, our average consultant utilization rates increased to approximately 62% as compared to approximately 56% during the same nine month period in 2003.

Our Events business continues to deliver strong results, particularly in an environment where few competitors have survived. Our emphasis on managing the Events portfolio to retain our long-time successful events and introduce promising new events has resulted in improved revenue performance. During the third quarter of 2004, revenues from events that were held in the same quarter last year increased approximately 25% due to increased attendance. Revenues recognized during the first nine months of 2004 were 14% higher than the prior year period despite hosting 6% or three fewer events than during the first nine months of 2003 due to increased participation and the strong performance of our recurring events.

During the fourth quarter of 2003, our 6% convertible notes were converted into Class A Common Stock. This transaction eliminated all our outstanding debt and related interest expense as of December 31, 2003.

On August 10, 2004, the Company announced the final results of its Dutch auction tender offer. The Company repurchased 11.3 million shares of its Class A Common Stock and 5.5 million shares of its Class B Common Stock at a purchase price of \$13.30 and \$12.50 per share, respectively. Additionally, the Company repurchased 9.2 million Class A shares from Silver Lake Partners, L.P. and certain of its affiliates ("Silver Lake"), which collectively owned approximately 44.4% of Gartner's Class A Common Stock and are affiliated with two members of our Board of Directors, at a purchase price of \$13.30 per share. The total cost of the tender was \$346.1 million including transaction costs of \$3.8 million.

#### CRITICAL ACCOUNTING POLICIES

The preparation of financial statements requires the application of appropriate accounting policies. The policies discussed below are considered by management to be critical to an understanding of Gartner's financial statements because their application requires the most significant management judgments. Specific risks for these critical accounting policies are described below.

**REVENUE RECOGNITION** - We recognize revenue in accordance with SEC Staff Accounting Bulletin ("SAB") No. 101, Revenue Recognition in Financial Statements, and SAB No. 104, Revenue Recognition. Revenue by significant source is accounted for as follows:

- - Research revenues are derived from subscription contracts for research products. Revenues from research products are deferred and recognized ratably over the applicable contract term;
- - Consulting revenues are based primarily on fixed fees or time and materials for discrete projects. Revenues for such projects are recognized as work is delivered and/or services are provided and are evaluated on a contract by contract basis;

- - Events revenues are deferred and recognized upon the completion of the related symposium, conference or exhibition; and
- - Other revenues, principally software licensing fees, are recognized when a signed non-cancelable software license exists, delivery has occurred, collection is probable, and the fees are fixed or determinable. Revenue from software maintenance is deferred and recognized ratably over the term of the maintenance agreement, which is typically twelve months.

The majority of research contracts are billable upon signing, absent special terms granted on a limited basis from time to time. All research contracts are non-cancelable and non-refundable, except for government contracts that have a 30-day cancellation clause, but have not produced material cancellations to date. It is our policy to record the entire amount of the contract that is billable as a fee receivable at the time the contract is signed with a corresponding amount as deferred revenue, since the contract represents a legally enforceable claim. For those government contracts that permit termination, the Company bills the client the full amount billable under the contract but only records a receivable equal to the earned portion of the contract. In addition, the Company only records deferred revenue on these government contracts when cash is received. Deferred revenues attributable to government contracts were \$36.0 million and \$38.6 million at September 30, 2004 and December 31, 2003, respectively. In addition, at September 30, 2004 and December 31, 2003, the Company had not recognized uncollected receivables or deferred revenues, relating to government contracts that permit termination, of \$6.5 million and \$6.6 million, respectively.

**UNCOLLECTIBLE FEES RECEIVABLE** - Provisions for bad debts are recognized as incurred. The measurement of likely and probable losses and the allowance for uncollectible fees receivable is based on historical loss experience, aging of outstanding receivables, an assessment of current economic conditions and the financial health of specific clients. This evaluation is inherently judgmental and requires material estimates. These valuation reserves are periodically re-evaluated and adjusted as more information about the ultimate collectibility of fees receivable becomes available. Circumstances that could cause our valuation reserves to increase include changes in our clients' liquidity and credit quality, other factors negatively impacting our clients' ability to pay their obligations as they come due, and the effectiveness of our collection efforts. Total trade receivables at September 30, 2004 were \$224.6 million, offset by an allowance for losses of approximately \$9.0 million. Total trade receivables at December 31, 2003 were \$275.1 million, offset by an allowance for losses of approximately \$9.0 million.

**IMPAIRMENT OF GOODWILL AND OTHER INTANGIBLE ASSETS** - The evaluation of goodwill is performed in accordance with SFAS No. 142, "Goodwill and Other Intangible Assets." Among other requirements, this standard eliminated goodwill amortization upon adoption and required an initial assessment for goodwill impairment within six months of adoption and at least annually thereafter. The evaluation of other intangible assets is performed on a periodic basis. These assessments require us to estimate the fair value of our reporting units based on estimates of future business operations and market and economic conditions in developing long-term forecasts. If we determine the fair values are less than the carrying amount of goodwill recorded on our Consolidated Balance Sheets, we must recognize an impairment charge, for the associated goodwill of that reporting unit, to earnings in our financial statements. Goodwill is evaluated for impairment at least annually, or whenever events or changes in circumstances indicate that the carrying value may not be recoverable. Factors we consider important that could trigger a review for impairment include the following: significant under-performance relative to historical or projected future operating results, significant changes in the manner of our use of acquired assets or the strategy for our overall business, and significant negative industry or economic trends.

Due to the numerous variables associated with our judgments and assumptions relating to the valuation of the reporting units and the effects of changes in circumstances affecting these valuations, both the

precision and reliability of the resulting estimates are subject to uncertainty, and as additional information becomes known, we may change our estimates. During the first quarter of 2004, we recorded an impairment charge of \$0.7 million relating to goodwill associated with certain operations in South America that we decided to close.

**ACCOUNTING FOR INCOME TAXES** - As we prepare our consolidated financial statements, we estimate our income taxes in each of the jurisdictions where we operate. This process involves estimating our current tax exposure together with assessing temporary differences resulting from differing treatment of items for tax and accounting purposes. These differences result in deferred tax assets and liabilities, which are included within our consolidated balance sheet. We record a valuation allowance to reduce our deferred tax assets when future realization is in question. We consider future taxable income and ongoing prudent and feasible tax planning strategies in assessing the need for the valuation allowance. In the event we determine that we would be able to realize our deferred tax assets in the future in excess of our net recorded amount, an adjustment to the deferred tax asset would increase income in the period such determination was made. Likewise, should we determine that we would not be able to realize all or part of our net deferred tax asset in the future, an adjustment to the deferred tax asset would be charged to income in the period such determination was made.

**CONTINGENCIES AND OTHER LOSS RESERVES AND ACCRUALS** - We establish reserves for severance costs, lease costs associated with excess facilities, contract terminations and asset impairments as a result of actions we undertake to streamline our organization, reposition certain businesses and reduce ongoing costs. Estimates of costs to be incurred to complete these actions, such as future lease payments, sublease income, the fair value of assets, and severance and related benefits, are based on assumptions at the time the actions are initiated. To the extent actual costs differ from those estimates, reserve levels may need to be adjusted. In addition, these actions may be revised due to changes in business conditions that we did not foresee at the time such plans were approved. Additionally, we record accruals for estimated discretionary incentive compensation costs during the year. Amounts accrued at the end of each reporting period are based on our estimates and may require adjustments as the ultimate amount paid associated with these incentives are sometimes not known until after year-end.

**IMPAIRMENT OF INVESTMENT SECURITIES** - A charge to earnings is made when a market decline below cost is other than temporary. Management regularly reviews each investment security for impairment based on criteria that include: the length of time and the extent to which market value has been less than cost, the financial condition and near-term prospects of the issuer, the valuation of comparable companies, and our intent and ability to retain the investment for a period of time sufficient to allow for any anticipated recovery in market value. Future adverse changes in market conditions or poor operating results of underlying investments could result in losses or an inability to recover the carrying value of the investments that may not be reflected in an investment's current carrying value, thereby possibly requiring an impairment charge in the future.

During the quarter ending September 30, 2004, the Company recorded a non-cash charge of \$2.2 million. This charge is related to the transfer of our investment in TruSecure to SI II, as well as a decrease in our ownership percentage in SI II of seven basis points. As a result of this transfer and the decrease in ownership, the Company has been relieved of all future capital calls, which totaled \$4 million. For the nine month period ended September 30, 2003, the Company recorded insurance proceeds of approximately \$5.5 million related to a claim associated with a settlement arising from the sale of GartnerLearning.

Total investments in equity securities were \$7.8 million and \$10.9 million at September 30, 2004 and December 31, 2003, respectively.

## RESULTS OF OPERATIONS

### OVERALL RESULTS

TOTAL REVENUES increased 3% in the third quarter of 2004 to \$201.9 million compared to \$196.9 million for the third quarter of 2003 and increased 4% when comparing the first nine months of 2004 to the first nine months of 2003. The effects of foreign currency translation had approximately a 3% positive effect on revenues for the third quarter and a 3% positive effect on revenues on a year-to-date basis. Please refer to the section of this MD&A entitled "Segment Results" for a further discussion of revenues by segment.

COST OF SERVICES AND PRODUCT DEVELOPMENT increased \$5.8 million, or 6%, to \$100.2 million in the third quarter of 2004 from \$94.4 million in the third quarter of 2003 and increased 3% when comparing the first nine months of 2004 with the first nine months of 2003. Excluding the effects of foreign currency translation, cost of services and product development would have increased by approximately 3% during the third quarter and would have decreased 1% during the first nine months of 2004 as compared to the first nine months of 2003. The increase in cost of services on a quarter to date basis resulted primarily from increased investment in our Research business. The increase in cost of services and product development on a year-to-date basis is primarily related to foreign currency. Cost of services and product development during 2004 benefited by the reversal of \$3.5 million of prior years' discretionary incentive compensation programs. As a percentage of sales, cost of services and product development increased to 50% during the third quarter of 2004 from 49% during the third quarter of 2003. For the first nine months of 2004, cost of services and product development as a percentage of sales remained flat at 49% as compared to the first nine months of 2003.

SELLING, GENERAL AND ADMINISTRATIVE EXPENSES increased \$5.9 million, or 7%, to \$85.1 million in the third quarter of 2004 from \$79.2 million in the third quarter of 2003. SG&A increased 4% when comparing the first nine months of 2004 to the first nine months of 2003. These increases were primarily due to the effects of foreign currency translation. Excluding the effects of foreign currency translation, SG&A expenses would have increased 4% for the third quarter of 2004 compared to the third quarter of 2003 and would have increased 1% for the first nine months of 2004 compared to the first nine months of 2003. SG&A expenses during 2004 benefited by the reversal of \$3.3 million of prior years' discretionary incentive compensation programs. Additionally, the Company reduced its allowance for doubtful accounts by \$1.5 million in 2004 as a result of increased collections and a decline in write-offs.

DEPRECIATION EXPENSE for the third quarter of 2004 decreased 27% to \$6.6 million, compared to \$9.0 million for the third quarter of 2003 and decreased 23% when comparing the first nine months of 2004 to the first nine months of 2003. The decrease was due to a reduction in capital spending during 2002 and 2003 relative to the capital spending in 2000 and 2001.

AMORTIZATION OF INTANGIBLES AND GOODWILL IMPAIRMENTS of \$0.2 million for the third quarter of 2004 decreased from \$0.3 million for the third quarter of 2003 due to certain intangible assets having been fully amortized since the third quarter of 2003. Amortization of intangibles and goodwill impairments increased during the first nine months of 2004 as compared to the same period in 2003 due to the recognition of impairment of goodwill of \$0.7 million associated with certain operations in South America as a result of our decision to close those operations.

OTHER CHARGES of \$4.3 million during the third quarter of 2004 primarily includes severance costs associated with the departure of our President and COO and our CEO of \$3.1 million and \$0.8 million, respectively. Other charges of \$9.1 million during the second quarter of 2004 includes \$3.8 million of

severance costs associated with the departure of our CEO, as well as \$5.3 million of costs associated with the termination of 30 additional employees. During the first quarter of 2004, other charges of \$10.5 million were primarily associated with a realignment of our workforce. This workforce realignment was a continuation of the action plan initiated during the fourth quarter of 2003 and has resulted in the termination of 132 employees, or approximately 4% of our workforce, bringing the total terminations to 262 employees associated with the action plan previously announced in December 2003. Other charges of \$5.4 million during the first quarter of 2003 were for costs for employee severance payments and benefits associated with workforce reductions. This workforce reduction resulted in the termination of 92 employees, or approximately 2% of the Company's workforce at the time.

During the first nine months of 2004, we recorded charges of \$16.1 million related to the realignment of our workforce, excluding costs of \$7.8 million related to the departure of our President and COO and our Chairman and CEO. The realignment resulted in the termination of 163 employees during the first nine months of 2004. The annualized savings from the termination of these employees should be approximately \$17.8 million. However, the Company plans to reinvest a significant portion of these savings into improving its products, processes, and infrastructure to help drive future growth.

(LOSS) GAIN ON INVESTMENTS, NET was a loss of \$2.2 million for the quarter ending September 30, 2004. This loss is related to the transfer of our investment in TruSecure to SI II, as well as a decrease in our ownership percentage in SI II of seven basis points. As a result of this transfer and the decrease in ownership, the Company has been relieved of all future capital calls, which totaled \$4 million. For the nine month period ended September 30, 2003, the Company recorded insurance proceeds of approximately \$5.5 million related to a claim associated with a settlement arising from the sale of GartnerLearning.

INTEREST INCOME (EXPENSE), NET was expense of \$0.6 million during the third quarter of 2004 and income of \$0.01 million during the first nine months of 2004 as compared to expense of \$5.8 million and \$17.0 million, respectively, in 2003. The conversion of our outstanding convertible debt to equity during the fourth quarter of 2003 has decreased our interest expense. However, due to the new credit agreement signed in the third quarter of 2004, interest expense will increase in the future.

OTHER (EXPENSE) INCOME, NET for the first nine months of 2004 includes the non-cash write-off of \$2.9 million of our accumulated foreign currency translation adjustments associated with certain of our operations in South America that we have decided to close. As a result of this decision we were required to reclassify these currency adjustments that have been accumulated within equity to earnings, in accordance with Statement of Financial Accounting Standards No. 52 "Foreign Currency Translation." Other (expense) income, net for the third quarter of 2004 and the third quarter and first nine months of 2003 consists primarily of net foreign currency exchange gains and losses.

PROVISION FOR INCOME TAXES was 93.6% and 33.0% of income before income taxes for the third quarter of 2004 and 2003, respectively. Provision for income taxes was 46.3% and 34.5% during the first nine months of 2004 and 2003, respectively. Our projected effective tax rate for full year 2004 is 33.0%, exclusive of the charge noted below, which is consistent with 2003. The effective tax rate was higher than the projected effective tax rate during the third quarter of 2004 due to limitations on certain deductions included in the other charges and the loss on investments. The effective tax rate was higher than the projected effective tax rate during the first nine months of 2004 due to other charges, the goodwill impairment and the non-cash write-off of our accumulated foreign currency translation adjustments associated with the closing of certain operations in South America for which there is no tax benefit. The effective tax rate for the nine months ended September 30, 2003 was higher than the projected effective tax rate for the nine months ended September 30, 2003 due to the insurance recovery received during 2003.

## SEGMENT RESULTS

We evaluate reportable segment performance and allocate resources based on gross contribution margin. Gross contribution is defined as operating income excluding certain selling, general and administrative expenses, depreciation, amortization of intangibles and other charges. Gross contribution margin is defined as gross contribution as a percentage of revenues.

### Research

Research revenues increased 3% when comparing the third quarters of 2004 and 2003 and increased 3% when comparing the first nine months of 2004 and 2003. The increases were due primarily to the positive effects of foreign currency translation.

Research gross contribution of \$72.1 million for the third quarter of 2004 decreased 2% from \$73.3 million for the third quarter of 2003, while gross contribution margin for the third quarter of 2004 decreased to 61% from 63% in the prior year period. For the nine months ended September 30, 2004, gross contribution increased to \$224.1 million, or a 62% contribution margin, from \$222.4 million, or a 64% contribution margin. The decrease in gross contribution margin during 2004 was due primarily to increased revenues from our executive programs, which are lower in margin than subscription services as well as continued investments in our people, products and processes required to provide future Research growth.

Research contract value increased 4% to \$489.2 million at September 30, 2004 from \$469.6 million at September 30, 2003 primarily due to the effects of foreign currency. Client retention rates increased two percentage points to 78% at September 30, 2004 from 76% at September 30, 2003, and wallet retention rates increased to 93% during the third quarter of 2004 from 85% during the third quarter of 2003.

### Consulting

Consulting revenues decreased 5% to \$60.1 million for the third quarter of 2004 and increased 1% to \$192.3 million for the first nine months of 2004 as compared to the same periods in 2003. Excluding the effects of foreign currency translation, Consulting revenues would have decreased 8% for the third quarter of 2004 as compared to the third quarter of 2003 and would have decreased by approximately 4% for the nine months of 2004. Consulting revenue has decreased as compared to the prior year period as a result of our planned realignment of our business to exit certain less profitable consulting practices and geographies, which has reduced our billable headcount by approximately 12% during the 2004 periods as compared to the 2003 periods.

Consulting gross contribution of \$20.7 million for the third quarter of 2004 decreased 4% from \$21.7 million for the third quarter of 2003, and contribution margin for the third quarter of 2004 increased to 35% from 34% in the prior year quarter. Gross contribution of \$70.8 million for the first nine months of 2004 increased 8% from \$65.3 million for the same period of 2003, with contribution margin for the period increasing to 37% from 34%. The increase in gross contribution margin was driven by higher consultant utilization rates, as we realigned our workforce and reduced headcount, and the increasing demand in focus practice areas.

Consulting backlog, which represents future revenues to be recognized from in-process consulting, measurement and SAS, increased 11% to \$103.4 million at September 30, 2004, compared to \$92.8

million at September 30, 2003. This increase was primarily due to the increasing demand in focus practice areas.

## Events

Events revenue increased 17% to \$18.7 million for the third quarter of 2004 as compared to \$15.9 million for the third quarter of 2003. For the nine months ended September 30, 2004, Events revenues increased 14% to \$74.1 million compared to \$64.7 million for the same period of 2003. The average revenue per event increased during 2004 due to the strong performance of our recurring events. Revenues during the third quarter of 2004 benefited from the positive effect of foreign currency by approximately 2%. Revenues during the first nine months of 2004 benefited from the positive effects of foreign currency translation by approximately 3% as compared to the first nine months of 2003.

Gross contribution of \$30.5 million, or 41% of revenues, for the first nine months of 2004 increased from \$24.1 million, or 37% of revenues, for the first nine months of 2003. For the third quarter of 2004, gross contribution of \$6.6 million, or 35% of revenues, increased from \$5.2 million, or 32% of revenues, for the third quarter of 2003. As we manage our Events portfolio, we have eliminated certain less profitable events during 2004. Also during 2003, we invested more in marketing and promoting our events to maintain our attendance levels during a weaker economy, especially in the technology sector.

## LIQUIDITY AND CAPITAL RESOURCES

Cash provided by operating activities totaled \$46.3 million for the nine months ended September 30, 2004 compared to \$115.9 million for the nine months ended September 30, 2003. The net decrease in cash flow from operating activities of \$69.7 million was due primarily to payments of our 2003 bonuses during 2004. No bonuses were paid during the first nine months of 2003 as they had previously been paid during the quarter ended December 31, 2002 but are now being paid during the first half of the year as a result of our change in fiscal year that became effective January 1, 2003. Further, the Company paid a portion of its 2004 bonuses in the third quarter of 2004 in accordance with the current year corporate bonus plan. Additionally, we paid approximately \$10.1 million more, or \$30.3 million in severance during 2004 than in 2003. The net decrease in cash flow from operating activities was also due to the decrease in the change in fees receivables, net of approximately \$19.3 million due to accelerated collections during the nine month period ended September 30, 2003 as compared to the nine months ended September 30, 2004.

Cash used in investing activities increased to \$19 million during the first nine months of 2004 as compared to \$12.4 million during the first nine months of 2003. Capital expenditures in the first nine months of 2004 are approximately 16% higher than the same period in 2003. During the first nine months of 2003, we received an insurance recovery of \$5.5 million, and we funded \$1.5 million of our capital commitment to SI II.

Cash used by financing activities totaled \$98.6 million for the nine months ended September 30, 2004, compared to \$12.0 million for the nine months ended September 30, 2003. We purchased \$352.3 million of our common stock for treasury during the first nine months of 2004 as compared to \$32.4 million during the same period in the prior year, of which \$346.1 million represents the tender inclusive of related costs. We received proceeds from stock issued for stock plans of \$56.5 million during the first nine months of 2004 as compared to \$21.0 million during the same period in the prior year. This increase is a result of increased stock option exercises by our employees as increases in our stock price caused a significantly higher percentage of our vested stock options to be in the money during the first nine months of 2004 as compared to 2003. Additionally, proceeds from the issuance of debt, net of debt issuance costs during the nine months ended September 30, 2004 was \$197.2 million.



## OBLIGATIONS AND COMMITMENTS

Our credit agreement provides for a \$200.0 million term A loan facility and a five year \$100 million revolving credit facility. The facilities bear interest equal to LIBOR plus an applicable margin which varies based on specified leverage ratios. At September 30, 2004, the current interest rate was 3.08%. The term A loan facility is payable in equal quarterly installments over a five year period ending August 12, 2009. The facility interest payments are payable upon the LIBOR borrowing maturity dates. The credit facilities are subject to mandatory prepayments from a portion of proceeds from assets sale and proceeds from certain future debt issuances. The credit agreement includes customary affirmative, negative and financial covenants primarily based on our financial results and other measures such as contract value. The facilities also include commitment fees on the unused portion of the revolving credit facility not subject to letters of credit. At September 30, 2004, there was \$200 million outstanding on the term loan facility and \$3.5 million of letters of credit outstanding under the revolving credit facility. As a result of these letters of credit, our borrowing availability at September 30, 2004 was \$96.5 million. The Company is contemplating taking a charge in the fourth quarter of 2004. To the extent that this charge negatively impacts certain financial covenants, our future borrowing ability under the revolving credit facility may be significantly reduced.

On August 10, 2004, the Company announced the final results of its Dutch auction tender offer. The Company repurchased 11.3 million shares of its Class A Common Stock and 5.5 million shares of its Class B Common Stock at a purchase price of \$13.30 and \$12.50 per share, respectively. Additionally, the Company repurchased 9.2 million Class A shares from Silver Lake Partners, L.P. and certain of its affiliates ("Silver Lake"), which collectively owned approximately 44.4% of Gartner's Class A Common Stock and are affiliated with two members of our Board of Directors, at a purchase price of \$13.30 per share. The total cost of the tender was \$346.1 million including transaction costs of \$3.8 million.

We believe that the tender offer was a prudent use of our financial resources given our business profile and assets, and we believe that investing in our own shares is an attractive use of capital and an efficient means to provide value to our stockholders. We anticipate that we will have adequate cash generating capacity and no immediate need for the accumulation of cash, and expect that our current cash balances, anticipated cash flows from operations and borrowing capacity exceed our capital requirements for normal operations, capital expenditures and acquisitions and other opportunities for growth that may arise.

### Stock Repurchase Program

On July 17, 2001, the Board of Directors approved the repurchase of up to \$75.0 million of our Common Stock. On July 25, 2002, the Board of Directors increased the authorized stock repurchase program from the previously approved \$75 million to up to \$125 million of our common stock. On July 24, 2003, the Company's Board of Directors authorized an additional increase of \$75 million in the stock repurchase program bringing the total authorization to date to \$200 million. During the nine months ended September 30, 2004, we repurchased 413,225 shares of our Class A Common Stock and 114,600 shares of our Class B Common Stock at an aggregate cost of \$6.1 million under this program. On a cumulative basis at September 30, 2004, we have purchased \$133.2 million of our stock under this stock repurchase program. In conjunction with the tender offer, the Board of Directors terminated this Stock Repurchase Program during June 2004.

#### Non-Cash Compensation Charges in Future Periods.

On October 15, 2004, we announced that Mr. Hall received an inducement grant of 500,000 shares of restricted stock for which the market value on the date of grant was \$12.05 per share. As long as Mr. Hall remains an employee, the restriction on the 500,000 shares of restricted stock will lapse upon the earlier of (a) our 60 day average stock price meeting certain targets, or (b) change in control. The price targets are \$20 for the first 300,000 shares, \$25 for the next 100,000 shares and \$30 for the remaining 100,000 shares. If our 60 day average stock price exceeds the stipulated per share target during the 60 day measurement period, we will be required to record a non-cash compensation charge equal to our 60 day average stock price times the number of shares associated with the applicable target. For example, if our average 60 days stock price is \$22 per share, the first lapse shall result in us recording a \$6.6 million non-cash compensation charge (300,000 shares at \$22/share).

#### BUSINESS AND TRENDS

Our quarterly and annual revenue and operating income fluctuate as a result of many factors, including the timing of the execution of research contracts, the extent of completion of consulting engagements, the timing of Symposia and other events, all of which occur to a greater extent in the fourth quarter, as well as the amount of new business generated, the mix of domestic and international business, changes in market demand for our products and services, the timing of the development, introduction and marketing of new products and services, and competition in the industry. The potential fluctuations in our operating income could cause period-to-period comparisons of operating results not to be meaningful and could provide an unreliable indication of future operating results.

Over the past few years we have seen a decrease in overall technology spending due to the economic environment. In response to the decrease in technology spending we have attempted to constrain spending and have implemented cost reduction programs to reduce workforce and facilities costs. The timing of the cost reductions does not necessarily coincide with the timing of decreases in revenues, but is anticipated to provide future benefit in the form of lower expenses. While we have reduced certain costs, we also plan to maintain a level of spending sufficient for us to be in a strong position to grow as economic conditions continue to improve.

#### FACTORS THAT MAY AFFECT FUTURE PERFORMANCE.

We operate in a very competitive and rapidly changing environment that involves numerous risks and uncertainties, some of which are beyond our control. In addition, we and our clients are affected by the economy. The following section discusses many, but not all, of these risks and uncertainties.

**Economic Conditions.** Our revenues and results of operations are influenced by economic conditions in general and more particularly by business conditions in the IT industry. A general economic downturn or recession, anywhere in the world, could negatively affect demand for our products and services and may substantially reduce existing and potential client information technology-related budgets. The economic downturn in the United States and globally has led to constrained IT spending, which has impacted our business and may materially and adversely affect our business, financial condition and results of operations, including our ability to: maintain client retention, wallet retention and consulting utilization rates, and achieve contract value and consulting backlog. To the extent our clients are in the IT industry, the severe decline in that sector has also had a significant impact on their spending.

**Acts of Terrorism or War.** Acts of terrorism, acts of war and other unforeseen events, may cause damage or disruption to our properties, business, employees, suppliers, distributors and clients, which could have

an adverse effect on our business, financial condition and operating results. Such events may also result in an economic slowdown in the United States or elsewhere, which could adversely affect our business, financial condition and operating results.

**Competitive Environment.** We face direct competition from a significant number of independent providers of information products and services, including information that can be found on the Internet free of charge. We also compete indirectly against consulting firms and other information providers, including electronic and print media companies, some of which may have greater financial, information gathering and marketing resources than we do. These indirect competitors could choose to compete directly with us in the future. In addition, limited barriers to entry exist in the markets in which we do business. As a result, additional new competitors may emerge and existing competitors may start to provide additional or complementary services. Additionally, technological advances may provide increased competition from a variety of sources. However, we believe the breadth and depth of our research assets position us well versus our competition. Increased competition may result in loss of market share, diminished value in our products and services, reduced pricing and increased marketing expenditures. We may not be successful if we cannot compete effectively on quality of research and analysis, timely delivery of information, customer service, the ability to offer products to meet changing market needs for information and analysis, or price.

**Renewal of Research Business by Existing Clients.** Some of our success depends on renewals of our subscription-based research products and services, which constituted 56% of our revenues for the first nine months of 2004 and 57% for the nine months of 2003. These research subscription agreements have terms that generally range from twelve to thirty months. Our ability to maintain contract renewals is subject to numerous factors, including those described in this Quarterly Report. Additionally, as we implement our strategy to realign our business to client needs, we may shift the type and pricing of our products which could impact client renewal rates. While client retention rates were 78% at September 30, 2004 and 76% at September 30, 2003, there can be no guarantee that we will continue to have this level of client renewals. Any material decline in renewal rates could have an adverse impact on our revenues and financial condition.

**Non-Recurring Consulting Engagements.** Consulting segment revenues constituted 30% of our revenues for the first nine months of 2004 and 31% for the first nine months of 2003. These consulting engagements typically are project-based and non-recurring. Our ability to replace consulting engagements is subject to numerous factors, including those described in this Quarterly Report. Any material decline in our ability to replace consulting arrangements could have an adverse impact on our revenues and financial condition.

**Restructuring, Reorganization and Management Team.** Our future success depends, in significant part, upon the continued service and performance of our senior management and other key personnel. We have recently reorganized our business around specific client needs. As part of this reorganization, a number of key management positions have been filled by the promotion of current employees or the hiring of new employees. Additionally, we have restructured our workforce in order to streamline operations and strengthen key consulting practices. If the reorganization and restructuring of our business do not lead to the results we expect, our ability to effectively deliver our products, manage our company and carry out our business plan may be impaired. On July 23, 2004, we announced that the Board of Directors named Eugene A. Hall as Chief Executive Officer. Mr. Hall succeeded Michael Fleisher, who had previously announced his intention to depart as Gartner's chairman and chief executive officer. Additionally, James C. Smith, a current Board member, has been named non-executive chairman of the Board of Directors. Further, on September 28, 2004, we announced that the position of President and Chief Operating Officer, previously held by Maureen O'Connell, was eliminated and that Mr. Hall would assume direct

responsibility for business operations. If we cannot successfully integrate our Chief Executive Officer into our senior management team, then our ability to effectively deliver our products, manage our company and carry out our business plan may be impaired.

**Hiring and Retention of Employees.** Our success depends heavily upon the quality of our senior management, research analysts, consultants, sales and other key personnel. We face competition for the limited pool of these qualified professionals from, among others, technology companies, market research firms, consulting firms, financial services companies and electronic and print media companies, some of which have a greater ability to attract and compensate these professionals. Some of the personnel that we attempt to hire are subject to non-compete agreements that could impede our short-term recruitment efforts. Any failure to retain key personnel or hire and train additional qualified personnel as required to support the evolving needs of our clients or growth in our business, could adversely affect the quality of our products and services, and therefore, our future business and operating results.

**Maintenance of Existing Products and Services.** We operate in a rapidly evolving market, and our success depends upon our ability to deliver high quality and timely research and analysis to our clients. Any failure to continue to provide credible and reliable information that is useful to our clients could have a material adverse effect on future business and operating results. Further, if our predictions prove to be wrong or are not substantiated by appropriate research, our reputation may suffer and demand for our products and services may decline. In addition, we must continue to improve our methods for delivering our products and services in a cost-effective manner. Failure to increase and improve our electronic delivery capabilities could adversely affect our future business and operating results.

**Introduction of New Products and Services.** The market for our products and services is characterized by rapidly changing needs for information and analysis. To maintain our competitive position, we must continue to enhance and improve our products and services, develop or acquire new products and services in a timely manner, and appropriately position and price new products and services relative to the marketplace and our costs of producing them. Any failure to achieve successful client acceptance of new products and services could have a material adverse effect on our business, results of operations or financial position.

**International Operations.** A substantial portion of our revenues is derived from sales outside of North America. As a result, our operating results are subject to the risks inherent in international business activities, including general political and economic conditions in each country, changes in market demand as a result of exchange rate fluctuations and tariffs and other trade barriers, challenges in staffing and managing foreign operations, changes in regulatory requirements, compliance with numerous foreign laws and regulations, different or overlapping tax structures, higher levels of United States taxation on foreign income, and the difficulty of enforcing client agreements, collecting accounts receivable and protecting intellectual property rights in international jurisdictions. We rely on local distributors or sales agents in some international locations. If any of these arrangements are terminated, we may not be able to replace the arrangement on beneficial terms or on a timely basis. Additionally, clients of the local distributor or sales agent may not want to continue to do business with us or our new agent.

**Branding.** We believe that our "Gartner" brand is critical to our efforts to attract and retain clients and that the importance of brand recognition will increase as competition increases. We may expand our marketing activities to promote and strengthen the Gartner brand and may need to increase our marketing budget, hire additional marketing and public relations personnel, expend additional sums to protect the brand and otherwise increase expenditures to create and maintain client brand loyalty. If we fail to effectively promote and maintain the Gartner brand, or incur excessive expenses in doing so, our future business and operating results could be materially and adversely impacted.

Indebtedness. We have a \$200 million term loan and a \$100 million revolving loan. The affirmative, negative and financial covenants of the loans could limit our future financial flexibility. The associated debt service costs could impair future operating results. Our outstanding debt may limit the amount of cash or additional credit available to us, which could restrain our ability to expand or enhance products and services, respond to competitive pressures or pursue future business opportunities requiring substantial investments of additional capital.

Organizational and Product Integration Related to Acquisitions. We have made and may continue to make acquisitions of, or significant investments in, businesses that offer complementary products and services. The risks involved in each acquisition or investment include the possibility of paying more than the value we derive from the acquisition, dilution of the interests of our current stockholders or decreased working capital, increased indebtedness, the assumption of undisclosed liabilities and unknown and unforeseen risks, the ability to integrate successfully the operations and personnel of the acquired business, the ability to retain key personnel of the acquired company, the time to train the sales force to market and sell the products of the acquired company, the potential disruption of our ongoing business and the distraction of management from our business. The realization of any of these risks could adversely affect our business.

Enforcement of Our Intellectual Property Rights. We rely on a combination of copyright, patent, trademark, trade secret, confidentiality, non-compete and other contractual provisions to protect our intellectual property rights. Despite our efforts to protect our intellectual property rights, unauthorized third parties may obtain and use technology or other information that we regard as proprietary. Our intellectual property rights may not survive a legal challenge to their validity or provide significant protection for us. The laws of certain countries do not protect our proprietary rights to the same extent as the laws of the United States. Accordingly, we may not be able to protect our intellectual property against unauthorized third-party copying or use, which could adversely affect our competitive position. Our employees are subject to non-compete agreements. When the non-competition period expires, former employees may compete against us. If a former employee chooses to compete against us prior to the expiration of the non-competition period, there is no assurance that we will be successful in our efforts to enforce the non-compete provision.

Possibility of Infringement Claims. Third parties may assert infringement claims against us. Regardless of the merits, responding to any such claim could be time consuming, result in costly litigation and require us to enter into royalty and licensing agreements which may not be offered or available on reasonable terms. If a successful claim is made against us and we fail to develop or license a substitute technology at a reasonable cost, our business, results of operations or financial position could be materially adversely affected.

Potential Fluctuations in Operating Results. Our quarterly and annual operating income may fluctuate in the future as a result of many factors, including the timing of the execution of research contracts, which typically occurs in the fourth calendar quarter, the extent of completion of consulting engagements, the timing of symposia and other events, which also occur to a greater extent in the fourth calendar quarter, the amount of new business generated, the mix of domestic and international business, changes in market demand for our products and services, the timing of the development, introduction and marketing of new products and services, and competition in the industry. An inability to generate sufficient earnings and cash flow, and achieve our forecasts, may impact our operating and other activities. The potential fluctuations in our operating income could cause period-to-period comparisons of operating results not to be meaningful and may provide an unreliable indication of future operating results.

Significant Stockholder. Silver Lake Partners, L.P. ("SLP") and its affiliates own approximately 42.8% of our outstanding Class A Common Stock and approximately 34.0% on a combined basis with our outstanding Class B Common Stock as of October 31, 2004. Currently, the owners of our Class A Common Stock are only entitled to vote for two of the ten members of our Board of Directors and vote together with the holders of the Class B Common Stock as a single class on all other matters coming before the stockholders. SLP is restricted from purchasing additional stock without our consent pursuant to the terms of a Securityholders' Agreement. This Securityholders' Agreement also provides that we cannot take certain actions, including acquisitions and sales of stock and/or assets without SLP's consent. While SLP does not hold a majority of our outstanding shares, it may be able to exercise significant influence over matters requiring stockholder approval, including the election of directors and the approval of mergers, consolidations and sales of our assets. SLP's interests may differ from the interests of other stockholders.

Anti-takeover Protections. Provisions of our certificate of incorporation and bylaws and Delaware law may make it difficult for any party to acquire control of us in a transaction not approved by the requisite number of directors. These provisions include:

- - The presence of a classified board of directors;
- - The existence of two classes of common stock with our Class B Common Stock having the ability to elect 80% of our Board of Directors;
- - The ability of the Board of Directors to issue and determine the terms of preferred stock;
- - Advance notice requirements for inclusion of stockholder proposals at stockholder meetings; and
- - The anti-takeover provisions of Delaware law.

These provisions could delay or prevent a change of control or change in management that might provide stockholders with a premium to the market price of their Common Stock.

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

#### Interest Rate Risk

As of September 30, 2004, we have limited exposure to market risk for changes in interest rates. We have \$200 million outstanding on our term loan facility. Additionally, we had no borrowings under our \$100 million revolving credit facility that existed at September 30, 2004. Under the credit facilities, the interest rate on borrowings varies. We believe that an increase or decrease of 10% in the effective interest rate on our term loan and our credit facility, if fully utilized, would not have a material effect on our future results of operations. Each 25 basis point increase or decrease in interest rates would have an approximate \$0.7 million annual effect under the credit facility if fully utilized.

#### Investment Risk

We are exposed to market risk as it relates to changes in the market value of our equity investments. We invest in equity securities of public and private companies directly and through SI I, a wholly owned affiliate, and SI II, of which we owned 29% as of September 30, 2004. In connection with the \$2.2 million loss on investments recognized in the third quarter of 2004, our ownership dropped to 21.27% in the fourth quarter of 2004 and we eliminated all outstanding capital commitments to SI II. SI I and SI II are engaged in making venture capital investments in early to mid-stage IT-based or Internet-enabled companies. As of September 30, 2004, we had investments in equity securities totaling \$7.8 million. Unrealized gains and losses were insignificant. These investments are inherently risky as the businesses are typically in early development stages and may never develop. Further, certain of these investments are in publicly traded companies whose shares are subject to significant market price volatility. Adverse changes in market conditions and poor operating results of the underlying investments may result in us incurring additional losses or an inability to recover the original carrying value of our investments. If there were a 100% adverse change in the value of our equity portfolio as of September 30, 2004, this would result in a non-cash impairment charge of \$7.8 million.

#### Foreign Currency Exchange Risk

We face two risks related to foreign currency exchange: translation risk and transaction risk. Amounts invested in our foreign operations are translated into U.S. dollars at the exchange rates in effect at the balance sheet date. The resulting translation adjustments are recorded as a component of accumulated other comprehensive income, net in the stockholders' equity section of the Consolidated Balance Sheets. Our foreign subsidiaries generally collect revenues and pay expenses in currencies other than the United States dollar. Since the functional currencies of our foreign operations are generally denominated in the local currency of our subsidiaries, the foreign currency translation adjustments are reflected as a component of stockholders' equity and do not impact operating results. Revenues and expenses in foreign currencies translate into higher or lower revenues and expenses in U.S. dollars as the U.S. dollar weakens or strengthens against other currencies. Therefore, changes in exchange rates may affect our consolidated revenues and expenses (as expressed in U.S. dollars) from foreign operations. Currency transaction gains or losses arising from transactions in currencies other than the functional currency are included in results of operations.

From time to time we enter into foreign currency forward contracts or other derivative financial instruments to hedge the effects of adverse fluctuations in foreign currency exchange rates. At September 30, 2004, we had one foreign currency forward contract outstanding. Foreign currency forward contracts are reflected at fair value with gains and losses recorded currently in earnings.

The following table presents information about our foreign currency forward contract outstanding as of September 30, 2004, expressed in (thousands) U.S. dollar equivalents.

Currency Purchased	Currency Sold	Contract Amount	Forward Exchange Rate	Unrealized Gain	Expiration Date
-----	-----	-----	-----	-----	-----
Euros	Hong Kong Dollars	\$ 903	9.548	\$ 2	October 25, 2004

#### ITEM 4. CONTROLS AND PROCEDURES

We have established disclosure controls and procedures that are designed to ensure that the information we are required to disclose in our reports filed under the Securities Exchange Act of 1934, as amended (the "Act"), is recorded, processed, summarized and reported in a timely manner. Specifically, these controls and procedures ensure that the information is accumulated and communicated to our executive management team, including our chief executive officer and our chief financial officer, to allow timely decisions regarding required disclosure.

Management conducted an evaluation, as of September 30, 2004, of the effectiveness and design of our disclosure controls and procedures, under the supervision and with the participation of our chief executive officer and chief financial officer. Based upon that evaluation, our chief executive officer and chief financial officer have concluded that the Company's disclosure controls and procedures are effective in alerting them in a timely manner to material Company information required to be disclosed by us in reports filed or submitted under the Act.

In addition, there have been no significant changes in the Company's internal control over financial reporting during the quarter ended September 30, 2004 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.



# PART II OTHER INFORMATION

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

(c) Below is a summary of stock repurchases for the quarter ended September 30, 2004. See Note 8 of our Notes to Condensed Consolidated Financial Statements for information regarding our stock repurchase program.

	Class A Common Stock		Class B Common Stock		Shares Purchased Under Announced Plan	Shares To be Purchased Under Plan
	Total Shares Purchased	Average Price Paid per Share	Total Shares Purchased	Average Price Paid per Share		
July 2004	20,567,957	\$ 13.30	5,505,305	\$ 12.50	26,073,262	-
August 2004	-	-	-	-	-	-
September 2004	-	-	-	-	-	-
Total quarter	20,567,957	\$ 13.30	5,505,305	\$ 12.50	26,073,262	-

## ITEM 6. EXHIBITS

(a) Exhibits

EXHIBIT NUMBER	DESCRIPTION OF DOCUMENT
4.1	Amended and Restated Certificate of Incorporation of the Registrant (incorporated by reference from the Registrant's Annual Report on Form 10-K for the year ended September 30, 2000 as filed on December 29, 2000).
4.2	Certificate of Amendment of the Restated Certificate of Incorporation (incorporated by reference from the Registrant's Annual Report on Form 10-K for the year ended September 30, 2001 as filed on December 28, 2001).
4.3	Certificate of Designation, Preferences and Rights of Series A Junior Participating Preferred Stock and Series B Junior Participating Preferred Stock of the Registrant (incorporated by reference from the Registrant's Form 8-K dated March 1, 2000 as filed on March 7, 2000).
4.4	Amended Bylaws of the Registrant as amended through April 14, 2000 (incorporated by reference from the Registrant's Annual Report on Form 10-K for the year ended September 30, 2000 as filed on December 29, 2000).
4.5	Form of Certificate for Class A Common Stock, Class A (incorporated by reference from the Registrant's Annual Report on Form 10-K for the year ended September 30, 2001 as filed on December 28, 2001).
4.6	Amended and Restated Rights Agreement, dated as of August 31, 2002 (incorporated by reference from the Registrant's Annual Report on Form 10-K for the year ended September 30, 2002 as filed on December 27, 2002).
4.7	Amendment No. 1 to the Amended and Restated Rights Agreement, dated as of June 30, 2003 (incorporated by reference from the Registrant's Amendment No. 2 to Form 8-A as filed on June 30, 2003).

- 10.1 Credit Agreement, dated as of August 12, 2004, among Gartner, Inc., the several lenders from time to time parties hereto, Fleet National Bank, N.A., Citizens Bank of Massachusetts, Comercia Bank and HSBC Bank USE, N.A., as Co-Syndication Agents, LaSalle Bank National Association, as Agent, and JPMorgan Chase Bank, as Administrative Agent.
- 31.1 Certification of chief executive officer under Section 302 of the Sarbanes-Oxley Act of 2002.
- 31.2 Certification of chief financial officer under Section 302 of the Sarbanes-Oxley Act of 2002.
- 32 Certification under Section 906 of the Sarbanes-Oxley Act of 2002.

Items 1, 3, 4 and 5 of Part II are not applicable and have been omitted.

SIGNATURE

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

Gartner, Inc.

Date November 8, 2004

/s/ Christopher Lafond

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Christopher Lafond  
Executive Vice President  
and Chief Financial Officer  
(Principal Financial and  
Accounting Officer)

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4.7	Amendment No. 1 to the Amended and Restated Rights Agreement, dated as of June 30, 2003 (incorporated by reference from the Registrant's Amendment No. 2 to Form 8-A as filed on June 30, 2003).
10.1	Credit Agreement, dated as of August 12, 2004, among Gartner, Inc., the several lenders from time to time parties hereto, Fleet National Bank, N.A., Citizens Bank of Massachusetts, Comerica Bank and HSBC Bank USA, N.A., as Co-Syndication Agents, LaSalle Bank National Association, as Agent, and JPMorgan Chase Bank, as Administrative Agent.
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\$300,000,000

CREDIT AGREEMENT

among

GARTNER, INC.,

as Borrower,

The Several Lenders from Time to Time Parties Hereto,

FLEET NATIONAL BANK, N.A., CITIZENS BANK OF MASSACHUSETTS, COMERICA BANK  
and HSBC BANK USA, N.A.,

as Co-Syndication Agents,

LASALLE BANK NATIONAL ASSOCIATION,

as Agent,

and

JPMORGAN CHASE BANK,

as Administrative Agent

Dated as of August 12, 2004

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J.P. MORGAN SECURITIES INC., as Lead Arranger and Bookrunner

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EXHIBITS:

A	Form of Guarantee
B	Form of Compliance Certificate
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D	Form of Assignment and Assumption
E	Form of Legal Opinion of Wilson, Sonsini, Goodrich & Rosati, Professional Corporation
F	Form of Exemption Certificate

CREDIT AGREEMENT (this "Agreement"), dated as of August 12, 2004, among GARTNER, INC., a Delaware corporation (the "Borrower"), the several banks and other financial institutions or entities from time to time parties to this Agreement (the "Lenders"), FLEET NATIONAL BANK, N.A., CITIZENS BANK OF MASSACHUSETTS, COMERICA BANK and HSBC BANK USA, N.A., as co-syndication agents (in such capacity, the "Co-Syndication Agents"), LASALLE BANK NATIONAL ASSOCIATION, as agent (in such capacity, the "Agent") and JPMORGAN CHASE BANK, as administrative agent.

WHEREAS, on June 17, 2004 the Borrower agreed to purchase shares of its issued and outstanding Class A common stock pursuant to that certain Stock Purchase Agreement, dated as of June 17, 2004, among the Company and Silver Lake Partners, L.P., Silver Lake Investors, L.P., and Silver Lake Technology Investors, L.L.C. ("the Silver Lake Purchase");

WHEREAS, on June 22, 2004, the Borrower made an offer (the "Tender Offer") to purchase shares of its issued and outstanding Class A common stock and shares of its issued and outstanding Class B common stock, all as described in that certain Tender Offer Statement on Schedule TO, as filed with the Securities and Exchange Commission on June 22, 2004 (the "Offer to Purchase") and together with the Silver Lake Purchase, the "Stock Repurchase"); and

WHEREAS, to finance a portion of the Stock Repurchase and to pay fees and expenses in connection therewith, as well as for general corporate purposes, the Borrower has requested that the Lenders establish a \$200,000,000 five-year "Tranche A" term loan facility and a \$100,000,000 five-year revolving credit facility pursuant to which term loans and revolving credit loans may be made to the Borrower and letters of credit may be issued for the account of the Borrower;

NOW, THEREFORE, the Borrower, the Administrative Agent, the Arranger, the Syndication Agent, the Agent and the Lenders agree as follows:

#### SECTION 1 DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"ABR": for any day, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Base CD Rate in effect on such day plus 1% and (c) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1%. For purposes hereof: "Prime Rate" shall mean the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank as its prime rate in effect at its principal office in New York City (the Prime Rate not being intended to be the lowest rate of interest charged by JPMorgan Chase Bank in connection with extensions of credit to debtors); "Base CD Rate" shall mean the sum of (a) the product of (i) the Three-Month Secondary CD Rate and (ii) a fraction, the numerator of which is one and the denominator of which is one minus the CD Reserve Percentage and (b) the CD Assessment Rate; and "Three-Month Secondary CD Rate" shall mean, for any day, the secondary market rate for three-month certificates of deposit reported as being in effect on such day (or, if such day shall not be a Business Day, the next preceding Business Day) by the Board through the public information telephone line of the Federal Reserve Bank of New York (which rate will, under the current practices of the Board, be published in Federal Reserve Statistical Release H.15(519) during the week following such day), or, if such rate shall not be so reported on such day or such next preceding Business Day, the average of the secondary market quotations for three-month certificates of deposit of major money center banks in New York City received at approximately 10:00 A.M., New York City time, on such day (or, if such day shall not be a Business Day, on the next preceding Business Day) by JPMorgan Chase Bank from three New

York City negotiable certificate of deposit dealers of recognized standing selected by it. Any change in the ABR due to a change in the Prime Rate, the Three-Month Secondary CD Rate or the Federal Funds Effective Rate shall be effective as of the opening of business on the effective day of such change in the Prime Rate, the Three-Month Secondary CD Rate or the Federal Funds Effective Rate, respectively.

"ABR Loans": Loans the rate of interest applicable to which is based upon the ABR.

"Adjustment Date": as defined in the definition of Applicable Margin.

"Administrative Agent": JPMorgan Chase Bank, together with its affiliates, as the arranger of the Commitments and as the administrative agent for the Lenders under this Agreement and the other Loan Documents, together with any of its successors.

"Affiliate": as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) vote 10% or more of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person or (b) direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

"Agent": as defined in the preamble hereto.

"Agents": the collective reference to the Co-Syndication Agents, the Agent and the Administrative Agent.

"Aggregate Exposure": with respect to any Lender at any time, an amount equal to (a) until the Closing Date, the aggregate amount of such Lender's Commitments at such time and (b) thereafter, the sum of (i) the aggregate then unpaid principal amount of such Lender's Term Loans and (ii) the amount of such Lender's Revolving Commitment then in effect or, if the Revolving Commitments have been terminated, the amount of such Lender's Revolving Extensions of Credit then outstanding.

"Aggregate Exposure Percentage": with respect to any Lender at any time, the ratio (expressed as a percentage) of such Lender's Aggregate Exposure at such time to the Aggregate Exposure of all Lenders at such time.

"Agreement": as defined in the preamble hereto.

"Annualized Contract Value" means, for any date, the annualized value of all subscription research contracts of the Borrower and its Subsidiaries in effect on such date, without regard to the duration of such contracts, as calculated in the manner used to calculate "Contract Value" in the Borrower's most recent annual report on Form 10-K or quarterly report on Form 10-Q, as the case may be, filed with the Securities and Exchange Commission; provided that any material changes to the method of calculating "Annualized Contract Value" hereunder from the method used in calculating "Contract Value" in the Borrower's annual report on Form 10-K for the fiscal year ended December 31, 2003 shall require the consent of the Required Lenders.

"Applicable Margin": for each Type of Loan or the Commitment Fee Rate, the rate per annum set forth under the relevant column heading below:

Level	Consolidated Leverage Ratio	Applicable Margin for Eurodollar Loans	Applicable Margin for ABR Loans	Commitment Fee Rate
I	> or = 2.25 to 1.00	1.50%	0.50%	0.375%
II	> or = 1.75 to 1.00	1.25%	0.25%	0.375%
III	> or = 1.25 to 1.00	1.125%	0.125%	0.30%
IV	Less than 1.25 to 1.00	1.00%	0.00%	0.25%

Changes in the Applicable Margin resulting from changes in the Consolidated Leverage Ratio shall become effective on the date (the "Adjustment Date") that is three Business Days after the date on which financial statements are delivered to the Lenders pursuant to Section 6.1 and shall remain in effect until the next change to be effected pursuant to this paragraph; provided that before the first Adjustment Date occurring after the completion of two full fiscal quarters of the Borrower after the Closing Date, the Applicable Margin shall be no lower than Level II (it being understood that Level I is the highest Level and Level IV is the lowest Level). Each determination of the Consolidated Leverage Ratio pursuant hereto shall be made in a manner consistent with the determination thereof pursuant to Section 7.1.

"Application": an application, in such form as the Issuing Lender may specify from time to time, requesting the Issuing Lender to open a Letter of Credit.

"Approved Fund": as defined in Section 10.6(b).

"Asset Sale": any Disposition of property or series of related Dispositions of property (excluding any such Disposition permitted by clause (a), (b), (c) or (d) of Section 7.5) that yields gross proceeds to any Group Member (valued at the initial principal amount thereof in the case of non-cash proceeds consisting of notes or other debt securities and valued at fair market value in the case of other non-cash proceeds) in excess of \$500,000.

"Assignee": as defined in Section 10.6(b).

"Assignment and Assumption": an Assignment and Assumption, substantially in the form of Exhibit D.

"Available Revolving Commitment": as to any Revolving Lender at any time, an amount equal to the excess, if any, of (a) such Lender's Revolving Commitment then in effect over (b) such Lender's Revolving Extensions of Credit then outstanding.

"Benefitted Lender": as defined in Section 10.7(a).

"Board": the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower": as defined in the preamble hereto.

"Borrowing Date": any Business Day specified by the Borrower as a date on which the Borrower requests the relevant Lenders to make Loans hereunder.

"Business": as defined in Section 4.17(b).

"Business Day": a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close, provided, that with respect to notices and determinations in connection with, and payments of principal and interest on, Eurodollar Loans, such day is also a day for trading by and between banks in Dollar deposits in the interbank eurodollar market.

"Capital Expenditures": for any period, with respect to any Person, the aggregate of all expenditures by such Person and its Subsidiaries for the acquisition or leasing (pursuant to a capital lease) of fixed or capital assets or additions to equipment (including replacements, capitalized repairs and improvements during such period) that should be capitalized under GAAP on a consolidated balance sheet of such Person and its Subsidiaries.

"Capital Lease Obligations": as to any Person, 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 leases on a balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

"Capital Stock": any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

"Cash Equivalents": (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one year from the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of six months or less from the date of acquisition issued by any Lender or by any commercial bank organized under the laws of the United States or any state thereof having combined capital and surplus of not less than \$500,000,000; (c) commercial paper of an issuer rated at least A-1 by Standard & Poor's Ratings Services ("S&P") or P-1 by Moody's Investors Service, Inc. ("Moody's"), or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within six months from the date of acquisition; (d) repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than 30 days, with respect to securities issued or fully guaranteed or insured by the United States government; (e) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's; (f) securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any Lender or any commercial bank satisfying the requirements of clause (b) of this definition; (g) money market mutual or similar funds that invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition; or (h) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment

Company Act of 1940, as amended, (ii) are rated AAA by S&P and Aaa by Moody's and (iii) have portfolio assets of at least \$5,000,000,000.

"CD Assessment Rate": for any day as applied to any ABR Loan, the annual assessment rate in effect on such day that is payable by a member of the Bank Insurance Fund maintained by the Federal Deposit Insurance Corporation (the "FDIC") classified as well-capitalized and within supervisory subgroup "B" (or a comparable successor assessment risk classification) within the meaning of 12 C.F.R. Section 327.4 (or any successor provision) to the FDIC (or any successor) for the FDIC's (or such successor's) insuring time deposits at offices of such institution in the United States.

"CD Reserve Percentage": for any day as applied to any ABR Loan, that percentage (expressed as a decimal) which is in effect on such day, as prescribed by the Board, for determining the maximum reserve requirement for a Depository Institution (as defined in Regulation D of the Board as in effect from time to time) in respect of new non-personal time deposits in Dollars having a maturity of 30 days or more.

"Closing Date": the date on which the conditions precedent set forth in Section 5.1 shall have been satisfied, which date is August 12, 2004.

"Co-Syndication Agents": as defined in the preamble hereto.

"Code": the Internal Revenue Code of 1986, as amended from time to time.

"Commitment": as to any Lender, the sum of the Term Commitment and the Revolving Commitment of such Lender.

"Commitment Fee Rate": at any date, the rate set forth under the heading "Commitment Fee Rate" in the definition of Applicable Margin.

"Commonly Controlled Entity": an entity, whether or not incorporated, that is under common control with the Borrower within the meaning of Section 4001 of ERISA or is part of a group that includes the Borrower and that is treated as a single employer under Section 414 of the Code.

"Compliance Certificate": a certificate duly executed by a Responsible Officer substantially in the form of Exhibit B.

"Conduit Lender": any special purpose corporation organized and administered by any Lender for the purpose of making Loans otherwise required to be made by such Lender and designated by such Lender in a written instrument; provided, that the designation by any Lender of a Conduit Lender shall not relieve the designating Lender of any of its obligations to fund a Loan under this Agreement if, for any reason, its Conduit Lender fails to fund any such Loan, and the designating Lender (and not the Conduit Lender) shall have the sole right and responsibility to deliver all consents and waivers required or requested under this Agreement with respect to its Conduit Lender, and provided, further, that no Conduit Lender shall (a) be entitled to receive any greater amount pursuant to Section 2.16, 2.17, 2.18 or 10.5 than the designating Lender would have been entitled to receive in respect of the extensions of credit made by such Conduit Lender or (b) be deemed to have any Commitment.

"Confidential Information Memorandum": the Confidential Information Memorandum dated July 2004 and furnished to certain Lenders.

"Consolidated EBITDA": for any period, Consolidated Net Income for such period plus, without duplication and to the extent reflected as a charge in the statement of such Consolidated Net Income for such period, the sum of (a) income tax expense, (b) interest expense, amortization or writeoff of debt discount and debt issuance costs and commissions, discounts and other fees and charges associated with Indebtedness (including the Loans), (c) depreciation and amortization expense, (d) amortization of intangibles (including, but not limited to, goodwill) and organization costs and (e) any extraordinary non-cash or non-recurring non-cash expenses or losses (including, in any event, (i) the non-recurring special charges of, (x) \$24,000,000 for the fiscal quarter ended December 31, 2003, (y) \$10,500,000 for the fiscal quarter ended March 31, 2004 and (z) \$9,100,000 for the fiscal quarter ended June 30, 2004), (ii) stock compensation expense, (iii) loss on investments excluding marketable securities, (iv) writeoffs of fixed assets not included in depreciation and (v) writeoffs or impairment of any goodwill or intangible assets), and minus, (a) to the extent included in the statement of such Consolidated Net Income for such period, the sum of (i) interest income, (ii) any extraordinary non-cash or non-recurring non-cash income or gains (including, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period, gains on the sales of assets outside of the ordinary course of business), (iii) income tax credits (to the extent not netted from income tax expense) and (iv) any other non-cash income and (b) any cash payments made during such period in respect of items described in clause (e) above subsequent to the fiscal quarter in which the relevant non-cash expenses or losses were reflected as a charge in the statement of Consolidated Net Income, all as determined on a consolidated basis. For the purposes of calculating Consolidated EBITDA for any period of four consecutive fiscal quarters (each, a "Reference Period") pursuant to any determination of the Consolidated Leverage Ratio, (i) if at any time during such Reference Period the Borrower or any Subsidiary shall have made any Material Disposition, the Consolidated EBITDA for such Reference Period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such Reference Period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such Reference Period and (ii) if during such Reference Period the Borrower or any Subsidiary shall have made a Material Acquisition, Consolidated EBITDA for such Reference Period shall be calculated after giving pro forma effect thereto as if such Material Acquisition occurred on the first day of such Reference Period. As used in this definition, "Material Acquisition" means any acquisition of property or series of related acquisitions of property that (a) constitutes assets comprising all or substantially all of an operating unit of a business or constitutes all or substantially all of the common stock of a Person and (b) involves the payment of consideration by the Borrower and its Subsidiaries in excess of \$1,000,000; and "Material Disposition" means any Disposition of property or series of related Dispositions of property that yields gross proceeds to the Borrower or any of its Subsidiaries in excess of \$1,000,000.

"Consolidated Fixed Charge Coverage Ratio": for any period, the ratio of (a) Consolidated EBITDA for such period less the aggregate amount recorded on the Borrower's consolidated cash flow statement by the Borrower and its Subsidiaries during such period on account of Capital Expenditures (excluding the principal amount of Indebtedness (other than any Loans) incurred in connection with such expenditures) to (b) Consolidated Fixed Charges for such period.

"Consolidated Fixed Charges": for any period, the sum (without duplication) of (a) Consolidated Interest Expense for such period, (b) scheduled payments made during such period on account of principal of Indebtedness of the Borrower or any of its Subsidiaries (including scheduled principal payments in respect of the Term Loans) and (c) the aggregate amount of Restricted Payments made pursuant to 7.6(d) during such period (other than Designated Restricted Payments made during such period).

"Consolidated Interest Expense": for any period, total cash interest expense (including that attributable to Capital Lease Obligations) of the Borrower and its Subsidiaries for such period with

respect to all outstanding Indebtedness of the Borrower and its Subsidiaries (including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing and net costs under Swap Agreements in respect of interest rates to the extent such net costs are allocable to such period in accordance with GAAP).

"Consolidated Leverage Ratio": as at the last day of any period, the ratio of (a) Consolidated Total Debt on such day to (b) Consolidated EBITDA for such period.

"Consolidated Net Income": for any period, the consolidated net income (or loss) of the Borrower and its Subsidiaries, determined on a consolidated basis in accordance with GAAP; provided that there shall be excluded (a) the income (or deficit) of any Person accrued prior to the date it becomes a Subsidiary of the Borrower or, other than an existing Subsidiary, is merged into or consolidated with the Borrower or any of its Subsidiaries, (b) the income (or deficit) of any Person (other than a Subsidiary of the Borrower) in which the Borrower or any of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Borrower or such Subsidiary in the form of dividends or similar distributions and (c) the undistributed earnings of any Subsidiary of the Borrower to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any Contractual Obligation (other than under any Loan Document) or Requirement of Law applicable to such Subsidiary.

"Consolidated Net Worth": at any date, all amounts that would, in conformity with GAAP, be included on a consolidated balance sheet of the Borrower and its Subsidiaries under stockholders' equity at such date.

"Consolidated Total Debt": at any date, the aggregate principal amount of all Indebtedness of the Borrower and its Subsidiaries at such date, determined on a consolidated basis in accordance with GAAP.

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

"Cure Amount": as defined in Section 8.2.

"Default": any of the events specified in Section 8, whether or not any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

"Designated Restricted Payment": any Restricted Payment made pursuant to Section 7.6(d), provided that (a) the Borrower gives notice to the Administrative Agent at or prior to the time of such Restricted Payment designating such Restricted Payment as a "Designated Restricted Payment", (b) after giving effect to such Restricted Payment, the aggregate amount of unrestricted cash and Cash Equivalents on hand of the Borrower and its Subsidiaries is at least \$100,000,000 and (c) after giving effect to such Restricted Payment, the aggregate amount of the Designated Restricted Payment since the date hereof is not more than \$50,000,000.

"Disposition": with respect to any property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof. The terms "Dispose" and "Disposed of" shall have correlative meanings.

"Dollars" and "\$": dollars in lawful currency of the United States.



"Domestic Subsidiary": any Subsidiary of the Borrower organized under the laws of any jurisdiction within the United States.

"Environmental Laws": any and all applicable foreign, Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirements of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning protection of human health or the environment, as now or may at any time hereafter be in effect.

"ERISA": the Employee Retirement Income Security Act of 1974, as amended from time to time.

"Eurocurrency Reserve Requirements": for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves) under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board) maintained by a member bank of the Federal Reserve System.

"Eurodollar Base Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, the rate per annum determined on the basis of the rate for deposits in Dollars for a period equal to such Interest Period commencing on the first day of such Interest Period appearing on Page 3750 of the Telerate screen as of 11:00 A.M., London time, two Business Days prior to the beginning of such Interest Period. In the event that such rate does not appear on Page 3750 of the Telerate screen (or otherwise on such screen), the "Eurodollar Base Rate" shall be determined by reference to such other comparable publicly available service for displaying eurodollar rates as may be selected by the Administrative Agent or, in the absence of such availability, by reference to the rate at which the Administrative Agent is offered Dollar deposits at or about 11:00 A.M., New York City time, two Business Days prior to the beginning of such Interest Period in the interbank eurodollar market where its eurodollar and foreign currency and exchange operations are then being conducted for delivery on the first day of such Interest Period for the number of days comprised therein.

"Eurodollar Loans": Loans the rate of interest applicable to which is based upon the Eurodollar Rate.

"Eurodollar Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, a rate per annum determined for such day in accordance with the following formula (rounded upward to the nearest 1/100th of 1%):

$$\frac{\text{Eurodollar Base Rate}}{1.00 - \text{Eurocurrency Reserve Requirements}}$$

"Eurodollar Tranche": the collective reference to Eurodollar Loans under a particular Facility the then current Interest Periods with respect to all of which begin on the same date and end on the same later date (whether or not such Loans shall originally have been made on the same day).

"Event of Default": any of the events specified in Section 8, provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

"Facility": each of (a) the Term Commitments and the Term Loans made thereunder (the "Term Facility") and (b) the Revolving Commitments and the extensions of credit made thereunder (the "Revolving Facility").

"Federal Funds Effective Rate": for any day, the weighted average 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 of the quotations for the day of such transactions received by JPMorgan Chase Bank from three federal funds brokers of recognized standing selected by it.

"Fee Payment Date": (a) the third Business Day following the last day of each March, June, September and December and (b) the last day of the Revolving Commitment Period.

"Foreign Subsidiary": any Subsidiary of the Borrower that is not a Domestic Subsidiary.

"Funded Debt": as to any Person, all Indebtedness of such Person that matures more than one year from the date of its creation or matures within one year from such date but is renewable or extendible, at the option of such Person, to a date more than one year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including all current maturities and current sinking fund payments in respect of such Indebtedness whether or not required to be paid within one year from the date of its creation and, in the case of the Borrower, Indebtedness in respect of the Loans.

"Funding Office": the office of the Administrative Agent specified in Section 10.2 or such other office as may be specified from time to time by the Administrative Agent as its funding office by written notice to the Borrower and the Lenders.

"GAAP": generally accepted accounting principles in the United States as in effect from time to time, except that for purposes of Section 7.1, GAAP shall be determined on the basis of such principles in effect on the date hereof and consistent with those used in the preparation of the most recent audited financial statements referred to in Section 4.1(b). In the event that any "Accounting Change" (as defined below) shall occur and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, then the Borrower and the Administrative Agent agree to enter into negotiations in order to amend such provisions of this Agreement so as to reflect equitably such Accounting Changes with the desired result that the criteria for evaluating the Borrower's financial condition shall be the same after such Accounting Changes as if such Accounting Changes had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrower, the Administrative Agent and the Required Lenders, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such Accounting Changes had not occurred. "Accounting Changes" refers to changes in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants or, if applicable, the SEC.

"Governmental Authority": any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization (including the National Association of Insurance Commissioners).

"Group Members": the collective reference to the Borrower and its respective Subsidiaries.

"Guarantee": the Guarantee to be executed and delivered by each Subsidiary Guarantor, substantially in the form of Exhibit A.

"Guarantee Obligation": as to any Person (the "guaranteeing person"), any obligation, including a reimbursement, counterindemnity or similar obligation, of the guaranteeing person that guarantees or in effect guarantees, or which is given to induce the creation of a separate obligation by another Person (including any bank under any letter of credit) that guarantees or in effect guarantees, any Indebtedness, leases, dividends or other obligations (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

"Indebtedness": of any Person at any date, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services (other than current trade payables incurred in the ordinary course of such Person's business), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all Capital Lease Obligations of such Person, (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under or in respect of acceptances, letters of credit, surety bonds or similar arrangements, (g) all Guarantee Obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (f) above, (h) all obligations of the kind referred to in clauses (a) through (g) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on property (including accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation, and (i) for the purposes of Section 8.1(e) only, all obligations of such Person in respect of Swap Agreements. 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 expressly provide that such Person is not liable therefor.

"IFSC": Gartner Financial Services Company, a limited company organized under the laws of Ireland.

"Insolvency": with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

"Insolvent": pertaining to a condition of Insolvency.

"Intellectual Property": the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including copyrights, copyright licenses, patents, patent licenses, trademarks, trademark licenses, technology, know-how and processes, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

"Interest Payment Date": (a) as to any ABR Loan, the last day of each March, June, September and December to occur while such Loan is outstanding and the final maturity date of such Loan, (b) as to any Eurodollar Loan having an Interest Period of three months or less, the last day of such Interest Period, (c) as to any Eurodollar Loan having an Interest Period longer than three months, each day that is three months, or a whole multiple thereof, after the first day of such Interest Period and the last day of such Interest Period, and (d) as to any Loan (other than any Revolving Loan that is an ABR Loan), the date of any repayment or prepayment made in respect thereof.

"Interest Period": as to any Eurodollar Loan, (a) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such Eurodollar Loan and ending one, two, three or six months thereafter, as selected by the Borrower in its notice of borrowing or notice of conversion, as the case may be, given with respect thereto; and (b) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Eurodollar Loan and ending one, two, three or six months thereafter, as selected by the Borrower by irrevocable notice to the Administrative Agent not later than 11:00 A.M., New York City time, on the date that is three Business Days prior to the last day of the then current Interest Period with respect thereto; provided that, all of the foregoing provisions relating to Interest Periods are subject to the following:

(i) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(ii) the Borrower may not select an Interest Period under a particular Facility that would extend beyond the Revolving Termination Date or beyond the date final payment is due on the Term Loans, as the case may be;

(iii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of a calendar month; and

(iv) the Borrower shall select Interest Periods so as not to require a payment or prepayment of any Eurodollar Loan during an Interest Period for such Loan.

"Investments": as defined in Section 7.8.

"Issuing Lender": JPMorgan Chase Bank or any affiliate thereof, in its capacity as issuer of any Letter of Credit.

"L/C Commitment": \$10,000,000.

"L/C Obligations": at any time, an amount equal to the sum of (a) the aggregate then undrawn and unexpired amount of the then outstanding Letters of Credit and (b) the aggregate amount of drawings under Letters of Credit that have not then been reimbursed pursuant to Section 3.5.

"L/C Participants": the collective reference to all the Revolving Lenders other than the Issuing Lender.

"Lenders": as defined in the preamble hereto; provided, that unless the context otherwise requires, each reference herein to the Lenders shall be deemed to include any Conduit Lender.

"Letters of Credit": as defined in Section 3.1(a).

"Lien": any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing).

"Loan": any loan made by any Lender pursuant to this Agreement.

"Loan Documents": this Agreement, the Guarantee, the Notes and any amendment, waiver, supplement or other modification to any of the foregoing.

"Loan Parties": each Group Member that is a party to a Loan Document.

"Majority Facility Lenders": with respect to any Facility, the holders of more than 50% of the aggregate unpaid principal amount of the Term Loans or the Total Revolving Extensions of Credit, as the case may be, outstanding under such Facility (or, in the case of the Revolving Facility, prior to any termination of the Revolving Commitments, the holders of more than 50% of the Total Revolving Commitments).

"Margin Stock": "margin stock" as defined in Regulation U.

"Material Adverse Effect": a material adverse effect on (a) the business, property, operations, or financial condition of the Borrower and its Subsidiaries taken as a whole or (b) the validity or enforceability of this Agreement or any of the other Loan Documents or the rights or remedies of the Administrative Agent or the Lenders hereunder or thereunder.

"Material Subsidiary": any Subsidiary of the Borrower that holds assets having a fair market value (as reasonably and in good faith determined by the Chief Financial Officer of the Borrower) of \$1,000,000 or more.

"Materials of Environmental Concern": any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products or any hazardous or toxic substances, materials or wastes, defined or regulated as such in or under any Environmental Law, including asbestos, polychlorinated biphenyls and urea-formaldehyde insulation.

"Multiemployer Plan": a Plan that is a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"Net Cash Proceeds": (a) in connection with any Asset Sale or any Recovery Event, the proceeds thereof in the form of cash and Cash Equivalents (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as and when received), net of attorneys' fees, accountants' fees, investment banking fees, amounts required to be applied to the repayment of Indebtedness secured by a Lien expressly permitted hereunder on any asset that is the subject of such Asset Sale or Recovery Event and other customary fees and expenses actually incurred in connection therewith and net of taxes paid or reasonably estimated to be payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements) and (b) in connection with any issuance or sale of Capital Stock or any incurrence of Indebtedness, the cash proceeds received from such issuance or incurrence, net of attorneys' fees, investment banking fees, accountants' fees, underwriting discounts and commissions and other customary fees and expenses actually incurred in connection therewith.

"Non-Excluded Taxes": as defined in Section 2.17(a).

"Non-U.S. Lender": as defined in Section 2.17(d).

"Notes": the collective reference to any promissory note evidencing Loans.

"Obligations": the unpaid principal of and interest on (including interest accruing after the maturity of the Loans and Reimbursement Obligations and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Loans and all other obligations and liabilities of the Borrower to the Administrative Agent or to any Lender (or, in the case of Specified Swap Agreements, any affiliate of any Lender), whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement, any other Loan Document, the Letters of Credit, any Specified Swap Agreement or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses (including all fees, charges and disbursements of counsel to the Administrative Agent or to any Lender that are required to be paid by the Borrower pursuant hereto) or otherwise.

"Other Taxes": any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

"Participant": as defined in Section 10.6(c).

"PBGC": the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

"Permitted Investors": the collective reference to Silver Lake Partners, L.P., Silver Lake Investors, L.P., and Silver Lake Technology Investors, L.L.C. and their respective Affiliates.

"Permitted Preferred Stock": preferred stock issued by the Borrower that (a) does not require any repurchase or redemption (other than conversion or exchange into the common stock of the Borrower), whether contingent or not, prior to the date that is eight months after the Revolving Termination Date and (b) is in the Borrower's good faith opinion on terms and conditions customary in the relevant capital markets for preferred stock issued by issuers similar to the Borrower.

"Permitted Subordinated Debt": subordinated, unsecured Indebtedness of the Borrower that (a) requires no scheduled cash payments of principal and no mandatory repurchase or redemption obligations prior to the date that is eight months after the Revolving Termination Date, other than in connection with a change of control of Borrower or similar event, (b) does not impose any financial "maintenance" (as distinct from "incurrence") covenants on the Borrower or any of the Subsidiaries, (c) is not guaranteed by any Subsidiaries and (d) contains customary subordination terms that are reasonably acceptable to the Administrative Agent.

"Person": an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Plan": at a particular time, any employee benefit plan that is covered by ERISA and in respect of which the Borrower or a Commonly Controlled Entity is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Pro Forma Balance Sheet": as defined in Section 4.1(a).

"Projections": as defined in Section 6.2(c).

"Properties": as defined in Section 4.17(a).

"Recovery Event": any settlement of or payment in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of any Group Member.

"Register": as defined in Section 10.6(b).

"Regulation U": Regulation U of the Board as in effect from time to time.

"Reimbursement Obligation": the obligation of the Borrower to reimburse the Issuing Lender pursuant to Section 3.5 for amounts drawn under Letters of Credit.

"Reinvestment Deferred Amount": with respect to any Reinvestment Event, the aggregate Net Cash Proceeds received by any Group Member in connection therewith that are not applied to prepay the Term Loans pursuant to Section 2.9(c) as a result of the delivery of a Reinvestment Notice.

"Reinvestment Event": any Asset Sale or Recovery Event in respect of which the Borrower has delivered a Reinvestment Notice.

"Reinvestment Notice": a written notice executed by a Responsible Officer stating that no Event of Default has occurred and is continuing and that the Borrower (directly or indirectly through a Subsidiary) intends and expects to use all or a specified portion of the Net Cash Proceeds of an Asset Sale or Recovery Event to acquire or repair assets useful in its business.

"Reinvestment Prepayment Amount": with respect to any Reinvestment Event, the Reinvestment Deferred Amount relating thereto less any amount expended prior to the relevant Reinvestment Prepayment Date to acquire or repair assets useful in the Borrower's business.

"Reinvestment Prepayment Date": with respect to any Reinvestment Event, the earlier of (a) the date occurring six months after such Reinvestment Event and (b) the date on which the Borrower

shall have determined not to, or shall have otherwise ceased to, acquire or repair assets useful in the Borrower's business with all or any portion of the relevant Reinvestment Deferred Amount.

"Reorganization": with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

"Reportable Event": any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty day notice period is waived under subsections .27, .28, .29, .30, .31, .32, .34 or .35 of PBGC Reg. Section 4043.

"Required Lenders": at any time, the holders of more than 50% of (a) until the Closing Date, the Commitments then in effect and (b) thereafter, the sum of (i) the aggregate unpaid principal amount of the Term Loans then outstanding and (ii) the Total Revolving Commitments then in effect or, if the Revolving Commitments have been terminated, the Total Revolving Extensions of Credit then outstanding.

"Requirement of Law": as to any Person, the Certificate of Incorporation and By-Laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Responsible Officer": the chief executive officer, president or chief financial officer of the Borrower, but in any event, with respect to financial matters, the chief financial officer of the Borrower.

"Restricted Payments": as defined in Section 7.6.

"Revolving Commitment": as to any Lender, the obligation of such Lender, if any, to make Revolving Loans and participate in Letters of Credit in an aggregate principal and/or face amount not to exceed the amount set forth under the heading "Revolving Commitment" opposite such Lender's name on Schedule 1.1A or in the Assignment and Assumption pursuant to which such Lender became a party hereto, as the same may be changed from time to time pursuant to the terms hereof. The original amount of the Total Revolving Commitments is \$100,000,000.

"Revolving Commitment Period": the period from and including the Closing Date to the Revolving Termination Date.

"Revolving Extensions of Credit": as to any Revolving Lender at any time, an amount equal to the sum of (a) the aggregate principal amount of all Revolving Loans held by such Lender then outstanding and (b) such Lender's Revolving Percentage of the L/C Obligations then outstanding.

"Revolving Lender": each Lender that has a Revolving Commitment or that holds Revolving Loans.

"Revolving Loans": as defined in Section 2.4(a).

"Revolving Percentage": as to any Revolving Lender at any time, the percentage which such Lender's Revolving Commitment then constitutes of the Total Revolving Commitments or, at any time after the Revolving Commitments shall have expired or terminated, the percentage which the aggregate principal amount of such Lender's Revolving Loans then outstanding constitutes of the aggregate principal amount of the Revolving Loans then outstanding, provided, that, in the event that the



Revolving Loans are paid in full prior to the reduction to zero of the Total Revolving Extensions of Credit, the Revolving Percentages shall be determined in a manner designed to ensure that the other outstanding Revolving Extensions of Credit shall be held by the Revolving Lenders on a comparable basis.

"Revolving Termination Date": August 12, 2009.

"SEC": the Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

"Senior Notes": any notes of the Borrower issued after the Closing Date permitted under Section 7.2(h).

"Single Employer Plan": any Plan that is covered by Title IV of ERISA, but that is not a Multiemployer Plan.

"Solvent": when used with respect to any Person, means that, as of any date of determination, (a) the amount of the "present fair saleable value" of the assets of such Person will, as of such date, exceed the amount of all "liabilities of such Person, contingent or otherwise", as of such date, as such quoted terms are determined in accordance with applicable federal and state laws governing determinations of the insolvency of debtors, (b) the present fair saleable value of the assets of such Person will, as of such date, be greater than the amount that will be required to pay the liability of such Person on its debts as such debts become absolute and matured, (c) such Person will not have, as of such date, an unreasonably small amount of capital with which to conduct its business, and (d) such Person will be able to pay its debts as they mature. For purposes of this definition, (i) "debt" means liability on a "claim", and (ii) "claim" means any (x) right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured or (y) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured or unmatured, disputed, undisputed, secured or unsecured.

"Specified Change of Control": a "Change of Control" (or any other defined term having a similar purpose) as defined in the agreements governing Senior Notes.

"Specified Swap Agreement": any Swap Agreement entered into by the Borrower and any Lender or affiliate thereof in respect of interest rates, currency exchange rates or commodity prices.

"Subsidiary": as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower.

"Subsidiary Guarantor": each Subsidiary of the Borrower other than (i) any Foreign Subsidiary and (ii) those Subsidiaries listed on Schedule 5.1(a) hereto.

"Swap Agreement": 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 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 any of its Subsidiaries shall be a "Swap Agreement".

"Term Commitment": as to any Lender, the obligation of such Lender, if any, to make a Term Loan to the Borrower in a principal amount not to exceed the amount set forth under the heading "Term Commitment" opposite such Lender's name on Schedule 1.1A. The original aggregate amount of the Term Commitments is \$200,000,000.

"Term Lender": each Lender that has a Term Commitment or that holds a Term Loan.

"Term Loan": as defined in Section 2.1.

"Term Percentage": as to any Term Lender at any time, the percentage which such Lender's Term Commitment then constitutes of the aggregate Term Commitments (or, at any time after the Closing Date, the percentage which the aggregate principal amount of such Lender's Term Loans then outstanding constitutes of the aggregate principal amount of the Term Loans then outstanding).

"Total Revolving Commitments": at any time, the aggregate amount of the Revolving Commitments then in effect.

"Total Revolving Extensions of Credit": at any time, the aggregate amount of the Revolving Extensions of Credit of the Revolving Lenders outstanding at such time.

"Transaction": the Stock Repurchase, the financing related thereto and the Loans to be made on the Closing Date (together with the use of proceeds thereof).

"Transferee": any Assignee or Participant.

"Type": as to any Loan, its nature as an ABR Loan or a Eurodollar Loan.

"United States": the United States of America.

"Wholly Owned Subsidiary": as to any Person, any other Person all of the Capital Stock of which (other than directors' qualifying shares required by law) is owned by such Person directly and/or through other Wholly Owned Subsidiaries.

"Wholly Owned Subsidiary Guarantor": any Subsidiary Guarantor that is a Wholly Owned Subsidiary of the Borrower.

1.2 Other Definitional Provisions. (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms relating to any Group Member not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP, (ii) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (iii) the

word "incur" shall be construed to mean incur, create, issue, assume, become liable in respect of or suffer to exist (and the words "incurred" and "incurrence" shall have correlative meanings), (iv) 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, Capital Stock, securities, revenues, accounts, leasehold interests and contract rights, and (v) references to agreements or other Contractual Obligations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations as amended, supplemented, restated or otherwise modified from time to time.

(c) The words "hereof", "herein" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

## SECTION 2 AMOUNT AND TERMS OF COMMITMENTS

2.1 Term Commitments. Subject to the terms and conditions hereof, each Term Lender severally agrees to make a term loan (a "Term Loan") to the Borrower on the Closing Date in an amount not to exceed the amount of the Term Commitment of such Lender. The Term Loans may from time to time be Eurodollar Loans or ABR Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Sections 2.2 and 2.10.

2.2 Procedure for Term Loan Borrowing. The Borrower shall give the Administrative Agent irrevocable notice (which notice must be received by the Administrative Agent prior to 10:00 A.M., New York City time, one Business Day prior to the anticipated Closing Date) requesting that the Term Lenders make the Term Loans on the Closing Date and specifying the amount to be borrowed. The Term Loans made on the Closing Date shall initially be ABR Loans. Upon receipt of such notice the Administrative Agent shall promptly notify each Term Lender thereof. Not later than 12:00 Noon, New York City time, on the Closing Date each Term Lender shall make available to the Administrative Agent at the Funding Office an amount in immediately available funds equal to the Term Loan or Term Loans to be made by such Lender. The Administrative Agent shall credit the account of the Borrower on the books of such office of the Administrative Agent with the aggregate of the amounts made available to the Administrative Agent by the Term Lenders in immediately available funds.

2.3 Repayment of Term Loans. The Term Loan of each Lender shall mature in 20 consecutive quarterly installments, each of which shall be in an amount equal to such Lender's Term Percentage multiplied by the amount set forth below opposite such installment:

Installment -----	Principal Amount -----
October 31, 2004	\$10,000,000
January 31, 2005	\$10,000,000
April 30, 2005	\$10,000,000
July 31, 2005	\$10,000,000
October 31, 2005	\$10,000,000
January 31, 2006	\$10,000,000

Installment -----	Principal Amount -----
April 30, 2006	\$10,000,000
July 31, 2006	\$10,000,000
October 31, 2006	\$10,000,000
January 31, 2007	\$10,000,000
April 30, 2007	\$10,000,000
July 31, 2007	\$10,000,000
October 31, 2007	\$10,000,000
January 31, 2008	\$10,000,000
April 30, 2008	\$10,000,000
July 31, 2008	\$10,000,000
October 31, 2008	\$10,000,000
January 31, 2009	\$10,000,000
April 30, 2009	\$10,000,000
Revolving Termination Date	\$10,000,000

2.4 Revolving Commitments. (a) Subject to the terms and conditions hereof, each Revolving Lender severally agrees to make revolving credit loans ("Revolving Loans") to the Borrower from time to time during the Revolving Commitment Period in an aggregate principal amount at any one time outstanding which, when added to such Lender's Revolving Percentage of the L/C Obligations then outstanding does not exceed the amount of such Lender's Revolving Commitment. During the Revolving Commitment Period the Borrower may use the Revolving Commitments by borrowing, prepaying the Revolving Loans in whole or in part, and reborrowing, all in accordance with the terms and conditions hereof. The Revolving Loans may from time to time be Eurodollar Loans or ABR Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Sections 2.5 and 2.10.

(b) The Borrower shall repay all outstanding Revolving Loans on the Revolving Termination Date.

2.5 Procedure for Revolving Loan Borrowing. The Borrower may borrow under the Revolving Commitments during the Revolving Commitment Period on any Business Day, provided that the Borrower shall give the Administrative Agent irrevocable notice (which notice must be received by the Administrative Agent prior to 12:00 Noon, New York City time, (a) three Business Days prior to the requested Borrowing Date, in the case of Eurodollar Loans, or (b) one Business Day prior to the requested Borrowing Date, in the case of ABR Loans) (provided that any such notice of a borrowing of ABR Loans under the Revolving Facility to finance payments required by Section 3.5 may be given not later than 10:00 A.M., New York City time, on the date of the proposed borrowing), specifying (i) the amount and Type of Revolving Loans to be borrowed, (ii) the requested Borrowing Date and (iii) in the case of Eurodollar Loans, the respective amounts of each such Type of Loan and the respective lengths of the initial Interest Period therefor. Any Revolving Loans made on the Closing Date shall initially be ABR Loans. Each borrowing under the Revolving Commitments shall be in an amount equal to (x) in the case of ABR Loans, \$1,000,000 or a whole multiple thereof (or, if the then aggregate Available Revolving Commitments are less than \$1,000,000, such lesser amount) and (y) in the case of Eurodollar Loans, \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof. Upon receipt of any such notice from the Borrower, the Administrative Agent shall promptly notify each Revolving Lender thereof. Each

Revolving Lender will make the amount of its pro rata share of each borrowing available to the Administrative Agent for the account of the Borrower at the Funding Office prior to 12:00 Noon, New York City time, on the Borrowing Date requested by the Borrower in funds immediately available to the Administrative Agent. Such borrowing will then be made available to the Borrower by the Administrative Agent crediting the account of the Borrower on the books of such office with the aggregate of the amounts made available to the Administrative Agent by the Revolving Lenders and in like funds as received by the Administrative Agent.

2.6 Commitment Fees, etc. (a) The Borrower agrees to pay to the Administrative Agent for the account of each Revolving Lender a commitment fee for the period from and including the date hereof to the last day of the Revolving Commitment Period, computed at the Commitment Fee Rate on the average daily amount of the Available Revolving Commitment of such Lender during the period for which payment is made, payable quarterly in arrears on each Fee Payment Date, commencing on the first such date to occur after the date hereof.

(b) The Borrower agrees to pay to the Administrative Agent the fees in the amounts and on the dates as set forth in any fee agreements with the Administrative Agent and to perform any other obligations contained therein.

2.7 Termination or Reduction of Revolving Commitments. The Borrower shall have the right, upon not less than three Business Days' notice to the Administrative Agent, to terminate the Revolving Commitments or, from time to time, to reduce the amount of the Revolving Commitments; provided that no such termination or reduction of Revolving Commitments shall be permitted to the extent that, after giving effect thereto and to any prepayments of the Revolving Loans made on the effective date thereof, the Total Revolving Extensions of Credit would exceed the Total Revolving Commitments. Any such reduction shall be in an amount equal to \$1,000,000, or a whole multiple thereof, and shall reduce permanently the Revolving Commitments then in effect.

2.8 Optional Prepayments. The Borrower may at any time and from time to time prepay the Loans, in whole or in part, without premium or penalty, upon irrevocable notice delivered to the Administrative Agent no later than 11:00 A.M., New York City time, three Business Days prior thereto, in the case of Eurodollar Loans, and no later than 11:00 A.M., New York City time, one Business Day prior thereto, in the case of ABR Loans, which notice shall specify the date and amount of prepayment and whether the prepayment is of Eurodollar Loans or ABR Loans; provided, that if a Eurodollar Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 2.18. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof. If any such notice is given, the amount specified in such notice shall be due and payable on the date specified therein, together with (except in the case of Revolving Loans that are ABR Loans) accrued interest to such date on the amount prepaid. Partial prepayments of Term Loans and Revolving Loans shall be in an aggregate principal amount of \$1,000,000 or a whole multiple thereof.

2.9 Mandatory Prepayments and Commitment Reductions. (a) (i) If any Capital Stock (other than stock, stock options and other equity based awards granted directly or indirectly to employees, officers, consultants or directors, directors' qualifying shares and stock issued to another Group Member or in connection with an acquisition by the Borrower or any of its Subsidiaries otherwise permitted by this Agreement) shall be issued by any Group Member, an amount equal to 50% of the Net Cash Proceeds thereof shall be applied on the date of such issuance toward the prepayment of the Term Loans as set forth in Section 2.9(c).

(ii) If the Senior Notes are issued by the Borrower, an amount equal to 50% of the Net Cash Proceeds thereof shall be applied on the date of such issuance toward the prepayment of the Term Loans as set forth in Section 2.9(c).

(b) If on any date any Group Member shall receive Net Cash Proceeds from any Asset Sale or Recovery Event then, unless a Reinvestment Notice shall be delivered in respect thereof, an amount equal to 50% such Net Cash Proceeds shall be applied on such date toward the prepayment of the Term Loans as set forth in Section 2.9(c); provided, that, notwithstanding the foregoing, on each Reinvestment Prepayment Date, an amount equal to the Reinvestment Prepayment Amount with respect to the relevant Reinvestment Event shall be applied toward the prepayment of the Term Loans as set forth in Section 2.9(c).

(c) Amounts to be applied in connection with prepayments made pursuant to Section 2.9 shall be applied to the prepayment of the Term Loans in accordance with Section 2.15(b). The application of any prepayment pursuant to Section 2.9 shall be made, first, to ABR Loans and, second, to Eurodollar Loans. Each prepayment of the Loans under Section 2.9 shall be accompanied by accrued interest to the date of such prepayment on the amount prepaid.

2.10 Conversion and Continuation Options. (a) The Borrower may elect from time to time to convert Eurodollar Loans to ABR Loans by giving the Administrative Agent prior irrevocable notice of such election no later than 11:00 A.M., New York City time, on the Business Day preceding the proposed conversion date, provided that any such conversion of Eurodollar Loans may only be made on the last day of an Interest Period with respect thereto. The Borrower may elect from time to time to convert ABR Loans to Eurodollar Loans by giving the Administrative Agent prior irrevocable notice of such election no later than 11:00 A.M., New York City time, on the third Business Day preceding the proposed conversion date (which notice shall specify the length of the initial Interest Period therefor), provided that no ABR Loan under a particular Facility may be converted into a Eurodollar Loan when any Event of Default has occurred and is continuing and the Administrative Agent or the Majority Facility Lenders in respect of such Facility have determined in its or their sole discretion not to permit such conversions. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

(b) Any Eurodollar Loan may be continued as such upon the expiration of the then current Interest Period with respect thereto by the Borrower giving irrevocable notice to the Administrative Agent, in accordance with the applicable provisions of the term "Interest Period" set forth in Section 1.1, of the length of the next Interest Period to be applicable to such Loans, provided that no Eurodollar Loan under a particular Facility may be continued as such when any Event of Default has occurred and is continuing and the Administrative Agent has or the Majority Facility Lenders in respect of such Facility have determined in its or their sole discretion not to permit such continuations, and provided, further, that if the Borrower shall fail to give any required notice as described above in this paragraph or if such continuation is not permitted pursuant to the preceding proviso such Loans shall be automatically converted to ABR Loans on the last day of such then expiring Interest Period. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

2.11 Limitations on Eurodollar Tranches. Notwithstanding anything to the contrary in this Agreement, all borrowings, conversions and continuations of Eurodollar Loans and all selections of Interest Periods shall be in such amounts and be made pursuant to such elections so that, (a) after giving effect thereto, the aggregate principal amount of the Eurodollar Loans comprising each Eurodollar Tranche shall be equal to \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof and (b) no more than ten Eurodollar Tranches shall be outstanding at any one time.

2.12 Interest Rates and Payment Dates. (a) Each Eurodollar Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to the Eurodollar Rate determined for such day plus the Applicable Margin.

(b) Each ABR Loan shall bear interest at a rate per annum equal to the ABR plus the Applicable Margin.

(c) (i) If all or a portion of the principal amount of any Loan or Reimbursement Obligation shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), all outstanding Loans and Reimbursement Obligations (whether or not overdue) shall bear interest at a rate per annum equal to (x) in the case of the Loans, the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section plus 2% or (y) in the case of Reimbursement Obligations, the rate applicable to ABR Loans under the Revolving Facility plus 2%, and (ii) if all or a portion of any interest payable on any Loan or Reimbursement Obligation or any commitment fee or other amount payable hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum equal to the rate then applicable to ABR Loans under the relevant Facility plus 2% (or, in the case of any such other amounts that do not relate to a particular Facility, the rate then applicable to ABR Loans under the Revolving Facility plus 2%), in each case, with respect to clauses (i) and (ii) above, from the date of such non-payment until such amount is paid in full (as well after as before judgment).

(d) Interest shall be payable in arrears on each Interest Payment Date, provided that interest accruing pursuant to paragraph (c) of this Section shall be payable from time to time on demand.

2.13 Computation of Interest and Fees. (a) Interest and fees payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that, with respect to ABR Loans the rate of interest on which is calculated on the basis of the Prime Rate, the interest thereon shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of each determination of a Eurodollar Rate. Any change in the interest rate on a Loan resulting from a change in the ABR or the Eurocurrency Reserve Requirements shall become effective as of the opening of business on the day on which such change becomes effective. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of the effective date and the amount of each such change in interest rate.

(b) Each determination of an interest rate by the Administrative Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Administrative Agent shall, at the request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Administrative Agent in determining any interest rate pursuant to Section 2.12(a).

2.14 Inability to Determine Interest Rate. If prior to the first day of any Interest Period:

(a) the Administrative Agent shall have determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Interest Period, or

(b) the Administrative Agent shall have received notice from the Majority Facility Lenders in respect of the relevant Facility that the Eurodollar Rate determined or to be

determined for such Interest Period will not adequately and fairly reflect the cost to such Lenders (as conclusively certified by such Lenders) of making or maintaining their affected Loans during such Interest Period,

the Administrative Agent shall give telecopy or telephonic notice thereof to the Borrower and the relevant Lenders as soon as practicable thereafter. If such notice is given (x) any Eurodollar Loans under the relevant Facility requested to be made on the first day of such Interest Period shall be made as ABR Loans, (y) any Loans under the relevant Facility that were to have been converted on the first day of such Interest Period to Eurodollar Loans shall be continued as ABR Loans and (z) any outstanding Eurodollar Loans under the relevant Facility shall be converted, on the last day of the then-current Interest Period, to ABR Loans. Until such notice has been withdrawn by the Administrative Agent, no further Eurodollar Loans under the relevant Facility shall be made or continued as such, nor shall the Borrower have the right to convert Loans under the relevant Facility to Eurodollar Loans.

2.15 Pro Rata Treatment and Payments. (a) Each borrowing by the Borrower from the Lenders hereunder, each payment by the Borrower on account of any commitment fee and any reduction of the Commitments of the Lenders shall be made pro rata according to the respective Term Percentages or Revolving Percentages, as the case may be, of the relevant Lenders.

(b) Each payment (including each prepayment) by the Borrower on account of principal of and interest on the Term Loans shall be made pro rata according to the respective outstanding principal amounts of the Term Loans then held by the Term Lenders. The amount of each principal prepayment of the Term Loans shall be applied to reduce the then remaining installments of the Term Loans pro rata based upon the then remaining principal amounts thereof. Amounts prepaid on account of the Term Loans may not be reborrowed.

(c) Each payment (including each prepayment) by the Borrower on account of principal of and interest on the Revolving Loans shall be made pro rata according to the respective outstanding principal amounts of the Revolving Loans then held by the Revolving Lenders.

(d) All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without setoff or counterclaim and shall be made prior to 12:00 Noon, New York City time, on the due date thereof to the Administrative Agent, for the account of the Lenders, at the Funding Office, in Dollars and in immediately available funds. The Administrative Agent shall distribute such payments to the Lenders promptly upon receipt in like funds as received. If any payment hereunder (other than payments on the Eurodollar Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. If any payment on a Eurodollar Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate during such extension.

(e) Unless the Administrative Agent shall have been notified in writing by any Lender prior to a borrowing that such Lender will not make the amount that would constitute its share of such borrowing available to the Administrative Agent, the Administrative Agent may assume that such Lender is making such amount available to the Administrative Agent, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower a corresponding amount. If such amount is not made available to the Administrative Agent by the required time on the Borrowing Date therefor, such Lender shall pay to the Administrative Agent, on demand, such amount with interest thereon, at a



rate equal to the greater of (i) the Federal Funds Effective Rate and (ii) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, for the period until such Lender makes such amount immediately available to the Administrative Agent. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this paragraph shall be conclusive in the absence of manifest error. If such Lender's share of such borrowing is not made available to the Administrative Agent by such Lender within three Business Days after such Borrowing Date, the Administrative Agent shall also be entitled to recover such amount with interest thereon at the rate per annum applicable to ABR Loans under the relevant Facility, on demand, from the Borrower.

(f) Unless the Administrative Agent shall have been notified in writing by the Borrower prior to the date of any payment due to be made by the Borrower hereunder that the Borrower will not make such payment to the Administrative Agent, the Administrative Agent may assume that the Borrower is making such payment, and the Administrative Agent may, but shall not be required to, in reliance upon such assumption, make available to the Lenders their respective pro rata shares of a corresponding amount. If such payment is not made to the Administrative Agent by the Borrower within three Business Days after such due date, the Administrative Agent shall be entitled to recover, on demand, from each Lender to which any amount which was made available pursuant to the preceding sentence, such amount with interest thereon at the rate per annum equal to the daily average Federal Funds Effective Rate. Nothing herein shall be deemed to limit the rights of the Administrative Agent or any Lender against the Borrower.

2.16 Requirements of Law. (a) If the adoption of or any change in any Requirement of Law or in the interpretation or application thereof or compliance by any Lender with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority made subsequent to the date hereof:

(i) shall subject any Lender to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any Application or any Eurodollar Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Non-Excluded Taxes, which are covered by Section 2.17 and changes in the rate of tax on the overall net income of such Lender);

(ii) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans or other extensions of credit by, or any other acquisition of funds by, any office of such Lender that is not otherwise included in the determination of the Eurodollar Rate; or

(iii) shall impose on such Lender any other condition affecting this Agreement;

and the result of any of the foregoing is to increase the cost to such Lender, by an amount that such Lender deems to be material, of making, converting into, continuing or maintaining Eurodollar Loans or issuing or participating in Letters of Credit, or to reduce any amount receivable hereunder in respect thereof, then, in any such case, the Borrower shall promptly pay such Lender, upon its demand, any additional amounts necessary to compensate such Lender for such increased cost or reduced amount receivable. If any Lender becomes entitled to claim any additional amounts pursuant to this paragraph, it shall promptly notify the Borrower (with a copy to the Administrative Agent) of the event by reason of which it has become so entitled.

(b) If any Lender shall have determined that the adoption of or any change in any Requirement of Law regarding capital adequacy or in the interpretation or application thereof or compliance by such Lender or any corporation controlling such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) from any Governmental Authority made subsequent to the date hereof shall have the effect of reducing the rate of return on such Lender's or such corporation's capital as a consequence of its obligations hereunder or under or in respect of any Letter of Credit to a level below that which such Lender or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Lender's or such corporation's policies with respect to capital adequacy) by an amount deemed by such Lender to be material, then from time to time, after submission by such Lender to the Borrower (with a copy to the Administrative Agent) of a written request therefor, the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or such corporation for such reduction.

(c) A certificate as to any additional amounts payable pursuant to this Section submitted by any Lender to the Borrower (with a copy to the Administrative Agent) shall set forth in reasonable detail the calculation of such amounts and shall be conclusive in the absence of manifest error. Notwithstanding anything to the contrary in this Section, the Borrower shall not be required to compensate a Lender pursuant to this Section for any amounts incurred more than nine months prior to the date that such Lender notifies the Borrower of such Lender's intention to claim compensation therefor; provided that, if the circumstances giving rise to such claim have a retroactive effect, then such nine-month period shall be extended to include the period of such retroactive effect. The obligations of the Borrower pursuant to this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.17 Taxes. (a) All payments made by the Borrower under this Agreement shall be made free and clear of, and without deduction or withholding for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, excluding net income taxes and franchise taxes (imposed in lieu of net income taxes) imposed on the Administrative Agent or any Lender by the jurisdiction under the laws of which the Administrative Agent or such Lender is organized or as a result of a present or former connection between the Administrative Agent or such Lender and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from the Administrative Agent or such Lender having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or any other Loan Document) (such non-excluded taxes, levies, imposts, duties, charges, fees, deductions or withholdings, the "Non-Excluded Taxes"). If any Non-Excluded Taxes or Other Taxes are required to be withheld from any amounts payable to the Administrative Agent or any Lender hereunder, the amounts so payable to the Administrative Agent or such Lender shall be increased to the extent necessary to yield to the Administrative Agent or such Lender (after payment of all Non-Excluded Taxes and Other Taxes including any such taxes imposed on amounts payable under this Section) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement, provided, however, that the Borrower shall not be required to increase any such amounts payable to the Administrative Agent or any Lender with respect to any Non-Excluded Taxes (i) that are attributable to such Lender's failure to comply with the requirements of paragraph (d) or (e) of this Section or (ii) that are United States withholding taxes imposed on amounts payable to the Administrative Agent or such Lender at the time the Administrative Agent or such Lender becomes a party to this Agreement or designates a new lending office, except to the extent that the Administrative Agent or such Lender (or its assignor (if any)) was entitled, immediately prior to such designation of a new lending office (or assignment), to receive additional amounts from the Borrower with respect to such Non-Excluded Taxes pursuant to this paragraph.

(b) In addition, the Borrower shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Whenever any Non-Excluded Taxes or Other Taxes are payable by the Borrower, as promptly as possible thereafter the Borrower shall send to the Administrative Agent for its own account or for the account of the relevant Lender, as the case may be, a certified copy of an original official receipt received by the Borrower showing payment thereof. If the Borrower fails to pay any Non-Excluded Taxes or Other Taxes when due to the appropriate taxing authority or fails to remit to the Administrative Agent the required receipts or other required documentary evidence, the Borrower shall indemnify the Administrative Agent and the Lenders for any incremental taxes, interest or penalties that may become payable by the Administrative Agent or any Lender as a result of any such failure.

(d) Each Lender (or Transferee) that is not a "U.S. Person" as defined in Section 7701(a)(30) of the Code (a "Non-U.S. Lender") shall deliver to the Borrower and the Administrative Agent (or, in the case of a Participant, to the Lender from which the related participation shall have been purchased) two copies of either U.S. Internal Revenue Service Form W-8BEN or Form W-8ECI, or, in the case of a Non-U.S. Lender claiming exemption from U.S. federal withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest", a statement substantially in the form of Exhibit F and a Form W-8BEN, or any subsequent versions thereof or successors thereto, properly completed and duly executed by such Non-U.S. Lender claiming complete exemption from, or a reduced rate of, U.S. federal withholding tax on all payments by the Borrower under this Agreement and the other Loan Documents. Such forms shall be delivered by each Non-U.S. Lender on or before the date it becomes a party to this Agreement (or, in the case of any Participant, on or before the date such Participant purchases the related participation). In addition, each Non-U.S. Lender shall deliver such forms promptly upon the obsolescence or invalidity of any form previously delivered by such Non-U.S. Lender. Each Non-U.S. Lender shall promptly notify the Borrower at any time it determines that it is no longer in a position to provide any previously delivered certificate to the Borrower (or any other form of certification adopted by the U.S. taxing authorities for such purpose). Notwithstanding any other provision of this paragraph, a Non-U.S. Lender shall not be required to deliver any form pursuant to this paragraph that such Non-U.S. Lender is not legally able to deliver.

(e) A Lender that is entitled to an exemption from or reduction of non-U.S. withholding tax under the law of the jurisdiction in which the Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law or reasonably requested by the Borrower, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate, provided that such Lender is legally entitled to complete, execute and deliver such documentation and in such Lender's judgment such completion, execution or submission would not materially prejudice the legal position of such Lender.

(f) If the Administrative Agent or any Lender determines, in its sole discretion, that it has received a refund of any Non-Excluded Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.17, it shall pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 2.17 with respect to the Non-Excluded Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in

the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This paragraph shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Borrower or any other Person.

(g) The agreements in this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.18 Indemnity. The Borrower agrees to indemnify each Lender for, and to hold each Lender harmless from, any loss or expense that such Lender may sustain or incur as a consequence of (a) default by the Borrower in making a borrowing of, conversion into or continuation of Eurodollar Loans after the Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) default by the Borrower in making any prepayment of or conversion from Eurodollar Loans after the Borrower has given a notice thereof in accordance with the provisions of this Agreement or (c) the making of a prepayment of Eurodollar Loans on a day that is not the last day of an Interest Period with respect thereto. Such indemnification may include an amount equal to the excess, if any, of (i) the amount of interest that would have accrued on the amount so prepaid, or not so borrowed, converted or continued, for the period from the date of such prepayment or of such failure to borrow, convert or continue to the last day of such Interest Period (or, in the case of a failure to borrow, convert or continue, the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Loans provided for herein (excluding, however, the Applicable Margin included therein, if any) over (ii) the amount of interest (as reasonably determined by such Lender) that would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank eurodollar market. A certificate setting forth the calculation in reasonable detail as to any amounts payable pursuant to this Section submitted to the Borrower by any Lender shall be conclusive in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.19 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.16 or 2.17(a) with respect to such Lender, it will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event with the object of avoiding the consequences of such event; provided, that such designation is made on terms that, in the sole judgment of such Lender, cause such Lender and its lending office(s) to suffer no economic, legal or regulatory disadvantage, and provided, further, that nothing in this Section shall affect or postpone any of the obligations of the Borrower or the rights of any Lender pursuant to Section 2.16 or 2.17(a).

2.20 Replacement of Lenders. The Borrower shall be permitted to replace any Lender that (a) requests reimbursement for amounts owing pursuant to Section 2.16 or 2.17(a) or (b) defaults in its obligation to make Loans hereunder, with a replacement financial institution; provided that (i) such replacement does not conflict with any Requirement of Law, (ii) no Event of Default shall have occurred and be continuing at the time of such replacement, (iii) prior to any such replacement, such Lender shall have taken no action under Section 2.19 so as to eliminate the continued need for payment of amounts owing pursuant to Section 2.16 or 2.17(a), (iv) the replacement financial institution shall purchase, at par, all Loans and other amounts owing to such replaced Lender on or prior to the date of replacement, (v) the Borrower shall be liable to such replaced Lender under Section 2.18 if any Eurodollar Loan owing to such replaced Lender shall be purchased other than on the last day of the Interest Period relating thereto, (vi) the replacement financial institution, if not already a Lender, shall be reasonably satisfactory to the Administrative Agent, (vii) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 10.6 (provided that the Borrower shall be obligated to pay the registration and processing fee referred to therein), (viii) until such time as such replacement shall be

consummated, the Borrower shall pay all additional amounts (if any) required pursuant to Section 2.16 or 2.17(a), as the case may be, and (ix) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender.

### SECTION 3. LETTERS OF CREDIT

3.1 L/C Commitment. (a) Subject to the terms and conditions hereof, the Issuing Lender, in reliance on the agreements of the other Revolving Lenders set forth in Section 3.4(a), agrees to issue letters of credit ("Letters of Credit") for the account of the Borrower on any Business Day during the Revolving Commitment Period in such form as may be approved from time to time by the Issuing Lender; provided that the Issuing Lender shall have no obligation to issue any Letter of Credit if, after giving effect to such issuance, (i) the L/C Obligations would exceed the L/C Commitment or (ii) the aggregate amount of the Available Revolving Commitments would be less than zero. Each Letter of Credit shall (i) be denominated in Dollars and (ii) expire no later than the earlier of (x) the first anniversary of its date of issuance and (y) the date that is five Business Days prior to the Revolving Termination Date, provided that any Letter of Credit with a one-year term may provide for the renewal thereof for additional one-year periods (which shall in no event extend beyond the date referred to in clause (y) above).

(b) The Issuing Lender shall not at any time be obligated to issue any Letter of Credit if such issuance would conflict with, or cause the Issuing Lender or any L/C Participant to exceed any limits imposed by, any applicable Requirement of Law.

3.2 Procedure for Issuance of Letter of Credit. The Borrower may from time to time request that the Issuing Lender issue a Letter of Credit by delivering to the Issuing Lender at its address for notices specified herein an Application therefor, completed to the satisfaction of the Issuing Lender, and such other certificates, documents and other papers and information as the Issuing Lender may request. Upon receipt of any Application, the Issuing Lender will process such Application and the certificates, documents and other papers and information delivered to it in connection therewith in accordance with its customary procedures and shall promptly issue the Letter of Credit requested thereby (but in no event shall the Issuing Lender be required to issue any Letter of Credit earlier than three Business Days after its receipt of the Application therefor and all such other certificates, documents and other papers and information relating thereto) by issuing the original of such Letter of Credit to the beneficiary thereof or as otherwise may be agreed to by the Issuing Lender and the Borrower. The Issuing Lender shall furnish a copy of such Letter of Credit to the Borrower promptly following the issuance thereof. The Issuing Lender shall promptly furnish to the Administrative Agent, which shall in turn promptly furnish to the Lenders, notice of the issuance of each Letter of Credit (including the amount thereof).

3.3 Fees and Other Charges. (a) The Borrower will pay a fee on all outstanding Letters of Credit at a per annum rate equal to the Applicable Margin then in effect with respect to Eurodollar Loans under the Revolving Facility, shared ratably among the Revolving Lenders and payable quarterly in arrears on each Fee Payment Date after the issuance date. In addition, the Borrower shall pay to the Issuing Lender for its own account a fronting fee of 0.25% per annum on the undrawn and unexpired amount of each Letter of Credit, payable quarterly in arrears on each Fee Payment Date after the issuance date.

(b) In addition to the foregoing fees, the Borrower shall pay or reimburse the Issuing Lender for such normal and customary costs and expenses as are incurred or charged by the Issuing

Lender in issuing, negotiating, effecting payment under, amending or otherwise administering any Letter of Credit.

3.4 L/C Participations. (a) The Issuing Lender irrevocably agrees to grant and hereby grants to each L/C Participant, and, to induce the Issuing Lender to issue Letters of Credit, each L/C Participant irrevocably agrees to accept and purchase and hereby accepts and purchases from the Issuing Lender, on the terms and conditions set forth below, for such L/C Participant's own account and risk an undivided interest equal to such L/C Participant's Revolving Percentage in the Issuing Lender's obligations and rights under and in respect of each Letter of Credit and the amount of each draft paid by the Issuing Lender thereunder. Each L/C Participant agrees with the Issuing Lender that, if a draft is paid under any Letter of Credit for which the Issuing Lender is not reimbursed in full by the Borrower in accordance with the terms of this Agreement, such L/C Participant shall pay to the Issuing Lender upon demand at the Issuing Lender's address for notices specified herein an amount equal to such L/C Participant's Revolving Percentage of the amount of such draft, or any part thereof, that is not so reimbursed. Each L/C Participant's obligation to pay such amount shall be absolute and unconditional and shall not be affected by any circumstance, including (i) any setoff, counterclaim, recoupment, defense or other right that such L/C Participant may have against the Issuing Lender, the Borrower or any other Person for any reason whatsoever, (ii) the occurrence or continuance of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Section 5, (iii) any adverse change in the condition (financial or otherwise) of the Borrower, (iv) any breach of this Agreement or any other Loan Document by the Borrower, any other Loan Party or any other L/C Participant or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

(b) If any amount required to be paid by any L/C Participant to the Issuing Lender pursuant to Section 3.4(a) in respect of any unreimbursed portion of any payment made by the Issuing Lender under any Letter of Credit is paid to the Issuing Lender within three Business Days after the date such payment is due, such L/C Participant shall pay to the Issuing Lender on demand an amount equal to the product of (i) such amount, times (ii) the daily average Federal Funds Effective Rate during the period from and including the date such payment is required to the date on which such payment is immediately available to the Issuing Lender, times (iii) a fraction the numerator of which is the number of days that elapse during such period and the denominator of which is 360. If any such amount required to be paid by any L/C Participant pursuant to Section 3.4(a) is not made available to the Issuing Lender by such L/C Participant within three Business Days after the date such payment is due, the Issuing Lender shall be entitled to recover from such L/C Participant, on demand, such amount with interest thereon calculated from such due date at the rate per annum applicable to ABR Loans under the Revolving Facility. A certificate of the Issuing Lender submitted to any L/C Participant with respect to any amounts owing under this Section shall be conclusive in the absence of manifest error.

(c) Whenever, at any time after the Issuing Lender has made payment under any Letter of Credit and has received from any L/C Participant its pro rata share of such payment in accordance with Section 3.4(a), the Issuing Lender receives any payment related to such Letter of Credit (whether directly from the Borrower or otherwise, including proceeds of collateral applied thereto by the Issuing Lender), or any payment of interest on account thereof, the Issuing Lender will distribute to such L/C Participant its pro rata share thereof; provided, however, that in the event that any such payment received by the Issuing Lender shall be required to be returned by the Issuing Lender, such L/C Participant shall return to the Issuing Lender the portion thereof previously distributed by the Issuing Lender to it.

3.5 Reimbursement Obligation of the Borrower. If any draft is paid under any Letter of Credit, the Borrower shall reimburse the Issuing Lender for the amount of (a) the draft so paid and (b) any taxes, fees, charges or other costs or expenses incurred by the Issuing Lender in connection with such payment, not later than 12:00 Noon, New York City time, on (i) the Business Day that the Borrower

receives notice of such draft, if such notice is received on such day prior to 10:00 A.M., New York City time, or (ii) if clause (i) above does not apply, the Business Day immediately following the day that the Borrower receives such notice. Each such payment shall be made to the Issuing Lender at its address for notices referred to herein in Dollars and in immediately available funds. Interest shall be payable on any such amounts from the date on which the relevant draft is paid until payment in full at the rate set forth in (x) until the Business Day next succeeding the date of the relevant notice, Section 2.12(b) and (y) thereafter, Section 2.12(c).

3.6 Obligations Absolute. The Borrower's obligations under this Section 3 shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment that the Borrower may have or have had against the Issuing Lender, any beneficiary of a Letter of Credit or any other Person. The Borrower also agrees with the Issuing Lender that the Issuing Lender shall not be responsible for, and the Borrower's Reimbursement Obligations under Section 3.5 shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even though such documents shall in fact prove to be invalid, fraudulent or forged, or any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any other party to which such Letter of Credit may be transferred or any claims whatsoever of the Borrower against any beneficiary of such Letter of Credit or any such transferee. The Issuing Lender shall not be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit, except for errors or omissions found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Issuing Lender. The Borrower agrees that any action taken or omitted by the Issuing Lender under or in connection with any Letter of Credit or the related drafts or documents, if done in the absence of gross negligence or willful misconduct, shall be binding on the Borrower and shall not result in any liability of the Issuing Lender to the Borrower.

3.7 Letter of Credit Payments. If any draft shall be presented for payment under any Letter of Credit, the Issuing Lender shall promptly notify the Borrower of the date and amount thereof. The responsibility of the Issuing Lender to the Borrower in connection with any draft presented for payment under any Letter of Credit shall, in addition to any payment obligation expressly provided for in such Letter of Credit, be limited to determining that the documents (including each draft) delivered under such Letter of Credit in connection with such presentment are substantially in conformity with such Letter of Credit.

3.8 Applications. To the extent that any provision of any Application related to any Letter of Credit is inconsistent with the provisions of this Section 3, the provisions of this Section 3 shall apply.

#### SECTION 4. REPRESENTATIONS AND WARRANTIES

To induce the Administrative Agent and the Lenders to enter into this Agreement and to make the Loans and issue or participate in the Letters of Credit, the Borrower hereby represents and warrants to the Administrative Agent and each Lender that:

4.1 Financial Condition. (a) The unaudited pro forma consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at March 31, 2004 (including the notes thereto) (the "Pro Forma Balance Sheet"), copies of which have heretofore been furnished to each Lender, has been prepared giving effect (as if such events had occurred on such date) to (i) the consummation of the Transaction and (ii) the payment of fees and expenses in connection with the foregoing. The Pro Forma Balance Sheet has been prepared based on the information available to the Borrower after due inquiry as of the date of delivery thereof, and presents fairly, in all material respects, on a pro forma basis the

estimated financial position of Borrower and its consolidated Subsidiaries as at March 31, 2004, assuming that the events specified in the preceding sentence had actually occurred at such date.

(b) The audited consolidated balance sheets of the Borrower and its consolidated Subsidiaries as at September 30, 2002, December 31, 2002 and December 31, 2003, and the related consolidated statements of operations and of cash flows for the year ended September 30, 2002, the three-month period ended December 31, 2002, and the year ended December 31, 2003, reported on by and accompanied by an unqualified report from KPMG LLP, present fairly, in all material respects, the consolidated financial condition of the Borrower and its consolidated Subsidiaries as at such date, and the consolidated results of its operations and its consolidated cash flows for the respective fiscal periods then ended. The unaudited consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at March 31, 2004, and the related unaudited consolidated statements of operations and cash flows for the three-month period ended on such date, present fairly, in all material respects, the consolidated financial condition of the Borrower and its consolidated Subsidiaries as at such date, and the consolidated results of its operations and its consolidated cash flows for the three-month period then ended (subject to normal year-end audit adjustments). All such financial statements, including the related schedules and notes thereto, have been prepared in accordance with GAAP applied consistently throughout the periods involved (except as approved by the aforementioned firm of accountants and disclosed therein). No Group Member has any material Guarantee Obligations, contingent liabilities and liabilities for taxes, or any long-term leases or unusual forward or long-term commitments, including any interest rate or foreign currency swap or exchange transaction or other obligation in respect of derivatives, that are not reflected in the most recent financial statements referred to in this paragraph. During the period from December 31, 2003 to and including the date hereof there has been no Disposition by any Group Member of any material part of its business or property.

4.2 No Change. Since December 31, 2003, there has been no development or event that has had or could reasonably be expected to have a Material Adverse Effect.

4.3 Existence; Compliance with Law. Each Group Member (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, except as disclosed on Schedule 4.3 hereto, (b) has the power and authority, and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, (c) is duly qualified as a foreign corporation or other organization and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification and (d) is in compliance with all Requirements of Law; except, in each case except clause (a), to the extent that the failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

4.4 Power; Authorization; Enforceable Obligations. Each Loan Party has the power and authority, and the legal right, to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrower, to obtain extensions of credit hereunder. Each Loan Party has taken all necessary organizational action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrower, to authorize the extensions of credit on the terms and conditions of this Agreement. No consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority or any other Person is required in connection with the Transaction and the extensions of credit hereunder or with the execution, delivery, performance, validity or enforceability of this Agreement or any of the Loan Documents. Each Loan Document has been duly executed and delivered on behalf of each Loan Party party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or



similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

4.5 No Legal Bar. The execution, delivery and performance of this Agreement and the other Loan Documents, the issuance of Letters of Credit, the borrowings hereunder and the use of the proceeds thereof will not violate any Requirement of Law or any material Contractual Obligation of any Group Member and will not result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any Requirement of Law or any such material Contractual Obligation. No Requirement of Law applicable to the Borrower or any of its Subsidiaries could reasonably be expected to have a Material Adverse Effect.

4.6 Litigation. Except as disclosed on Schedule 4.6 hereto, no litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of the Borrower, threatened by or against any Group Member or against any of their respective properties or revenues (a) with respect to any of the Loan Documents or any of the transactions contemplated hereby or thereby, or (b) that could reasonably be expected to have a Material Adverse Effect.

4.7 No Default. No Group Member is in default under or with respect to any of its Contractual Obligations in any respect that could reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

4.8 Ownership of Property; Liens. Each Group Member has title in fee simple to, or a valid leasehold interest in, all its real property, and good title to, or a valid leasehold interest in, all its other property, and none of such property is subject to any Lien except as permitted by Section 7.3.

4.9 Intellectual Property. Each Group Member owns, or is licensed to use, all Intellectual Property necessary for the conduct of its business as currently conducted, except as could not reasonably be expected to have a Material Adverse Effect. Except as disclosed on Schedule 4.9 hereto, no material claim has been asserted and is pending by any Person challenging or questioning the use of any Intellectual Property or the validity or effectiveness of any Intellectual Property. The use of Intellectual Property by each Group Member, to such Group Member's knowledge, does not infringe on the rights of any Person in any material respect.

4.10 Taxes. Each Group Member has filed or caused to be filed all Federal, material state and other material tax returns that are required to be filed and has paid all taxes shown to be due and payable on said returns or on any assessments made against it or any of its property and all other taxes, fees or other charges imposed on it or any of its property by any Governmental Authority (other than any the amount or validity of which are currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Group Member); no tax Lien has been filed, and, to the knowledge of the Borrower, other than as disclosed on Schedule 4.10, no claim is being asserted, with respect to any such tax, fee or other charge.

4.11 Federal Regulations. No part of the proceeds of any Loans, and no other extensions of credit hereunder, will be used (a) for "buying" or "carrying" any "margin stock" within the respective meanings of each of the quoted terms under Regulation U as now and from time to time hereafter in effect for any purpose that violates the provisions of the Regulations of the Board or (b) for any purpose that violates the provisions of the Regulations of the Board. If requested by any Lender or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U-1, as applicable, referred to in Regulation U.

4.12 Labor Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against any Group Member pending or, to the knowledge of the Borrower, threatened; (b) hours worked by and payment made to employees of each Group Member have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters; and (c) all payments due from any Group Member on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the relevant Group Member.

4.13 ERISA. Neither a Reportable Event nor an "accumulated funding deficiency" (within the meaning of Section 412 of the Code or Section 302 of ERISA) has occurred during the five-year period prior to the date on which this representation is made or deemed made with respect to any Plan, and each Plan has complied in all material respects with the applicable provisions of ERISA and the Code. No termination of a Single Employer Plan has occurred, and no Lien in favor of the PBGC or a Plan has arisen, during such five-year period. The present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Plans) did not, as of the last annual valuation date prior to the date on which this representation is made or deemed made, exceed the value of the assets of such Plan allocable to such accrued benefits by a material amount. Neither the Borrower nor any Commonly Controlled Entity has had a complete or partial withdrawal from any Multiemployer Plan that has resulted or could reasonably be expected to result in a material liability under ERISA, and neither the Borrower nor any Commonly Controlled Entity would become subject to any material liability under ERISA if the Borrower or any such Commonly Controlled Entity were to withdraw completely from all Multiemployer Plans as of the valuation date most closely preceding the date on which this representation is made or deemed made. No such Multiemployer Plan is in Reorganization or Insolvent.

4.14 Investment Company Act; Other Regulations. No Loan Party is an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended. No Loan Party is subject to regulation under any Requirement of Law (other than Regulation X of the Board) that limits its ability to incur Indebtedness.

4.15 Subsidiaries. Except as disclosed to the Administrative Agent by the Borrower in writing from time to time after the Closing Date, (a) Schedule 4.15 sets forth the name and jurisdiction of incorporation of each Subsidiary and, as to each such Subsidiary, the percentage of each class of Capital Stock owned by any Loan Party and (b) there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments (other than stock options granted to employees, officers, consultants or directors or stock issued pursuant to the Borrower's stock purchase plans to employees, officers, consultants or directors and directors' qualifying shares) of any nature relating to any Capital Stock of any Subsidiary, except as created by the Loan Documents.

4.16 Use of Proceeds. The proceeds of the Term Loans shall be used to finance a portion of the Transaction and to pay related fees and expenses. The proceeds of the Revolving Loans shall be used to finance a portion of the Transaction, to pay related fees and expenses and for general corporate purposes. The Letters of Credit shall be used for general corporate purposes.

4.17 Environmental Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect:

(a) to the Borrower's knowledge, the facilities and properties owned, leased or operated by any Group Member (the "Properties") do not contain, and have not previously contained, any Materials of Environmental Concern in amounts or concentrations or under circumstances that constitute or constituted a violation of, or could give rise to liability under, any Environmental Law;

(b) no Group Member has received or is aware of any notice of violation, alleged violation, non-compliance, liability or potential liability regarding environmental matters or compliance with Environmental Laws with regard to any of the Properties or the business operated by any Group Member (the "Business"), nor does the Borrower have knowledge or reason to believe that any such notice will be received or is being threatened;

(c) to the Borrower's knowledge, Materials of Environmental Concern have not been transported or disposed of by any Group Member from the Properties in violation of, or in a manner or to a location that could give rise to liability under, any Environmental Law, nor have any Materials of Environmental Concern been generated, treated, stored or disposed of by any Group Member at, on or under any of the Properties in violation of, or in a manner that could give rise to liability under, any applicable Environmental Law;

(d) no judicial proceeding or governmental or administrative action is pending or, to the knowledge of the Borrower, threatened, under any Environmental Law to which any Group Member is or will be named as a party with respect to the Properties or the Business, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding to which any Group Member is subject under any Environmental Law with respect to the Properties or the Business;

(e) to the Borrower's knowledge, there has been no release or threat of release of Materials of Environmental Concern at or from the Properties, or arising from or related to the operations of any Group Member in connection with the Properties or otherwise in connection with the Business, in violation of or in amounts or in a manner that could give rise to liability under Environmental Laws;

(f) to the Borrower's knowledge, the Properties and all operations at the Properties are in compliance, and have in the last five years been in compliance, with all applicable Environmental Laws, and there is no contamination at, under or about the Properties or violation of any Environmental Law with respect to the Properties or the Business; and

(g) no Group Member has assumed any liability of any other Person under Environmental Laws.

4.18 Accuracy of Information, etc. No statement or information contained in this Agreement, any other Loan Document, the Confidential Information Memorandum or any other document, certificate or written statement furnished by or on behalf of any Loan Party to the Administrative Agent or the Lenders, or any of them, for use in connection with the transactions contemplated by this Agreement or the other Loan Documents, taken as a whole, contained as of the date such statement, information, document or certificate was so furnished (or, in the case of the Confidential Information Memorandum, as of the date of this Agreement), any untrue statement of a material fact or omitted to state a material fact necessary to make the statements contained herein or therein not misleading. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount. There is no fact known to any Loan Party that could reasonably be expected to have a Material Adverse Effect that has not been expressly disclosed herein (including the Schedules hereto), in the other Loan Documents, in the Confidential Information Memorandum or in any other documents, certificates and statements furnished to the Administrative Agent and the Lenders for use in connection with the transactions contemplated hereby and by the other Loan Documents.

4.19 Solvency. Each Loan Party is, and after giving effect to the Transaction and the incurrence of all Indebtedness and obligations being incurred in connection herewith and therewith will be and will continue to be, Solvent.

4.20 Certain Documents. The Borrower has delivered to the Administrative Agent a complete and correct copy of the Offer to Purchase.

#### SECTION 5. CONDITIONS PRECEDENT

5.1 Conditions to Initial Extension of Credit. The agreement of each Lender to make the initial extension of credit requested to be made by it is subject to the satisfaction, prior to or concurrently with the making of such extension of credit on the Closing Date, of the following conditions precedent:

(a) Credit Agreement; Guarantee. The Administrative Agent shall have received (i) this Agreement, executed and delivered by the Administrative Agent, the Borrower and each Person listed on Schedule 1.1A and (ii) the Guarantee, executed and delivered by each Subsidiary Guarantor.

(b) The Administrative Agent shall have received satisfactory evidence that the Credit Agreement, dated as of July 16, 1999, as amended and restated as of July 17, 2000, and as further amended, modified or supplemented from time to time, among the Borrower, the lenders party thereto and JPMorgan Chase Bank (formerly known as The Chase Manhattan Bank), as administrative agent shall have been terminated and all amounts thereunder shall have been paid in full.

(c) Pro Forma Balance Sheet; Financial Statements. The Lenders shall have received (i) the Pro Forma Balance Sheet, (ii) audited consolidated financial statements of the Borrower and its consolidated Subsidiaries for the 2001, 2002 and 2003 fiscal years and (iii) unaudited interim consolidated financial statements for each fiscal quarter ended after the date of the latest applicable financial statements delivered pursuant to clause (ii) of this paragraph as to which such financial statements are available, and such financial statements shall not, in the reasonable judgment of the Lenders, reflect any material adverse change in the consolidated financial condition of the Borrower and its Consolidated Subsidiaries, as reflected in the financial statements or projections contained in the Confidential Information Memorandum.

(d) Approvals. All governmental and third party approvals necessary or, in the reasonable discretion of the Administrative Agent, advisable in connection with the Transaction, the continuing operations of the Group Members and the transactions contemplated hereby shall have been obtained and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose adverse conditions on the Transaction or the financing contemplated hereby.

(e) Fees. The Lenders, the Administrative Agent and the Arranger shall have received all fees required to be paid, and all expenses for which invoices have been presented (including the reasonable fees and expenses of legal counsel), on or before the Closing Date. All such amounts will be paid with proceeds of Loans made on the Closing Date and will be reflected in the funding instructions given by the Borrower to the Administrative Agent on or before the Closing Date.

(f) Closing Certificate; Certified Certificate of Incorporation; Good Standing Certificates. The Administrative Agent shall have received (i) a certificate of each Loan Party, dated the Closing Date, substantially in the form of Exhibit C, with appropriate insertions and attachments, including the certificate of incorporation of each Loan Party that is a corporation certified by the relevant authority of the jurisdiction of organization of such Loan Party, and (ii) a long form good standing certificate for each Loan Party from its jurisdiction of organization.

(g) Legal Opinions. The Administrative Agent shall have received the legal opinion of Wilson, Sonsini, Goodrich & Rosati, Professional Corporation, counsel to the Borrower and its Subsidiaries, substantially in the form of Exhibit E. Such legal opinion shall cover such other matters incident to the transactions contemplated by this Agreement as the Administrative Agent may reasonably require.

(h) Solvency Certificate. The Administrative Agent shall have received a solvency certificate satisfactory to the Administrative Agent from the chief financial officer of the Borrower.

(i) No new material information shall have come to the attention of the Administrative Agent after the date hereof which shall have caused the Administrative Agent to reasonably conclude that amounts available under the Revolving Facility, together with the amount of cash on hand in the United States as indicated on the balance sheet of the Borrower for its most recent fiscal quarter, shall not be sufficient to meet the ongoing working capital needs of the Borrower and its Subsidiaries following the Transaction and the consummation of the other transactions contemplated hereby.

(j) Existing Credit Agreement. The Credit Agreement, dated as of July 30, 2004, among the Borrower, the lenders party thereto and JPMorgan Chase Bank, as administrative agent shall have been terminated and all amounts owing by the Borrower thereunder shall have been paid in full.

5.2 Conditions to Each Extension of Credit. The agreement of each Lender to make any extension of credit requested to be made by it on any date (including its initial extension of credit) is subject to the satisfaction of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to the Loan Documents shall be true and correct on and as of such date as if made on and as of such date unless such representation relates solely to an earlier date, in which case such representation shall be true and correct as of such date.

(b) No Default. No Default or Event of Default shall have occurred and be continuing on such date or after giving effect to the extensions of credit requested to be made on such date.

Each borrowing by and issuance of a Letter of Credit on behalf of the Borrower hereunder shall constitute a representation and warranty by the Borrower as of the date of such extension of credit that the conditions contained in this Section 5.2 have been satisfied.

## SECTION 6. AFFIRMATIVE COVENANTS

The Borrower hereby agrees that, so long as the Commitments remain in effect, any Letter of Credit remains outstanding or any Loan or other amount is owing to any Lender or the Administrative Agent hereunder, the Borrower shall and shall cause each of its Subsidiaries to:

6.1 Financial Statements. Furnish to the Administrative Agent and each Lender:

(a) as soon as available, but in any event within 90 days after the end of each fiscal year of the Borrower, a copy of the audited consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such year and the related audited consolidated statements of operations and of cash flows for such year, setting forth in each case in comparative form the figures for the previous year, reported on without a "going concern" or like qualification or exception, or qualification arising out of the scope of the audit, by KPMG LLP or other independent certified public accountants of nationally recognized standing; and

(b) as soon as available, but in any event not later than 45 days after the end of each of the first three quarterly periods of each fiscal year of the Borrower, the unaudited consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such quarter and the related unaudited consolidated condensed statements of operations and of cash flows for such quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year, certified by a Responsible Officer as being fairly stated in all material respects (subject to normal year-end audit adjustments).

All such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied (except as approved by such accountants or officer, as the case may be, and disclosed in reasonable detail therein and except, in the case of unaudited financials, for the absence of footnotes) consistently throughout the periods reflected therein and with prior periods. Reports or financial information required to be delivered pursuant to this Section 6.1 (to the extent any such financial statements, reports, proxy statements or other materials are included in materials otherwise filed with the SEC) may be delivered electronically and if so, shall be deemed to have been delivered on the date on which the Borrower gives notice to the Administrative Agent (who shall then give notice to the Lenders) that the Borrower has posted such report or financial information or provides a link thereto on the Borrower's website on the internet. Notwithstanding the foregoing, the Borrower shall deliver paper copies of any report or financial statement referred to in this Section 6.1 to any Lender if the Administrative Agent, on behalf and upon the request of such Lender, requests the Borrower to furnish such paper copies.

6.2 Certificates; Other Information. Furnish to the Administrative Agent and each Lender (or, in the case of clause (g), to the relevant Lender):

(a) concurrently with the delivery of the financial statements referred to in Section 6.1(a), a certificate of the independent certified public accountants reporting on such financial statements stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default, except as specified in such certificate (it being understood that such certificate shall be limited to the items that independent certified public accountants are permitted to cover in such certificates pursuant to their professional standards and customs of the profession);

(b) concurrently with the delivery of any financial statements pursuant to Section 6.1, (i) a certificate of a Responsible Officer stating that, to the best of each such Responsible Officer's knowledge, each Loan Party during such period has observed or performed all of its covenants and other agreements, and satisfied every condition contained in this Agreement and the other Loan Documents to which it is a party to be observed, performed or satisfied by it, and that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate and (ii) in the case of quarterly or annual financial statements, (x) a Compliance Certificate containing all information and calculations necessary for determining

compliance by each Group Member with the provisions of this Agreement referred to therein as of the last day of the fiscal quarter or fiscal year of the Borrower, as the case may be, and (y) to the extent not previously disclosed to the Administrative Agent, a description of any change in the jurisdiction of organization of any Loan Party since the date of the most recent report delivered pursuant to this clause (y) (or, in the case of the first such report so delivered, since the Closing Date);

(c) as soon as available, and in any event no later than 45 days after the end of each fiscal year of the Borrower, a projected consolidated balance sheet of the Borrower and its Subsidiaries as of the end of the following fiscal year, the related consolidated statements of projected cash flow, projected changes in financial position and projected income and a description of the underlying assumptions applicable thereto), and, as soon as available, significant revisions, if any, of projections with respect to such fiscal year (collectively, the "Projections"), which Projections shall in each case be accompanied by a certificate of a Responsible Officer stating that such Projections are based on reasonable estimates, information and assumptions and that such Responsible Officer has no reason to believe that such Projections are incorrect or misleading in any material respect;

(d) within 45 days after the end of each fiscal quarter of the Borrower other than the last fiscal quarter of the Borrower's fiscal year, and 90 days after the end of the Borrower's fiscal year, a narrative discussion and analysis of the financial condition and results of operations of the Borrower and its Subsidiaries for such fiscal quarter and for the period from the beginning of the then current fiscal year to the end of such fiscal quarter, as compared to the portion of the Projections covering such periods and to the comparable periods of the previous year; provided, that this requirement shall be deemed satisfied on delivery of the Borrower's 10-Q or 10-K, as applicable, which is in compliance with the Securities Exchange Act of 1934, as amended, and Regulation S-X;

(e) within five days after the same are sent, copies of all financial statements and reports that the Borrower sends to the holders of any class of its debt securities or public equity securities and, within five days after the same are filed, copies of all financial statements and reports that the Borrower may make to, or file with, the SEC (which may be delivered in the same manner provided for in Section 6.1); and

(f) promptly, such additional financial and other information as any Lender may from time to time reasonably request.

6.3 Payment of Obligations. Pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all its material obligations of whatever nature, except where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves in conformity with GAAP with respect thereto have been provided on the books of the relevant Group Member.

6.4 Maintenance of Existence; Compliance. (a)(i) Preserve, renew and keep in full force and effect its organizational existence and (ii) take all reasonable action to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of its business, except, in each case, as otherwise permitted by Section 7.4 and except, in the case of clause (ii) above, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (b) comply with all Contractual Obligations and Requirements of Law except to the extent that failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

6.5 Maintenance of Property; Insurance. (a) Keep all property useful and necessary in 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 on all its property in at least such amounts and against at least such risks (but including in any event public liability, product liability and business interruption) as are usually insured against in the same general area by companies engaged in the same or a similar business.

6.6 Inspection of Property; Books and Records; Discussions. (a) Keep proper books of records and account in which true and correct entries in conformity with GAAP and all Requirements of Law shall be made of all dealings and transactions in relation to its business and activities from which financial statements in conformity with GAAP can be prepared and (b) permit representatives of any Lender to visit and inspect any of its properties and examine and make abstracts from any of its books and records at any reasonable time and as often as may reasonably be desired and to discuss the business, operations, properties and financial and other condition of the Group Members with officers and employees of the Group Members and with their independent certified public accountants.

6.7 Notices. Promptly give notice to the Administrative Agent and each Lender of:

(a) the occurrence of any Default or Event of Default;

(b) any (i) default or event of default under any material Contractual Obligation of any Group Member or (ii) litigation, investigation or proceeding that may exist at any time between any Group Member and any Governmental Authority, that in either case, if not cured or if adversely determined, as the case may be, could reasonably be expected to have a Material Adverse Effect;

(c) any litigation or proceeding affecting any Group Member (i) in which the amount involved is \$10,000,000 or more and not covered by insurance, (ii) in which injunctive or similar relief is sought or (iii) which relates to any Loan Document;

(d) the following events, as soon as possible and in any event within 30 days after the Borrower knows or has reason to know thereof: (i) the occurrence of any Reportable Event with respect to any Plan, a failure to make any required contribution to a Plan that could reasonably be expected to result in a Material Adverse Effect, the creation of any Lien in favor of the PBGC or a Plan or any withdrawal from, or the termination, Reorganization or Insolvency of, any Multiemployer Plan or (ii) the institution of proceedings or the taking of any other action by the PBGC or the Borrower or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination, Reorganization or Insolvency of, any Plan that is subject to Title IV of ERISA; and

(e) any development or event that has had or could reasonably be expected to have a Material Adverse Effect.

Each notice pursuant to this Section 6.7 shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the relevant Group Member proposes to take with respect thereto.

6.8 Environmental Laws. (a) Comply in all material respects with, and ensure compliance in all material respects by all tenants and subtenants, if any, with, all applicable Environmental Laws, and obtain and comply in all material respects with and maintain, and ensure that all



tenants and subtenants obtain and comply in all material respects with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws.

(b) Conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required by a Governmental Authority to be conducted by a Group Member under Environmental Laws and promptly comply in all material respects with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws.

6.9 Additional Subsidiaries. With respect to any new Material Subsidiary (other than a Foreign Subsidiary) created or acquired after the Closing Date by any Group Member (which, for the purposes of this Section 6.10, shall include any existing Material Subsidiary that ceases to be a Foreign Subsidiary), promptly (i) cause such new Material Subsidiary (A) to become a party to the Guarantee and (B) to deliver to the Administrative Agent a certificate of such Material Subsidiary, substantially in the form of Exhibit C, with appropriate insertions and attachments, and (ii) if requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

#### SECTION 7. NEGATIVE COVENANTS

The Borrower hereby agrees that, so long as the Commitments remain in effect, any Letter of Credit remains outstanding or any Loan or other amount is owing to any Lender or the Administrative Agent hereunder, the Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly:

##### 7.1 Financial Condition Covenants.

(a) Consolidated Leverage Ratio. As of the last day of any fiscal quarter from the Closing Date and all times thereafter, permit the Consolidated Leverage Ratio, calculated as at the end of such fiscal quarter for the period of four consecutive fiscal quarters of the Borrower then ended, to be greater than 2.75 to 1.00.

(b) Consolidated Fixed Charge Coverage Ratio. As of the last day of any fiscal quarter from the Closing Date and all times thereafter, permit the Consolidated Fixed Charge Coverage Ratio, calculated as at the end of such fiscal quarter for the period of four consecutive fiscal quarters of the Borrower then ended, to be less than 1.10 to 1.00.

(c) Annualized Contract Value to Consolidated Total Debt. Permit the ratio of (a) Annualized Contract Value as of the last day of any fiscal quarter to (b) Consolidated Total Debt as of the last day of such fiscal quarter, to be less than 1.25 to 1.00.

7.2 Indebtedness. Create, issue, incur, assume, become liable in respect of or suffer to exist any Indebtedness, except:

(a) Indebtedness of any Loan Party pursuant to any Loan Document;

(b) 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 Wholly Owned Subsidiary Guarantor to the Borrower or any Subsidiary shall be subject to Section 7.8(g);

(c) Guarantee Obligations incurred in the ordinary course of business by the Borrower or any of its Subsidiaries of obligations of the Borrower or any Subsidiary;

(d) Indebtedness outstanding on the date hereof and listed on Schedule 7.2(d) and any refinancings, refundings, renewals or extensions thereof;

(e) Indebtedness (including, without limitation, Capital Lease Obligations) secured by Liens permitted by Section 7.3(g) in an aggregate principal amount not to exceed, as at the date of any incurrence thereof, 2.0% of the total assets of the Borrower and its Subsidiaries as at the end of the fiscal quarter most recently ended at or prior to such time and for which financial statements are available;

(f) Indebtedness of the Borrower or any Subsidiary in respect of (i) standby or performance letters of credit, surety bonds, security deposits or other performance guarantees; provided that the aggregate amount of Indebtedness permitted by this clause (i) shall not at any time exceed, at the time of any incurrence thereof, the greater of (A) \$10,000,000 and (B) 5.0% of Consolidated EBITDA for the period of four consecutive fiscal quarters most recently ended at or prior to such time and for which financial statements are available; and (ii) trade letters of credit;

(g) Indebtedness of any Person that becomes a Subsidiary after the date hereof; 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;

(h) (i) Indebtedness of the Borrower in respect of the Senior Notes in an aggregate principal amount not to exceed \$125,000,000 and (ii) Guarantee Obligations of any Subsidiary Guarantor in respect of such Indebtedness;

(i) additional Indebtedness of the Borrower or any of its Subsidiaries in an aggregate principal amount (for the Borrower and all Subsidiaries) not to exceed at any one time outstanding the greater of (A) \$50,000,000 and (B) or 40.0% of Consolidated EBITDA for the period of four consecutive fiscal quarters most recently ended at or prior to such time and for which financial statements are available; and

(j) Permitted Subordinated Debt; provided that the Borrower shall be in pro forma compliance with the covenants set forth in Section 7.1 after giving effect to the incurrence of any such Permitted Subordinated Debt.

7.3 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, whether now owned or hereafter acquired, except:

(a) Liens for taxes not yet due or that are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Borrower or its Subsidiaries, as the case may be, in conformity with GAAP;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business that are not overdue for a period of more than 30 days or that are being contested in good faith by appropriate proceedings;

(c) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation;

(d) deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(e) easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business that, in the aggregate, are not substantial in amount and that do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the Borrower or any of its Subsidiaries;

(f) Liens in existence on the date hereof listed on Schedule 7.3(f), securing Indebtedness permitted by Section 7.2(d), or the renewal, extension or refunding of such Indebtedness, provided that no such Lien is spread to cover any additional property after the Closing Date and that the amount of Indebtedness secured thereby is not increased;

(g) Liens securing Indebtedness of the Borrower or any other Subsidiary incurred pursuant to Section 7.2(e) to finance the acquisition of fixed or capital assets, provided that (i) such Liens shall be created substantially simultaneously with the acquisition of such fixed or capital assets, (ii) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (iii) the amount of Indebtedness secured thereby is not increased;

(h) 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; 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 extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(i) Liens on any Margin Stock held by the Borrower or any Subsidiary to the extent that such Margin Stock would otherwise comprise 25% or more of the property and assets subject to this Section 7.3;

(j) any judgment Lien not constituting an Event of Default under Article VIII(h), so long as such Lien (to the extent that the aggregate amount secured by such Lien exceeds \$10,000,000) is released no later than 60 days following the entry thereof;

(k) any interest or title of a lessor under any lease entered into by the Borrower or any other Subsidiary in the ordinary course of its business and covering only the assets so leased; and

(l) Liens not otherwise permitted by this Section so long as neither (i) the aggregate outstanding principal amount of the obligations secured thereby nor (ii) the aggregate fair market value (determined as of the date such Lien is incurred) of the assets subject thereto exceeds (as to the Borrower and all Subsidiaries) \$10,000,000 at any one time.

7.4 Fundamental Changes. Enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of all or substantially all of its property or business, except that:

(a) any Person may be merged or consolidated with or into the Borrower (provided that the Borrower shall be the continuing or surviving corporation) or with or into any Wholly Owned Subsidiary Guarantor (provided that the Wholly Owned Subsidiary Guarantor shall be the continuing or surviving corporation); provided that any such merger involving a Person that is not a Subsidiary immediately prior to such merger shall not be permitted unless also permitted by Section 7.8(i); provided further, that prior to consummating any merger pursuant to this clause (a) involving a Person that is not a Subsidiary, the Borrower will deliver to the Administrative Agent a certificate of a Responsible Officer demonstrating compliance immediately following such merger, on a pro forma basis giving effect to such merger, with Section 7.1;

(b) (i) any Subsidiary (other than a Subsidiary Guarantor) 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 (ii) any Subsidiary may liquidate or dissolve if all or substantially all of its assets are transferred to the Borrower or a Subsidiary;

(c) any Subsidiary of the Borrower may Dispose of any or all of its assets (i) to the Borrower or any Wholly Owned Subsidiary Guarantor (upon voluntary liquidation or otherwise) and (ii) the Borrower or any Subsidiary of the Borrower may Dispose of any or all of its assets pursuant to a Disposition permitted by Section 7.5; and

(d) the Borrower or any Subsidiary may make any Investment expressly permitted by Section 7.8 structured as a merger, consolidation or amalgamation.

7.5 Disposition of Property. Dispose of any of its property, whether now owned or hereafter acquired, or, in the case of any Subsidiary, issue or sell any shares of such Subsidiary's Capital Stock to any Person, except:

(a) the Disposition of obsolete or worn out property in the ordinary course of business;

(b) the sale of any assets in the ordinary course of business;

(c) Dispositions permitted by Section 7.4;

(d) the sale or issuance of any Subsidiary's Capital Stock to the Borrower or any Subsidiary;

(e) Dispositions by the Borrower to any Subsidiary and by any Subsidiary to the Borrower or any other Subsidiary on reasonable terms;

(f) Dispositions constituting the making or liquidating of Investments permitted by Section 7.8;

(g) Dispositions constituting the making of a Restricted Payment permitted by Section 7.6; and

(h) the Disposition of other property having a fair market value not to exceed 5% of the total assets in the aggregate for any fiscal year of the Borrower.

7.6 Restricted Payments. Declare or pay any dividend (other than dividends payable solely in common stock of the Person making such dividend) on, or make any payment on account of, or

set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of, any Capital Stock of any Group Member, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of any Group Member (collectively, "Restricted Payments"), except that:

(a) any Subsidiary may make Restricted Payments to the Borrower or any Wholly Owned Subsidiary Guarantor;

(b) (i) the Borrower may make Restricted Payments pursuant to and in accordance with stock option plans or other benefit plans for management, employees consultants or directors of the Borrower and its Subsidiaries and stock purchase plans with employees, officers, consultants or directors and (ii) the Borrower may effect open market purchases of up to approximately 5.0% (as the same may increase or decrease based on the number of shares acquired in the Tender Offer) of its shares of common stock outstanding on the Closing Date;

(c) (i) the Borrower may make Restricted Payments on the Capital Stock of the Borrower in connection with the Stock Repurchase; provided that the aggregate amount of Restricted Payments thereunder shall not exceed \$351,000,000; and (ii) the Borrower may pay cash dividends to holders of Permitted Preferred Stock; provided that, in the case of any Restricted Payment made pursuant to this clause (c), (x) no Default or Event of Default shall have occurred or be continuing after giving effect to any such Restricted Payment and (y) the Borrower shall be in pro forma compliance with the covenants set forth in Section 7.1 after giving effect to any such Restricted Payment and the incurrence of any Indebtedness in connection therewith.

(d) the Borrower may make other Restricted Payments not otherwise permitted by this Section so long as (x) no Default or Event of Default shall have occurred or be continuing after giving effect to any such Restricted Payment and (y) the Borrower shall be in pro forma compliance with the covenants set forth in Section 7.1 after giving effect to any such Restricted Payment and the incurrence of any Indebtedness in connection therewith.

7.7 Capital Expenditures. Make or commit to make any Capital Expenditure, except Capital Expenditures of the Borrower and its Subsidiaries in the ordinary course of business; provided, that the Borrower shall be in pro forma compliance with the covenants set forth in Section 7.1 after giving effect to any such Capital Expenditure.

7.8 Investments. Make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of, or any assets constituting a business unit of, or make any other investment in, any Person (all of the foregoing, "Investments"), except:

(a) extensions of trade credit in the ordinary course of business;

(b) investments in Cash Equivalents;

(c) Guarantee Obligations permitted by Section 7.2;

(d) loans and advances to employees of any Group Member in the ordinary course of business (including for travel, entertainment and relocation expenses) in an aggregate amount for all Group Members not to exceed \$10,000,000 at any one time outstanding;

(e) Investments in existence on the date hereof listed on Schedule 7.8(e) to the Disclosure Letter;

(f) intercompany Investments by any Group Member in the Borrower or any Person that, prior to such investment, is a Wholly Owned Subsidiary Guarantor;

(g) intercompany Investments by any Group Member in a Subsidiary that is not a Wholly Owned Subsidiary Guarantor; provided that the aggregate amount of such Investments (excluding all such Investments otherwise permitted pursuant to this Section 7.8), less any cash return on Investments received after the date hereof, shall not at the time of the making of any such Investment exceed the greater of (i) \$100,000,000 and (ii) 37.5% of Consolidated EBITDA for the period of four consecutive fiscal quarters most recently ended on or prior to such time for which financial statements are available;

(h) investments consisting of deposit or securities accounts maintained in the ordinary course of business;

(i) any acquisition of any assets or capital stock of another Person (by merger or otherwise); provided that (i) the Borrower shall be in pro forma compliance with the covenants in Section 7.1 after giving effect to such acquisition for which financial statements are available as if such acquisition occurred immediately prior to the first day of the period of four consecutive fiscal quarters most recently ended prior to such acquisition; (ii) if such acquisition would require the Borrower to provide pro forma financial information regarding such acquisition in a current report on Form 8-K, quarterly report on Form 10-Q, or annual report on Form 10-K filed with the SEC, the Borrower shall have delivered a certificate of a Responsible Officer certifying the Borrower's pro forma compliance described in clause (i) above and containing all information and calculations necessary for determining such compliance; and (iii) if such acquisition, when given pro forma effect as described in clause (i) above, would cause a 10% or greater decrease in the Borrower's Consolidated EBITDA for such period of four consecutive fiscal quarters most recently ended prior to such acquisition, the Required Lenders shall have consented to such acquisition;

(j) investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;

(k) investments by the IFSC and investments by the Borrower and its Subsidiaries in the IFSC; provided that such investments in the IFSC do not in the aggregate exceed \$100,000,000 at any one time outstanding;

(l) investments in exchange for, or made with the proceeds (within 180 days of receipt) of, existing investments which are of at least equivalent market value (as reasonably determined by the Borrower's chief financial officer, chief executive officer, corporate controller or president as at the time of exchange or disposition) as such existing investments and are of the same type and nature as such existing investment; and

(m) in addition to Investments otherwise expressly permitted by this Section, Investments by the Borrower or any of its Subsidiaries in an aggregate amount (valued at cost) not to exceed \$10,000,000 in any fiscal year.

#### 7.9 Optional Payments and Modifications of Certain Debt Instruments.

(a) Make or offer to make any optional or voluntary payment, prepayment, repurchase or redemption of or otherwise optionally or voluntarily defease or segregate funds with respect to the Senior Notes; (b) amend, modify, waive or otherwise change, or consent or agree to any amendment, modification, waiver or other change to, any of the terms of the Senior Notes that (i) would shorten the maturity or increase the amount of any payment of principal thereof or increase the rate or shorten any date for payment of interest thereon, or (ii) would materially adversely affect the Lenders; or (c) designate any Indebtedness (other than obligations of the Loan Parties pursuant to the Loan Documents or the Senior Notes) as "Designated Senior Indebtedness" (or any other defined term having a similar purpose) for the purposes of the agreements governing the Senior Notes to the extent applicable.

7.10 Transactions with Affiliates. Enter into any transaction, including any purchase, sale, lease or exchange of property, the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate (other than the Borrower or any Subsidiary) unless such transaction is (a) otherwise permitted under this Agreement, and (b) upon fair and reasonable terms no less favorable to the Borrower or such Subsidiary than it would obtain in a comparable arm's length transaction with a Person that is not an Affiliate.

7.11 Sales and Leasebacks. Enter into any arrangement with any Person providing for the leasing by any Group Member of real or personal property that has been or is to be sold or transferred by such Group Member to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of such Group Member.

7.12 Swap Agreements. 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 Capital Stock or the Senior Notes) 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, currency liability or investment of the Borrower or any Subsidiary.

7.13 Changes in Fiscal Periods. Permit the fiscal year of the Borrower to end on a day other than December 31 or change the Borrower's method of determining fiscal quarters.

7.14 Negative Pledge Clauses. Enter into or suffer to exist or become effective any agreement that prohibits or limits the ability of any Group Member to create, incur, assume or suffer to exist any Lien securing the Obligations upon any of its property or revenues, whether now owned or hereafter acquired, other than (a) this Agreement and the other Loan Documents, (b) any agreements governing any purchase money Liens or Capital Lease Obligations otherwise permitted hereby (in which case, any prohibition or limitation shall only be effective against the assets financed thereby), (c) any agreements governing the Senior Notes (which agreements shall, in any event, permit the Obligations to be secured by a Lien on assets of the Borrower or any Subsidiary and may also provide that the obligations of the Borrower or such Subsidiary, as the case may be, in respect of the Senior Notes be equally and ratably secured by such Lien); and (d) any agreements governing a Disposition permitted under Section 7.5, provided that such prohibition or limitation relates solely to property to be disposed of.

7.15 Clauses Restricting Subsidiary Distributions. Enter into or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Subsidiary of the Borrower to (a) make Restricted Payments in respect of any Capital Stock of such Subsidiary held by, or pay any Indebtedness owed to, the Borrower or any other Subsidiary of the Borrower, (b) make loans or advances to, or other Investments in, the Borrower or any other Subsidiary of the Borrower or (c) transfer any of its assets to the Borrower or any other Subsidiary of the Borrower, except for such encumbrances

or restrictions existing under or by reason of (i) any restrictions existing under the Loan Documents, (ii) any restrictions with respect to a Subsidiary imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Capital Stock or assets of such Subsidiary, (iii) any restrictions under the agreements governing the Senior Notes, (iv) any restrictions governing a Disposition permitted under Section 7.5, provided that such restriction relates solely to property to be disposed of, and (v) any restrictions in existence at the time of any acquisition consummated in accordance with Section 7.8(i).

7.16 Lines of Business. Enter into any business, either directly or through any Subsidiary, except for those businesses in which the Borrower and its Subsidiaries are engaged on the date of this Agreement or that are reasonably related thereto or reasonable extensions thereof.

## SECTION 8. EVENTS OF DEFAULT

### 8.1 Events of Default.

If any of the following events shall occur and be continuing:

(a) the Borrower shall fail to pay any principal of any Loan or Reimbursement Obligation when due in accordance with the terms hereof; or the Borrower shall fail to pay any interest on any Loan or Reimbursement Obligation, or any other amount payable hereunder or under any other Loan Document, within five days after any such interest or other amount becomes due in accordance with the terms hereof; or

(b) any representation or warranty made or deemed made by any Loan Party herein or in any other Loan Document or that is contained in any certificate, document or financial or other written statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document shall prove to have been inaccurate in any material respect on or as of the date made or deemed made; or

(c) any Loan Party shall default in the observance or performance of any agreement contained in clause (i) or (ii) of Section 6.4(a) (with respect to the Borrower only), Section 6.7(a) or Section 7 of this Agreement; or

(d) any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document (other than as provided in paragraphs (a) through (c) of this Section), and such default shall continue unremedied for a period of 30 days after notice to the Borrower from the Administrative Agent or the Required Lenders; or

(e) any Group Member shall (i) default in making any payment of any principal of any Indebtedness (including any Guarantee Obligation, but excluding the Loans) on the scheduled or original due date with respect thereto; or (ii) default in making any payment of any interest on any such Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created; or (iii) default in the observance or performance of any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or beneficiary of such Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with the giving of notice if required, such Indebtedness to become due prior to its stated maturity or (in the case of any such Indebtedness constituting a Guarantee



Obligation) to become payable, other than secured Indebtedness permitted by Section 7.2 that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness; provided, that a default, event or condition described in clause (i), (ii) or (iii) of this paragraph (e) shall not at any time constitute an Event of Default unless, at such time, one or more defaults, events or conditions of the type described in clauses (i), (ii) and (iii) of this paragraph (e) shall have occurred and be continuing with respect to Indebtedness the outstanding principal amount of which exceeds in the aggregate \$15,000,000; or

(f) (i) any Group Member shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or any Group Member shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against any Group Member any case, proceeding or other action of a nature referred to in clause (i) above that (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of 60 days; or (iii) there shall be commenced against any Group Member any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; or (iv) any Group Member shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) any Group Member shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(g) (i) any Person shall engage in any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code, and not exempt under Section 408 of ERISA and the regulations thereunder) involving any Plan, (ii) any "accumulated funding deficiency" (as defined in Section 302 of ERISA), whether or not waived, shall exist with respect to any Plan or any Lien in favor of the PBGC or a Plan shall arise on the assets of any Group Member or any Commonly Controlled Entity, (iii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is, in the reasonable opinion of the Required Lenders, likely to result in the termination of such Plan for purposes of Title IV of ERISA, (iv) any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (v) any Group Member or any Commonly Controlled Entity shall, or in the reasonable opinion of the Required Lenders is likely to, incur any liability in connection with a withdrawal from, or the Insolvency or Reorganization of, a Multiemployer Plan or (vi) any other event or condition shall occur or exist with respect to a Plan; and in each case in clauses (i) through (vi) above, such event or condition could, in the sole judgment of the Required Lenders, reasonably be expected to have a Material Adverse Effect; or

(h) one or more judgments or decrees shall be entered against any Group Member involving in the aggregate a liability (not paid or fully covered by insurance as to which the relevant insurance company has acknowledged coverage) of \$15,000,000 or more, and all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within 60 days from the entry thereof; or

(i) the guarantee contained in Section 2 of the Guarantee shall cease, for any reason (other than in accordance with Section 10.14 hereof), to be in full force and effect or any Loan Party or any Affiliate of any Loan Party shall so assert; or

(j) (i) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")), other than the Permitted Investors, shall become, or obtain rights (whether by means or warrants, options or otherwise) to become, the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of more than 35% of the outstanding common stock of the Borrower; or (ii) a Specified Change of Control shall occur;

then, and in any such event, (A) if such event is an Event of Default specified in clause (i) or (ii) of paragraph (f) above with respect to the Borrower, automatically the Commitments shall immediately terminate and the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents (including all amounts of L/C Obligations, whether or not the beneficiaries of the then outstanding Letters of Credit shall have presented the documents required thereunder) shall immediately become due and payable, and (B) if such event is any other Event of Default, either or both of the following actions may be taken: (i) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower declare the Revolving Commitments to be terminated forthwith, whereupon the Revolving Commitments shall immediately terminate; and (ii) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower, declare the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents (including all amounts of L/C Obligations, whether or not the beneficiaries of the then outstanding Letters of Credit shall have presented the documents required thereunder) to be due and payable forthwith, whereupon the same shall immediately become due and payable. With respect to all Letters of Credit with respect to which presentment for honor shall not have occurred at the time of an acceleration pursuant to this paragraph, the Borrower shall at such time deposit in a cash collateral account opened by the Administrative Agent an amount equal to the aggregate then undrawn and unexpired amount of such Letters of Credit and all such amounts deposited shall be applied to reduce the outstanding L/C Obligations. Amounts held in such cash collateral account shall be applied by the Administrative Agent to the payment of drafts drawn under such Letters of Credit, and the unused portion thereof after all such Letters of Credit shall have expired or been fully drawn upon, if any, shall be applied to repay other obligations of the Borrower hereunder and under the other Loan Documents. After all such Letters of Credit shall have expired or been fully drawn upon, all Reimbursement Obligations shall have been satisfied and all other obligations of the Borrower hereunder and under the other Loan Documents shall have been paid in full, the balance, if any, in such cash collateral account shall be returned to the Borrower (or such other Person as may be lawfully entitled thereto). Except as expressly provided above in this Section, presentment, demand, protest and all other notices of any kind are hereby expressly waived by the Borrower.

8.2 Borrower's Right to Cure. If the Borrower fails to comply with any of the covenants set forth in Section 7.1, from the last day of any fiscal quarter to the expiration of the 10th Business Day subsequent to the date the relevant Compliance Certificate for such fiscal quarter is required to be delivered pursuant to Section 6.2(b) (the "Cure Period"), the Borrower shall have the right to have Consolidated EBITDA increased by an amount equal to such Cure Amount, solely for the purpose of measuring the covenants set forth in Section 7.1, and, if the Borrower shall be in pro forma compliance with such covenants after recalculation, the applicable breach or default of such covenants that had occurred shall be deemed cured for purposes of this Agreement; provided that (i) in each four-fiscal-quarter period there shall be at least one fiscal quarter in which the Borrower does not exercise such right, (ii) in each eight-fiscal-quarter period, there shall be a period of at least four consecutive fiscal quarters

during which the Borrower does not exercise such right and (iii) for purposes of this Section 8.2, (x) at any one time, the Cure Amount shall be no greater than the amount required for purposes of complying with the covenants set forth in Section 7.1, and (y) the aggregate amount of all Cure Amounts after the date hereof shall not exceed \$50,000,000. For purposes of this Section, "Cure Amount" shall mean the proceeds from the Borrower's issuance of common equity for cash or other cash contributions to the capital of the Borrower received during the fiscal quarter covered by such Compliance Certificate or during the Cure Period.

#### SECTION 9. THE AGENTS

9.1 Appointment. Each Lender hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender under this Agreement and the other Loan Documents, and each such Lender irrevocably authorizes the Administrative Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement and the other Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent.

9.2 Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement and the other Loan Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys in-fact selected by it with reasonable care.

9.3 Exculpatory Provisions. Neither any Agent nor any of their respective officers, directors, employees, agents, attorneys-in-fact or affiliates shall be (i) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any other Loan Document (except to the extent that any of the foregoing are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from its or such Person's own gross negligence or willful misconduct) or (ii) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Agents under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party a party thereto to perform its obligations hereunder or thereunder. The Agents shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party.

9.4 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any instrument, writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to the Borrower), independent accountants and other experts selected by the Administrative Agent. The Administrative

Agent may deem and treat the payee of any Note as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or, if so specified by this Agreement, all Lenders) as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or, if so specified by this Agreement, all Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans.

9.5 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Administrative Agent has received notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Agreement, all Lenders); provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

9.6 Non-Reliance on Agents and Other Lenders. Each Lender expressly acknowledges that neither the Agents nor any of their respective officers, directors, employees, agents, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by any Agent hereafter taken, including any review of the affairs of a Loan Party or any affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by any Agent to any Lender. Each Lender represents to the Agents that it has, independently and without reliance upon any Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon any 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 analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any affiliate of a Loan Party that may come into the possession of the Administrative Agent or any of its officers, directors, employees, agents, attorneys-in-fact or affiliates.

9.7 Indemnification. The Lenders agree to indemnify each Agent in its capacity as such (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably according to their respective Aggregate Exposure Percentages in effect on the date on which indemnification is sought under this Section (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such Aggregate Exposure Percentages immediately prior to such date), from and against

any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent in any way relating to or arising out of, the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent under or in connection with any of the foregoing; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from such Agent's gross negligence or willful misconduct. The agreements in this Section shall survive the payment of the Loans and all other amounts payable hereunder.

9.8 Agent in Its Individual Capacity. Each Agent and its affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Loan Party as though such Agent were not an Agent. With respect to its Loans made or renewed by it and with respect to any Letter of Credit issued or participated in by it, each Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender" and "Lenders" shall include each Agent in its individual capacity.

9.9 Successor Administrative Agent. The Administrative Agent may resign as Administrative Agent upon 10 days' notice to the Lenders and the Borrower. If the Administrative Agent shall resign as Administrative Agent under this Agreement and the other Loan Documents, then the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall (unless an Event of Default under Section 8.1(a) or Section 8.1(f) with respect to the Borrower shall have occurred and be continuing) be subject to approval by the Borrower (which approval shall not be unreasonably withheld or delayed), whereupon such successor agent shall succeed to the rights, powers and duties of the Administrative Agent, and the term "Administrative Agent" shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or any of the parties to this Agreement or any holders of the Loans. If no successor agent has accepted appointment as Administrative Agent by the date that is 10 days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective, and the Lenders shall assume and perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. After any retiring Administrative Agent's resignation as Administrative Agent, the provisions of this Section 9 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement and the other Loan Documents.

9.10 Agent and Co-Syndication Agents. Neither the Agent nor the Co-Syndication Agents shall have any duties or responsibilities hereunder in its capacity as such.

#### SECTION 10. MISCELLANEOUS

10.1 Amendments and Waivers. Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 10.1. The Required Lenders and each Loan Party party to the relevant Loan Document may, or, with the written consent of the Required Lenders, the Administrative Agent and each Loan Party party to the relevant Loan Document may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the

rights of the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Required Lenders or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement or modification shall (i) forgive the principal amount or extend the final scheduled date of maturity of any Loan, extend the scheduled date of any amortization payment in respect of any Term Loan, reduce the stated rate of any interest or fee payable hereunder (except (x) in connection with the waiver of applicability of any post-default increase in interest rates (which waiver shall be effective with the consent of the Majority Facility Lenders of each adversely affected Facility) and (y) that any amendment or modification of defined terms used in the financial covenants in this Agreement shall not constitute a reduction in the rate of interest or fees for purposes of this clause (i)) or extend the scheduled date of any payment thereof, or increase the amount or extend the expiration date of any Lender's Revolving Commitment, in each case without the written consent of each Lender directly affected thereby; (ii) eliminate or reduce the voting rights of any Lender under this Section 10.1 without the written consent of such Lender; (iii) reduce any percentage specified in the definition of Required Lenders, consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement and the other Loan Documents, release any Subsidiary Guarantor that is a Material Subsidiary from its obligations under the Guarantee (other than pursuant to Section 10.14 hereof), in each case without the written consent of all Lenders; (iv) amend, modify or waive any provision of Section 2.15 without the written consent of all Lenders under each Facility adversely affected thereby; (v) reduce the amount of Net Cash Proceeds required to be applied to prepay Loans under this Agreement without the written consent of the Majority Facility Lenders with respect to each Facility; (vi) reduce the percentage specified in the definition of Majority Facility Lenders with respect to any Facility without the written consent of all Lenders under such Facility; (vii) amend, modify or waive any provision of Section 9 without the written consent of the Administrative Agent; or (viii) amend, modify or waive any provision of Section 3 without the written consent of the Issuing Lender. Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders, the Administrative Agent and all future holders of the Loans. In the case of any waiver, the Loan Parties, the Lenders and the Administrative Agent shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon.

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

10.2 Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three Business Days after being deposited in the mail, postage prepaid, or, in the case of telecopy notice, when received, addressed as follows in the case of the Borrower and the Administrative Agent, and as set forth in an administrative questionnaire delivered to the Administrative Agent in the case of the Lenders, or to such other address as may be hereafter notified by the respective parties hereto:

Borrower:

Gartner, Inc.

56 Top Gallant Road  
 Stamford, CT 06904  
 Attention: General Counsel  
 Facsimile: (203) 316-6245  
 Telephone: (203) 316-1111

with a copy to:

Gartner, Inc.  
 56 Top Gallant Road  
 Stamford, CT 06904  
 Attention: Chief Financial Officer  
 Facsimile: (203) 316-6488  
 Telephone: (203) 316-1111

Administrative Agent:

JPMorgan Chase Bank  
 Bank Loans and Agency Services  
 1111 Fannin Street, 10th Floor  
 Houston, TX 77002  
 Attention: Sharon Craft  
 Facsimile: 713-750-2938  
 Telephone: 713-750-7911

with a copy to:

JPMorgan Chase Bank  
 Two Corporate Drive  
 Shelton, CT 06484  
 Attention: David Short  
 Facsimile: (203) 944 8495

provided that any notice, request or demand to or upon the Administrative Agent or the Lenders shall not be effective until received.

Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Section 2 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.

10.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans and other extensions of credit hereunder.

10.5 Payment of Expenses and Taxes. The Borrower agrees (a) to pay or reimburse the Administrative Agent for all its out-of-pocket costs and expenses incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable fees and disbursements of counsel to the Administrative Agent and filing and recording fees and expenses, with statements with respect to the foregoing to be submitted to the Borrower prior to the Closing Date (in the case of amounts to be paid on the Closing Date) and from time to time thereafter on a quarterly basis or such other periodic basis as the Administrative Agent shall deem appropriate, (b) to pay or reimburse each Lender and the Administrative Agent for all its costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Loan Documents and any such other documents, including the fees and disbursements of counsel (including the allocated fees and expenses of in-house counsel) to each Lender and of counsel to the Administrative Agent, (c) to pay, indemnify, and hold each Lender and the Administrative Agent harmless from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any delay in paying, stamp, excise and other taxes, if any, that may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (d) to pay, indemnify, and hold each Lender and the Administrative Agent and their respective officers, directors, employees, affiliates, agents and controlling persons (each, an "Indemnatee") harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents and any such other documents, including any of the foregoing relating to the use of proceeds of the Loans or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations of any Group Member or any of the Properties and the reasonable fees and expenses of legal counsel in connection with claims, actions or proceedings by any Indemnatee against any Loan Party under any Loan Document (all the foregoing in this clause (d), collectively, the "Indemnified Liabilities"), provided, that the Borrower shall have no obligation hereunder to any Indemnatee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnatee. Without limiting the foregoing, and to the extent permitted by applicable law, the Borrower agrees not to assert and to cause its Subsidiaries not to assert, and hereby waives and agrees to cause its Subsidiaries to waive, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, that any of them might have by statute or otherwise against any Indemnatee. All amounts due under this Section 10.5 shall be payable not later than 10 days after written demand therefor. Statements payable by the Borrower pursuant to this Section 10.5 shall be submitted to the Borrower at the address set forth in Section 10.2, or to such other Person or address as may be hereafter designated by the Borrower in a written notice to the Administrative Agent. The agreements in this Section 10.5 shall survive repayment of the Loans and all other amounts payable hereunder.

10.6 Successors and Assigns; Participations and Assignments. (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 Lender 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.



(b)(i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (each, an "Assignee") all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent of:

(A) the Borrower (such consent not to be unreasonably withheld), provided that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund (as defined below) or, if an Event of Default under Section 8.1(a) or (f) has occurred and is continuing, any other Person;

(B) the Administrative Agent (such consent not to be unreasonably withheld), provided that no consent of the Administrative Agent shall be required for an assignment of all or any portion of a Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) the Issuing Lender (such consent not to be unreasonably withheld), provided that no consent of the Issuing Lender shall be required for an assignment of all or any portion of a Term Loan.

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

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitments or Loans under any Facility, the amount of the Commitments 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 (or, in the case of the Term Facility, \$1,000,000) unless each of the Borrower and the Administrative Agent otherwise consent, provided that (1) no such consent of the Borrower shall be required if an Event of Default under Section 8.1(a) or (f) has occurred and is continuing and (2) such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds, if any;

(B) 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; and

(C) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire.

For the purposes of this Section 10.6, "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.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) below, 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 2.16, 2.17, 2.18 and 10.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.6 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 Commitments of, and principal amount of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent, the Issuing Lender and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary.

(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. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c)(i) Any Lender may, without the consent of the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments 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 Lender 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 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 may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (1) requires the consent of each Lender directly affected thereby pursuant to the proviso to the second sentence of Section 10.1 and (2) directly affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.16, 2.17 and 2.18 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.7(b) as though it were a Lender, provided such Participant shall be subject to Section 10.7(a) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.16 or 2.17 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. Any Participant that is a Non-U.S. Lender shall not be entitled to the benefits of Section 2.17 unless such Participant complies with Section 2.17(d).

(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 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.

(e) The Borrower, upon receipt of written notice from the relevant Lender, agrees to issue Notes to any Lender requiring Notes to facilitate transactions of the type described in paragraph (d) above.

(f) Notwithstanding the foregoing, any Conduit Lender may assign any or all of the Loans it may have funded hereunder to its designating Lender without the consent of the Borrower or the Administrative Agent and without regard to the limitations set forth in Section 10.6(b). Each of the Borrower, each Lender and the Administrative Agent hereby confirms that it will not institute against a Conduit Lender or join any other Person in instituting against a Conduit Lender any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding under any state bankruptcy or similar law, for one year and one day after the payment in full of the latest maturing commercial paper note issued by such Conduit Lender; provided, however, that each Lender designating any Conduit Lender hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such Conduit Lender during such period of forbearance.

10.7 Adjustments; Set-off. (a) Except to the extent that this Agreement expressly provides for payments to be allocated to a particular Lender or to the Lenders under a particular Facility, if any Lender (a "Benefitted Lender") shall, at any time after the Loans and other amounts payable hereunder shall immediately become due and payable pursuant to Section 8, receive any payment of all or part of the Obligations owing to it, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 8.1(f), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of the Obligations owing to such other Lender, such Benefitted Lender shall purchase for cash from the other Lenders a participating interest in such portion of the Obligations owing to each such other Lender, or shall provide such other Lenders with the benefits of any such collateral, as shall be necessary to cause such Benefitted Lender to share the excess payment or benefits of such collateral ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefitted Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) In addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by applicable law, upon the occurrence and during the Continuance of an Event of Default, to set off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Borrower, as the case may be. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such setoff and application made by such Lender, provided that the failure to give such notice shall not affect the validity of such setoff and application.

10.8 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile transmission shall be effective as delivery of a manually executed counterpart hereof. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

10.9 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.10 Integration. This Agreement and the other Loan Documents represent the entire agreement of the Borrower, the Administrative Agent and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Administrative Agent or any Lender relative to the subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents.

10.11 GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

10.12 Submission To Jurisdiction; Waivers. The Borrower hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the Borrower, as the case may be at its address set forth in Section 10.2 or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

10.13 Acknowledgements. The Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) neither the Administrative Agent nor any Lender has any fiduciary relationship with or duty to the Borrower arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between Administrative Agent and Lenders, on one hand,

and the Borrower, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or between the Borrower and the Lenders.

10.14 Releases of Guarantees. (a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Administrative Agent is hereby irrevocably authorized by each Lender (without requirement of notice to or consent of any Lender except as expressly required by Section 10.1) to take any action requested by the Borrower having the effect of releasing any guarantee obligations (i) to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document or that has been consented to in accordance with Section 10.1 or (ii) under the circumstances described in paragraph (b) below.

(b) At such time as the Loans, the Reimbursement Obligations and the other obligations under the Loan Documents (other than obligations under or in respect of Swap Agreements) shall have been paid in full, the Commitments have been terminated and no Letters of Credit shall be outstanding, the Guarantee and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Loan Party under the Guarantee shall terminate, all without delivery of any instrument or performance of any act by any Person.

10.15 Confidentiality. Each of the Administrative Agent and each Lender agrees to keep confidential all non-public information provided to it by any Loan Party, the Administrative Agent or any Lender pursuant to or in connection with this Agreement; provided that nothing herein shall prevent the Administrative Agent or any Lender from disclosing any such information (a) to the Administrative Agent, any other Lender or any affiliate thereof, (b) subject to an agreement to comply with the provisions of this Section, to any actual or prospective Transferee or any direct or indirect counterparty to any Swap Agreement (or any professional advisor to such counterparty), (c) to its employees, directors, agents, attorneys, accountants and other professional advisors or those of any of its affiliates, (d) upon the request or demand of any Governmental Authority, (e) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Requirement of Law, (f) if requested or required to do so in connection with any litigation or similar proceeding, (g) that has been publicly disclosed, (h) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender, or (i) in connection with the exercise of any remedy hereunder or under any other Loan Document.

10.16 WAIVERS OF JURY TRIAL. THE BORROWER, THE ADMINISTRATIVE AGENT AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

10.17 USA PATRIOT Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Act.

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

GARTNER, INC.

By: /s/ Christopher Lafond

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Name: Christopher Lafond  
Title: CEO

JPMORGAN CHASE BANK, as Administrative Agent  
and as a Lender

By: /s/ John C. Riordan

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Name: John C. Riordan  
Title: Vice President

FLEET NATIONAL BANK, N.A., as Co-Syndication  
Agent and as a Lender

By: /s/John B. Desmond

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Name: John B. Desmond  
Title: Director

CITIZENS BANK OF MASSACHUSETTS, as Co-Syndication Agent and as a Lender

By: /s/ William M. Clossey

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Name: William M. Clossey  
Title: Vice President



COMERICA BANK, as Co-Syndication Agent and as  
a Lender

By:     /s/ Stacey V. Judd

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Name: Stacey V. Judd

Title: Assistant Vice President

HSBC BANK USA, N.A., as Co-Syndication Agent  
and as a Lender

By: /s/ Patrick J. Doulin

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Name: Patrick J. Doulin  
Title: Senior Vice President

LASALLE BANK NATIONAL ASSOCIATION, as Agent  
and as a Lender

By:     /s/ John C. Thurston

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Name: John C. Thurston  
Title: Senior Vice President

## CERTIFICATION

I, Eugene A. Hall, certify that:

(1) I have reviewed this Quarterly Report on Form 10-Q of Gartner, Inc.;

(2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

(3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

(4) The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) 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) 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
- c) 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 that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

(5) The registrant's other certifying officer and I have disclosed, based on my 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:

- 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.

/s/ Eugene A. Hall

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Eugene A. Hall  
Chief Executive Officer  
November 8, 2004

## CERTIFICATION

I, Christopher Lafond, certify that:

(1) I have reviewed this Quarterly Report on Form 10-Q (the "10-Q") of Gartner, Inc.;

(2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

(3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

(4) The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) 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) 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
- c) 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 that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

(5) The registrant's other certifying officer and I have disclosed, based on my 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:

- 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.

/s/ Christopher Lafond

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 Christopher Lafond  
 Chief Financial Officer  
 November 8, 2004

CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Gartner, Inc. (the "Company") on Form 10-Q for the quarterly period ended September 30, 2004, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), as Chief Executive Officer of the Company and Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Gene Hall

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Name: Gene Hall  
Title: Chief Executive Officer  
Date: November 8, 2004

/s/ Christopher Lafond

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Name: Christopher Lafond  
Title: Chief Financial Officer  
Date: November 8, 2004