

BOINGO WIRELESS INC

FORM 10-K (Annual Report)

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

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2014

OR

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

Commission File Number: 001-35155

BOINGO WIRELESS, INC.

(Exact name of registrant as specified in its charter)

DELAWARE	95-4856877
(State of other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

**10960 Wilshire Blvd., Suite 800
Los Angeles, California 90024**
(Address of principal executive offices, Zip Code)

(310) 586-5180
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Common Stock, \$0.0001 par value
(Title of each class)

The NASDAQ Stock Market LLC
(Name of each exchange on which registered)

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. Yes No

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a
smaller reporting company)

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

The aggregate market value of the Registrant's voting and non-voting common equity held by non-affiliates of the Registrant as of the last day of the Registrant's most recently completed second fiscal quarter was \$242,471,919 based on the last reported sale price of \$6.83 per share on the NASDAQ Global Market on June 30, 2014, the last trading day of the most recently completed second fiscal quarter.

As of March 3, 2015, 36,358,513 shares of Common Stock were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Company's definitive Proxy Statement for the Annual Meeting of Stockholders to be filed within 120 days of the Company's year ended December 31, 2014 are incorporated by reference into Part III of this Form 10-K where indicated.

BOINGO WIRELESS, INC.
ANNUAL REPORT ON FORM 10-K FOR
THE YEAR ENDED DECEMBER 31, 2014

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Forward-Looking Statements

We have made forward-looking statements in this Annual Report on Form 10-K that are subject to risks and uncertainties. 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, are subject to the "safe harbor" created by those sections. The forward-looking statements in this report are based on our management's beliefs and assumptions and on information currently available to our management. In some cases, you can identify forward-looking statements by terms such as "anticipates," "aspires," "believes," "can," "continue," "could," "estimates," "expects," "intends," "may," "plans," "projects," "seeks," "should," "will" or "would" or the negative of these terms and similar expressions intended to identify forward-looking statements. These statements involve known and unknown risks, uncertainties and other factors, which may cause our actual results, performance, time frames or achievements to be materially different from any future results, performance, time frames or achievements expressed or implied by the forward-looking statements. We discuss many of these risks, uncertainties and other factors in this document in greater detail under the heading "Risk Factors." We believe it is important to communicate our expectations to our investors. However, there may be events in the future that we are not able to predict accurately or over which we have no control. The risks described in "Risk Factors" included in this report, as well as any other cautionary language in this report, provide examples of risks, uncertainties and events that may cause our actual results to differ materially from the expectations we describe in our forward-looking statements. Before you invest in our common stock, you should be aware that the occurrence of the events described in "Risk Factors" and elsewhere in this report could harm our business.

Given these risks, uncertainties and other factors, you should not place undue reliance on these forward-looking statements. Also, these forward-looking statements represent our estimates and assumptions only as of the date of this filing. You should read this document completely and with the understanding that our actual future results may be materially different from what we expect. We hereby qualify our forward-looking statements by these cautionary statements. Except as required by law, we assume no obligation to update these forward-looking statements publicly, or to update the reasons actual results could differ materially from those anticipated in these forward-looking statements, even if new information becomes available in the future.

Unless the context otherwise requires, we use the terms "Boingo," "company," "we," "us" and "our" in this Annual Report on Form 10-K to refer to Boingo Wireless, Inc. and, where appropriate, its subsidiaries.

PART I

Item 1. Business

Company Overview

Boingo helps the world stay connected.

We have established a global footprint of small cell networks that provide high-speed, high-bandwidth wireless Internet service to smartphones, tablet computers, laptops, and other wireless-enabled devices. Small cells are low-powered radio access nodes that operate in licensed and unlicensed spectrum that have a range of 10 meters to 1 to 2 kilometers. These small cell networks cover more than a million distributed antenna system (DAS) and Wi-Fi locations and reach more than one billion consumers annually. With the proliferation of mobile Internet-enabled wireless devices, and growth of high-bandwidth usage from streaming media and smartphone apps, we expect these small cells to play a significant role in helping meet the ever-increasing data demands of connected consumers who are accustomed to the benefits of broadband performance at home and work and are seeking the same applications, performance and availability on-the-go.

Our small cell networks include DAS and Wi-Fi networks that we manage and operate ourselves, which we refer to as our "managed and operated" locations, as well as Wi-Fi networks managed and

operated by third-parties with whom we contract for access, which we refer to as our "roaming" networks. Our managed and operated locations are typically located in large venues with big audiences, such as airports, stadiums, arenas, U.S. military bases, universities, convention centers, and shopping malls where we install a wireless network infrastructure and generally have exclusive multi-year agreements. Our roaming networks comprise more than one million commercial Wi-Fi hotspots in more than 90 countries around the world. We also sell advertising and sponsorships on other Wi-Fi networks that are not part of our network on behalf of the network owner.

We generate revenue through wholesale offerings, retail and military sales, and advertising and sponsorships. We have direct customer relationships with users who have purchased our services, and we also provide mobile Internet access and solutions to our partners, which include telecom operators, cable companies, technology companies, enterprise software and services companies, and communications service providers to allow their millions of users to connect to the mobile Internet through hotspots in our network. Our software solution—which provides one-click access to our global footprint of hotspots—has been rebranded for wholesale partners, in addition to being marketed under the Boingo brand. In combination with our back-end system infrastructure, it creates a global roaming solution for operators, carriers and other service providers.

Individual retail users provide approximately 34% of our revenue by purchasing month-to-month subscription plans that automatically renew or hotspot specific single-use access to our network. As of December 31, 2014, our retail subscriber base is approximately 254,000, a decrease of approximately 18% over the prior year. Individual military users provide approximately 4% of our revenue by purchasing broadband and Internet Protocol television ("IPTV") services in military barracks. As of December 31, 2014, we have grown our military subscriber base to approximately 20,000 from approximately 2,000 in the prior year.

We generate wholesale revenue from telecom operators that pay us build-out fees and recurring access fees so that their cellular customers may use our DAS networks at locations where we manage and operate the wireless network. DAS revenue accounts for approximately 32% of our revenue. In addition, our partners pay us usage-based or user-based Wi-Fi network access and software licensing fees to allow their customers' access to our footprint worldwide. Wholesale Wi-Fi revenue accounts for approximately 13% of our revenue.

We also generate revenue from advertisers that seek to reach consumers via sponsored Wi-Fi access, promotional programs and online display advertising. Advertising and other revenue accounts for approximately 17% of our revenue.

Our advertising business is seasonal, with the highest percentage of advertising sales occurring in the fourth quarter of each year. Our customer agreements for certain DAS networks include both a fixed and variable fee structure with the highest percentage of sales occurring in the fourth quarter of each year and the lowest percentage of sales occurring in the first quarter of each year. We expect these trends to continue. Our other products have not experienced any significant seasonal impact.

We were incorporated in the State of Delaware in April 2001 under the name Project Mammoth, Inc. and changed our name to Boingo Wireless, Inc. in October 2001. Our principal executive offices are located in Los Angeles, California. Our website address is www.boingo.com. The information on, or that can be accessed through, our website is not part of this Annual Report on Form 10-K.

Industry Overview

Popular business and consumer applications such as streaming media, online games, social networking, cloud storage, software-as-a-service and video calling require high-speed, high-bandwidth Internet access. These data-intensive applications are driving an escalation in Internet data traffic. With

the proliferation of smartphones, tablet computers, laptops, and other Wi-Fi enabled devices, users expect to be able to access the same content and information while on-the-go. Global mobile data traffic is expected to increase by 10 times from 2014 to 2019 as projected by Cisco's Visual Networking Index ("CVNI").

The adoption, growth and advancement of smartphones are key catalysts for the acceleration of high-speed and high-bandwidth mobile Internet usage. The improved computing power, rich graphical user interfaces and Internet capabilities of these devices enable mobile users to make video calls or stream full-length movies, contributing to the vast expansion of the wireless consumption of data. For example, the average smart device user generated 22 times the amount of data traffic generated by the average non-smart device user in 2014, according to CVNI. Mobile video traffic was 55% of traffic by the end of 2014, according to CVNI. Widely-used mobile applications allow individuals to access the same content and services on their smartphones and other mobile devices that they use at their homes or offices. By the end of 2014, the number of mobile-connected devices will exceed the number of people on earth, and by 2019 there will be nearly 1.5 mobile devices per capita according to CVNI. In addition, 46% of total mobile data traffic was offloaded through Wi-Fi or other small cells in 2014 and without offload, mobile data traffic would have grown 84% rather than 69% in 2014, according to CVNI.

To cope with the significant increase in expected global mobile Internet data traffic, network operators are rapidly expanding their capacity and investing in technologies such as 3G and 4G cellular networks. According to CVNI, a 4G connection generated 10 times more traffic on average than a non-4G connection and although 4G connections represent only 6% of mobile connections today, they already account for 40% of mobile data traffic. These investments, while necessary, are only a short-term solution not capable of meeting the long-term demand for data usage. To ease the strain of cellular networks by off-loading data, network operators have also been investing in Wi-Fi and cellular DAS that recycle spectrum in large venues to increase overall capacity. According to ABI Research, the market for in-building wireless equipment and deployments is expected to grow to over \$8 billion in 2019, up from a forecast of \$4.4 billion for 2014 representing a 14% compound annual growth rate.

Wi-Fi provides higher speed and higher bandwidth per user in high density locations, and is simpler and less expensive to deploy than additional cellular network capacity. The benefits and consumer demand for Wi-Fi have led hardware manufacturers to include Wi-Fi as a standard feature on smart devices, laptops and tablet computers. Wi-Fi has become the standard protocol for residential and office wireless networks and is increasingly prevalent in public venues, such as airports, hotels, coffee shops, shopping malls, arenas, stadiums, campuses and quick service restaurants.

Challenges Facing Our Industry

The mobile Internet is a complex and constantly evolving ecosystem comprised of over a billion mobile Internet-enabled devices from dozens of manufacturers, which are powered by many different operating systems. Devices use different network technologies and must be configured with the appropriate software to detect and optimize a connection to the mobile Internet. This complexity is amplified as new device models and operating systems are released, new categories of devices become Internet-enabled, and new network technologies emerge. The increasing number of mobile Internet-enabled devices in this ecosystem is causing an even more rapid increase in data consumption on capacity-strained networks.

Our Strategy

We believe we are the leading global provider of commercial mobile Wi-Fi Internet solutions and indoor DAS services for carriers. Key elements of our strategy to extend that lead are to:

- *Expand our footprint of managed and operated and aggregated networks.* We intend to continue to grow our global network of managed and operated DAS and Wi-Fi networks by pursuing new opportunities at large venues such as airports, arenas, stadiums, hospitals, campuses and universities. We also plan to enter into new roaming agreements with other network and hotspot operators to maximize the reach of our aggregated network, which creates a more attractive offering for our retail and military customers and wholesale Wi-Fi partners.
- *Leverage our neutral-host business model to accelerate wholesale roaming and carrier offload partnerships.* Our neutral-host model enables us to partner with venue operators because we allow their customers to access a venue's network regardless of the customers' Wi-Fi provider. We also partner with telecom operators that are attracted to us because we do not compete for cellular subscribers. We intend to expand our neutral-host managed and operated network by partnering with additional venues, network operators, telecom operators and technology companies.
- *Maximize advertising and sponsorship sell-through for our inventory of advertising-enabled networks.* We will seek to leverage our expanded ad sales team to engage leading brands and advertising agencies acting on their behalf to maximize sell-through for our expanding inventory of advertising-supplemented managed and operated networks and contracted advertising-enabled partner networks. These networks represent high-traffic, high-demand locations with broad appeal. We also expect to enhance existing ad products and develop new ones to provide appealing options to advertisers looking for innovative ways to engage potential customers.
- *Increase our brand awareness.* We will continue to seek new ways to promote our brand through our managed and operated hotspots. We intend to enhance our brand through low-cost co-marketing arrangements with our partners and through periodic promotional and sponsorship activities and by continuing to leverage the reach of social media to interact with our customers.

Services

Our solution makes it easy, convenient and cost effective for individuals to find and gain access to the mobile Internet.

Retail. We enable individuals to purchase Internet access at our managed and operated hotspots and select partner locations around the world. We offer a selection of month-to-month subscription and single-use access plans. Our most common plans are the \$9.95 monthly subscription and the single-use Boingo AsYouGo at \$7.95 per day. Our single-use access plans provide unlimited access on a single device at a specific hotspot for a defined period of time, tolled from the time the user first logs on to

the network. We will continue to launch other flexible plans to meet the evolving needs of our customers.

<u>Retail Plan</u>	<u>Device</u>	<u>Purchase Method</u>
<i>Subscription:</i>		
Boingo Unlimited	Laptop, Tablet, and Smartphone	Charge Card and PayPal
Boingo Mobile	Smartphone and Tablet	Charge Card and PayPal
Boingo Global	Laptop, Tablet and Smartphone	Charge Card and PayPal
Boingo UK and Ireland	Laptop, Tablet and Smartphone	Charge Card and PayPal
Boingo Europe Plus	Laptop, Tablet and Smartphone	Charge Card and PayPal
Boingo Asia Pacific	Laptop, Tablet and Smartphone	Charge Card and PayPal
<i>Single-use:</i>		
Boingo AsYouGo	Laptop, Tablet, and Smartphone	Charge Card and PayPal
Boingo Wi-Fi Credits	Apple iOS devices	Apple iTunes

Military. We also provide broadband and IPTV services for troops stationed on U.S. military bases. Both IPTV and Internet service are available and include basic, standard and expanded service tiers, with discounted service options when both Internet and IPTV products are bundled in a combo package. Our most common plans are the \$29.95 monthly subscription for Standard services (Internet or IPTV) and the \$49.95 monthly subscription for Expanded services (Internet or IPTV). The Standard combo package is \$54.95 per month and the Expanded combo package is \$89.95 per month. Military personnel can also add premium channels at additional cost to enhance their IPTV service. Plans are available on daily (Internet only), weekly and monthly schedules, with different service options at each interval. These services are only available on the U.S. military bases.

DAS. We offer our telecom operator partners access to our DAS infrastructure at certain of our managed and operated hotspot locations. We deploy our DAS infrastructure within airports and other locations that require additional signal strength to improve the quality of cellular services.

Wholesale—Wi-Fi. Our integrated hardware and software platform allows us to provide a range of value-added services to network operators, device manufacturers, technology companies, enterprise software and services companies, and venue operators.

- *Roaming services.* We offer roaming services across our entire network of more than one million hotspot locations to our partners who can then provide mobile Internet services to their customers at these locations.
- *Platform services.* We license our proprietary software and provide software integration and development services to our platform services partners. This enables them to integrate our mobile Internet solution with their product and service offerings, either as a bundled Boingo service or a private labeled offering. Our solution includes our proprietary, patented techniques for wireless signal detection, presentation and network aggregation.
- *Turn-key solutions.* We offer our venue partners the ability to implement a turn-key Wi-Fi solution, with no initial investment, through a Wi-Fi network infrastructure that we install, manage and operate. Our turn-key solutions include a variety of service models that are supported through a mix of retail, military, wholesale Wi-Fi and advertising revenue.

Advertising. Our platform provides a valuable opportunity for advertisers to reach a targeted base of visitors to our landing pages with sponsored access, promotional programs and display advertising. We provide advertisers the opportunity to sponsor wireless Internet access to individuals at locations where we manage and operate the Wi-Fi network and locations where we solely provide authorized access to a partner's Wi-Fi network through sponsored access and promotional programs. We also offer

display advertising based on impressions delivered by our platform. Our advertising solution is easily integrated into Wi-Fi networks not directly managed by Boingo, expanding the addressable market.

Our Network

Through our managed and operated hotspots and our strategic partnership arrangements, users have access to more than one million hotspots worldwide in venues such as airports, hotels, coffee shops, shopping malls, arenas, stadiums and quick service restaurants. We design, build, monitor and maintain the Wi-Fi network at our managed and operated hotspot locations primarily located in the United States and Europe. Our strategic partnership arrangements with more than 130 network operators allow us to extend our global network to over 90 countries worldwide. In 2013, we acquired Electronic Media Systems, Inc. and Advanced Wireless Group, LLC and its network of 17 managed and operated networks (collectively, "AWG").

Boingo hotspot locations by region as of December 31, 2014 included:

<u>Region</u>	<u>Airport</u>	<u>Café / Retail</u>	<u>Convention Center</u>	<u>Hotel</u>	<u>Other(1)</u>	<u>Total</u>
North America	70	47,702	176	3,061	45,268	96,277
South America	114	4,871	22	222	6,711	11,940
Europe, Middle East and Africa	237	16,535	379	10,517	206,486	234,154
Asia	248	163,951	3,428	34,544	509,293	711,464
Total	669	233,059	4,005	48,344	767,758	1,053,835

(1) Includes schools and universities, offices, hospitals and public spaces.

Marketing and Business Development

Our marketing and business development efforts are designed to cost effectively attract and retain new customers, expand our footprint of Wi-Fi hotspots, DAS and advertising locations and identify business partners that could leverage our network to provide mobile Internet services to their customers. We focus on efficient customer acquisition and brand building through our on-line presence, in-venue signage, public relations, market research and other promotional activities.

We seek to maximize customer lifetime value by managing subscriber acquisition cost, extending customer life and determining appropriate pricing. We use information about subscriber behavior to help us retain customers and determine premium offerings. Our segmentation is focused at the product level, so that we provide the right product, plan and price for each customer in each region of the world where we operate. Our consumer plans are available for essentially all Wi-Fi enabled devices and are priced on a month-to-month or per-use basis.

We issue regular press releases announcing important partnerships and product developments and continually update our website with information about our network and services. We leverage our blog and social media accounts to further promote Boingo's product availability and applicability for travelers, digital elite and consumers on-the-go.

Development

Our development efforts are focused primarily on supporting our networks and the businesses that run across these networks. This includes software clients and web applications for ease of connecting to our managed and operated and aggregate partner networks, integrating our software client with our wholesale partners, continuing to adapt our technology to new operating systems and platforms, an advertising system and business and operations support system for monetizing network service, an IPTV

platform for delivering IPTV services to our U.S. military bases and optimizing our networks and backend systems for roaming and carrier offload. Our development model is based on Agile development practices so any deviations can be promptly corrected to improve reliability in our network or services and enhance customer satisfaction. For the years ended December 31, 2014, 2013 and 2012, development and technology expenses were \$14.9 million, \$11.4 million and \$10.8 million, respectively.

Technology

Over the past 14 years, we have developed proprietary systems that include the Boingo software client; authentication, authorization and tracking systems; mediation and billing systems; IPTV management and delivery platform; and a real-time operational support and software configuration and messaging infrastructure.

Boingo Software Client

The Boingo software client is installed on Wi-Fi enabled devices such as smartphones, laptops and tablet computers to enable our customers to access our network. The key features of the Boingo software client include:

- *Simple user interface.* The Boingo software client provides individuals with an uncomplicated, user-friendly interface designed to streamline the Wi-Fi network connection process. The software finds hotspots and monitors the availability of Wi-Fi hotspots in the Boingo network, presents a notification message of the hotspot identified and allows one-click user connections. In some devices, connection to a Boingo Wi-Fi hotspot occurs in the background, providing the user with a seamless, notification-free connectivity experience.
- *Support for all major operating system platforms.* The Boingo software client supports the Android, iOS, Mac OS and Windows operating systems, which represents the majority of all devices connecting to our managed and operated venues.
- *Automatic updates.* The Boingo software client automatically receives identification information for new hotspot locations as they are added to the Boingo network, including any information needed to automatically identify and login to the network. Location information, allowing a user to find Boingo hotspots from the client, is also automatically updated. On all but embedded platforms, software updates are also automatically offered to a user when available.
- *Custom branding and flexible integration alternatives.* We offer wholesale customers the ability to integrate the Boingo software client into their products and services as a software development kit or SDK. Additionally, we offer wholesale customers the option to utilize a custom, rebranded reference design of the software client used in our retail customer offering.

Authentication, Authorization and Tracking System

Our proprietary authentication, authorization and tracking system enables the reliable, scalable and secure initiation and termination of user Wi-Fi sessions on our network. This system authenticates our network users across a wide variety of hotspots and network operators, through a normalized authentication protocol. Through the authorization process, custom business rules ensure user access based on specific service parameters such as location, type of device, service plan and account information. Our system also captures duration, data traffic, location, and type of device. We normalize and process this data from disparate providers for our use and for our wholesale partners. This system has been enhanced to include support for secure Next Generation Hotspot roaming, which leverages Passpoint-certified devices and network hardware to establish seamless secure connections for customers.

Mediation and Billing System

Our mediation and billing system records and analyzes individual usage sessions required to bill for Wi-Fi usage. Users are charged based on variables such as pricing plan, device type, location, time and amount of use. Our system consolidates usage session information, determines the user identity and applies the appropriate aggregation and flagging to ensure proper usage processing. Our system handles exceptions automatically. Exceptions that cannot be solved automatically are brought to the attention of the operations staff for rectification of any discrepancies. The billing system provides billing based on roaming relationship, user type, device type and account type. Our retail and military customer mediation and billing is handled by the same infrastructure used for wholesale customer and billing, resulting in efficiencies of scale and operation.

Software Configuration and Messaging System

Our software configuration system provides real-time network configuration updates for approximately 2,630 networks and 50 detection and login methodologies used by the Boingo software client to access our network. Our software configuration system automatically registers new network definitions and login methodologies to allow individuals to connect to our hotspot locations. All supported platforms use a single configuration, providing a high level of operational and test efficiency. Our messaging system enables real-time customer notification and system interaction at login, based on location, network, user, account type, device and usage. This approach enables us and our partners to deliver custom marketing or service messages.

Operations

We provide significant operational support for our managed and operated Wi-Fi hotspots and other hotspots in our network. For our managed and operated Wi-Fi hotspots, we design, build, monitor and maintain the network. For roaming partners, we monitor hotspot uptime and report outages so that they can be quickly remedied. We have service level agreements with our roaming partners specifying minimum network uptime requirements.

Our Wi-Fi deployments are based on the IEEE 802.11a, b, g, n and ac standards and operate in the 2.4 GHz and 5 GHz unlicensed spectrum bands. We design, build, and operate DAS networks that provide 2G, 3G, and 4G-LTE services across multiple licensed-frequency bands for all major telecom operators.

Customers

We generate revenue primarily from our retail and military customers and wholesale partners. Our retail and military customers purchase either month-to-month subscription plans that automatically renew, or single-use access to our network. We acquire our retail and military customers primarily from users passing through our managed and operated locations, where we generally have exclusive multi-year agreements. Some of our wholesale Wi-Fi customers license our software and pay usage-based network access fees to allow their customers access to our global Wi-Fi network and other wholesale Wi-Fi partners pay us to provide Wi-Fi services in their venue locations under a service provider arrangement. Our DAS customers are telecom operators who pay us one-time build-out fees and recurring access fees for our DAS network, enabling their cellular customers to access these networks. Our wholesale customer relationships are generally governed by multi-year contracts. We acquire our wholesale customers through our business development efforts. We also generate revenue from advertisers that seek to reach visitors to the landing pages at our managed and operated network locations with online advertising, promotional and sponsored programs. For the year ended December 31, 2014, entities affiliated with AT&T Inc. accounted for 15% of total revenue. For the year ended December 31, 2013, two groups of entities affiliated with Verizon Communications, Inc. and

AT&T Inc. each accounted for 14% of total revenue. For the year ended December 31, 2012, those same two groups of affiliated entities accounted for 17% and 15% of total revenue, respectively. The loss of these groups and the customers could have a material adverse impact on our consolidated statements of operations.

Key Business Metrics

In addition to monitoring traditional financial measures, we also monitor our operating performance using key performance indicators. In 2014, we updated our presentation of revenue sources to differentiate our individual users based on the nature of the users—retail users who purchase Internet access at our managed and operated hotspots and select partner locations or military users who purchase Internet access or IPTV services for individual use on U.S. military bases. Accordingly, we have disaggregated our subscribers between our retail and military users. We have also removed monthly churn, which was defined as the number of subscribers who canceled their subscriptions in a given month, expressed as a percentage of the average subscribers in that month, as a key performance indicator as we no longer view monthly churn as a key business metric. Our key performance indicators follow:

	Year Ended December 31,		
	2014	2013	2012
	(in thousands)		
Subscribers—retail	254	308	284
Subscribers—military	20	2	—
Connects	81,413	50,830	24,490
DAS nodes	8.4	6.3	5.6

Subscribers—retail and subscribers—military. This metric represents the number of paying customers who are on a month-to-month subscription plan at a given period end.

Connects. This metric shows how often individuals connect to our global Wi-Fi network in a given period. The connects include retail and wholesale customers in both customer pay locations and customer free locations where we are a paid service provider or receive sponsorship or promotional fees. We count each connect as a single connect regardless of how many times that individual accesses the network at a given venue during their 24 hour period. This measure is an indicator of paid activity throughout our network.

DAS nodes. This metric represents the number of active DAS nodes as of the end of the period. A DAS node is a single communications endpoint, typically an antenna, which transmits or receives radio frequency signals wirelessly. This measure is an indicator of the reach of our DAS network.

Retail and Military Customer Support Services

We provide support services to our retail and military customers 24 hours per day, 7 days per week, 365 days per year, by phone, chat or email. Our website also contains a comprehensive list of responses to frequently asked questions, and we monitor and respond to social media communications regarding our services. We provide support services through our internal customer care department and we rely on a third-party provider for most of our standard customer support.

Competition

The market for mobile Internet services and solutions is fragmented and competitive. We believe the principal competitive factors in our industry include the following:

- price;

- ease of access and use;
- quality of service;
- geographic reach;
- bundled service offerings;
- venue exclusivity;
- brand name recognition; and
- flexible pricing plans.

We believe we face no material direct competitors to our service offerings. Indirect competitors include telecom operators, cable companies, self-managed venue networks and smaller wireless Internet service providers. Some of these competitors have substantially greater resources, larger customer bases, longer operating histories and greater name recognition than we have. Others offer bundled data services with primary service offerings that we do not offer such as landline and cellular telephone service, and cable or satellite television. Many of our indirect competitors are also partners from whom we receive revenue when their customers access our network. We believe that we compete favorably based on geographic coverage, network reliability, quality of service, ease of use, cost, and our neutral host business model.

Intellectual Property

Our ongoing success will depend in part upon our ability to protect our core technology and intellectual property. To accomplish this, we rely on a combination of intellectual property rights, including trade secrets, patents, copyrights and trademarks, as well as contractual restrictions.

We have four issued U.S. patents, two of which expire in 2022, and the others of which expire in 2030 and 2033. We have six patent applications pending in the United States. One of the pending U.S. patent applications is also pending in Europe. We have two issued Japanese patents and two issued Chinese patents, each of which has a maximum term that expires in 2027.

Our registered trademarks in the United States and the European Union include "Boingo", "Boingo Wi-Finder", and "Don't just go. Boingo.", and in the United States, "Cloud 9 Media" and "AWG-WIFI". We own additional registrations and have filed other trademark applications in the United States and other countries.

In addition to the foregoing protections, we control access to, and use of, our proprietary software and other confidential information through the use of internal and external controls, including contractual protections with employees, contractors, customers and partners. Our software is protected by United States and international copyright laws.

Employees

As of December 31, 2014, we had 265 employees, including 74 in development and technology, 115 in operations, 48 in business development and marketing and 28 in general and administrative. All of our employees are full-time employees. None of our employees are represented by a labor union except for four international employees who are covered by a collective bargaining agreement. We have never experienced any employment related work stoppages and consider relations with our employees to be good. As of December 31, 2014, we also had arrangements with a third party call center provider in New York that provided us with approximately 50 full-time equivalent contractors for retail and military customer support service and similar functions.

Financial Information about Segments and Geographic Areas

Reference to our segments and the geographic areas where we operate is contained in Note 2 to our accompanying consolidated financial statements included in Part II, Item 8 of this report.

Available Information

Our filings with the United States Securities and Exchange Commission or SEC, including this Annual Report on Form 10-K, quarterly reports on Form 10-Q, and current reports on Form 8-K are available free of charge through the Investor Relations section of our website at <http://www.boingo.com> and are accessible as soon as reasonably practicable after being electronically filed with or furnished to the SEC. The information on, or that can be accessed through, our website is not part of this Annual Report on Form 10-K.

Copies of this report are also available free of charge from Boingo Corporate Investor Communications, 10960 Wilshire Boulevard, Suite 800, Los Angeles, California 90024. In addition, our Corporate Governance Guidelines, Code of Business Conduct and Ethics and written charters of the committees of the Board of Directors are accessible through the Corporate Governance tab in the Investor Relations section of our website and are available in print to any stockholder who requests a copy.

You may read and copy materials that we file with the SEC at the SEC's Public Reference facilities at 100 F Street, N.E., Room 1580, Washington, DC 20549. Information on the operation of the Public Reference facilities is available by calling the SEC at 1-800-SEC-0330. The SEC maintains a website that contains reports and other information we file, and proxy statements to be filed with the SEC. The address of the SEC's website is <http://www.sec.gov>.

Item 1A. Risk Factors

Investing in our common stock involves a high degree of risk. You should consider carefully the risks and uncertainties described below, together with all of the other information in this report on Form 10-K, including our accompanying consolidated financial statements and the related notes, before deciding whether to purchase shares of our common stock. If any of the following risks actually occur, our business, financial condition, results of operations and prospects could be materially and adversely affected. The price of our common stock could decline and you could lose part or all of your investment.

Risks Related to Our Business

A significant portion of our revenue is dependent on our relationships with our venue and network partners, and if these relationships are impaired or terminated, or if our partners do not perform as expected, our business and results of operations could be materially and adversely affected.

We depend on our relationships with venue partners, particularly key airport venue partners, in order to manage and operate DAS networks and Wi-Fi hotspots. These relationships generate a significant portion of our revenue and allow us to generate wholesale revenues and new retail and military customers. Our agreements with our venue partners, DAS telecom operators, and wholesale Wi-Fi customers are for defined periods and of varying durations. In order to maintain our relationships with venue partners, we may need to upgrade our networks, which would require significantly higher initial capital expenditures than we have historically incurred, and if we are unsuccessful, our relationships could be impaired. If our venue partners terminate or fail to renew these agreements, our ability to generate and retain wholesale, retail and military customers would be diminished and our network of DAS networks and Wi-Fi hotspots would be reduced, which might result in a significant disruption of our business and adversely affect our operating results. Further, any

delays in our ability to complete the upgrade of our networks or build-out new networks can adversely affect our operating results.

We depend on our relationships with network partners to allow users to roam across Wi-Fi networks that we do not manage or operate. A significant portion of our revenue depends on maintaining these relationships with network partners. Some network partners may compete with us for retail customers and may decide to terminate our partnerships and instead develop competing retail products and services. Our network partner agreements are for defined periods and of varying durations. If our network partners terminate these agreements, or fail to renew these agreements, our ability to retain retail customers could be diminished and our network of Wi-Fi hotspots could be reduced, which could result in a significant disruption of our business and adversely affect our operating results.

Worldwide economic conditions, and their impact on travel and consumer spending, may adversely affect our business, operating results and financial condition.

Global economic conditions have been weak for a prolonged period of time, and levels of travel and consumer spending have been particularly depressed. Our business is impacted by travel and consumer spending, because users seek to access the mobile Internet while they are on-the-go, and because spending on Internet access is often a consumer discretionary spending decision. Factors that tend to negatively impact levels of travel include high unemployment, high energy prices, low business and consumer confidence, the fear of terrorist attacks, war and other macroeconomic factors. Economic conditions that tend to negatively impact levels of discretionary consumer spending include high unemployment, high consumer debt, reductions in net worth, depressed real estate markets, increased taxation, high energy prices, high interest rates, low consumer confidence and other macroeconomic factors. If the global economic recovery is slower than expected, or if it weakens, our retail and military customer base, new retail and military customer acquisition and usage-based revenue could be materially harmed, and our results of operations would be adversely affected.

Our business depends upon demand for mobile Internet services on Wi-Fi networks, market adoption of new technologies and our ability to adapt to such changes.

Our future success depends upon growing demand for mobile Internet services, which is inherently uncertain. The demand for mobile Internet services may decrease or may grow more slowly than expected. Any such decrease in the demand or slowing rate of growth could have a material adverse effect on our business. The continued demand for mobile Internet services depends on the continued proliferation of smartphones, tablet computers and other Wi-Fi enabled devices and the rate of evolution of data-intensive applications on the mobile Internet. Historically, we have derived substantially all our retail revenue from laptop users who purchased month-to-month subscriptions or single-use access. We may face challenges as we seek to increase the revenue generated from the usage on smartphones, tablet computers and other mobile devices.

Our business depends on the continued integration of Wi-Fi as a standard feature in mobile devices. If Wi-Fi ceases to be a standard feature in mobile devices, or if the rate of integration of Wi-Fi on mobile devices decreases or is slower than expected, the market for our services may be substantially diminished.

Competing technologies pose a risk to the continued use of Wi-Fi as a mobile Internet technology. The introduction and market acceptance of emerging wireless technologies such as 4G, WiMAX and Super Wi-Fi, could cause significant disruption to our business, which may result in a loss of customers, users and revenue. If users find emerging wireless technologies to be sufficiently fast, convenient or cost effective, we may not be able to compete effectively, and our ability to attract or retain users will be impaired. Additionally, one or more of our partners may deploy emerging wireless technologies that

could reduce the partner's need to work with us, and may result in significant loss of revenue and reduction of the hotspots in our network.

We deliver value to our users by providing simple access to Wi-Fi hotspots, regardless of whether we manage and operate the hotspot, or the hotspot is operated by a partner. As a result, our business depends on our ability to anticipate and quickly adapt to changing technological standards and advances. If technological standards change and we fail to adapt accordingly, our business and revenue may be adversely affected. Furthermore, the proliferation of new mobile devices and operating platforms poses challenges for our research and development efforts. If we are unable to create simple solutions for a particular device or operating platform, we will be unable to effectively attract users of these devices or operating platforms and our business will be adversely affected.

The growth of free Wi-Fi networks may compete with our paid mobile Wi-Fi Internet solutions.

Many venues, including airports, coffee shops and hotels, offer free mobile Wi-Fi as an incentive or value-added benefit to their customers. Free Wi-Fi may reduce retail customer demand for our services, and put downward pressure on the prices we charge our retail customers. In addition, telecom operators may offer free mobile Wi-Fi as part of a home broadband or other service contract, which also may force down the prices we charge our retail customers. If we are unable to effectively offset this downward pressure on our prices by being a Wi-Fi service provider, or if we are unable to acquire and retain retail customers, we will have lower profit margins and our operating results and financial condition may be adversely impacted.

Negotiations with prospective wholesale partners can be lengthy and unpredictable, which may cause our operating results to vary.

Our negotiations with prospective partners to acquire Wi-Fi hotspots to operate, to acquire roaming rights on partners' networks, or for new partners to implement our solutions, can be lengthy, and in some cases can last over 12 months. Because of the lengthy negotiation cycle, the time required to reach a final agreement with a partner is unpredictable and may lead to variances in our operating results from quarter to quarter. Negotiations with prospective partners also require substantial time, effort and resources. We may ultimately fail in our negotiations, resulting in costs to our business without any associated benefits.

We may be unsuccessful in expanding into new venue types, which could harm the growth of our business, operating results and financial condition.

We are negotiating with existing and prospective partners to expand our managed and operated Wi-Fi network footprint in venue types where we historically have had only a limited presence. Expansion into these venue types, and in particular shopping malls, stadiums, hospitals and quick service restaurants, may require significantly higher initial capital expenditures than we have historically incurred. In contrast to Wi-Fi network build-outs at venues such as airports, where telecom operators typically pay the substantial expense of laying cable or fiber, we may be required to incur the initial capital expense of access points and related hardware and cabling at tens of thousands of quick serve restaurant locations and hundreds of shopping malls, hospitals and stadium locations. We may not be able to execute on our strategy or there may not be returns on these investments in the near future or at all. As a result, our business, financial condition and results of operations could be materially and adversely affected.

We operate relatively new businesses in an emerging market, so an investment in our company involves more risk than an investment in a more mature company in an established industry.

We derive nearly all of our revenue from mobile Internet services, which are new and highly dynamic businesses, which face significant challenges. You should consider our business and prospects in light of the risks, uncertainties and difficulties we will encounter as an emerging company in a new and rapidly evolving market. We may not be able to address these risks, uncertainties and difficulties successfully, which could materially harm our business and operating results.

Our operating results may fluctuate unexpectedly, which makes them difficult to predict and may cause us to fail to meet the expectations of investors, adversely affecting our stock price.

We operate in a highly dynamic industry and our future quarterly operating results may fluctuate significantly. Our revenue and operating results may vary from quarter to quarter due to many factors, many of which are not within our control. As a result, comparing our operating results on a period-to-period basis may not be meaningful. Further, it is difficult to accurately forecast our revenue, margin and operating results, and if we fail to match our expected results or the results expected by financial analysts, the trading price of our common stock may be adversely affected.

Factors that contribute to fluctuations in our operating results from quarter-to-quarter include those described in this risk factor section including:

- our gain or loss of a key venue partner, military partner, roaming partner or platform services partner;
- the rate at which individuals adopt and continue to use our solutions;
- the timing and success of new technology introductions by us or our competitors;
- the growing prevalence of free Wi-Fi models and our ability to adapt and compete with free Wi-Fi;
- the number of air travel passengers, particularly business travelers;
- intellectual property disputes; and
- general economic conditions in our domestic and foreign markets.

Due to these and other factors, quarter-to-quarter comparisons of our historical operating results should not be relied upon as accurate indicators of our future performance.

We may not maintain recent rates of revenue growth.

Although our revenue has increased substantially over the last few years, we may not be able to maintain historical rates of revenue growth. We believe that our continued growth will depend, among other factors, on successfully implementing our business strategies, including our ability to:

- attract new users, convert users of our single-use services into subscribers and keep existing subscribers actively using our services;
- develop new sources of revenue from our users and partners;
- react to changes in the way individuals access and use the mobile Internet;
- expand into new markets;
- increase the awareness of our brand;
- retain our existing partners and attract new partners; and

- provide our users with a superior experience, including customer support and payment experiences.

However, we cannot guarantee that we will successfully implement any of these business strategies.

The U.S. government may modify, curtail or terminate one or more of our contracts.

We have dedicated a significant amount of resources to building out broadband and IPTV networks for troops stationed on U.S. military bases pursuant to our contracts with the U.S. government. The investment of these resources will occur in advance of experiencing any direct benefit from them including generation of revenues and will make it difficult to determine if we are allocating our resources efficiently. As a result of these investments, we do not expect to be profitable in the near future. The U.S. government may modify, curtail or terminate its contracts with us, either at its convenience or for default based on performance. Any such modification, curtailment, or termination of one or more of our government contracts could have a material adverse effect on our earnings, cash flow and/or financial position.

System failures could harm our business.

Although we seek to reduce the possibility of disruptions or other outages, our business may be disrupted by problems with our technology and systems, such as an access point failure at one of our managed and operated hotspots, or a backhaul disruption. We have experienced system failures from time to time, and any interruption in the ability of users to access our solution could harm our business and reputation.

Our systems may be vulnerable to damage or interruption from telecommunications failures, computer denial-of-service attacks, power loss, computer viruses, earthquakes, floods, fires, terrorist attacks and similar events. Some of our systems are not fully redundant, and our disaster recovery planning is not sufficient for all eventualities. Our systems may also be damaged by break-ins, sabotage, and acts of vandalism. Despite any precautions we may take, the occurrence of a natural disaster or other unanticipated problems could result in lengthy interruptions in the availability of the Boingo solution. We do not carry business interruption insurance to compensate us for all losses that may result from service interruptions caused by system failures. If we are unable to resolve service interruptions quickly, our ability to acquire and retain customers will be impaired and our operating results and business could be adversely affected.

We may be unsuccessful in expanding our international operations, which could harm the growth of our business, operating results and financial condition.

Our ability to expand internationally involves various risks, including the need to invest significant resources in unfamiliar markets, and the possibility that there may not be returns on these investments in the near future or at all. In addition, we have incurred and expect to continue to incur expenses before we generate any material revenue in these new markets. Our expansion plans will require significant management attention and resources. We have limited experience in selling our solutions in international markets or in conforming to local cultures, standards or policies. We may not be able to compete successfully in these international markets. Our ability to expand will also be limited by the demand for mobile Internet in international markets. Different privacy, censorship and liability standards and regulations and different intellectual property laws in foreign countries may cause our business and operating results to suffer.

Any future international operations may fail to succeed due to risks inherent in foreign operations, including:

- different technological solutions for mobile Internet than those used in North America;

- varied, unfamiliar and unclear legal and regulatory restrictions;
- unexpected changes in international regulatory requirements and tariffs;
- legal, political, social or systemic restrictions on the ability of U.S. companies to do business in foreign countries;
- currency fluctuations;
- Foreign Corrupt Practices Act compliance and related risks;
- difficulties in staffing and managing foreign operations;
- difficulties in enforcing contracts and collecting accounts receivable, and longer payment cycles, especially in emerging markets;
- reduced protection for intellectual property rights in some countries; and
- potential adverse tax consequences.

Some of our business partners also have international operations and are subject to the risks described above. Even if we are able to successfully manage the risks of international operations, our business may be adversely affected if our business partners are not able to successfully manage these risks.

As a result of these obstacles, we may find it difficult or prohibitively expensive to expand internationally or we may be unsuccessful in our attempt to do so, which could harm our business, operating results and financial condition.

Our industry is competitive and if we do not compete successfully, we could lose market share, experience reduced revenue or suffer losses.

The market for commercial mobile Wi-Fi solutions is competitive and impacted by technological change, and we expect competition with our current and potential competitors to intensify in the future. In particular, some of our competitors have taken steps or may decide to more aggressively compete against us, particularly in the market for venue build-outs of Wi-Fi and DAS solutions.

Our competitors, many of whom are also our partners, include a variety of telecom operators and network operators, including AT&T, T-Mobile, Cablevision, Comcast and local operators. These and other competitors have developed or may develop technologies that compete directly with our solutions. Many of our competitors are substantially larger than we are and have substantially longer operating histories. We may not be able to fund or invest in certain areas of our business to the same degree as our competitors. Many have substantially greater product development and marketing budgets and other financial and personnel resources than we do. Some also have greater name and brand recognition and a larger base of subscribers or users than we have. In addition, our competitors may provide services that we do not, such as cellular, local exchange and long distance services, voicemail and digital subscriber line. Users that desire these services may choose to also obtain mobile Wi-Fi Internet services from a competitor that provides these additional services rather than from us.

Furthermore, we rely on several of our competitors as partners in roaming agreements. The roaming agreements provide that our retail customers and our wholesale partners' customers may use the Wi-Fi networks of our partners. One or more of our partners may deploy competing technologies that could reduce the partner's need to work with us under a roaming agreement. If our partners decide to terminate our roaming agreements, our network of Wi-Fi hotspots may be reduced, which may result in a significant disruption to our business.

Competition could increase our selling and marketing expenses and related customer acquisition costs. We may not have the financial resources, technical expertise or marketing and support

capabilities to continue to compete successfully. A failure to respond to established and new competitors may adversely impact our business and operating results.

The regulation of Internet communications, products and services is currently uncertain, which poses risks for our business from changes in laws, regulations, and interpretation or enforcement of existing laws or regulations.

The current regulatory environment for Internet communications, products and services is uncertain. Many laws and regulations were adopted prior to the advent of the Internet and related technologies and often do not contemplate or address the specific issues associated with the Internet and related technologies. The scope of laws and regulations applicable to the Internet remains uncertain and is subject to statutory or interpretive change. We cannot be certain that we, our partners or our users are currently in compliance with regulatory or other legal requirements in the numerous countries in which our service is used. Our failure or the failure of our partners, users and others with whom we transact business, or to whom we license the Boingo solution, to comply with existing or future regulatory or other legal requirements could materially adversely affect our business, financial condition and results of operations. Regulators may disagree with our interpretations of existing laws or regulations or the applicability of existing laws or regulations to our business, and existing laws, regulations and interpretations may change in unexpected ways.

We believe that the Boingo solution is on the forefront of mobile Internet technology, and therefore it may face greater regulatory scrutiny than other communications products and services. We cannot be certain what positions regulators may take regarding our compliance with, or lack of compliance with, current and future legal and regulatory requirements or what positions regulators may take regarding any past or future actions we have taken or may take in any jurisdiction. Regulators may determine that we are not in compliance with legal and regulatory requirements, and impose penalties, or we may need to make changes to the Boingo solution, which could be costly and difficult. Any of these events would adversely affect our operating results and business.

If we lose key personnel or are unable to attract and retain personnel on a cost effective basis, our business could be harmed.

Our performance is substantially dependent on the continued services and performance of our senior management and our highly qualified team of engineers, many of whom have numerous years of experience and specialized expertise in our business. If we are not successful in hiring and retaining highly qualified engineers, we may not be able to extend or maintain our engineering and technological expertise and our future product and service development efforts could be adversely affected. If we lose members of our senior management, this may significantly delay or prevent the achievement of our strategic objectives and adversely affect our operating results.

Our future success also depends on our ability to identify, attract, hire, train, retain and motivate highly skilled managerial, operations, business development and marketing personnel. We have in the past maintained a rigorous, highly selective and time-consuming hiring process. We believe that our approach to hiring has significantly contributed to our success to date. However, our highly selective hiring process has made it more difficult for us to hire a sufficient number of qualified employees, and, as we grow, our hiring process may prevent us from hiring the personnel we need in a timely manner. Moreover, the cost of living in the Los Angeles area, where our corporate headquarters is located, has been an impediment to attracting new employees in the past, and we expect that this will continue to impair our ability to attract and retain employees in the future. If we fail to attract, integrate and retain the necessary personnel, we may not be able to grow effectively and our business could suffer significantly.

Our failure to properly maintain our customers' confidential information and protect our network against security breaches, including cyber-security breaches, could harm our business and operating results.

Advances in computer capabilities, new discoveries in the field of cryptography or other cyber-security developments may result in a compromise or breach of the technology we use to protect user transaction data. Cyber-security risks such as malicious software and attempts to gain unauthorized access to data are rapidly evolving and could lead to disruptions in our network, unauthorized release of confidential or otherwise protected information or corruption of data. Any compromises of our security could damage our reputation and brand and expose us to possible liability such as litigation claims, which would substantially harm our business and operating results. We may need to expend significant resources to protect against security breaches or to address problems caused by breaches.

Many countries, such as European Union member states as a result of the 2006 E.U. Data Retention Directive, are introducing, or have already introduced into local law some form of traffic and user data retention requirements, which are generally applicable to providers of electronic communications services. Retention periods and data types vary from country to country, and the various local data protection and other authorities may implement traffic and user retention requirements regarding certain data in different and potentially overlapping ways. Although the constitutionality of the 2006 E.U. Data Retention Directive has been questioned, we may be required to comply with data retention requirements in one or more jurisdictions, or we may be required to comply with these requirements in the future as a result of changes or modifications to the Boingo solution or changes or modifications to the technological infrastructure on which the Boingo solution is based. Failure to comply with these retention requirements may result in the imposition of costly penalties. Compliance with these retention requirements can be difficult and costly from a legal, operational and technical perspective and could harm our business and operational results.

We rely on our credit facility to fund a significant portion of our capital expenditures and other capital needs. If we are unable to achieve compliance with the credit facility covenants, or interest rates increase significantly, our business would be negatively impacted.

In November 2014, we entered into a Credit Agreement (the "Credit Agreement") and related agreements with Bank of America, N.A. acting as agent for lenders named therein. The Credit Agreement places restrictions on our ability to take certain actions and sets standards for minimum financial performance. In addition to maintaining compliance with the covenants set forth in the Credit Agreement, our ability to increase the amount available for borrowing under our revolving line of credit depends on our ability to meet certain financial targets. If we fail to comply with the terms and conditions of this Credit Agreement, then the line of credit may be withdrawn, we may be required to immediately repay any outstanding obligation, and the additional funds will not be available to us to fund our capital needs.

We rely on a third-party customer support service provider for the majority of our customer support calls. If this service provider experiences operational difficulties or disruptions, our business could be adversely affected.

We depend on a third-party customer support service provider to handle most of our routine retail and military customer support cases. While we maintain limited customer support operations in our Los Angeles headquarters, if our relationship with our customer support service provider terminates unexpectedly, or if our customer service provider experiences operational difficulties, we may not be able to respond to customer support calls in a timely manner and the quality of our customer service would be adversely affected. This could harm our reputation and brand image and make it difficult for us to attract and retain users. In addition, the loss of the customer support service provider would require us to identify and contract with alternative sources, which could prove time-consuming and expensive.

Material defects or errors in our software could harm our reputation, result in significant costs to us and impair our ability to sell the Boingo solution.

The software underlying the Boingo solution is inherently complex and may contain material defects or errors, particularly when the software is first introduced or when new versions or enhancements are released. We have from time to time found defects or errors in our software, and defects or errors in our existing software may be detected in the future. Any defects or errors that cause interruptions to the availability of our services could result in:

- a reduction in sales or delay in market acceptance of the Boingo solution;
- sales credits or refunds to our users and wholesale partners;
- loss of existing users and difficulty in attracting new users;
- diversion of development resources;
- harm to our reputation and brand image; and
- increased insurance costs.

The costs incurred in correcting any material defects or errors in our software may be substantial and could harm our operating results.

If we are not successful in developing our mobile application for new devices and platforms, or if those solutions are not widely adopted, our results of operations and business could be adversely affected.

As new mobile devices and platforms are developed, we may encounter problems in developing products for such new mobile devices and platforms, and we may need to devote significant resources to the creation, support, and maintenance of such products. In addition, if we experience difficulties integrating our mobile applications into mobile devices, or if we face increased costs to distribute our mobile applications, our future growth and our results of operations could suffer.

If we fail to maintain relationships with providers of mobile operating systems or mobile application download stores, our business could be adversely affected.

We rely on the integration of our software into mobile operating systems to allow mobile devices to connect to our network of Wi-Fi hotspots. If problems arise with our relationships with providers of mobile operating systems or mobile application download stores, such as the Apple App Store and Google Play, or if our mobile application receives unfavorable treatment compared to the promotion and placement of competing applications, such as the order of our products in the mobile application download stores, we may fail to attract or retain customers or partners, and our business could be adversely affected.

If we fail to cost effectively develop our brand, our financial condition and operating results could be harmed.

We market our solution under the Boingo brand. We believe that developing and maintaining awareness of our brand is important to achieving widespread acceptance of the Boingo solution, and is an important element in attracting and retaining customers and partners. Additionally, we believe that developing this brand in a cost effective manner is important in meeting our expected margins. Brand promotion activities may not result in increased revenue, and any increased revenue resulting from these promotion activities may not offset the expenses we incurred in building our brand. If we fail to cost effectively build and maintain our brand, we may fail to attract or retain customers or partners, and our financial condition and results of operations could be harmed.

Our business depends on strong brands, and if we do not maintain and enhance our brand, our financial condition and operating results could be harmed.

We believe that the Boingo brand is a critical part of our business. We continue to seek new ways to promote our brand through our managed and operated hotspots. We intend to enhance our brand through low-cost co-marketing arrangements with our partners and through periodic promotional and sponsorship activities and by continuing to leverage the reach of social media to interact with our customers. In order to maintain strong relationships with our venue and network partners, we may have to reduce the visibility of the Boingo brand or make other decisions that do not promote and maintain the Boingo brand, such as our custom branding alternatives that we offer to wholesale clients. If we fail to promote and maintain the Boingo brand, or if we incur significant expenses to promote the brand and are still unsuccessful in maintaining a strong brand, our financial condition and operating results could be harmed.

Risks Related to Our Intellectual Property

Claims by others that we infringe their proprietary technology could harm our business.

In recent years there has been significant litigation involving intellectual property rights in many technology-based industries, including the wireless communications industry. While we have not been specifically targeted, companies similar to us have been subject to patent lawsuits. As we face increasing competition and gain an increasingly high profile, the possibility of intellectual property rights claims against us grows. We may be subject to third-party claims in the future. The costs of supporting these litigations and disputes are considerable, and there can be no assurance that a favorable outcome will be obtained. We may be required to settle these litigations and disputes on terms that are unfavorable to us, given the complex technical issues and inherent uncertainties in intellectual property litigation. Claims that the Boingo solution infringes third-party intellectual property rights, regardless of their merit or resolution, could also divert the efforts and attention of our management and technical personnel. The terms of any settlements or judgments may require us to:

- cease distribution and back-end operation of the Boingo solution;
- pay substantial damages for infringement;
- expend significant resources to develop non-infringing solutions;
- license technology from the third-party claiming infringement, which may not be available on commercially reasonable terms, or at all;
- cross-license our technology to a competitor to resolve an infringement claim, which could weaken our ability to compete with that competitor; or
- pay substantial damages to our partners to discontinue their use of or to replace infringing solutions sold to them with non-infringing solutions.

Any of these unfavorable outcomes could have a material adverse effect on our business, financial condition and results of operations.

If we are unable to protect our intellectual property rights, our competitive position could be harmed, or we could be required to incur significant expenses to enforce our rights.

Our business depends on our ability to protect our proprietary technology. We rely on trade secret, patent, copyright and trademark laws and confidentiality agreements with employees and third parties, all of which offer only limited protection. We own four patents and have applications for six additional patents pending in the United States. Despite our efforts, the steps we have taken to protect our proprietary rights may not be adequate to prevent the use or misappropriation of our proprietary

information or infringement of our intellectual property rights. Our ability to police the use, misappropriation or infringement of our intellectual property is uncertain, particularly in countries other than the United States. Further, we do not know whether any of our pending patent applications will result in the issuance of patents or whether the examination process will require us to narrow our claims. Even if patents are issued, they may be contested, circumvented, or invalidated in the future. Moreover, the rights granted under any issued patents may not provide us with complete proprietary protection or any competitive advantages, and, as with any technology, competitors may be able to develop similar or superior technologies on their own now or in the future. Protecting against the unauthorized use of our solutions, trademarks, and other proprietary rights is expensive, difficult and, in some cases, impossible. Litigation may be necessary in the future to enforce or defend our intellectual property rights, to protect our trade secrets, or to determine the validity and scope of the proprietary rights of others. Litigation could result in substantial costs and diversion of management resources, either of which could harm our business. Furthermore, many of our current and potential competitors have the ability to dedicate substantially greater resources to enforce their intellectual property rights than we do. Accordingly, despite our efforts, if the protection of our proprietary rights is inadequate to prevent use or misappropriation by third parties, the value of our brand and other intangible assets may be diminished and competitors may be able to more effectively mimic our service and methods of operations. Any of these events would have a material adverse effect on our business, financial condition and results of operations.

Our use of open source software could limit our ability to commercialize the Boingo solution.

We have incorporated open source software into the Boingo solution. Although we closely monitor our use of open source software, we are subject to the terms of open source licenses that have not been interpreted by U.S. or foreign courts, and there is a risk that in the future these licenses could be construed in a manner that imposes unanticipated conditions or restrictions on our ability to commercialize the Boingo solution. In that event, we could be required to seek licenses from third parties or to re-engineer our software in order to continue offering the Boingo solution, or to discontinue operations, any of which could materially adversely affect our business.

We utilize unlicensed spectrum in certain of our offerings which is subject to intense competition, low barriers of entry and slowdowns due to multiple users.

We presently utilize unlicensed spectrum to provide our Wi-Fi Internet solutions. Unlicensed or "free" spectrum is available to multiple users and may suffer bandwidth limitations, interference and slowdowns if the number of users exceeds traffic capacity. The availability of unlicensed spectrum is not unlimited and others do not need to obtain permits or licenses to utilize the same unlicensed spectrum that we currently, or may in the future, utilize. The inherent limitations of unlicensed spectrum could potentially threaten our ability to reliably deliver our services. Moreover, the prevalence of unlicensed spectrum creates low barriers to entry in our industry.

Risks Related to Ownership of Our Common Stock

The market price of our common stock may be volatile, which could result in substantial losses for investors.

Fluctuations in market price and volume are particularly common among securities of technology companies. As a result, you may be unable to sell your shares of common stock at or above the price you paid. The market price of our common stock may fluctuate significantly in response to the factors described in this risk factor section as well as the following factors, among others, many of which are beyond our control:

- general market conditions;
- domestic and international economic factors unrelated to our performance;

- actual or anticipated fluctuations in our quarterly operating results;
- changes in or failure to meet publicly disclosed expectations as to our future financial performance;
- changes in securities analysts' estimates of our financial performance or lack of research and reports by industry analysts;
- changes in market valuations or earnings of similar companies;
- announcements by us or our competitors of significant products, contracts, acquisitions, or strategic partnerships;
- developments or disputes concerning patents or proprietary rights, including increases or decreases in litigation expenses associated with intellectual property lawsuits we may initiate, or in which we may be named as defendants;
- termination of a relationship with a venue partner;
- failure to complete significant sales;
- any future sales of our common stock or other securities; and
- additions or departures of key personnel.

If securities or industry analysts publish misleading or unfavorable research about our business, our stock price and trading volume could decline.

The trading market for our common stock depends in part on the research and reports that securities or industry analysts publish about us or our business. If one or more of these analysts downgrades our stock or publishes misleading or unfavorable research about our business, our stock price would likely decline. If one or more of these analysts ceases coverage of our company or fails to publish reports on us regularly, demand for our stock could decrease, which could cause our stock price or trading volume to decline. Announcements by analysts that may have a significant impact on the market price of our common stock may relate to:

- our operating results or forecasts;
- new issuances of equity, debt or convertible debt by us;
- developments in our relationships with corporate customers;
- announcements by our customers or competitors;
- changes in regulatory policy or interpretation;
- governmental investigations;
- changes in the ratings of our stock by rating agencies or securities analysts;
- our acquisitions of complementary businesses; or
- our operational performance.

Insiders have substantial control over us and are able to influence corporate matters.

Our directors and executive officers and their affiliates are able to exercise significant influence over all matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions, such as a merger or other sale of our company or its assets. This concentration of ownership could limit your ability to influence corporate matters and may have the effect of delaying or preventing a third party from acquiring control over us.

As a public company, we are subject to financial and other reporting and corporate governance requirements that may be difficult for us to satisfy, and may divert resources and management attention from operating our business.

We are required to file annual, quarterly and other reports with the SEC. We must prepare and timely file financial statements that comply with SEC reporting requirements. We are also subject to other reporting and corporate governance requirements, under the listing standards of the NASDAQ Stock Market, or NASDAQ, which imposes significant compliance obligations upon us. We are required, among other things, to:

- prepare and file periodic reports, and distribute other stockholder communications, in compliance with the federal securities laws and NASDAQ rules; and
- evaluate and maintain our system of internal control over financial reporting, and report on management's assessment thereof, in compliance with rules and regulations of the SEC and the Public Company Accounting Oversight Board. Further, we are required to obtain an opinion on the effectiveness of our internal control over financial reporting as of December 31st each year from our independent registered public accounting firm.

If we need additional capital in the future, it may not be available on favorable terms, or at all.

We may require additional capital from equity or debt financing in the future to fund our operations, or respond to competitive pressures or strategic opportunities. We may not be able to secure timely additional financing on favorable terms, or at all. The terms of additional financing may place limits on our financial and operating flexibility. If we raise additional funds through further issuances of equity, convertible debt securities or other securities convertible into equity, our existing stockholders could suffer significant dilution in their percentage ownership of our company, and any new securities we issue could have rights, preferences and privileges senior to those of holders of our common stock. If we are unable to obtain adequate financing or financing on terms satisfactory to us, if and when we require it, our ability to grow or support our business and to respond to business challenges and opportunities could be significantly limited.

We could be the subject of securities class action litigation due to future stock price volatility, which could divert management's attention and adversely affect our results of operations.

The stock market in general and market prices for the securities of technology companies like ours in particular, have from time to time experienced volatility that often has been unrelated to the operating performance of the underlying companies. A certain degree of stock price volatility can be attributed to being a newly public company. These broad market and industry fluctuations may adversely affect the market price of our common stock, regardless of our operating performance. In several recent situations where the market price of a stock has been volatile, holders of that stock have instituted securities class action litigation against the company that issued the stock. If any of our stockholders were to bring a lawsuit against us, the defense and disposition of the lawsuit could be costly and divert the time and attention of our management and harm our operating results.

Anti-takeover provisions in our charter documents and Delaware law could discourage, delay, or prevent a change in control of our company and may affect the trading price of our common stock.

We are a Delaware corporation and the anti-takeover provisions of the Delaware General Corporation Law may discourage, delay, or prevent a change in control by prohibiting us from engaging in a business combination with an interested stockholder for a period of three years after the person becomes an interested stockholder, even if a change of control would be beneficial to our existing stockholders. In addition, our amended and restated certificate of incorporation and amended and restated bylaws may discourage, delay, or prevent a change in our management or control over us that

stockholders may consider favorable. For example, our amended and restated certificate of incorporation and amended and restated bylaws:

- authorize the issuance of "blank check" preferred stock that could be issued by our board of directors to thwart a takeover attempt;
- establish a classified board of directors, as a result of which the successors to the directors whose terms have expired will be elected to serve from the time of election and qualification until the third annual meeting following their election;
- require that directors only be removed from office for cause and only upon a majority stockholder vote;
- provide that vacancies on the board of directors, including newly-created directorships, may be filled only by a majority vote of directors then in office;
- limit who may call special meetings of stockholders;
- prohibit stockholder action by written consent, thereby requiring all actions to be taken at a meeting of the stockholders; and
- require supermajority stockholder voting to effect certain amendments to our amended and restated certificate of incorporation and amended and restated bylaws.

We have incurred substantial losses in past and current years and may incur additional losses in the future.

As of December 31, 2014, our accumulated deficit was \$62.9 million. We generated a net loss in 2014 and we are also currently investing in our future growth through expanding our network and buildouts, investing in our software, and consideration of future business acquisitions. As a result, we will incur higher depreciation and other operating expenses, as well as potential acquisition costs, that may negatively impact our ability to achieve profitability in future periods unless and until these growth efforts generate enough revenue to exceed their operating costs and cover our additional overhead needed to scale our business for this anticipated growth. The current global financial condition may also impact our ability to achieve profitability if we cannot generate sufficient revenue to offset the increased costs. In addition, costs associated with the acquisition and integration of any acquired companies may also negatively impact our ability to achieve profitability. Finally, given the competitive and evolving nature of the industry in which we operate, we may not be able to achieve or increase profitability.

We do not intend to pay dividends on our common stock and, consequently, your ability to achieve a return on your investment will depend on appreciation in the price of our common stock.

We do not intend to declare and pay dividends on our capital stock for the foreseeable future. We currently intend to invest our future earnings, if any, to fund our growth. Therefore, you are not likely to receive any dividends on your common stock for the foreseeable future and the success of an investment in shares of our common stock will depend upon any future appreciation in their value.

Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

During August 2014, we entered into a lease amendment to expand the amount of space leased and extend the term of the lease for our corporate headquarters in Los Angeles, California until

April 30, 2026. As of December 31, 2014, we leased approximately 27,000 square feet of space for our corporate headquarters. The current leased space for our corporate headquarters will be replaced with approximately 52,000 square feet in 2015 upon completion of construction of leasehold improvements in the new leased space.

As of December 31, 2014, we also leased an additional approximately 21,000 square feet in aggregate office space in Brea, California; San Francisco, California; Oak Brook, Illinois; Lake Success, New York; New York, New York; McKinney, Texas; Seattle, Washington; Allentown, Pennsylvania; Sao Paulo, Brazil; and Dubai, United Arab Emirates. We believe our planned office facilities will be adequate for the foreseeable future.

Item 3. Legal Proceedings

From time to time, we may be involved in or subject to claims, suits, investigations and proceedings arising out of the normal course of business. We are not currently a party to any litigation that we believe could have a material adverse effect on our business, financial position, results of operations or cash flows.

Item 4. Mine Safety Disclosures

Not applicable.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Market Information

Our common stock is traded on the NASDAQ Global Market under the symbol "WIFI." The following table sets forth the high and low closing sales prices of our common stock as reported by the NASDAQ Global Market for the periods indicated.

	2014	
	High	Low
First quarter	\$ 6.94	\$ 5.76
Second quarter	\$ 7.13	\$ 6.25
Third quarter	\$ 7.58	\$ 6.06
Fourth quarter	\$ 8.01	\$ 6.70

	2013	
	High	Low
First quarter	\$ 8.06	\$ 5.40
Second quarter	\$ 7.34	\$ 5.48
Third quarter	\$ 7.80	\$ 6.17
Fourth quarter	\$ 7.28	\$ 6.10

Registered Stockholders

As of March 5, 2015, there were 24 stockholders of record of our common stock. Stockholders of record do not include a substantially greater number of "street name" holders or beneficial holders of our common stock whose shares are held of record by banks, brokers and other financial institutions.

Dividends

We have never declared or paid cash dividends on our common stock, and currently do not anticipate paying cash dividends in the foreseeable future. Any future determination to pay dividends on our common stock, if permissible, will be at the discretion of our board of directors and will depend upon, among other factors, our financial condition, operating results, current and anticipated cash needs, plans for expansion and other factors that our board of directors may deem relevant.

Recent Sales of Unregistered Securities; Use of Proceeds from Sale of Registered Securities

We did not sell any equity securities not registered under the Securities Act during the year ended December 31, 2014.

Issuer Purchases of Equity Securities

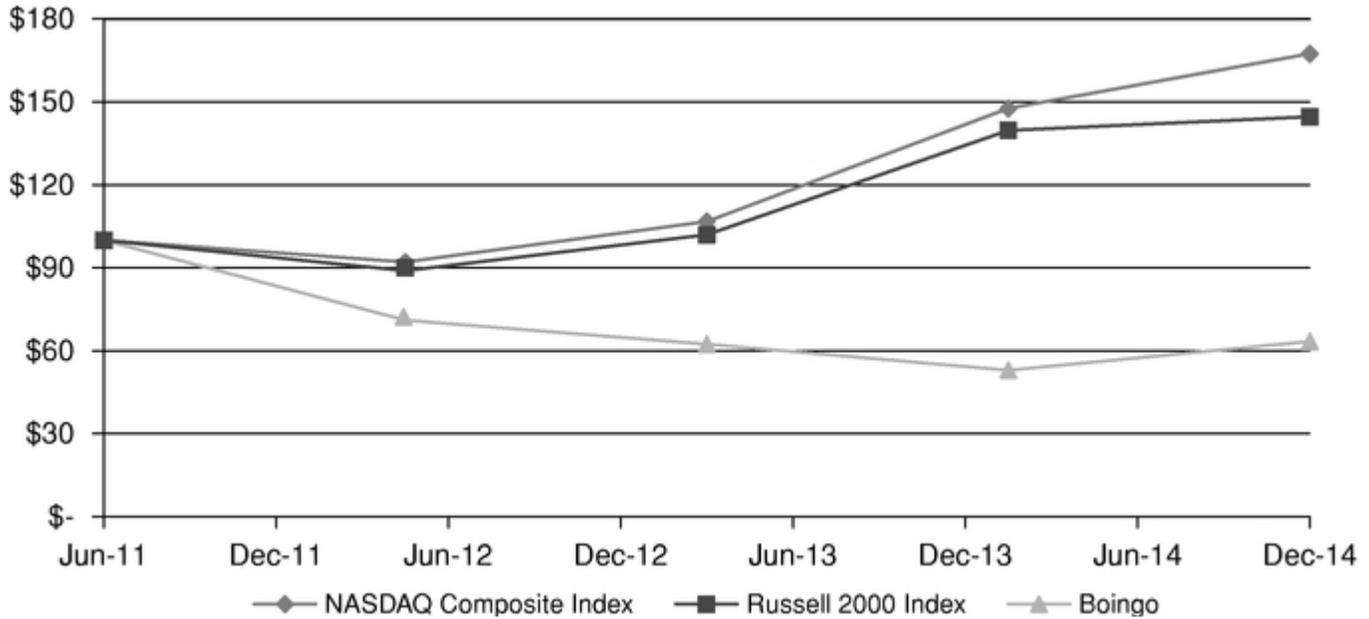
On April 1, 2013, the Company approved a stock repurchase program to repurchase up to \$10,000,000 of the Company's common stock in the open market, exclusive of any commissions, markups or expenses. The stock repurchased will be retired and will resume the status of authorized but unissued shares of common stock. The Company did not repurchase any of our common stock during the year ended December 31, 2014. As of December 31, 2014, the remaining approved amount for repurchases was approximately \$5,180,000.

Performance Measurement Comparison

The following performance graph shows the total stockholder return of an investment of \$100 in cash made on May 4, 2011 in each of (i) our common stock, (ii) a broad equity market index, the securities comprising the Nasdaq Composite Index, and (iii) issuers with similar market capitalizations, the securities comprising the Russell 2000 index.

The performance graph assumes that \$100 was invested on May 4, 2011 in our common stock at the closing price of \$12.10 and in each index, and that all dividends were reinvested. No dividends have been declared nor paid on our common stock. The comparisons in the graph below are required by the SEC and are not intended to forecast or be indicative of possible future performance of our common stock.

COMPARISON OF 44 MONTHS CUMULATIVE TOTAL RETURN*
Among Boingo Wireless, Inc., The NASDAQ Composite Index and The Russell 2000 Index**



	05/04/11	12/31/11	12/31/12	12/31/13	12/31/14
NASDAQ Composite Index	\$ 100.00	\$ 92.11	\$ 106.76	\$ 147.68	\$ 167.46
Russell 2000 Index	\$ 100.00	\$ 88.96	\$ 101.98	\$ 139.71	\$ 144.64
Boingo	\$ 100.00	\$ 71.07	\$ 62.40	\$ 52.98	\$ 63.39

* The material in this section is not "soliciting material" and is not deemed "filed" with the SEC. It is not to be incorporated by reference into any filing of Boingo Wireless, Inc. made under the Securities Act of 1933, as amended, or the Exchange Act, whether made before or after the date hereof and irrespective of any general incorporation language in any such filing, except to the extent we specifically incorporate this section by reference.

** We chose the Russell 2000 index because it is comprised of issuers with similar market capitalizations. We do not believe that we can reasonably identify a peer group of issuers or an industry or line-of-business index.

ITEM 6. SELECTED FINANCIAL DATA

The following selected consolidated financial data should be read in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" in Part II, Item 7 and our accompanying consolidated financial statements in Part II, Item 8 of this report.

The consolidated statements of operations data set forth below for years 2014, 2013 and 2012 and the consolidated balance sheets data as of the end of years 2014 and 2013 are derived from, and qualified by reference to, the audited consolidated financial statements included in Item 8 of this report. The consolidated statements of operations data for years 2011 and 2010 and the consolidated balance sheets data as of the end of years 2012, 2011 and 2010 are derived from the audited financial statements previously filed with the SEC on Form 10-K. The results of businesses acquired in a business combination are included in the Company's consolidated financial statements from the date of the acquisition. Refer to Note 3 in our accompanying consolidated financial statements in Part II, Item 8 of this report for a discussion of our business combinations for years 2013 and 2012. There were no business combinations for years 2014, 2011 and 2010.

During the year ended December 31, 2014, we finalized our purchase price allocation for our acquisition of Electronic Media Systems, Inc. and all membership interests in its subsidiary, Advanced Wireless Group, LLC (collectively, "AWG"). The consolidated balance sheets data as of December 31, 2013 and the consolidated statement of operations for 2013 have been retrospectively adjusted to reflect the final purchase price allocation for the AWG acquisition including a \$28,000 decrease in goodwill, a \$147,000 increase in accrued expenses and other liabilities, and a \$175,000 increase in income tax expenses and accumulated deficit as compared to the audited consolidated financial statements contained in our Annual Report on Form 10-K filed with the SEC on March 17, 2014.

The consolidated statement of operations for the year 2013 includes certain out-of-period adjustments that decreased net loss attributable to common stockholders by \$217,000. The impact of these out-of-period adjustments are not considered material, individually and in the aggregate, to any of the current or prior annual periods.

	Year Ended December 31,				
	2014	2013	2012	2011	2010
	(in thousands, except per share amounts)				
Consolidated Statements of Operations Data:					
Revenue	\$ 119,297	\$ 106,746	\$ 102,506	\$ 94,558	\$ 80,420
Costs and operating expenses:					
Network access	59,411	47,245	42,289	37,082	31,961
Network operations	25,475	18,402	14,541	15,849	13,508
Development and technology	14,879	11,432	10,772	9,433	8,475
Selling and marketing	16,382	14,244	10,255	7,409	5,985
General and administrative	17,460	15,067	12,700	11,953	10,645
Amortization of intangible assets	3,716	2,250	1,103	1,655	2,491
Total costs and operating expenses	<u>137,323</u>	<u>108,640</u>	<u>91,660</u>	<u>83,381</u>	<u>73,065</u>
(Loss) income from operations	(18,026)	(1,894)	10,846	11,177	7,355
Interest and other (expense) income, net	(41)	37	143	(176)	(137)
(Loss) income before income taxes	(18,067)	(1,857)	10,989	11,001	7,218
Income tax expense (benefit)	700	1,461	2,965	4,064	(8,903)
Net (loss) income	(18,767)	(3,318)	8,024	6,937	16,121
Net income attributable to non-controlling interests	754	650	729	642	547
Net (loss) income attributable to Boingo Wireless, Inc.	(19,521)	(3,968)	7,295	6,295	15,574
Accretion of convertible preferred stock	—	—	—	(1,633)	(5,020)
Net (loss) income attributable to common stockholders	<u>\$ (19,521)</u>	<u>\$ (3,968)</u>	<u>\$ 7,295</u>	<u>\$ 4,662</u>	<u>\$ 10,554</u>
Net (loss) income per share attributable to common stockholders:					
Basic	\$ (0.55)	\$ (0.11)	\$ 0.21	\$ 0.19	\$ 1.81
Diluted	\$ (0.55)	\$ (0.11)	\$ 0.20	\$ 0.17	\$ 0.49
Other Financial Data:					
Operating cash flows	\$ 21,207	\$ 20,671	\$ 24,596	\$ 29,529	\$ 24,160
Investing cash flows	(39,199)	(40,403)	(62,468)	(7,335)	(19,934)
Financing cash flows	(480)	(11,068)	2,077	46,018	(1,134)
Adjusted EBITDA(1)	20,300	23,802	30,642	28,556	18,224

	As of December 31,				
	2014	2013	2012	2011	2010
	(in thousands)				
Consolidated Balance Sheets					
Data:					
Cash and cash equivalents	\$ 8,849	\$ 27,338	\$ 58,138	\$ 93,933	\$ 25,721
Marketable securities	1,614	32,962	41,558	—	9,373
Working capital	(13,702)	32,940	82,707	76,203	19,268
Total assets	219,402	215,515	202,532	188,920	132,043
Deferred revenue, net of current portion	27,267	21,591	24,123	27,754	28,149
Long-term debt	2,625	—	—	—	—
Long-term portion of capital leases	381	473	136	197	—
Total liabilities	91,972	75,082	58,033	59,841	60,059
Convertible preferred stock	—	—	—	—	122,969
Total stockholders' deficit (equity)	127,430	140,433	144,499	129,079	(50,985)

- (1) We define Adjusted EBITDA as net (loss) income attributable to common stockholders plus depreciation and amortization of property and equipment, accretion of convertible preferred stock, income tax expense (benefit), amortization of intangible assets, stock-based compensation expense, non-controlling interests and interest and other expense (income), net.

We believe that Adjusted EBITDA is useful to investors and other users of our financial statements in evaluating our operating performance because it provides them with an additional tool to compare business performance across companies and across periods. We believe that:

- Adjusted EBITDA provides investors and other users of our financial information consistency and comparability with our past financial performance, facilitates period-to-period comparisons of operations and facilitates comparisons with other companies, many of which use similar non-generally accepted accounting principles in the United States ("GAAP") financial measures to supplement their GAAP results; and
- it is useful to exclude non-cash charges, such as accretion of preferred stock, depreciation and amortization of property and equipment, amortization of intangible assets and stock-based compensation, from Adjusted EBITDA because the amount of such expenses in any specific period may not directly correlate to the underlying performance of our business operations, and these expenses can vary significantly between periods as a result of full amortization of previously acquired tangible and intangible assets or the timing of new stock-based awards.

We use Adjusted EBITDA in conjunction with traditional GAAP measures as part of our overall assessment of our performance, for planning purposes, including the preparation of our annual operating budget and quarterly forecasts, to evaluate the effectiveness of our business strategies and to communicate with our board of directors concerning our financial performance.

We do not place undue reliance on Adjusted EBITDA as our only measure of operating performance. Adjusted EBITDA should not be considered as a substitute for other measures of financial performance reported in accordance with GAAP. There are limitations to using non-GAAP financial measures, including that other companies may calculate these measures differently than we do.

We compensate for the inherent limitations associated with using Adjusted EBITDA through disclosure of these limitations, presentation of our financial statements in accordance with GAAP and reconciliation of Adjusted EBITDA to the most directly comparable GAAP measure, net (loss) income attributable to common stockholders.

The following provides a reconciliation of net (loss) income attributable to common stockholders to Adjusted EBITDA:

	Year Ended December 31,				
	2014	2013	2012	2011	2010
	(in thousands)				
Net (loss) income attributable to common stockholders	\$ (19,521)	\$ (3,968)	\$ 7,295	\$ 4,662	\$ 10,554
Depreciation and amortization of property and equipment	27,446	18,940	15,958	12,301	7,511
Income tax expense (benefit)	700	1,461	2,965	4,064	(8,903)
Stock-based compensation expense	7,164	4,506	2,735	3,423	867
Amortization of intangible assets	3,716	2,250	1,103	1,655	2,491
Accretion of convertible preferred stock	—	—	—	1,633	5,020
Non-controlling interests	754	650	729	642	547
Interest and other expense (income), net	41	(37)	(143)	176	137
Adjusted EBITDA	<u>\$ 20,300</u>	<u>\$ 23,802</u>	<u>\$ 30,642</u>	<u>\$ 28,556</u>	<u>\$ 18,224</u>

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATION

The following discussion and analysis of our financial condition and results of operations should be read together with "Selected Consolidated Financial Data" and our audited consolidated financial statements and accompanying notes included elsewhere in this filing. This discussion contains forward-looking statements, based on current expectations and related to our plans, estimates, beliefs and anticipated future financial performance. These statements involve risks and uncertainties and our actual results may differ materially from those anticipated in these forward-looking statements as a result of many factors, including those set forth under "Risk Factors," "Forward-Looking Statements" and elsewhere in this filing.

Overview

We believe we are the leading global provider of commercial mobile Wi-Fi Internet solutions and indoor DAS services for carriers. Our software applications and solutions enable individuals to access our extensive global Wi-Fi networks that cover more than one million hotspots. We manage and operate an indoor DAS network which contains 8,400 nodes. Our offerings provide compelling cost and performance advantages to our customers and partners.

We grew revenue from \$106.7 million in 2013 to \$119.3 million in 2014, an increase of 11.8%. We grew revenue from \$102.5 million in 2012 to \$106.7 million in 2013, an increase of 4.1%. We generated a net loss attributable to common stockholders of \$19.5 million in 2014 compared to \$4.0 million in 2013. Adjusted EBITDA decreased from \$23.8 million in 2013 to \$20.3 million in 2014, a decrease of 14.7%. For a discussion of Adjusted EBITDA and a reconciliation of net (loss) income attributable to common stockholders to Adjusted EBITDA, see footnote 1 to "Selected Financial Data" in Part II, Item 6.

The proliferation of smartphones, tablet computers, laptops and other Wi-Fi enabled devices—in conjunction with the increased mobile consumption of streaming media, social networking, downloading large email attachments and video calling—has created a demand for high-speed, high-bandwidth Internet access in public places both large and small. These data intensive activities are driving a global surge in mobile Internet data traffic that is expected to increase 10 times between 2014 and 2019, according to Cisco's Visual Networking Index. We believe these trends present us with opportunities to generate significant growth in revenue and profitability.

Critical Accounting Policies and Estimates

The preparation of financial statements in conformity with GAAP and rules and regulations of the United States Securities and Exchange Commission ("SEC") requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities, as well as the disclosure of contingent assets and liabilities, at the date of the financial statements. Such estimates and assumptions also affect the reported amounts of revenues and expenses during the reporting period. Although we believe these estimates are reasonable, actual results could differ from these estimates. On a regular basis, we evaluate our assumptions, judgments and estimates. We also discuss our critical accounting policies and estimates with the Audit Committee of the Board of Directors.

We believe that the assumptions and estimates associated with revenue recognition, business combinations, goodwill, measuring recoverability of long-lived assets, stock-based compensation and income taxes have the greatest potential impact on our consolidated financial statements. Therefore, we believe the accounting policies discussed below are paramount to understanding our historical and future performance, as these policies relate to the more significant areas involving our management's judgments, assumptions and estimates.

Revenue Recognition

We generate revenue from several sources including: (i) retail and military customers under subscription plans for month-to-month network access that automatically renew, and retail and military single-use access from sales of hourly, daily or other single-use access plans, (ii) DAS customers that are telecom operators under long-term contracts for access to our DAS at our managed and operated locations, (iii) arrangements with wholesale Wi-Fi customers that provide software licensing, network access, and/or professional services fees, and (iv) display advertisements and sponsorships on our walled garden sign-in pages. Software licensed by our wholesale Wi-Fi platform services customers can only be used during the term of the service arrangements and has no utility to them upon termination of the service arrangement.

We recognize revenue when an arrangement exists, services have been rendered, fees are fixed or determinable, no significant obligations remain related to the earned fees and collection of the related receivable is reasonably assured.

Subscription fees from retail and military customers are paid monthly in advance and revenue is deferred for the portions of monthly recurring subscription fees collected in advance. We provide refunds for our retail and military services on a case-by-case basis. These amounts are not significant and are recorded as contra-revenue in the period the refunds are made. Subscription fee revenue is recognized ratably over the subscription period. Revenue generated from retail and military single-use access is recognized when access is provided.

Revenue generated from access to our DAS networks consists of build-out fees and recurring access fees under certain long-term contracts with telecom operators. Build-out fees paid upfront are generally deferred and recognized ratably over the term of the estimated customer relationship period, once the build-out is complete. Periodically, we install and sell Wi-Fi and DAS networks to customers where we do not have service contracts or remaining obligations beyond the installation of those networks and we recognize build-out fees for such projects as revenue when the installation work is completed and the network has been accepted by the customer. Minimum monthly access fees for usage of the DAS networks are non-cancellable and generally escalate on an annual basis. These minimum monthly access fees are recognized ratably over the term of the telecom operator agreement. The initial term of our contracts with telecom operators generally range from five to ten years and the agreements generally contain renewal clauses. Revenue from DAS network access fees in excess of the monthly minimums is recognized when earned.

Services provided to wholesale Wi-Fi partners generally contain several elements including: (i) a term license to use our software to access our Wi-Fi network, (ii) access fees for Wi-Fi network usage, and/or (iii) professional services for software integration and customization and to maintain the Wi-Fi service. The term license, monthly minimum network access fees and professional services are billed on a monthly basis based upon predetermined fixed rates. Once the term license for integration and customization are delivered, the fees from the arrangement are recognized ratably over the remaining term of the service arrangement. The initial term of the license agreements is generally between one to five years and the agreements generally contain renewal clauses. Revenue for Wi-Fi network access fees in excess of the monthly minimum amounts is recognized when earned. All elements within existing service arrangements are generally delivered and earned concurrently throughout the term of the respective service arrangement.

In instances where the minimum monthly Wi-Fi and DAS network access fees escalate over the term of the wholesale service arrangement, an unbilled receivable is recognized when performance is within our control and when we have reasonable assurance that the unbilled receivable balance will be collected.

For multiple-deliverable arrangements entered into prior to January 1, 2011 that are accounted for under Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") 605-25, *Revenue Recognition—Multiple-Deliverable Revenue Arrangements*, we defer recognition of revenue for the full arrangement and recognize all revenue ratably over the wholesale service period for Wi-Fi platform service arrangements and the term of the estimated customer relationship period for DAS arrangements, as we did not have evidence of fair value for the undelivered elements in the arrangement. For multiple-deliverable arrangements entered into or materially modified after January 1, 2011 that are accounted for under ASC 605-25, we evaluate whether or not separate units of accounting exist and then allocate the arrangement consideration to all units of accounting based on the relative selling price method using estimated selling prices if vendor specific objective evidence and third-party evidence is not available. We recognize the revenue associated with the separate units of accounting upon completion of such services or ratably over the wholesale service period for Wi-Fi platform service arrangements and the term of the estimated customer relationship period for DAS arrangements.

Advertising revenue is generated from advertisements on our managed and operated or partner networks. In determining whether an arrangement exists, we ensure that a binding arrangement is in place, such as a standard insertion order or a fully executed customer-specific agreement. Obligations pursuant to our advertising revenue arrangements typically include a minimum number of units or the satisfaction of certain performance criteria. Advertising and other revenue is recognized when the services are performed.

Business Combinations

We allocate the total purchase price of a business combination to the assets acquired and the liabilities assumed based on their estimated fair values at the acquisition date, with the excess purchase price recorded as goodwill. An income, market or cost valuation method may be utilized to estimate the fair value of the assets acquired or liabilities assumed in a business combination. The income valuation method represents the present value of future cash flows over the life of the asset using (i) discrete financial forecasts, which rely on management's estimates of revenue and operating expenses, (ii) long-term growth rates, (iii) an appropriate discount rate and (iv) an appropriate royalty rate, where applicable. The market valuation method uses prices paid for a reasonably similar asset by other purchasers in the market, with adjustments relating to any differences between the assets. The cost valuation method is based on the replacement cost of a comparable asset at prices at the time of the acquisition reduced for depreciation of the asset.

Goodwill

Goodwill represents the excess of purchase price over fair value of net assets acquired. Goodwill is not amortized but instead is tested annually for impairment, or more frequently when events or changes in circumstances indicate that fair value of the reporting unit has been reduced to less than its carrying value. We perform our impairment test annually as of December 31st. Entities have the option to first assess qualitative factors to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount as a basis for determining whether it is necessary to perform the two-step goodwill impairment test described in ASC 350, *Intangibles—Goodwill and Other*. If, after assessing qualitative factors, an entity determines it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, then performing the two-step impairment test is unnecessary. If deemed necessary, a two-step test is used to identify the potential impairment and to measure the amount of goodwill impairment, if any. The first step is to compare the fair value of the reporting unit with its carrying amount, including goodwill. If the fair value of the reporting unit exceeds its carrying amount, goodwill is considered not impaired; otherwise, there is an indication that goodwill may be impaired and the amount of the loss, if any, is measured by performing step two. Under step two, the impairment loss, if any, is measured by comparing the implied fair value of the reporting unit goodwill with the carrying amount of goodwill.

At December 31, 2014 and 2013, we tested our goodwill for impairment using a market based approach and no impairment was identified as the fair value of our sole reporting unit was substantially in excess of its carrying amount. To date, we have not recorded any goodwill impairment charges.

Measuring Recoverability of Long-Lived Assets

We perform an impairment review of long-lived assets held and used whenever events or changes in circumstances indicate that the carrying value may not be recoverable. Factors we consider important that could trigger an impairment review include, but are not limited to, significant under-performance relative to projected future operating results, significant changes in the manner of our use of the acquired assets or our overall business and/or product strategies and significant industry or economic trends. When we determine that the carrying value of a long-lived asset may not be recoverable based upon the existence of one or more of these indicators, we determine the recoverability by comparing the carrying amount of the asset to net future undiscounted cash flows that the asset is expected to generate or other indices of fair value. We would then recognize an impairment charge equal to the amount by which the carrying amount exceeds the fair market value of the asset.

Stock-based Compensation

Stock-based compensation consists of stock options and restricted stock units ("RSUs"), which are granted to employees and non-employees. We recognize compensation expense equal to the grant date fair value on a straight-line basis, net of estimated and actual forfeitures, over the employee requisite service period. The grant date fair value of our stock option awards is determined using the Black-Scholes option pricing model.

Income Taxes

Income taxes are provided based on the liability method, which results in income tax assets and liabilities arising from temporary differences. Temporary differences are differences between the tax basis of assets and liabilities and their reported amounts in the financial statements that will result in taxable or deductible amounts in future years. The liability method requires the effect of tax rate changes on current and accumulated deferred income taxes to be reflected in the period in which the rate change was enacted. The liability method also requires that deferred tax assets be reduced by a valuation allowance unless it is more likely than not that the assets will be realized.

We may recognize the tax benefit from uncertain tax positions only if it is at least more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized in the financial statements from such a position should be measured based on the largest benefit that has a greater than 50% likelihood of being realized upon settlement with the taxing authorities.

We establish valuation allowances when necessary to reduce deferred tax assets to the amounts expected to be realized. We evaluate the need for, and the adequacy of, valuation allowances based on the expected realization of our deferred tax assets. The factors used to assess the likelihood of realization include historical earnings, our latest forecast of taxable income and available tax planning strategies that could be implemented to realize the net deferred tax assets.

Our effective tax rates are primarily affected by changes in our valuation allowances, the amount of our taxable income or losses in the various taxing jurisdictions in which we operate, the amount of federal and state net operating losses and tax credits, the extent to which we can utilize these net operating loss carryforwards and tax credits and certain benefits related to stock option activity.

Recent Accounting Pronouncements

Information regarding recent accounting pronouncements is contained in Note 2 "Significant Accounting Policies" to the accompanying consolidated financial statements included in Part II, Item 8, which is incorporated herein by this reference.

Key Business Metrics

In addition to monitoring traditional financial measures, we also monitor our operating performance using key performance indicators. In 2014, we updated our presentation of revenue sources to differentiate our individual users based on the nature of the users—retail users who purchase Internet access at our managed and operated hotspots and select partner locations or military users who purchase Internet access or IPTV services for individual use on U.S. military bases. Accordingly, we have disaggregated our subscribers between our retail and military users. We have also removed monthly churn, which was defined as the number of subscribers who canceled their subscriptions in a given month, expressed as a percentage of the average subscribers in that month, as a key performance indicator as we no longer view monthly churn as a key business metric. Our key performance indicators follow:

	Year Ended December 31,		
	2014	2013	2012
	(in thousands)		
Subscribers—retail	254	308	284
Subscribers—military	20	2	—
Connects	81,413	50,830	24,490
DAS nodes	8.4	6.3	5.6

Subscribers — retail and subscribers — military. This metric represents the number of paying customers who are on a month-to-month subscription plan at a given period end.

Connects. This metric shows how often individuals connect to our global Wi-Fi network in a given period. The connects include retail and wholesale customers in both customer pay locations and customer free locations where we are a paid service provider or receive sponsorship or promotion fees. We count each connect as a single connect regardless of how many times that individual accesses the network at a given venue during their 24 hour period. This measure is an indicator of paid activity throughout our network.

DAS nodes. This metric represents the number of active DAS nodes as of the end of the period. A DAS node is a single communications endpoint, typically an antenna, which transmits or receives radio frequency signals wirelessly. This measure is an indicator of the reach of our DAS network.

Key Components of our Results of Operations

Revenue

Our revenue consists of retail revenue, military revenue, wholesale revenue, and advertising and other revenue. In 2014, we updated our presentation of revenue sources to provide increased visibility into the revenue streams that are the focus of our current and future operational and development efforts. Our retail revenue sources were previously differentiated based on our retail plan types—subscription or single-use. We believe that it would be more relevant to differentiate our individual users based on the nature of the users—retail users who purchase Internet access at our managed and operated hotspots and select partner locations or military users who purchase Internet access and/or IPTV services for individual use on U.S. military bases. We also previously combined our wholesale DAS and Wi-Fi revenues and we believe that it would be better to disaggregate these wholesale product revenues going forward by DAS and Wi-Fi given the current development of these products. As a result, we have also reclassified our 2013 and 2012 revenues by primary revenue source for comparability purposes.

Retail and military. We generate revenue from sales to retail and military individuals of month-to-month network access subscriptions that automatically renew, primarily through charge card transactions. We also generate revenue from sales of hourly, daily or other single-use access to retail and military individuals primarily through charge card transactions.

DAS. We generate revenue from telecom operator partners that pay us build-out fees and access fees for our DAS networks.

Wholesale — Wi-Fi. We generate revenue from wholesale Wi-Fi partners that license our software and pay usage-based monthly network access fees to allow their customers to access our global Wi-Fi network. Usage-based network access fees may be measured in minutes, connects, megabytes or gigabytes, and in most cases are subject to minimum volume commitments. Other wholesale Wi-Fi partners pay us monthly fees to provide a Wi-Fi infrastructure that we install, manage and operate at their venues for their customers under a service provider arrangement.

Advertising and other. We generate revenue from advertisers that seek to reach visitors to our landing pages at our managed and operated network locations with online advertising, promotional and sponsored programs and at locations where we solely provide authorized access to a partner's Wi-Fi network through sponsored access and promotional programs. In addition, we receive revenue from partners in certain venues where we manage and operate the Wi-Fi network.

For the year ended December 31, 2014, entities affiliated with AT&T Inc. accounted for 15% of total revenue. For the year ended December 31, 2013, two groups of entities affiliated with Verizon Communications, Inc. and AT&T Inc. each accounted for 14% of total revenue. For the year ended December 31, 2012, those same two groups of affiliated entities accounted for 17% and 15% of total revenue, respectively. The loss of these groups and the customers could have a material adverse impact on our consolidated statements of operations.

Costs and Operating Expenses

We classify our costs and operating expenses as network access, network operations, development and technology, selling and marketing, general and administrative, and amortization of intangible assets. Network access costs consist primarily of payments to venues and network partners in our network.

Other costs and operating expenses primarily consist of personnel costs, costs for contracted labor and development, marketing, legal, accounting and consulting services, and other professional service fees. Personnel costs include salaries, bonuses, stock-based compensation and employee benefits. Facilities costs and depreciation expenses are generally allocated based on headcount. Depreciation and amortization expenses associated with specifically identifiable property and equipment are allocated to the appropriate expense categories.

Network access. Network access costs consist of revenue share payments to venue owners where our managed and operated hotspots are located, usage-based fees to our roaming network partners for access to their networks, depreciation of equipment related to network build-out projects in our managed and operated locations, sale of equipment, and bandwidth and other Internet connectivity expenses in our managed and operated locations.

Network operations. Network operations expenses consist of costs for our customer service department and for our operations staff that designs, builds, monitors and maintains the network. Also included are expenses for our customer service provider that handles customer care inquiries and expenses for network operations contractors, equipment depreciation and software and hardware maintenance fees.

Development and technology. Development and technology expenses consist of costs for our product development and engineering departments, developers and our information systems services staff, depreciation of our equipment and internal-use software, and software and hardware maintenance fees.

Selling and marketing. Selling and marketing expenses consist of costs for our business development and marketing employees and executives, travel and entertainment and marketing programs.

General and administrative. General and administrative expenses consist of costs for our executive, finance and accounting, legal and human resources personnel, as well as legal, accounting, tax and other professional service fees. Also included are other corporate expenses such as charge card processing fees and bad debt expense.

Amortization of intangible assets. Amortization of intangible assets consists primarily of acquired venue contracts, technology and non-compete agreements.

Interest and Other (Expense) Income, Net

Interest and other (expense) income, net, primarily consist of interest income and expense.

Income Tax Expense

In 2013, we established a full valuation allowance as a result of our assessment that it was more likely than not that certain federal and state deferred tax assets would not be realized and we have continued to maintain the full valuation allowance as of December 31, 2014. In 2013, income tax expense includes \$2.4 million of tax expense related to increases in our valuation allowance. \$1.9 million of the increase relates to additional valuation allowances that were established as a result of our assessment that it was more likely than not that certain federal and state deferred tax assets would not be realized. In 2012, as a result of our federal net operating loss carryforwards, our income taxes include only state income taxes and federal alternative minimum taxes.

Non-controlling Interests

Non-controlling interests are comprised of minority holdings by third parties in our subsidiaries Concourse Communications Detroit, LLC ("CCG Detroit"), Chicago Concourse Development Group, LLC ("CCDG"), and Boingo Holding Participacoes Ltda. ("BHPL").

We attributed profits and losses to the non-controlling interest in CCG Detroit under the terms of the limited liability company agreement. CCG Detroit has generated losses over the last several years which have reduced the non-controlling owners capital account to zero in 2009 resulting in an allocation to the controlling interest holder of all operating losses and deficits created by fixed distributions to the non-controlling interest holder. The fixed distributions were terminated during September 2013 concurrent with the termination of CCG Detroit's agreement with Detroit Metropolitan Wayne County Airport.

We are required to pay a portion of allocated net profits less capital expenditures of the preceding year to the non-controlling interest holders of CCDG. The limited liability company agreement for CCDG does not have a term. CCDG can be dissolved upon the unanimous agreement of the members, upon the sale of CCDG, upon declaration of bankruptcy, or upon the termination of the license agreement between CCDG and the City of Chicago.

We attributed profits and losses to the non-controlling interest in BHPL under the terms of the limited liability company agreement in proportion to their holdings. The limited liability company agreement with BHPL does not have a term. We, by resolution of the members, may distribute profits against retained earnings or profit reserves existing on the most recent annual balance sheet or may draw up financial statements and distribute profits in shorter periods. BHPL can be dissolved by resolution of the members and as otherwise provided for by law.

Results of Operations

The following tables set forth our results of operations for the specified periods.

	Year Ended December 31,		
	2014	2013	2012
	(in thousands)		
Consolidated Statements of Operations Data:			
Revenue	\$ 119,297	\$ 106,746	\$ 102,506
Costs and operating expenses:			
Network access	59,411	47,245	42,289
Network operations	25,475	18,402	14,541
Development and technology	14,879	11,432	10,772
Selling and marketing	16,382	14,244	10,255
General and administrative	17,460	15,067	12,700
Amortization of intangible assets	3,716	2,250	1,103
Total costs and operating expenses	<u>137,323</u>	<u>108,640</u>	<u>91,660</u>
(Loss) income from operations	(18,026)	(1,894)	10,846
Interest and other (expense) income, net	(41)	37	143
(Loss) income before income taxes	(18,067)	(1,857)	10,989
Income tax expense	700	1,461	2,965
Net (loss) income	(18,767)	(3,318)	8,024
Net income attributable to non-controlling interests	754	650	729
Net (loss) income attributable to common stockholders	<u>\$ (19,521)</u>	<u>\$ (3,968)</u>	<u>\$ 7,295</u>
Depreciation and amortization expense included in the above line items:			
Network access	\$ 18,074	\$ 12,651	\$ 11,948
Network operations	5,662	4,091	2,844
Development and technology	3,381	1,992	1,049
General and administrative	329	206	117
Total	<u>\$ 27,446</u>	<u>\$ 18,940</u>	<u>\$ 15,958</u>
Stock-based compensation expense included in the above line items:			
Network operations	\$ 1,356	\$ 888	\$ 352
Development and technology	600	380	352
Selling and marketing	2,017	1,045	571
General and administrative	3,191	2,193	1,460
Total	<u>\$ 7,164</u>	<u>\$ 4,506</u>	<u>\$ 2,735</u>

Depreciation and amortization expense

Depreciation expense increased \$8.5 million, or 44.9%, in 2014, as compared to 2013, primarily due to increased depreciation and amortization expense from our increased fixed assets for our DAS projects, Wi-Fi networks, and software development in 2014.

Depreciation expense increased \$3.0 million, or 18.7%, in 2013, as compared to 2012, primarily due to increased depreciation and amortization expense from our increased fixed assets for our DAS projects, Wi-Fi networks, and software development in 2013. The increase in 2013 was offset by \$1.3 million from a short term DAS build-out project that was completed during 2012. Depreciation expense included \$0.1 million of expenses related to AWG, which was acquired in October 2013.

Stock-based compensation expense

Stock-based compensation expense increased \$2.7 million, or 59.0%, in 2014, as compared to 2013, primarily due to a \$2.8 million increase in stock-based compensation expenses for RSUs granted to our employees and directors in 2014. We are shifting our share-based compensation from stock options to RSUs, which generally vest over a specified service period. During 2014, we also issued performance-based RSUs to executive personnel. We recognize stock-based compensation expense for performance-based RSUs when we believe that it is probable that the performance objectives will be met.

Stock-based compensation expense increased \$1.8 million, or 64.8%, in 2013, as compared to 2012, primarily due to \$1.8 million of stock-based compensation expenses for RSUs granted to our employees and directors in 2013.

The following table sets forth our results of operations for the specified periods as a percentage of our revenue for those periods.

	Year Ended December 31,		
	2014	2013	2012
	(as a percentage of revenue)		
Consolidated Statements of Operations Data:			
Revenue	100.0%	100.0%	100.0%
Costs and operating expenses:			
Network access	49.8	44.3	41.3
Network operations	21.4	17.2	14.2
Development and technology	12.5	10.7	10.4
Selling and marketing	13.7	13.3	10.0
General and administrative	14.6	14.1	12.4
Amortization of intangible assets	3.1	2.1	1.1
Total costs and operating expenses	<u>115.1</u>	<u>101.8</u>	<u>89.4</u>
(Loss) income from operations	(15.1)	(1.8)	10.6
Interest and other (expense) income, net	(0.0)	0.0	0.1
(Loss) income before income taxes	(15.1)	(1.7)	10.7
Income tax expense	0.6	1.4	2.9
Net (loss) income	(15.7)	(3.1)	7.8
Net income attributable to non-controlling interests	0.6	0.6	0.7
Net (loss) income attributable to common stockholders	<u>(16.4)%</u>	<u>(3.7)%</u>	<u>7.1%</u>

Years ended December 31, 2014 and 2013

Revenue

	Year Ended December 31,			
	2014	2013	Change	% Change
(in thousands, except percentages)				
Revenue:				
Retail	\$ 40,336	\$ 43,194	\$ (2,858)	(6.6)
DAS	38,259	32,681	5,578	17.1
Wholesale—Wi-Fi	15,209	17,261	(2,052)	(11.9)
Military	4,486	1,260	3,226	256.0
Advertising and other	21,007	12,350	8,657	70.1
Total revenue	<u>\$ 119,297</u>	<u>\$ 106,746</u>	<u>\$ 12,551</u>	11.8
Key business metrics:				
Subscribers—retail	254	308	(54)	(17.5)
Subscribers—military	20	2	18	*
Connects	81,413	50,830	30,583	60.2
DAS nodes	8.4	6.3	2.1	33.3

* Calculation of percentage change is not meaningful.

Retail. Retail revenue decreased \$2.9 million, or 6.6%, in 2014, as compared to 2013, primarily due to a \$2.3 million decrease in retail subscriber revenue, which was driven primarily by the decrease in retail subscribers. Our average revenue per retail subscriber remained essentially the same in 2014 as compared to 2013. The remaining decrease was attributable to a \$0.6 million decrease in retail single-use revenue resulting from the transition of certain paid managed and operated locations to a tiered or free pricing model. Retail revenue for 2014 and 2013 includes \$2.3 million and \$0.4 million, respectively, of retail single-use revenue related to venues acquired from AWG in October 2013.

DAS. DAS revenue increased \$5.6 million, or 17.1%, in 2014, as compared to 2013, due to a \$3.3 million increase from new build-out projects in our managed and operated locations and a \$2.3 million increase in access fees from our telecom operators resulting primarily from the new build-out projects that were completed.

Wholesale — Wi-Fi. Wholesale Wi-Fi revenue decreased \$2.1 million, or 11.9%, in 2014, as compared to 2013, due to a \$3.5 million decrease in partner usage based fees, which was partially offset by a \$0.6 million increase in wholesale service provider revenues resulting from increased deployments and \$0.7 million in revenue from a Wi-Fi build-out project that was completed in 2014.

Military. Military revenue increased \$3.2 million, or 256.0%, in 2014, as compared to 2013 due to deployments of our Wi-Fi and IPTV networks at U.S. military bases during 2014.

Advertising and other. Advertising and other revenue increased \$8.7 million, or 70.1%, in 2014, as compared to 2013, primarily due to a \$9.3 million increase in the volume of advertising sales at our managed and operated locations. The increase was partially offset by a \$0.6 million decrease in other revenues. Advertising revenue for 2014 and 2013 includes \$8.2 million and \$1.1 million, respectively, of advertising sales at the venues acquired from AWG in October 2013.

Costs and Operating Expenses

	Year Ended December 31,			
	2014	2013	Change	% Change
(in thousands, except percentages)				
Costs and operating expenses:				
Network access	\$ 59,411	\$ 47,245	\$ 12,166	25.8
Network operations	25,475	18,402	7,073	38.4
Development and technology	14,879	11,432	3,447	30.2
Selling and marketing	16,382	14,244	2,138	15.0
General and administrative	17,460	15,067	2,393	15.9
Amortization of intangible assets	3,716	2,250	1,466	65.2
Total costs and operating expenses	<u>\$ 137,323</u>	<u>\$ 108,640</u>	<u>\$ 28,683</u>	26.4

Network access. Network access costs increased \$12.2 million, or 25.8%, in 2014, as compared to 2013. The increase is primarily attributed to a \$9.2 million increase in revenue share paid to venues in our managed and operated locations, which includes a one-time \$1.9 million cost to terminate one of our venue contracts, a \$5.4 million increase in depreciation expense, and a \$3.2 million increase in internet connectivity expenses. The increases were partially offset by a \$3.1 million decrease from customer usage at partner venues and a \$2.5 million decrease in other direct costs. Other direct costs for 2014 include \$0.4 million of costs related to a Wi-Fi build out project.

Network operations. Network operations expenses increased \$7.1 million, or 38.4%, in 2014, as compared to 2013, primarily due to a \$3.9 million increase in personnel related expenses, inclusive of a \$0.5 million increase in stock-based compensation expenses, primarily resulting from increased headcount, a \$1.6 million increase in depreciation expense, a \$0.6 million increase in network maintenance expenses, a \$0.3 million increase in travel and entertainment expenses, a \$0.3 million increase in hardware and software maintenance expenses, a \$0.3 million increase in call center expenses, and a \$0.1 million increase in rent and other expenses.

Development and technology. Development and technology expenses increased \$3.4 million, or 30.2%, in 2014, as compared to 2013, primarily due to a \$1.4 million increase in depreciation expense, a \$0.7 million increase in hardware and software maintenance expenses, a \$0.4 million impairment loss related to a change in the use of certain software developed for internal use, a \$0.4 million increase in technology service expenses, and a \$0.5 million increase in other operating expenses.

Selling and marketing. Selling and marketing expenses increased \$2.1 million, or 15.0%, in 2014, as compared to 2013, primarily due to a \$3.1 million increase in personnel related expenses, inclusive of a \$1.0 million increase in stock-based compensation expenses, primarily resulting from increased headcount and higher sales commissions related to our increased advertising sales. The increase was partially offset by a \$1.0 million decrease in marketing related expenses.

General and administrative. General and administrative expenses increased \$2.4 million, or 15.9%, in 2014, as compared to 2013, due to a \$1.8 million increase in personnel related expenses, inclusive of a \$1.0 million increase in stock-based compensation expenses, a \$0.3 million increase in consulting expenses, and a \$0.3 million increase in rent and facilities expenses. General and administrative expenses includes a \$0.5 million impairment loss related to a venue termination agreement that resulted in the abandonment of our Wi-Fi network assets and the release of the corresponding capital lease obligations associated with those assets. General and administrative expenses also includes a \$0.8 million decrease in the fair value of our contingent consideration liabilities related to our acquisition of Endeka Group, Inc. ("Endeka") in February 2013.

Amortization of intangible assets. Amortization of intangible assets expense increased \$1.5 million, or 65.2%, in 2014, as compared to 2013, due primarily to our acquisitions of Endeka and AWG in February 2013 and October 2013, respectively. For future years, amortization expense is expected to be \$3.5 million for 2015, \$3.5 million for 2016, \$3.2 million for 2017, \$2.4 million for 2018, \$1.6 million for 2019 and \$5.5 million thereafter.

Interest and Other (Expense) Income, Net

Interest and other (expense) income, net, decreased \$0.1 million in 2014, as compared to 2013, primarily due to our lower cash and cash equivalents and marketable securities balances during 2014 as compared to 2013 and interest expense related to our new Credit Agreement, which we entered into on November 21, 2014.

Income Tax Expense

Income tax expense decreased \$0.8 million, or 52.1%, in 2014, as compared to 2013. Our effective tax rate decreased to 3.9% for 2014 compared to 78.7% for 2013 due primarily to the valuation allowance we established at year end in 2013.

Our future effective tax rate depends on various factors, such as our level of future taxable income, tax legislation and credits and the geographic compositions of our pre-tax income. We do not expect to incur any significant income taxes until such time that we reverse our valuation allowance against our federal and state deferred tax assets upon return to sustained profitability.

Non-controlling Interests

Non-controlling interests remained essentially unchanged in 2014, as compared to 2013.

Years ended December 31, 2013 and 2012

Revenue

	Year Ended December 31,			
	2013	2012	Change	% Change
	(in thousands, except percentages)			
Revenue:				
Retail	\$ 43,194	\$ 46,145	\$ (2,951)	(6.4)
DAS	32,681	30,751	1,930	6.3
Wholesale—Wi-Fi	17,261	18,744	(1,483)	(7.9)
Military	1,260	—	1,260	*
Advertising and other	12,350	6,866	5,484	79.9
Total revenue	<u>\$ 106,746</u>	<u>\$ 102,506</u>	<u>\$ 4,240</u>	4.1
Key business metrics:				
Subscribers—retail	308	284	24	8.5
Subscribers—military	2	—	2	*
Connects	50,830	24,490	26,340	107.6
DAS nodes	6.3	5.6	0.7	12.5

* Calculation of percentage change is not meaningful.

Retail. Retail revenue decreased \$3.0 million, or 6.4%, in 2013, as compared to 2012, primarily due to a \$3.6 million decrease in retail single-use revenue, which is attributable to the transition of certain paid managed and operated locations to a tiered or free pricing model, the loss of certain paid

managed and operated locations, and an increase in new customers that opted for subscriptions. The decrease was partially offset by a \$0.6 million increase in retail subscriber revenues resulting primarily from the increase in retail subscribers, which was partially offset by a decrease in our average monthly revenue per retail subscriber in 2013 as compared to 2012. Retail single-use revenue included \$0.4 million of revenues related to the venues acquired from AWG in October 2013.

DAS. DAS revenue increased \$1.9 million, or 6.3%, in 2013, as compared to 2012, due to a \$1.9 million increase in new build-out projects in our managed and operated locations, which included a \$2.5 million short term build-out project that included the sale of equipment and was completed during 2013.

Wholesale — Wi-Fi. Wholesale Wi-Fi revenue decreased \$1.5 million, or 7.9%, in 2013, as compared to 2012, due to a \$3.5 million decrease in partner usage based fees, which was partially offset by a \$2.0 million increase in wholesale service provider revenues resulting from increased deployments.

Military. Military revenue increased \$1.3 million in 2013 as a result of our acquisition of Endeka in February 2013.

Advertising and other. Advertising and other revenue increased \$5.5 million, or 79.9%, in 2013, as compared to 2012, due to a \$5.3 million increase in advertising revenues from our advertising business that resulted from the assets acquired from Cloud 9 Wireless, Inc. ("Cloud 9") in August 2012 and \$1.1 million of advertising revenues related to the venues acquired from AWG in October 2013. The increase was offset by a \$0.9 million decrease in other revenues.

Costs and Operating Expenses

	Year Ended December 31,			
	2013	2012	Change	% Change
	(in thousands, except percentages)			
Costs and operating expenses:				
Network access	\$ 47,245	\$ 42,289	\$ 4,956	11.7
Network operations	18,402	14,541	3,861	26.6
Development and technology	11,432	10,772	660	6.1
Selling and marketing	14,244	10,255	3,989	38.9
General and administrative	15,067	12,700	2,367	18.6
Amortization of intangible assets	2,250	1,103	1,147	104.0
Total costs and operating expenses	<u>\$ 108,640</u>	<u>\$ 91,660</u>	<u>\$ 16,980</u>	18.5

Network access. Network access costs increased \$5.0 million, or 11.7%, in 2013, as compared to 2012. The increase was primarily attributed to a \$3.5 million increase in revenue share paid to venues in our managed and operated locations, a \$2.6 million increase in costs associated with the sale of equipment for build-out projects for wholesale service providers and our short term build-out projects, a \$0.7 million increase in depreciation expense, and a \$0.6 million increase in other cost of sales. The increases were partially offset by a \$1.3 million decrease from a short term DAS build-out project that was completed in 2012, a \$0.6 million decrease in bandwidth costs and a \$0.6 million decrease from customer usage at partner venues. Network access expense included \$1.0 million of expenses related to venues acquired from AWG in October 2013.

Network operations. Network operations expenses increased \$3.9 million, or 26.6%, in 2013, as compared to 2012, primarily due to a \$1.6 million increase in personnel related expenses, inclusive of a \$0.5 million increase in stock-based compensation expenses, primarily resulting from increased headcount, a \$1.2 million increase in depreciation expense, a \$0.2 million increase in rent and other allocated administrative expenses, a \$0.2 million increase in hardware and software maintenance expenses, and a \$0.6 million increase in recruiting, internet connectivity, network maintenance, consulting and travel and entertainment expenses. Network operations expense included \$0.3 million of expenses related to AWG, which was acquired in October 2013.

Development and technology. Development and technology expenses increased \$0.7 million, or 6.1%, in 2013, as compared to 2012, primarily due to a \$0.9 million increase in depreciation expense and a \$0.4 million increase in hardware and software maintenance expenses. The increases were partially offset by a \$0.3 million decrease in recruiting expenses, a \$0.2 million decrease in personnel related expenses, and a \$0.2 million decrease in consulting expenses.

Selling and marketing. Selling and marketing expenses increased \$4.0 million, or 38.9%, in 2013, as compared to 2012, primarily due to a \$3.2 million increase in personnel related expenses, inclusive of a \$0.5 million increase in stock-based compensation expenses, primarily resulting from increased headcount and incentive compensation, a \$0.4 million increase in travel and entertainment expenses, and a \$0.3 million increase in rent and facilities, hardware and software maintenance and depreciation expenses. Selling and marketing expenses included \$0.1 million of expenses related to AWG, which was acquired in October 2013.

General and administrative. General and administrative expenses increased \$2.4 million, or 18.6%, in 2013, as compared to 2012, primarily due to a \$1.5 million increase in professional fees, a \$0.8 million increase in personnel related expenses, inclusive of a \$0.7 million increase in stock-based compensation expenses, and a \$0.2 million increase in recruiting expenses. The increases were partially offset by a \$0.3 million decrease in other expenses. General and administrative expenses included \$0.1 million of expenses related to AWG, which was acquired in October 2013.

Amortization of intangible assets. Amortization of intangible assets expense increased \$1.1 million, or 104.0%, in 2013, as compared to 2012, due to our acquisitions of Cloud 9, Endeika, and AWG in August 2012, February 2013, and October 2013, respectively.

Interest and Other Income (Expense), Net

Interest and other income (expense), net, decreased \$0.1 million in 2013, as compared to 2012, primarily due to our lower cash and cash equivalents and marketable securities balances during 2013 as compared to 2012.

Income Tax Expense

Income tax expense decreased \$1.5 million, or 50.7%, in 2013, as compared to 2012. Our 2013 income tax expense included \$1.9 million of tax expense associated with the establishment of a valuation allowance against our federal and state deferred tax assets.

Non-controlling Interests

Non-controlling interests remained essentially unchanged in 2013, as compared to 2012.

Liquidity and Capital Resources

We have financed our operations primarily through cash provided by operating activities. Our primary sources of liquidity as of December 31, 2014 consisted of \$8.8 million of cash and cash

equivalents and \$1.6 million of marketable securities. As of December 31, 2014, we also have \$46.5 million available for borrowing under our credit facility.

Our principal uses of liquidity have been to fund our operations, working capital requirements, capital expenditures and acquisitions. We expect that these requirements will be our principal needs for liquidity over the near term. Our capital expenditures in 2014 were \$70.9 million, of which \$32.6 million was reimbursed through revenue for DAS build-out projects from our telecom operators.

On November 21, 2014, we entered into a Credit Agreement (the "Credit Agreement") and related agreements with Bank of America, N.A. acting as agent for lenders named therein, including Bank of America, N.A. and Silicon Valley Bank (the "Lenders"), for a secured credit facility in the form of a revolving line of credit in the initial amount of up to \$46.5 million, with an option to increase the available amount to \$86.5 million upon the satisfaction of certain conditions (the "Revolving Line of Credit") and a term loan of \$3.5 million (the "Term Loan" and together with the Revolving Line of Credit, the "Credit Facility"). Both the Term Loan and Revolving Line of Credit mature on November 21, 2018. Amounts borrowed under the Revolving Line of Credit and Term Loan will bear, at the Company's election, a variable interest at LIBOR plus 2.5% - 3.5% or Lender's Prime Rate plus 1.5% - 2.5% per year and we will pay a fee of 0.375% - 0.5% per year on any unused portion of the Revolving Line of Credit. As of December 31, 2014, \$3.5 million was outstanding under the Term Loan at a rate of 2.7%. The Term Loan requires quarterly payments of interest and principal, amortizing fully over the four-year-term such that it is repaid in full on the maturity date of November 21, 2018. Repayment of amounts borrowed under the Credit Facility may be accelerated in the event that we are in violation of the representation, warranties and covenants made in the Credit Agreement, including certain financial covenants set forth therein, and under other specific default events including, but not limited to, non-payment or inability to pay debt, breach of cross default provisions, insolvency provisions, and change in control.

The Company is subject to customary covenants, including a minimum quarterly consolidated leverage ratio, a maximum quarterly consolidated fixed charge coverage ratio, and monthly liquidity minimums. The Company was in compliance with all such financial covenants as of December 31, 2014 and through the date of this filing. The Company is also subject to certain non-financial covenants, and the Company was also in compliance with all such non-financial covenants as of December 31, 2014 and through the date of this filing. The new Credit Facility provides us with significant additional flexibility and liquidity to pursue our strategic objectives for capital expenditures and acquisitions.

We believe that our existing cash and cash equivalents, working capital, debt financing, and our cash flow from operations will be sufficient to fund our operations, planned capital expenditures and potential acquisitions for at least the next 12 months. There can be no assurance, however, that future industry-specific or other developments, general economic trends, or other matters will not adversely affect our operations or our ability to meet our future cash requirements. Our future capital requirements will depend on many factors including our rate of revenue growth, the timing and size of our managed and operated location expansion efforts, the timing and extent of spending to support product development efforts, the timing of introductions of new solutions and enhancements to existing solutions and the continuing market acceptance of our solutions. We expect our capital expenditures in 2015 will range from \$40.0 million to \$50.0 million, excluding capital expenditures for DAS build-out projects which are reimbursed through revenue from our telecom operators. The majority of our 2015 capital expenditures will be used to build out broadband and IPTV networks for troops stationed on U.S. military bases pursuant to our contracts with the U.S. government and upgrading our Wi-Fi networks at our managed and operated venues. The investment of these resources will occur in advance of experiencing any direct benefit from them including generation of revenues. The U.S. government may modify, curtail or terminate its contracts with us, either at its convenience or for default based on performance. Any such modification, curtailment, or termination of one or more of our government contracts could have a material adverse effect on our earnings, cash flow and/or financial position. We

may also enter into acquisitions of complementary businesses, applications or technologies which could require us to seek additional equity or debt financing. Additional funds may not be available on terms favorable to us, or at all.

The following table sets forth cash flow data for the periods indicated therein:

	Year Ended December 31,		
	2014	2013	2012
	(in thousands)		
Net cash provided by operating activities	\$ 21,207	\$ 20,671	\$ 24,596
Net cash used in investing activities	(39,199)	(40,403)	(62,468)
Net cash (used in) provided by financing activities	(480)	(11,068)	2,077

Net Cash Provided by Operating Activities

In 2014, we generated \$21.2 million of net cash from operating activities, an increase of \$0.5 million from 2013. The increase is primarily due to a \$16.6 million increase in accrued expenses and other liabilities and deferred revenue in 2014 compared to a \$1.9 million decrease in 2013, a \$10.0 million increase in depreciation and amortization expenses in 2014, a \$2.7 million increase in stock-based compensation expenses in 2014, and a \$1.0 million impairment loss in 2014. The increases were partially offset by a \$15.4 million increase in our net loss including non-controlling interests from the prior year, a \$9.0 million larger increase in accounts receivable in 2014 compared to 2013, a \$1.9 million increase in prepaid expenses and other assets in 2014 compared to a \$1.6 million decrease in 2013, a \$2.0 million larger decrease in accounts payable in 2014 compared to 2013, a \$1.1 million decrease in the change in deferred tax assets, and a \$0.4 million increase in the change in fair value of contingent consideration.

In 2013, we generated \$20.7 million of net cash from operating activities, a decrease of \$3.9 million from 2012. The decrease is primarily due to an \$11.0 million decrease in our net income including non-controlling interests from the prior year and a \$1.9 million decrease in excess windfall tax benefits from stock option exercises. The decreases were partially offset by a \$4.1 million increase in depreciation and amortization expenses in 2013, a \$1.6 million decrease in prepaids and other assets in 2013 compared to a \$0.3 million increase in prepaids and other assets in 2012, a \$1.8 million increase in stock-based compensation expenses in 2013, and a \$1.2 million smaller decrease in accrued expenses and other liabilities in 2013 compared to 2012.

In 2012, we generated \$24.6 million in cash from operating activities, a decrease of \$4.9 million from 2011, which was primarily due to a \$4.5 million increase in accounts receivable and other assets, a \$2.2 million decrease in deferred revenues, a \$1.5 million decrease in accounts payable and accrued expenses and a \$1.8 million decrease in deferred taxes. These changes were offset by \$1.8 million in excess tax benefits from stock-based compensation, a \$2.2 million increase in non-cash charges for depreciation, amortization and stock compensation and a \$1.1 million increase in net income.

Net Cash Used in Investing Activities

In 2014, we used \$39.2 million in investing activities, a decrease of \$1.2 million from 2013. The decrease was primarily due to a \$22.8 million increase in cash received from net sales of marketable securities in 2014 compared to 2013, a \$19.3 million decrease in cash used in acquisitions in 2014 compared to 2013, and a \$0.5 million decrease in restricted cash. The decreases were partially offset by a \$41.4 million increase in purchases of property and equipment in 2014 compared to 2013..

In 2013, we used \$40.4 million in investing activities, a decrease of \$22.1 million from 2012. The decrease was primarily due to \$8.6 million of cash received from net sales of marketable securities in 2013 compared to \$41.6 million of cash used in net purchases of marketable securities in 2012. The

decrease was offset by an \$11.5 million increase in purchases of property and equipment in 2013 compared to 2012 and \$19.5 million in net cash payments made for our acquisitions of Endeke and AWG in 2013 compared to the \$3.2 million of cash payments made for our acquisition of Cloud 9 in 2012.

In 2012, we used \$62.5 million in investing activities. Our investing activities in 2012 included net purchases of \$41.6 million of marketable securities, \$18.0 million of purchases of property and equipment primarily related to DAS build-out projects in our managed and operated locations, net payment of \$3.2 million for acquired assets and \$0.1 million of payments for patents, trademarks and domain. These uses of cash were partially offset by a \$0.4 million decrease in restricted cash.

Net Cash Provided by Financing Activities

In 2014, we used \$0.5 million in financing activities, a decrease of \$10.6 million from 2013. The decrease was primarily due to \$10.9 million of cash used to repay notes payable and other financed liabilities that were assumed in our acquisition of Endeke and cash used to repurchase shares of our common stock in the open market in 2013 that did not recur in 2014, \$2.8 million of proceeds received from our Credit Facility, net of deferred financing costs that were paid, and a \$0.5 million increase in proceeds from the exercise of stock options in 2014 compared to 2013. The decreases were partially offset by a \$1.9 million increase in cash used to pay minimum statutory taxes related to our time-based RSUs that vested during 2014, \$1.3 million of cash used to pay continent liabilities and other acquisition related consideration during 2014, and a \$0.4 million increase in cash paid for capital leases and notes payable.

In 2013, we used \$11.1 million in financing activities compared to cash provided by financing activities of \$2.1 million in 2012. The change was primarily due to \$6.1 million of cash used to repay notes payable and other financed liabilities that were assumed in our acquisition of Endeke in 2013, the \$4.8 million of cash used to repurchase and retire approximately 722,000 shares of our common stock in the open market under our stock repurchase program at an average price per share of \$6.68 in 2013, and a \$2.0 million decrease in proceeds from the exercise of stock options in 2013 compared to 2012.

In 2012, we generated \$2.0 million in financing activities. This was primarily due to \$2.6 million in proceeds from the exercise of stock options and \$0.4 million of excess tax benefits from stock-based compensation, partially offset by payments to non-controlling interests of \$0.7 million and payments of capital leases of \$0.2 million.

Contractual Obligations and Commitments

The following table sets forth our contractual obligations and commitments as of December 31, 2014:

	Payments Due By Period				
	Total	Less than 1 Year	2 - 3 Years (in thousands)	4 - 5 Years	More than 5 Years
Venue revenue share minimums(1)	\$ 44,492	\$ 8,933	\$ 14,401	\$ 8,865	\$ 12,293
Operating leases for office space(2)	33,408	1,105	5,293	5,991	21,019
Open purchase commitments(3)	6,487	6,487	—	—	—
Credit Facility(4)	3,500	875	1,750	875	—
Capital leases for equipment and software(5)	748	331	391	26	—
Unrecognized tax benefits(6)	286	286	—	—	—
Notes payable(7)	260	96	164	—	—
Contingent consideration(8)	131	131	—	—	—
Total	\$ 89,312	\$ 18,244	\$ 21,999	\$ 15,757	\$ 33,312

- (1) Payments under exclusive long-term, non-cancellable contracts to provide wireless communications network access to venues such as airports. Expense is recorded on a straight-line basis over the term of the lease.
- (2) Office space under non-cancellable operating leases.
- (3) Open purchase commitments are for the purchase of property and equipment, supplies and services. They are not recorded as liabilities on our consolidated balance sheet as of December 31, 2014 as we have not received the related goods or services.
- (4) Long-term debt associated with our Credit Agreement with Bank of America N.A.
- (5) Leased equipment, primarily for data communication and database software, under non-cancellable capital leases.
- (6) The unrecognized tax benefits are related to uncertain tax positions taken in our income tax return that would impact the effective tax rate or additional paid-in capital, if recognized (refer to Note 12 to the accompanying consolidated financial statements included in Part II, Item 8).
- (7) Notes payable assumed in our acquisition of Endeka in 2013.
- (8) Contingent consideration related to business acquisitions (refer to Note 3 to the accompanying consolidated financial statements included in Part II, Item 8).

Off-Balance Sheet Arrangements

We do not have any off-balance sheet financing arrangements and we do not have any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, which have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes.

Transactions with Related Parties

Under our Audit Committee charter, our Audit Committee is responsible for reviewing and approving all related party transactions on a quarterly basis. In addition, our Board of Directors determines annually whether any related party relationships exist among the directors which would interfere with the judgment of individual directors in carrying out his responsibilities as director.

Inflation

Inflationary factors have not had a significant effect on our performance over the past several years. A significant increase in inflation may affect our future performance since we may not be able to recover the increases in our costs with similar increases in our prices.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

We are exposed to various market risks including: (i) investment portfolio risk, (ii) interest rate risk and (iii) currency exchange rate risk. The risk of loss is assessed based on the likelihood of adverse changes in fair values, cash flows or future earnings.

Investment portfolio risk. We have established guidelines relative to the diversification and maturities of investments to maintain safety and liquidity. These guidelines are reviewed periodically and may be modified depending on market conditions. Although investments may be subject to credit risk, our investment policy specifies credit quality standards for our investments and limits the amount of credit exposure from any single issue, issuer or type of investment. At December 31, 2014, our market risk sensitive instruments consisted of marketable securities available-for-sale, which are comprised of highly rated short-term corporate bonds.

Marketable securities available-for-sale are carried at fair value and are intended for use in meeting our ongoing liquidity needs. Unrealized gains and losses on available-for-sale securities, which are deemed to be temporary, are reported as a separate component of stockholders' equity, net of tax. Unrealized gains and losses on available-for-sale securities have not been significant. The cost of debt securities is adjusted for amortization of premiums and accretion of discounts to maturity. The amortization, along with realized gains and losses is included in interest and other (expense) income, net.

Interest rate risk. Our Revolving Line of Credit and Term Loan bears, at the Company's election, interest at a variable interest rate of LIBOR plus 2.5% - 3.5% or Lender's Prime Rate plus 1.5% - 2.5% per year. The interest rate on the Term Loan resets at the end of each three month period. Our use of variable rate debt exposes us to interest rate risk. A 100 basis point increase in the LIBOR or Lender's Prime Rate as of December 31, 2014 would not have a material impact on net (loss) income and cash flow.

Foreign currency exchange rate risk. We are exposed to foreign currency exchange rate risk inherent in conducting business globally in numerous currencies, of which the most significant to our operations for the year ended December 31, 2014 was the Brazilian Real. We are primarily exposed to foreign currency fluctuations related to the operations of our subsidiary in Brazil whose financial statements are not denominated in the U.S. Dollar. Our foreign operations are not material to our operations as a whole. As such, we currently do not enter into currency forward exchange or option contracts to hedge foreign currency exposures.

Item 8. Financial Statements and Supplementary Data

The information required by this Item is included in Part IV, Items 15(a)(1) and (2) of this Annual Report on Form 10-K.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Disclosure Controls and Procedures

The Company maintains a system of disclosure controls and procedures that are designed to provide reasonable assurance that information required to be disclosed in the reports that the Company files or submits under the Securities Exchange Act of 1934, as amended, or the Exchange Act, is processed, recorded, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms. These disclosure controls and procedures include, among other processes, controls and procedures designed to ensure that information required to be disclosed in the reports that the Company files or submits under the Exchange Act is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer (our principal executive officer and principal financial officer, respectively), as appropriate, to allow for timely decisions regarding required disclosure.

The Company carried out an evaluation, under the supervision and with the participation of management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of December 31, 2014 pursuant to Exchange Act Rule 13a-15. Based upon that evaluation, the Company's Chief Executive Officer and Chief Financial Officer have concluded that the Company's disclosure controls and procedures, as defined in Exchange Act Rule 13a-15(e) and 15d-15(e), were effective as of the end of the period covered by this Annual Report.

Management's Report on Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting at the Company. Our internal control over financial reporting is a process designed under the supervision of our Chief Executive Officer and Chief Financial Officer to provide reasonable assurance regarding the reliability of financial reporting and the preparation of the Company's financial statements for external reporting purposes in accordance with GAAP. A company's internal control over financial reporting includes those policies and procedures that:

- pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company;
- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and the directors of the company; and
- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Under the supervision and with the participation of management, including the certifying officers, the Company conducted an evaluation of the effectiveness of the Company's internal control over financial reporting as of December 31, 2014 based on the framework in *Internal Control—Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Management's assessment included an evaluation of the design of the Company's internal

control over financial reporting and testing of the operational effectiveness of its internal control over financial reporting.

Based on this assessment, management determined that, as of December 31, 2014, the Company maintained effective internal control over financial reporting. The registered public accounting firm that audited the consolidated financial statements included in this Annual Report has also issued an audit report on the Company's internal control over financial reporting. The Report of Independent Registered Public Accounting Firm is filed with this Annual Report on Form 10-K in a separate section following Part IV, as shown on the index under Item 15 of this Annual Report.

Changes in Internal Control over Financial Reporting

There have been no changes in the Company's internal control over financial reporting (as defined by Exchange Act Rule 13a-15(f) and 15d-15(f)) that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting during the quarter ended December 31, 2014.

Item 9B. Other Information

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required by Item 10 will be included in the Company's definitive Proxy Statement under the caption "Directors, Executive Officers and Corporate Governance" and "Section 16(a) Beneficial Ownership Reporting Compliance," to be filed with the Commission within 120 days after the end of fiscal year 2014 pursuant to Regulation 14A, which information is incorporated herein by this reference.

Item 11. Executive Compensation

The Company maintains employee benefit plans and programs in which its executive officers are participants. Copies of certain of these plans and programs are set forth or incorporated by reference as Exhibits to this report. Information required by Item 11 will be included in the Company's definitive Proxy Statement under the captions "Director Compensation," "Executive Compensation," "Compensation Discussion and Analysis," and "Directors, Executive Officers and Corporate Governance," to be filed with the Commission within 120 days after the end of fiscal year 2014 pursuant to Regulation 14A, which information is incorporated herein by this reference.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required by Item 12 will be included in the Company's definitive Proxy Statement under the caption "Security Ownership of Certain Beneficial Owners and Management," to be filed with the Commission within 120 days after the end of fiscal year 2014 pursuant to Regulation 14A, which information is incorporated herein by this reference. The information required to be disclosed by Item 201(d) of Regulation S-K regarding our equity securities authorized for issuance under our equity incentive plans is incorporated herein by reference to the section entitled "Securities Authorized for Issuance under Equity Compensation Plans" in our definitive Proxy Statement for our Annual Meeting of Stockholders to be filed with the Commission within 120 days after the end of fiscal year 2014 pursuant to Regulation 14A.

Item 13. Certain Relationships and Related Transactions, and Director Independence

The information required by Item 13 of Form 10-K regarding transactions with related persons, promoters and certain control persons, if any, will be included in the Company's definitive Proxy Statement under the caption "Certain Relationships and Related Party Transactions" to be filed with the Commission within 120 days after the end of fiscal year 2014 pursuant to Regulation 14A, which information is incorporated herein by this reference. The information required by Item 13 of Form 10-K regarding director independence will be included in the Company's definitive Proxy Statement under the caption "Directors, Executive Officers and Corporate Governance—Corporate Governance and Board Matters -Independence of the Board of Directors," to be filed with the Commission within 120 days after the end of fiscal year 2014 pursuant to Regulation 14A, which information is incorporated herein by this reference.

Item 14. Principal Accounting Fees and Services

The information required by Item 14 will be included in the Company's definitive Proxy Statement under the caption "Independent Registered Public Accounting Firm" to be filed with the Commission within 120 days after the end of fiscal year 2014 pursuant to Regulation 14A, which information is incorporated herein by this reference.

PART IV

Item 15. Exhibits

(a) The following documents are filed as part of, or incorporated by reference into, this Annual Report on Form 10-K:

(1)(2) *Financial Statements.* The following consolidated financial statements of Boingo Wireless, Inc., and Report of Independent Registered Public Accounting Firm are included in a separate section of this Annual Report on Form 10-K beginning on page F-1. The Exhibits begin on page F-32.

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

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All schedules are omitted because they are not applicable or the required information is shown in the Company's consolidated financial statements or the related notes thereto.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of Boingo Wireless, Inc.

In our opinion, the accompanying consolidated balance sheets and the related consolidated statements of operations, comprehensive income (loss), stockholders' equity and cash flows present fairly, in all material respects, the financial position of Boingo Wireless, Inc. and its subsidiaries ("Company") at December 31, 2014 and 2013, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2014 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2014, based on criteria established in *Internal Control—Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company's management is responsible for these financial statements, for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in Management's Report on Internal Control over Financial Reporting appearing under Item 9A. Our responsibility is to express opinions on these financial statements and on the Company's internal control over financial reporting based on our integrated audits. We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ PricewaterhouseCoopers LLP
Los Angeles, California
March 16, 2015

Boingo Wireless, Inc.

Consolidated Balance Sheets

(In thousands, except per share amounts)

	December 31,	
	2014	2013
Assets		
Current assets:		
Cash and cash equivalents	\$ 8,849	\$ 27,338
Restricted cash	—	545
Marketable securities	1,614	32,962
Accounts receivable, net	27,917	16,326
Prepaid expenses and other current assets	3,916	2,566
Deferred tax assets	787	1,192
Total current assets	43,083	80,929
Property and equipment, net	111,772	67,560
Goodwill	42,403	42,403
Intangible assets, net	19,676	23,413
Other assets	2,468	1,210
Total assets	<u>\$ 219,402</u>	<u>\$ 215,515</u>
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	\$ 4,004	\$ 11,642
Accrued expenses and other liabilities	26,109	16,529
Deferred revenue	25,488	19,292
Current portion of long-term debt	875	—
Current portion of capital leases	309	526
Total current liabilities	56,785	47,989
Deferred revenue, net of current portion	27,267	21,591
Long-term debt	2,625	—
Long-term portion of capital leases	381	473
Deferred tax liabilities	3,432	3,369
Other liabilities	1,482	1,660
Total liabilities	91,972	75,082
Commitments and contingencies (Note 13)		
Stockholders' equity:		
Preferred stock, \$0.0001 par value; 5,000 shares authorized; no shares issued and outstanding	—	—
Common stock, \$0.0001 par value; 100,000 shares authorized; 36,267 and 35,226 shares issued and outstanding for 2014 and 2013, respectively	4	4
Additional paid-in capital	189,725	182,927
Accumulated deficit	(62,884)	(43,363)
Accumulated other comprehensive loss	(443)	—
Total common stockholders' equity	126,402	139,568
Non-controlling interests	1,028	865
Total stockholders' equity	127,430	140,433
Total liabilities and stockholders' equity	<u>\$ 219,402</u>	<u>\$ 215,515</u>

The accompanying notes are an integral part of these consolidated financial statements.

Boingo Wireless, Inc.

Consolidated Statements of Operations

(In thousands, except per share amounts)

	For the Years Ended December 31,		
	2014	2013	2012
Revenue	\$ 119,297	\$ 106,746	\$ 102,506
Costs and operating expenses:			
Network access	59,411	47,245	42,289
Network operations	25,475	18,402	14,541
Development and technology	14,879	11,432	10,772
Selling and marketing	16,382	14,244	10,255
General and administrative	17,460	15,067	12,700
Amortization of intangible assets	3,716	2,250	1,103
Total costs and operating expenses	<u>137,323</u>	<u>108,640</u>	<u>91,660</u>
(Loss) income from operations	(18,026)	(1,894)	10,846
Interest and other (expense) income, net	(41)	37	143
(Loss) income before income taxes	(18,067)	(1,857)	10,989
Income tax expense	700	1,461	2,965
Net (loss) income	(18,767)	(3,318)	8,024
Net income attributable to non-controlling interests	754	650	729
Net (loss) income attributable to common stockholders	<u>\$ (19,521)</u>	<u>\$ (3,968)</u>	<u>\$ 7,295</u>
Net (loss) income per share attributable to common stockholders:			
Basic	\$ (0.55)	\$ (0.11)	\$ 0.21
Diluted	\$ (0.55)	\$ (0.11)	\$ 0.20
Weighted average shares used in computing net (loss) income per share attributable to common stockholders:			
Basic	35,753	35,578	34,774
Diluted	35,753	35,578	37,317

The accompanying notes are an integral part of these consolidated financial statements.

Boingo Wireless, Inc.**Consolidated Statements of Comprehensive Income (Loss)****(In thousands)**

	For the Years Ended		
	December 31,		
	<u>2014</u>	<u>2013</u>	<u>2012</u>
Net (loss) income	\$ (18,767)	\$ (3,318)	\$ 8,024
Other comprehensive loss, net of tax:			
Foreign currency translation adjustments	(411)	—	—
Comprehensive (loss) income	(19,178)	(3,318)	8,024
Comprehensive income attributable to non-controlling interest	786	650	729
Comprehensive (loss) income attributable to common stockholders	<u>\$ (19,964)</u>	<u>\$ (3,968)</u>	<u>\$ 7,295</u>

The accompanying notes are an integral part of these condensed consolidated financial statements.

Boingo Wireless, Inc.

Consolidated Statements of Stockholders' Equity

(In thousands)

	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Non- controlling Interest	Total Stockholder's Equity
Balance at December 3 2011	33,584	3	170,721	(41,842)	—	197	129,079
Issuance of common stock upon exercise of stock options	1,899	1	2,573	—	—	—	2,574
Stock-based compensatio: expense	—	—	2,735	—	—	—	2,735
Excess tax benefits from stock- based compensatio:	—	—	2,190	—	—	—	2,190
Non- controlling interest distributions	—	—	—	—	—	(103)	(103)
Net income	—	—	—	7,295	—	729	8,024
Balance at December 3 2012	35,483	4	178,219	(34,547)	—	823	144,499
Issuance of common stock under stock incentive plans	465	—	599	—	—	—	599
Repurchase and retirement of common stock	(722)	—	—	(4,848)	—	—	(4,848)
Stock-based compensatio: expense	—	—	4,506	—	—	—	4,506
Deficient tax benefits from stock- based compensatio:	—	—	(397)	—	—	—	(397)
Non- controlling interest distributions	—	—	—	—	—	(608)	(608)
Net income	—	—	—	(3,968)	—	650	(3,318)
Balance at December 3 2013	35,226	4	182,927	(43,363)	—	865	140,433
Issuance of common stock under stock							

incentive plans	1,041	—	1,158	—	—	—	1,158
Shares withheld for taxes	—	—	(1,922)	—	—	—	(1,922)
Stock-based compensation expense	—	—	7,562	—	—	—	7,562
Non-controlling interest distributions	—	—	—	—	—	(623)	(623)
Net loss	—	—	—	(19,521)	—	754	(18,767)
Other comprehensive loss	—	—	—	—	(443)	32	(411)
Balance at December 3 2014	<u>36,267</u>	<u>\$ 4</u>	<u>\$ 189,725</u>	<u>\$ (62,884)</u>	<u>\$ (443)</u>	<u>\$ 1,028</u>	<u>\$ 127,430</u>

The accompanying notes are an integral part of these consolidated financial statements.

Boingo Wireless, Inc.
Consolidated Statements of Cash Flows
(In thousands)

	For the Years Ended December 31,		
	2014	2013	2012
Cash flows from operating activities			
Net (loss) income	\$ (18,767)	\$ (3,318)	\$ 8,024
Adjustments to reconcile net (loss) income including non-controlling interests to net cash provided by operating activities:			
Depreciation and amortization of property and equipment	27,446	18,940	15,958
Amortization of intangible assets	3,716	2,250	1,103
Impairment loss	959	—	—
Stock-based compensation	7,164	4,506	2,735
Excess tax benefits from stock-based compensation	—	(55)	1,818
Change in fair value of contingent consideration	(811)	(367)	—
Change in deferred income taxes	468	1,615	989
Changes in operating assets and liabilities, net of effect of acquisition:			
Accounts receivable	(11,392)	(2,403)	(3,011)
Prepaid expenses and other assets	(1,935)	1,648	(347)
Accounts payable	(2,252)	(242)	(290)
Accrued expenses and other liabilities	4,739	(1,307)	(2,506)
Deferred revenue	11,872	(596)	123
Net cash provided by operating activities	<u>21,207</u>	<u>20,671</u>	<u>24,596</u>
Cash flows from investing activities			
Decrease in restricted cash	545	—	435
Purchases of marketable securities	(27,163)	(33,430)	(70,185)
Proceeds from sales of marketable securities	58,511	42,026	28,627
Purchases of property and equipment	(70,945)	(29,500)	(18,000)
Payments for business acquisitions, net of cash acquired	(147)	(19,459)	(3,185)
Other	—	(40)	(160)
Net cash used in investing activities	<u>(39,199)</u>	<u>(40,403)</u>	<u>(62,468)</u>
Cash flows from financing activities			
Proceeds from Term Loan	3,500	—	—
Debt issuance costs	(711)	—	—
Proceeds from exercise of stock options	1,158	614	2,573
Repurchase and retirement of common stock	—	(4,848)	—
Excess tax benefits from stock-based compensation	—	55	372
Payments of capital leases and notes payable	(627)	(187)	(190)
Payments of acquired notes payable and financed liabilities	—	(6,079)	—
Payment of other acquisition related consideration	(1,255)	—	—
Payments of withholding tax on net issuance of restricted stock units	(1,922)	(15)	—
Payments to non-controlling interests	(623)	(608)	(678)
Net cash (used in) provided by financing activities	<u>(480)</u>	<u>(11,068)</u>	<u>2,077</u>
Effect of exchange rates on cash.	(17)	—	—
Net decrease in cash and cash equivalents	<u>(18,489)</u>	<u>(30,800)</u>	<u>(35,795)</u>
Cash and cash equivalents at beginning of year	27,338	58,138	93,933
Cash and cash equivalents at end of year	<u>\$ 8,849</u>	<u>\$ 27,338</u>	<u>\$ 58,138</u>
Supplemental disclosure of cash flow information			
Cash paid for interest	\$ 33	\$ 32	\$ 11
Cash (received) paid for taxes, net of refunds	(53)	96	737
Supplemental disclosure of non-cash investing and financing activities			
Property and equipment costs in accounts payable, accrued expenses and other liabilities	11,647	10,283	2,607
Acquisition of equipment under capital leases	361	—	—
Assets acquired in business acquisition	—	39,794	—
Liabilities assumed in business acquisition	—	\$ 16,151	—

The accompanying notes are an integral part of these consolidated financial statements.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements

(In thousands, except shares and per share amounts)

1. The business

Boingo Wireless, Inc. and its subsidiaries (collectively "we, "us", "our" or "the Company") is a leading global provider of mobile Internet solutions for smartphones, tablet computers, laptops, and other wireless-enabled consumer devices. The Company has more than a million small cell networks for cellular distributed antenna system ("DAS") and Wi-Fi access that reach more than one billion consumers annually. Boingo Wireless, Inc. was incorporated in April 16, 2001 in the State of Delaware. We have a diverse monetization model that enables us to generate revenues from wholesale partnerships, retail sales, and advertising across these small cell networks. Wholesale offerings include Wi-Fi roaming, private label Wi-Fi, location based services, and DAS, which are cellular extension networks. Retail products include Wi-Fi subscriptions and day passes that provide access to more than one million commercial hotspots worldwide, and Internet Protocol television ("IPTV") services and broadband for military barracks. Advertising revenue is driven by Wi-Fi sponsorships at airports, hotels, cafes and restaurants, and public spaces. Our customers include some of the world's largest carriers, telecommunications service providers and global consumer brands, as well as Internet savvy consumers on the go and troops stationed at U.S. military bases.

2. Summary of significant accounting policies

Basis of presentation and consolidation

Our consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP").

The accompanying consolidated financial statements include our accounts and the accounts of our majority owned subsidiaries. We consolidate our 70% ownership of Concourse Communications Detroit, LLC, our 70% ownership of Chicago Concourse Development Group, LLC and our 75% ownership of Boingo Holding Participacoes Ltda. in accordance with Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") 810, *Consolidation*. Other parties' interests in consolidated entities are reported as non-controlling interests. All intercompany balances and transactions have been eliminated in consolidation.

During the year ended December 31, 2013, the Company recorded certain out-of-period adjustments that decreased net loss attributable to common stockholders by \$217. The impact of these out-of-period adjustments is not considered material, individually and in the aggregate, to any of the current or prior annual periods.

Use of estimates

The preparation of accompanying consolidated financial statements in conformity with GAAP requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the dates of the accompanying consolidated financial statements, and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates. Assets and liabilities which are subject to significant judgment and the use of estimates include the allowance for doubtful accounts, recoverability of goodwill and long-lived assets, valuation allowances with respect to deferred tax assets, uncertain tax positions, useful lives associated with property and equipment, valuation and useful lives of intangible assets, valuation of contingent consideration, and the valuation and assumptions underlying stock-based

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

2. Summary of significant accounting policies (Continued)

compensation and other equity instruments. On an ongoing basis, we evaluate our estimates compared to historical experience and trends, which form the basis for making judgments about the carrying value of assets and liabilities.

Concentrations of credit risk

Financial instruments that potentially subject us to significant concentrations of credit risk consist primarily of cash and cash equivalents, restricted cash, marketable securities and accounts receivable. We maintain our cash and cash equivalents, restricted cash and marketable securities with institutions with high credit ratings. We extend credit based upon the evaluation of the customer's financial condition and generally collateral is not required. We maintain an allowance for doubtful accounts based upon expected collectability of accounts receivable. We primarily estimate our allowance for doubtful accounts based on a specific review of significant outstanding accounts receivable. For the year ended December 31, 2014, one group of affiliated entities accounted for 15% of total revenue. For the year ended December 31, 2013, two groups of affiliated entities each accounted for 14% of total revenue. For the year ended December 31, 2012, those same two groups of affiliated entities accounted for 17% and 15% of total revenue, respectively. At December 31, 2014, two groups of affiliated entities accounted for 30% and 17% of the total accounts receivable, respectively. At December 31, 2013, one group of affiliated entities accounted for 12% of the total accounts receivable.

Cash and cash equivalents

Cash and cash equivalents include highly liquid investments that are readily convertible into known amounts of cash with original maturities of three months or less when acquired. At December 31, 2014 and 2013, cash equivalents consisted of money market funds.

Marketable securities

Our marketable securities consist of available-for-sale securities with original maturities exceeding three months. In accordance with FASB ASC 320, *Investments—Debt and Equity Securities*, we have classified securities, which have readily determinable fair values and are highly liquid, as short-term because such securities are expected to be realized within a one- year period. At December 31, 2014 and 2013, we had \$1,614 and \$32,962, respectively, in marketable securities.

Marketable securities are reported at fair value with the related unrealized gains and losses reported as other comprehensive income (loss) until realized or until a determination is made that an other-than-temporary decline in market value has occurred. No significant unrealized gains and losses have been reported during the years presented. Factors considered by us in assessing whether an other-than-temporary impairment has occurred include the nature of the investment, whether the decline in fair value is attributable to specific adverse conditions affecting the investment, the financial condition of the investee, the severity and the duration of the impairment and whether we have the ability to hold the investment to maturity. When it is determined that an other-than-temporary impairment has occurred, the investment is written down to its market value at the end of the period in which it is determined that an other-than-temporary decline has occurred. The cost of marketable securities sold is based upon the specific identification method. Any realized gains or losses on the sale of investments are reflected as a component of interest and other (expense) income, net.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

2. Summary of significant accounting policies (Continued)

For the years ended December 31, 2014, 2013 and 2012, we had no significant realized or unrealized gains or losses from investments in marketable securities classified as available-for-sale. As of December 31, 2014 and 2013, we had no unrealized gains or losses in accumulated other comprehensive income (loss).

Restricted cash

Restricted cash consists of letters of credit with our landlords, municipalities or venues for which we have operating agreements. Letters of credit are supported by cash deposits made by us and invested into bank certificates of deposit. At December 31, 2014, we had no restricted cash. At December 31, 2013, we had \$545 classified as short-term restricted cash and no long-term restricted cash.

Fair value of financial instruments

Fair value is defined as the price that would be received from selling an asset, or paid to transfer a liability, in an orderly transaction between market participants at the measurement date. When determining the fair value measurements for assets and liabilities required or permitted to be recorded at fair value, we consider the principal or most advantageous market in which it would transact, and we consider assumptions that market participants would use when pricing the asset or liability.

The accounting guidance for fair value measurement also requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. The standard establishes a fair value hierarchy based on the level of independent, objective evidence surrounding the inputs used to measure fair value. A financial instrument's categorization within the fair value hierarchy is based upon the lowest level of input that is significant to the fair value measurement. The fair value hierarchy is as follows:

- Level 1—Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities.
- Level 2—Quoted prices for identical assets and liabilities in markets that are not active, quoted prices for similar assets and liabilities in active markets or financial instruments for which significant inputs are observable, either directly or indirectly.
- Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

The carrying amount reflected in the accompanying consolidated balance sheets for cash and cash equivalents, restricted cash, marketable securities, accounts receivable, prepaid expenses and other current assets, accounts payable, accrued expenses and other liabilities approximates fair value due to the short-term nature of these financial instruments.

As of December 31, 2014, the carrying amount reflected in the accompanying consolidated balance sheets for the current portion of long-term debt and long-term debt approximates fair value based on the variable nature of the interest rates and the proximity to the issuance date.

Boingo Wireless, Inc.**Notes to the Consolidated Financial Statements (Continued)****(In thousands, except shares and per share amounts)****2. Summary of significant accounting policies (Continued)****Business combinations**

The results of businesses acquired in a business combination are included in the Company's consolidated financial statements from the date of the acquisition. Purchase accounting results in assets and liabilities of an acquired business being recorded at their estimated fair values on the acquisition date. Any excess consideration over the fair value of assets acquired and liabilities assumed is recognized as goodwill.

The Company performs valuations of assets acquired and liabilities assumed from a business acquisition and will allocate the purchase price to its respective net tangible and intangible assets. Determining the fair value of assets acquired and liabilities assumed requires management to use significant judgment and estimates including the selection of valuation methodologies, estimates of future revenues and cash flows, discount rates, royalty rates and selection of comparable companies. The Company engages the assistance of valuation specialists in concluding on fair value measurements in connection with fair values of assets and liabilities assumed in a business combination.

Transaction costs associated with business combinations are expensed as incurred, and are included in general and administrative expenses in the consolidated statements of operations. There were no transaction costs for the year ended December 31, 2014. Transaction costs were \$354 and \$50 for the years ended December 31, 2013 and 2012, respectively.

Property and equipment

Property and equipment are generally stated at historical cost, less accumulated depreciation and amortization. The Company's cost basis includes property and equipment acquired in business combinations that were initially recorded at fair value as of the date of acquisition. Maintenance and repairs are charged to expense as incurred and the cost of additions and betterments that increase the useful lives of the assets are capitalized. Depreciation and amortization is computed over the estimated useful lives of the related asset type using the straight-line method.

The estimated useful lives for property and equipment are as follows:

Computer equipment	2 to 5 years
Software	2 to 5 years
Office equipment	3 to 5 years
Leasehold improvements	The shorter of the estimated useful life or the remaining term of the agreements, generally ranging from 2 to 15 years

Leasehold improvements are principally comprised of network equipment located at various managed and operated locations, primarily airports, under exclusive, long-term, non-cancelable contracts to provide wireless communication network access.

Equipment and software under capital lease

We lease certain data communications equipment, other equipment and software under capital lease agreements. The assets and liabilities under capital lease are recorded at the lesser of the present

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

2. Summary of significant accounting policies (Continued)

value of aggregate future minimum lease payments, including estimated bargain purchase options, or the fair value of the asset under lease. Assets under capital lease are depreciated using the straight-line method over the shorter of the estimated useful lives of the assets or the term of the lease agreements.

Software development costs

We capitalize costs associated with software developed or obtained for internal use when the preliminary project stage is completed and it is determined that the software will provide significantly enhanced capabilities and modifications. These capitalized costs are included in property and equipment and include external direct cost of services procured in developing or obtaining internal-use software and personnel and related expenses for employees who are directly associated with, and who devote time to internal-use software projects. Capitalization of these costs ceases once the project is substantially complete and the software is ready for its intended use. Once the software is ready for its intended use, the costs are amortized over the useful life of the software. Post-configuration training and maintenance costs are expensed as incurred.

Long-lived assets

Intangible assets consist of acquired venue contracts, technology, advertiser relationships, non-compete agreements and patents and trademarks. We record intangible assets at fair value as of the date of acquisition and amortize these finite-lived assets over the shorter of the contractual life or the estimated useful life on a straight-line basis. We estimate the useful lives of acquired intangible assets based on factors that include the planned use of each acquired intangible asset, the expected pattern of future cash flows to be derived from each acquired intangible asset and contractual periods specified in the related agreements. As such, we account for each of the venue contracts individually. We include amortization of acquired intangibles in amortization of intangible assets in the accompanying consolidated statements of operations.

We perform an impairment review of long-lived assets held and used whenever events or changes in circumstances indicate that the carrying value may not be recoverable. Factors we consider important that could trigger an impairment review include, but are not limited to: significant under-performance relative to projected future operating results, significant changes in the manner of our use of the acquired assets or our overall business and product strategies and significant industry or economic trends. When we determine that the carrying value of a long-lived asset may not be recoverable based upon the existence of one or more of these indicators, we determine the recoverability by comparing the carrying amount of the asset to net future undiscounted cash flows that the asset is expected to generate or other indices of fair value. We would then recognize an impairment charge equal to the amount by which the carrying amount exceeds the fair market value of the asset.

Goodwill

Goodwill represents the excess of the purchase price over the fair value of net assets acquired in connection with the acquisition of Concourse Communication Group, LLC in June 2006, Cloud 9 Wireless, Inc. in August 2012, Endeka Group, Inc. in February 2013, and Electronic Media Systems, Inc. and Advanced Wireless Group, LLC in October 2013.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

2. Summary of significant accounting policies (Continued)

We test goodwill for impairment in accordance with guidance provided by FASB ASC 350, *Intangibles—Goodwill and Other* ("ASC 350"). Goodwill is tested for impairment at least annually at the reporting unit level or whenever events or changes in circumstances indicate that goodwill might be impaired. Events or changes in circumstances which could trigger an impairment review include a significant adverse change in legal factors or in the business climate, an adverse action or assessment by a regulator, unanticipated competition, a loss of key personnel, significant changes in the manner of our use of the acquired assets or the strategy for our overall business, significant negative industry or economic trends, or significant underperformance relative to expected historical or projected future results of operations. We perform our impairment test annually as of December 31st.

Entities have the option to first assess qualitative factors to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount as a basis for determining whether it is necessary to perform the two-step goodwill impairment test described in FASB ASC 350. If, after assessing qualitative factors, an entity determines it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, then performing the two-step impairment test is unnecessary. If deemed necessary, a two-step test is used to identify the potential impairment and to measure the amount of goodwill impairment, if any. The first step is to compare the fair value of the reporting unit with its carrying amount, including goodwill. If the fair value of the reporting unit exceeds its carrying amount, goodwill is considered not impaired; otherwise, there is an indication that goodwill may be impaired and the amount of the loss, if any, is measured by performing step two. Under step two, the impairment loss, if any, is measured by comparing the implied fair value of the reporting unit goodwill with the carrying amount of goodwill.

Currently, we have one reporting unit, one operating segment and one reportable segment. At December 31, 2014 and 2013, all of the goodwill was attributed to our reporting unit. We tested our goodwill for impairment using a market based approach and no impairment was identified as the fair value of our reporting unit was substantially in excess of its carrying amount. To date, we have not recorded any goodwill impairment charges.

Revenue recognition

We generate revenue from several sources including: (i) retail and military customers under subscription plans for month-to-month network access that automatically renew, and retail and military single-use access from sales of hourly, daily or other single-use access plans, (ii) DAS customers that are telecom operators under long-term contracts for access to our DAS at our managed and operated locations, (iii) arrangements with wholesale Wi-Fi customers that provide software licensing, network access, and/or professional services fees, and (iv) display advertisements and sponsorships on our walled garden sign-in pages. Software licensed by our wholesale platform services customers can only be used during the term of the service arrangements and has no utility to them upon termination of the service arrangement.

We recognize revenue when an arrangement exists, services have been rendered, fees are fixed or determinable, no significant obligations remain related to the earned fees and collection of the related receivable is reasonably assured.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

2. Summary of significant accounting policies (Continued)

Subscription fees from retail and military customers are paid monthly in advance and revenue is deferred for the portions of monthly recurring subscription fees collected in advance. We provide refunds for our retail and military services on a case-by-case basis. These amounts are not significant and are recorded as contra-revenue in the period the refunds are made. Subscription fee revenue is recognized ratably over the subscription period. Revenue generated from retail and military single-use access is recognized when access is provided.

Revenue generated from access to our DAS networks consists of build-out fees and recurring access fees under certain long-term contracts with telecom operators. Build-out fees paid upfront are generally deferred and recognized ratably over the term of the estimated customer relationship period, once the build-out is complete. Periodically, we install and sell Wi-Fi and DAS networks to customers where we do not have service contracts or remaining obligations beyond the installation of those networks and we recognize build-out fees for such projects as revenue when the installation work is completed and the network has been accepted by the customer. Minimum monthly access fees for usage of the DAS networks are non-cancellable and generally escalate on an annual basis. These minimum monthly access fees are recognized ratably over the term of the telecom operator agreement. The initial term of our contracts with telecom operators generally range from five to ten years and the agreements generally contain renewal clauses. Revenue from DAS network access fees in excess of the monthly minimums is recognized when earned.

Services provided to wholesale Wi-Fi partners generally contain several elements including: (i) a term license to use our software to access our Wi-Fi network, (ii) access fees for Wi-Fi network usage, and/or (iii) professional services for software integration and customization and to maintain the Wi-Fi service. The term license, monthly minimum network access fees and professional services are billed on a monthly basis based upon predetermined fixed rates. Once the term license for integration and customization are delivered, the fees from the arrangement are recognized ratably over the remaining term of the service arrangement. The initial term of the license agreements is generally between one to five years and the agreements generally contain renewal clauses. Revenue for Wi-Fi network access fees in excess of the monthly minimum amounts is recognized when earned. All elements within existing service arrangements are generally delivered and earned concurrently throughout the term of the respective service arrangement.

In instances where the minimum monthly Wi-Fi and DAS network access fees escalate over the term of the wholesale service arrangement, an unbilled receivable is recognized when performance is within our control and when we have reasonable assurance that the unbilled receivable balance will be collected.

We adopted the provisions of Accounting Standards Update ("ASU") 2009- 13, *Revenue Recognition (Topic 605)—Multiple-Deliverable Revenue Arrangements* ("ASU 2009-13"), on a prospective basis on January 1, 2011. For multiple-deliverable arrangements entered into prior to January 1, 2011 that are accounted for under ASC 605-25, *Revenue Recognition—Multiple-Deliverable Revenue Arrangements*, we defer recognition of revenue for the full arrangement and recognize all revenue ratably over the wholesale service period for Wi-Fi platform service arrangements and the term of the estimated customer relationship period for DAS arrangements, as we do not have evidence of fair value for the undelivered elements in the arrangement. For multiple-deliverable arrangements entered into or materially modified after January 1, 2011 that are accounted for under ASC 605-25, we evaluate

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

2. Summary of significant accounting policies (Continued)

whether or not separate units of accounting exist and then allocate the arrangement consideration to all units of accounting based on the relative selling price method using estimated selling prices if vendor specific objective evidence and third party evidence is not available. We recognize the revenue associated with the separate units of accounting upon completion of such services or ratably over the wholesale service period for Wi-Fi platform service arrangements and the term of the estimated customer relationship period for DAS arrangements.

Advertising revenue is generated from advertisements on our managed and operated or partner networks. In determining whether an arrangement exists, we ensure that a binding arrangement is in place, such as a standard insertion order or a fully executed customer-specific agreement. Obligations pursuant to our advertising revenue arrangements typically include a minimum number of units or the satisfaction of certain performance criteria. Advertising and other revenue is recognized when the services are performed.

Foreign currency translation

Our Brazilian subsidiary uses the Brazilian Real as its functional currency. Assets and liabilities of our Brazilian subsidiary are translated to U.S. dollars at period-end rates of exchange, and revenues and expenses are translated at average exchange rates prevailing for each month. The resulting translation adjustments are made directly to a separate component of other comprehensive loss, which is reflected in stockholders' equity in our consolidated balance sheets. As of December 31, 2014 and December 31, 2013, the Company had \$(443) and \$0, respectively, of cumulative foreign currency translation adjustments, net of tax, which was \$0 as of December 31, 2014 and December 31, 2013 due to the full valuation allowance established against our deferred tax assets, in accumulated other comprehensive loss.

Some of our subsidiaries also enter into transactions and have monetary assets and liabilities that are denominated in a currency other than the entities' respective functional currencies. Gains and losses from the revaluation of foreign currency transactions and monetary assets and liabilities are included in the consolidated statements of operations.

Network access

Network access costs consist primarily of revenue share payments to venue owners where our managed and operated hotspots are located, usage-based fees to our roaming network partners for access to their networks, depreciation of equipment related to network build-out projects in our managed and operated locations, and bandwidth and other Internet connectivity expenses in our managed and operated locations.

Advertising, marketing and promotion costs

Advertising production costs are expensed the first time the advertisement is run. No advertising production costs were capitalized for the years ended December 31, 2014, 2013 and 2012. All other costs of advertising, marketing and promotion are expensed as incurred. Advertising expenses charged to operations totaled \$1,350, \$2,302 and \$2,374 for the years ended December 31, 2014, 2013 and 2012, respectively.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

2. Summary of significant accounting policies (Continued)

Stock-based compensation

Our stock-based compensation consists of stock options and restricted stock units ("RSU") granted to employees and non-employees.

We recognize stock-based compensation expense in accordance with guidance provided by FASB ASC 718, *Compensation—Stock Compensation* ("ASC 718"). We measure employee stock-based compensation cost at grant date, based on the estimated fair value of the award and recognize the cost on a straight-line basis, net of estimated forfeitures, over the employee requisite service period. We estimate the fair value of stock options using a Black-Scholes option pricing model. The model requires input of assumptions regarding expected term, expected volatility, dividend yield, and a risk-free interest rate. The weighted average assumptions that were used to calculate the grant date fair value of our employee stock option grants for the following periods are as follows:

	December 31,		
	2014	2013	2012
Expected term (years)	6.25	6.25	5.9
Expected volatility	48.6%	49.31%	48.9%
Risk-free interest rate	1.8%	1.34%	0.9%
Dividend yield	0%	0%	0%

The expected term of employee stock options represents the weighted-average period that the stock options are expected to remain outstanding. In estimating the expected term for options granted to employees, we applied the simplified method from the Security Exchange Commission ("SEC") Staff Accounting Bulletin ("SAB") Topic 14, *Share-Based Payment* ("SAB Topic 14"), where options are granted at-the-money. Where options were not granted at-the-money, the expected term of employee stock options represents the weighted-average period that the stock options are expected to remain outstanding and is calculated based upon actual historical exercise and post-vesting cancellations, adjusted for expected future exercise behavior.

We determined the fair value of common stock underlying the stock option awards by reference to third party sales of our common stock. We determined the expected volatility assumption using the frequency of daily historical prices of comparable public companies' common stock for a period equal to the expected term of the options in accordance with guidance in ASC 718 and SAB Topic 14. We will continue to monitor peer companies and other relevant factors, including our volatility after there is enough history, used to measure expected volatility for future stock option grants. The risk-free interest rate assumption is based upon observed interest rates on the United States government securities appropriate for the expected term of our employee stock options. The dividend yield assumption is based on our history and expectation of dividend payouts for which no cash dividends have been declared or paid on our common stock, and for which none are anticipated in the foreseeable future.

As stock-based compensation expense recognized in our accompanying consolidated statements of operations is based on awards ultimately expected to vest, the amount has been reduced for estimated forfeitures. ASC 718 requires forfeitures to be estimated at the time of grant and revised, if necessary,

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

2. Summary of significant accounting policies (Continued)

in subsequent periods if actual forfeitures differ from those estimates. Forfeitures were estimated based on our historical experience and future expectations.

Compensation expense for non-employee stock-based awards is recognized in accordance with ASC 718 and FASB ASC 505, *Equity*. Stock option awards issued to non-employees are accounted for at fair value using the Black-Scholes option pricing model. Management believes that the fair value of the stock options is more reliably measured than the fair value of the services received. We record compensation expense based on the then-current fair value of the stock options at each financial reporting date. Compensation recorded during the service period is adjusted in subsequent periods for changes in the stock options' fair value until the earlier of the date at which the non-employee's performance is complete or a performance commitment is reached, which is generally when the stock award vests. We did not recognize any stock-based compensation for non-employee stock-based awards for the year ended December 31, 2014. There was \$30 and \$372 of stock-based compensation expense recognized for non-employee stock-based awards for the years ended December 31, 2013 and 2012, respectively.

Income taxes

We account for income taxes in accordance with FASB ASC 740, *Accounting for Income Taxes* ("ASC 740"), which requires the recognition of deferred tax assets and liabilities for the future consequences of events that have been recognized in our accompanying consolidated financial statements or tax returns. The measurement of the deferred items is based on enacted tax laws. In the event the future consequences of differences between financial reporting bases and the tax bases of our assets and liabilities result in a deferred tax asset, ASC 740 requires an evaluation of the probability of being able to realize the future benefits indicated by such asset. A valuation allowance related to a deferred tax asset is recorded when it is more likely than not that some portion or the entire deferred tax asset will not be realized. As part of the process of preparing our accompanying consolidated financial statements, we are required to estimate our income taxes in each of the jurisdictions in which we operate. We also assess temporary differences resulting from differing treatment of items, such as deferred revenue, for tax and accounting differences. We record a valuation allowance to reduce the deferred tax assets to the amount of future tax benefit that is more likely than not to be realized.

ASC 740 prescribes a recognition threshold and measurement methodology to recognize and measure an income tax position taken, or expected to be taken, in a tax return. The evaluation of a tax position is based on a two-step approach. The first step requires an entity to evaluate whether the tax position would "more likely than not" be sustained upon examination by the appropriate taxing authority. The second step requires the tax position be measured at the largest amount of tax benefit that is greater than 50% likely of being realized upon ultimate settlement. In addition, previously recognized benefits from tax positions that no longer meet the new criteria would no longer be recognized. Changes in recognition or measurement are reflected in the period in which the change occurs.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

2. Summary of significant accounting policies (Continued)

Non-controlling interests

Non-controlling interests are comprised of minority holdings in Concourse Communications Detroit, LLC ("CCG Detroit"), Chicago Concourse Development Group, LLC ("CCDG") and Boingo Holding Participacoes Ltda ("BHPL").

Under the terms of the limited liability company ("LLC") agreement for CCG Detroit ("Detroit Operating Agreement") profits and losses are allocated to the controlling and non-controlling owners based on specified terms in the Detroit Operating Agreement which reflect the relative risk and reward of each owner. The profit and loss allocation in the Detroit Operating Agreement specifies that the non-controlling owners' allocated profits are limited to the fixed distribution amounts and losses are limited to the non-controlling owners capital account balance with losses in excess of their capital account being fully allocated to the controlling common unit holder. There is no specified term in the Detroit Operating Agreement, but the term of the annual fixed distribution obligation to the non-controlling owner is the same as the term of the venue agreement between CCG Detroit and Detroit Metropolitan Wayne County Airport—which has a seven year initial term with options to extend for an additional four years. We allocate profits and losses in CCG Detroit based on the attribution in the Detroit Operating Agreement. CCG Detroit has generated losses which reduced the non-controlling owners capital account to zero in 2009 resulting in an allocation to the controlling interest holder all operating losses and deficits created by the annual fixed distributions to the non-controlling interest holder. The fixed distributions were terminated during September 2013 concurrent with the termination of CCG Detroit's agreement with Detroit Metropolitan Wayne County Airport. For the years ended December 31, 2013 and 2012, we made distributions of \$48 and \$121, respectively, to non-controlling interest holders of CCG Detroit.

Under the terms of the LLC agreement for CCDG, we are required to distribute annually to the CCDG non-controlling interest holders 30% of allocated net profits less capital expenditures of the preceding year. For the years ended December 31, 2014, 2013 and 2012, we made distributions of \$623, \$560 and \$557, respectively, to non-controlling interest holders of CCDG.

BHPL was formed at the end of 2012. Under the terms of the LLC agreement for BHPL, we attributed profits and losses to the non-controlling interest in BHPL in proportion to their holdings. For the years ended December 31, 2014 and 2013, we made no distributions to the non-controlling interest holder of BHPL.

Net (loss) income per share attributable to common stockholders

Basic net (loss) income per share attributable to common stockholders is calculated by dividing (loss) income attributable to common stockholders by the weighted average number of shares of common stock outstanding during the period. Diluted net income per share attributable to common stockholders adjusts the basic weighted average number of shares of common stock outstanding for the potential dilution that could occur if stock options and RSUs were exercised or converted into common stock. Our common stockholders are not entitled to receive any dividends.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

2. Summary of significant accounting policies (Continued)

Segment and geographic information

We operate as one reportable segment; a service provider of mobile Internet solutions across our managed and operated network and aggregated network for mobile devices such as laptops, smartphones, tablet computers and other wireless-enabled consumer devices. This single segment is consistent with the internal organization structure and the manner in which operations are reviewed and managed by our Chief Executive Officer, the chief operating decision maker.

All significant long-lived tangible assets are held in the United States of America. We do not disclose sales by geographic area because to do so would be impracticable. In 2014, we updated our presentation of retail and wholesale revenue sources to provide increased visibility into the revenue streams that are the focus of our current and future operational and development efforts. Our retail revenue sources were previously differentiated based on our retail plan types—subscription or single-use. We believe that it would be more relevant to differentiate our individual users based on the nature of the users—retail users who purchase Internet access at our managed and operated hotspots and select partner locations or military users who purchase Internet access or IPTV services for individual use on U.S. military bases. We also previously combined our wholesale DAS and Wi-Fi revenues and we believe that it would be better to disaggregate these wholesale product revenues going forward by DAS and Wi-Fi given the current development of these products. The revenue sources are consistent with how our chief operating decision maker monitors and reviews our operations. As a result, we have also reclassified our 2013 and 2012 revenues by primary revenue source for comparability purposes.

The following is a summary of our revenue by primary revenue source:

	Year Ended December 31,		
	2014	2013	2012
Revenue:			
Retail	\$ 40,336	\$ 43,194	\$ 46,145
DAS	38,259	32,681	30,751
Wholesale—Wi-Fi	15,209	17,261	18,744
Military	4,486	1,260	—
Advertising and other	21,007	12,350	6,866
Total revenue	<u>\$ 119,297</u>	<u>\$ 106,746</u>	<u>\$ 102,506</u>

Recent accounting pronouncements

In January 2015, the FASB issued ASU 2015-01, *Simplifying Income Statement Presentation by Eliminating the Concept of Extraordinary Items*, which eliminates the separate presentation of extraordinary items, net of tax and the related earnings per share, but does not affect the requirement to disclose material items that are unusual in nature or infrequently occurring. The standard will be effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2015. Early adoption is permitted. An entity may choose to adopt the new standard either prospectively or retrospectively. We do not expect that this standard will have a material impact on our consolidated financial statements.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

2. Summary of significant accounting policies (Continued)

In August 2014, the FASB issued ASU 2014-15, *Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern*, which explicitly requires management to assess an entity's ability to continue as a going concern in connection with each annual and interim period. Management will assess if there is substantial doubt about an entity's ability to continue as a going concern within one year of the date the financial statements are issued. Disclosures will be required if conditions give rise to substantial doubt. The standard will be effective for the first annual period ending after December 15, 2016. Early adoption is permitted. We are currently evaluating the expected impact of this new standard.

In June 2014, the FASB issued ASU 2014-12, *Accounting for Share-Based Payments When the Terms of an Award Provide That a Performance Target Could Be Achieved after the Requisite Service Period*, which requires that a performance target that affects vesting and that could be achieved after the requisite service period be treated as a performance condition. As such, the performance target should not be reflected in estimating the grant-date fair value of the award. Compensation cost should be recognized in the period in which it becomes probable that the performance target will be achieved and should represent the compensation cost attributable to the period(s) for which the requisite service has already been rendered. If the performance target becomes probable of being achieved before the end of the requisite service period, the remaining unrecognized compensation cost should be recognized prospectively over the remaining requisite service period. The standard will be effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2015. Early adoption is permitted. An entity may choose to adopt the new standard either prospectively or retrospectively. We do not expect that this standard will have a material impact on our consolidated financial statements as we have not issued any share-based payments with performance targets that could be achieved after the requisite service period.

In May 2014, the FASB issued ASU 2014-09, *Revenue from Contracts with Customers*, which is intended to improve and converge the financial reporting requirements for revenue from contracts with customers between U.S. GAAP and International Accounting Standards. In accordance with this new standard, an entity would recognize revenue to depict the transfer of promised goods or services. The standard establishes a five-step model and related application guidance, which will replace most existing revenue recognition guidance in U.S. GAAP. The standard will be effective for annual and interim periods in fiscal years beginning after December 15, 2016. Early adoption is not permitted. An entity may choose to adopt the new standard either retrospectively or through a cumulative effect adjustment as of the start of the first period for which it applies the new standard. We are currently evaluating the expected impact of this new standard on our reporting of revenue contracts in our consolidated financial statements.

In July 2013, the FASB issued ASU 2013-11, *Income Taxes (Topic 740): Presentation of an Unrecognized Tax Benefit When a Net Operating Loss Carryforward, a Similar Tax Loss, or a Tax Credit Carryforward Exists*. This standard requires the netting of unrecognized tax benefits (UTBs) against a deferred tax asset for a loss or other carryforward that would apply in the settlement of the uncertain tax positions. The UTBs will be netted against all available same-jurisdiction loss or other tax carryforwards that would be utilized, rather than only against carryforwards that are created by the UTBs. The standard will require prospective application with optional retrospective application, and will be effective for reporting periods beginning after December 15, 2013. Early adoption is permitted.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

2. Summary of significant accounting policies (Continued)

We have effectively adopted the provisions of this requirement as of the date of issuance of this standard as we have historically presented our UTBs as a reduction of our deferred tax assets for a loss or other carryforward rather than as a liability when the uncertain tax position would reduce the loss or other carryforward under the tax law.

3. Acquisitions

Electronic Media Systems, Inc. and Advanced Wireless Group, LLC

On October 31, 2013, we acquired all outstanding stock of Electronic Media Systems, Inc. and all membership interests in its subsidiary, Advanced Wireless Group, LLC, not otherwise owned by Electronic Media Systems, Inc. such that we are now the beneficial owner of all membership interests of Advanced Wireless Group, LLC (collectively, "AWG"). AWG operated public Wi-Fi in seventeen U.S. airports including Los Angeles International, Charlotte/Douglas International, Miami International, Minneapolis-St. Paul International, Detroit Metropolitan Airport, and Boston's Logan International. We have included the operating results of AWG in our consolidated financial statements since the date of acquisition.

The acquisition has been accounted for under the acquisition method of accounting in accordance with FASB ASC 805, *Business Combinations*. As such, the assets acquired and liabilities assumed are recorded at their acquisition-date fair values. The total purchase price was \$17,527, which includes cash paid at closing, net equity adjustments, holdback consideration to be paid and the fair value of additional contingent consideration that would be due and payable upon the successful extension of a specified airport Wi-Fi contract. On July 29, 2014, we paid \$147 to the previous AWG shareholders as settlement for the net equity adjustments that were not finalized as of the acquisition date.

The fair value of the contingent consideration is based on Level 3 inputs, which are discussed in Note 9. Further changes in the fair value of the contingent consideration are recorded through operating (loss) income. On July 29, 2014, we paid the contingent consideration in the amount of \$1,000 to the previous AWG shareholders. We allocated the excess of the purchase price over the fair value of assets acquired and liabilities assumed to goodwill, which is primarily not deductible for tax purposes. The goodwill arising from the AWG acquisition is attributable primarily to expected synergies and other benefits, including the acquired workforce, from combining AWG with us.

The contingent consideration was valued at the date of acquisition using a discount rate of 3.1%. The identifiable intangible assets were primarily valued using the excess earnings, relief from royalty, with-and-without and replacement cost methods using discount rates ranging from 12.0% to 14.0% and royalty rates of 0.5%.

During the year ended December 31, 2014, we finalized our purchase price allocation, which was preliminary as of December 31, 2013 due to estimated net equity adjustments and the filing of AWG's final short period 2013 tax returns, both of which impacted the final purchase price allocation. As these purchase accounting adjustments were finalized during the measurement period, we retrospectively adjusted the provisional amounts recognized at the acquisition date to reflect the new information obtained about facts and circumstances that existed as of the acquisition date that, if known, would have affected the measurement of the amounts recognized as of that date. As a result, goodwill decreased by \$28, accrued expenses increased by \$147, and accumulated deficit increased by \$175 as of

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

3. Acquisitions (Continued)

December 31, 2013 as compared to the audited consolidated financial statements contained in our Annual Report on Form 10-K filed with the SEC on March 17, 2014. The increase in accumulated deficit was the result of the valuation allowance that was established by the Company against its deferred tax assets as of December 31, 2013. The final purchase price allocation resulted in a \$175 decrease in deferred tax liabilities and goodwill; accordingly, the Company had to increase the valuation allowance for deferred tax assets by \$175, resulting in additional deferred tax expense for the year ended December 31, 2013.

The amortizable intangible assets are being amortized straight-line over their estimated useful lives. The following summarizes the final purchase price allocation:

	Estimated Fair Value	Weighted Average Estimated Useful Life (years)
Consideration:		
Cash paid	\$ 14,800	
Net equity adjustments	147	
Holdback consideration	1,600	
Contingent consideration	980	
Total consideration	<u>\$ 17,527</u>	
Recognized amounts of identifiable assets acquired and liabilities assumed:		
Cash	\$ 215	
Restricted cash	515	
Accounts receivable	988	
Other current assets	609	
Property and equipment	2,297	
Accounts payable	(563)	
Accrued expenses	(515)	
Other current liabilities	(134)	
Capital lease obligations	(932)	
Other non-current liabilities	(130)	
Deferred tax liabilities	(3,386)	
Net tangible liabilities acquired	(1,036)	
Existing contracts and relationships	4,700	6.7
Technology	270	6.0
Trademark and tradename	120	3.0
Non-compete agreement	3,590	5.0
Goodwill	9,883	
Total purchase price	<u>\$ 17,527</u>	

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

3. Acquisitions (Continued)

Endeka Group, Inc.

On February 22, 2013, we acquired all outstanding stock of Endeka Group, Inc. ("Endeka"). Endeka is a provider of commercial wireless broadband and IPTV services at certain U.S. military bases, as well as Wi-Fi services to certain federal law enforcement training facilities. We acquired Endeka because Endeka's portfolio of venues and management team are natural additions to our managed network business. We have included the operating results of Endeka in our consolidated financial statements since the date of acquisition.

The acquisition has been accounted for under the acquisition method of accounting in accordance with FASB ASC 805. As such, the assets acquired and liabilities assumed are recorded at their acquisition-date fair values. The total purchase price was \$6,498, which includes cash paid at closing, holdback consideration to be paid and the fair value of additional contingent consideration comprised of two components: (i) a payment ("Build Payment") if the amount of the capital expenditures incurred for the substantial completion of a specified build project is less than a target; and (ii) a payment ("Milestone Payment") based on revenue generated by certain contracts in fiscal year 2014. There is no maximum to the contingent consideration payments for the Milestone Payment. We do not expect to make any payments associated with the Build Payment. The Milestone Payment will be paid in March 2015.

The fair value of the contingent consideration is based on Level 3 inputs. Further changes in the fair value of the contingent consideration are recorded through operating (loss) income. We allocated the excess of the purchase price over the fair value of assets acquired and liabilities assumed to goodwill, which is not deductible for tax purposes. The goodwill arising from the Endeka acquisition is attributable primarily to expected synergies and other benefits, including the acquired workforce, from combining Endeka with us.

The contingent consideration was valued at the date of acquisition using a discounted cash flow method with probability weighted cash flows and a discount rate of 50.5%. The identifiable intangible assets were primarily valued using the excess earnings, relief from royalty, and replacement cost methods using discount rates ranging from 40.0% to 50.0% and royalty rates ranging from 0.5% to 1.5%, where applicable.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

3. Acquisitions (Continued)

The amortizable intangible assets are being amortized straight-line over their estimated useful lives. The following summarizes the final purchase price allocation:

	<u>Estimated Fair Value</u>	<u>Estimated Useful Life (years)</u>
Consideration:		
Cash paid	\$ 4,894	
Holdback consideration	275	
Contingent consideration	1,329	
Total consideration	<u>\$ 6,498</u>	
Recognized amounts of identifiable assets acquired and liabilities assumed:		
Cash	\$ 20	
Other current assets	44	
Property and equipment	4,617	
Other assets	12	
Accounts payable	(992)	
Other current liabilities	(211)	
Notes payable and financed liabilities	(6,476)	
Deferred tax liabilities	(2,637)	
Net tangible liabilities acquired	<u>(5,623)</u>	
Existing contracts and relationships	4,770	10.0
Technology	930	6.0
Trademark and tradename	300	10.0
Non-compete agreement	250	2.0
Other intangibles	95	10.0
Goodwill	<u>5,776</u>	
Total purchase price	<u>\$ 6,498</u>	

During the year ended December 31, 2014, we paid the holdback consideration in the amount of \$275 to the previous Endeka shareholders.

Pro forma results (Unaudited)

The following table presents the unaudited pro forma results of the Company for the years ended December 31, 2013 and 2012 as if the acquisitions of Endeka and AWG had occurred on January 1, 2012. These results are not intended to reflect the actual operations of the Company had the acquisition occurred on January 1, 2012. We did not record any incremental income taxes for pro forma

Boingo Wireless, Inc.**Notes to the Consolidated Financial Statements (Continued)****(In thousands, except shares and per share amounts)****3. Acquisitions (Continued)**

net (loss) income because we established a valuation allowance in 2013. Income taxes for purposes of the 2012 pro forma net (loss) income were computed based on the statutory tax rates.

	For the Years Ended December 31,	
	2013	2012
	(Unaudited)	
Revenue	\$ 114,492	\$ 110,957
Net (loss) income	\$ (4,945)	\$ 5,991

Cloud 9 Wireless, Inc.

On August 6, 2012, we acquired the assets of Cloud 9 Wireless, Inc. ("Cloud 9") for \$3,500 plus the assumption of certain liabilities. Cloud 9 provides Wi-Fi sponsorship and location-based advertising at airports, hotels, bars and restaurants, and recreational areas in the U.S. and Canada. The acquisition has been accounted for under the acquisition method of accounting in accordance with the FASB ASC 805. The excess of the acquisition consideration over the fair value of assets acquired and liabilities assumed is allocated to goodwill, which is deductible for tax purposes. Goodwill is attributable primarily to expected synergies and other benefits, including the acquired workforce, from combining Cloud 9 with us. Cloud 9 was consolidated into our results of operations starting August 6, 2012, the acquisition date. Cloud 9 has been integrated into the Company's product offering; therefore, it is not practical to disclose actual and pro forma financial results for Cloud 9 since the acquisition.

The following table summarizes the allocation of the total purchase price as of August 6, 2012:

Current assets	\$ 899
Property, plant and equipment	65
Intangible and other assets	1,758
Goodwill	1,232
Current liabilities	(454)
Net assets acquired	<u>\$ 3,500</u>

The intangible assets are all definite-lived intangibles and are recognized on a straight-line basis over their weighted average lives of approximately 5 years.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

4. Cash and cash equivalents and marketable securities

Cash and cash equivalents, and marketable securities consisted of the following:

	December 31,	
	2014	2013
Cash and cash equivalents:		
Cash	\$ 3,247	\$ 3,655
Money market accounts	5,602	23,683
Total cash and cash equivalents	<u>\$ 8,849</u>	<u>\$ 27,338</u>
Short-term marketable securities:		
Marketable securities	\$ 1,614	\$ 32,962
Total short-term marketable securities	<u>\$ 1,614</u>	<u>\$ 32,962</u>

All contractual maturities of marketable securities were less than one year at December 31, 2014 and 2013. These consist primarily of corporate securities which include commercial paper and corporate debt instruments including notes issued by foreign or domestic corporations which pay in U.S. dollars and carry a rating of A or better.

For the years ended December 31, 2014, 2013 and 2012, interest income was \$114, \$181 and \$183, respectively, which is included in interest and other (expense) income, net in the accompanying consolidated statements of operations.

5. Accounts receivables, net and other receivables

Accounts receivable, net of allowances for doubtful accounts and other receivables consisted of the following:

	December 31,	
	2014	2013
Trade receivables, net of allowances	\$ 25,562	\$ 12,799
Unbilled access fees	2,142	2,036
Unbilled platform service arrangements	213	1,491
Accounts receivable, net	<u>\$ 27,917</u>	<u>\$ 16,326</u>
Unbilled access fees	\$ 115	\$ 264
Unbilled platform service arrangements	—	16
Non-current other receivables	<u>\$ 115</u>	<u>\$ 280</u>

Access fees are recorded under long-term contracts with our wholesale partners that are telecom operators for access to our DAS at our managed and operated locations. Platform service fees are recorded under long-term contracts with our wholesale partners. These access and platform service fees escalate on an annual basis from which we receive fixed contractual payments and recognize revenue ratably over the term of the contracts.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

5. Accounts receivables, net and other receivables (Continued)

Included in accounts receivables, net for the periods indicated was the allowance for doubtful accounts which consisted of the following:

	Allowance for Doubtful Accounts
Balance, December 31, 2011	\$ 177
Additions charged to operations	45
Deductions from reserves, net	(43)
Balance, December 31, 2012	179
Additions charged to operations	209
Deductions from reserves, net	(43)
Balance, December 31, 2013	345
Additions charged to operations	191
Deductions from reserves, net	(142)
Balance, December 31, 2014	<u>\$ 394</u>

6. Accrued expenses and other liabilities

Accrued expenses and other liabilities consisted of the following:

	December 31,	
	2014	2013
Salaries and wages	\$ 2,389	\$ 3,024
Revenue share	5,683	4,598
Accrued partner network	1,105	736
Accrued for construction in progress	9,438	2,717
Settlement liabilities	1,850	—
Accrued professional fees	1,241	179
Accrued taxes	327	256
Deferred rent	18	853
Holdback liabilities	1,615	1,875
Contingent consideration	131	980
Other	2,312	1,311
Total accrued expenses and other liabilities	<u>\$ 26,109</u>	<u>\$ 16,529</u>

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

7. Property and equipment

The following is a summary of property and equipment, at cost less accumulated depreciation and amortization:

	December 31,	
	2014	2013
Leasehold improvements	\$ 152,627	\$ 97,462
Construction in progress	20,104	18,157
Computer equipment	7,909	7,372
Software	17,827	10,452
Office equipment	297	412
Total property and equipment	198,764	133,855
Less: accumulated depreciation and amortization	(86,992)	(66,295)
Total property and equipment, net	<u>\$ 111,772</u>	<u>\$ 67,560</u>

Included in property and equipment at December 31, 2014 and 2013 was equipment acquired under capital leases totaling \$1,209 and \$1,220, respectively, and related accumulated depreciation and amortization of \$300 and \$191, respectively.

Depreciation and amortization expense, which includes depreciation and amortization for property and equipment under capital leases, is allocated as follows on the accompanying consolidated statements of operations:

	For the Years Ended December 31,		
	2014	2013	2012
Network access	\$ 18,074	\$ 12,651	\$ 11,948
Network operations	5,662	4,091	2,844
Development and technology	3,381	1,992	1,049
General and administrative	329	206	117
Total depreciation and amortization of property and equipment	<u>\$ 27,446</u>	<u>\$ 18,940</u>	<u>\$ 15,958</u>

During the year ended December 31, 2014, the Company recognized \$406 of impairment losses related to a change in the use of certain software developed for internal use that indicated that the carrying value of those assets will not be recoverable, and \$494 of net impairment losses related to a venue termination agreement that resulted in the abandonment of our Wi-Fi network assets and the release of the corresponding capital lease obligations associated with those assets. The impairment charges for internal use software and abandoned Wi-Fi network assets are included within development and technology expenses and general and administrative expenses, respectively, in the accompanying consolidated statements of operations.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

8. Goodwill and intangible assets

Goodwill

The following table sets forth the changes in our goodwill balance, for all periods presented:

	<u>Goodwill</u>
Balance, December 31, 2012	\$ 26,744
Acquisition of Endeka	5,776
Acquisition of AWG	9,883
Balance, December 31, 2013 and December 31, 2014	<u>\$ 42,403</u>

Intangible assets

The following table sets forth the changes in our intangible assets balance, for all periods presented:

	<u>Intangible Assets</u>
Balance, December 31, 2012	\$ 10,594
Additions	15,069
Amortization expense	(2,250)
Balance, December 31, 2013	23,413
Amortization expense	(3,682)
Impairment loss	(55)
Balance, December 31, 2014	<u>\$ 19,676</u>

During 2014, we recorded impairment losses for certain patent applications that we abandoned.

Intangible assets at December 31, 2014 consist of the following:

	<u>Weighted Average Life</u>	<u>Historical Cost</u>	<u>Accumulated Amortization</u>	<u>Net</u>
Venue contracts	10 years	\$ 36,356	\$ (21,582)	\$ 14,774
Non-compete agreements	5 years	3,840	(1,067)	2,773
Technology	6 years	2,300	(863)	1,437
Advertiser relationships	5 years	70	(34)	36
Patents, trademarks and other	6 years	1,353	(697)	656
		<u>\$ 43,919</u>	<u>\$ (24,243)</u>	<u>\$ 19,676</u>

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

8. Goodwill and intangible assets (Continued)

Intangible assets at December 31, 2013 consist of the following:

	Weighted Average Life	Historical Cost	Accumulated Amortization	Net
Venue contracts	10 years	\$ 36,356	\$ (19,314)	\$ 17,042
Non-compete agreements	5 years	3,840	(224)	3,616
Technology	6 years	2,300	(441)	1,859
Advertiser relationships	5 years	70	(20)	50
Patents, trademarks and other	6 years	1,408	(562)	846
		<u>\$ 43,974</u>	<u>\$ (20,561)</u>	<u>\$ 23,413</u>

Amortization expense for fiscal years 2015 through 2019 and thereafter is as follows:

Year	Amortization Expense
2015	\$ 3,525
2016	3,451
2017	3,218
2018	2,370
2019	1,625
Thereafter	5,487
	<u>\$ 19,676</u>

9. Fair value measurement

The following table sets forth our financial assets that are measured at fair value on a recurring basis:

At December 31, 2014	Level 1	Level 2	Level 3	Total
Assets:				
Money market accounts	\$ 5,602	\$ —	\$ —	\$ 5,602
Marketable securities	—	1,614	—	1,614
Total assets	<u>\$ 5,602</u>	<u>\$ 1,614</u>	<u>\$ —</u>	<u>\$ 7,216</u>
Liabilities:				
Contingent consideration	\$ —	\$ —	\$ 131	\$ 131
Total liabilities	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 131</u>	<u>\$ 131</u>

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

9. Fair value measurement (Continued)

<u>At December 31, 2013</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Assets:				
Money market accounts	\$ 23,683	\$ —	\$ —	\$ 23,683
Marketable securities	—	32,962	—	32,962
Total assets	<u>\$ 23,683</u>	<u>\$ 32,962</u>	<u>\$ —</u>	<u>\$ 56,645</u>
Liabilities:				
Contingent consideration	\$ —	\$ —	\$ 1,942	\$ 1,942
Total liabilities	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 1,942</u>	<u>\$ 1,942</u>

Our marketable securities utilize Level 2 inputs and consist primarily of corporate securities which include commercial paper and corporate debt instruments including notes issued by foreign or domestic corporations which pay in U.S. dollars and carry a rating of A or better. We have evaluated the various types of securities in our investment portfolio to determine an appropriate fair value hierarchy level based upon trading activity and the observability of market inputs. Due to variations in trading volumes and the lack of quoted market prices in active markets, our fixed maturities are classified as Level 2 securities. The fair value of our fixed maturity marketable securities is derived through the use of a third party pricing source using recent reported trades for identical or similar securities, making adjustments through the reporting date based upon available market observable data.

The Company used the income approach to value the contingent consideration as of December 31, 2014. The contingent consideration used a discounted cash flow method with probability weighted cash flows for Endeka. The following table presents a reconciliation of the beginning and ending amounts related to the fair value of contingent consideration categorized as Level 3:

Beginning balance, January 1, 2013	\$ —
Contingent consideration for acquisition of businesses	2,309
Change in fair value	(367)
Balance, December 31, 2013	<u>\$ 1,942</u>
Payment of contingent consideration	(1,000)
Change in fair value	(811)
Balance, December 31, 2014	<u>\$ 131</u>

10. Stockholders' equity

At December 31, 2014 and 2013, we are authorized to issue up to 100,000,000 shares of common stock. We are required to reserve and keep available out of our authorized but unissued shares of common stock such number of shares sufficient to effect the exercise of all outstanding common stock warrants, plus shares granted and available for grant under our Amended and Restated 2001 Stock Incentive Plan (the "2001 Plan") and 2011 Equity Incentive Plan (the "2011 Plan").

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

10. Stockholders' equity (Continued)

The amount of such shares of common stock reserved for these purposes is as follows:

	December 31, 2014	December 31, 2013
	(in thousands)	
Outstanding stock options under the 2001 Plan	1,525	1,859
Outstanding stock options under the 2011 Plan	2,816	3,096
Outstanding RSUs under the 2011 Plan	1,385	753
Shares available for grant under the 2011 Plan	4,492	3,259
Total	10,218	8,967

11. Credit Facility

On November 21, 2014, we entered into a Credit Agreement (the "Credit Agreement") and related agreements with Bank of America, N.A. acting as agent for lenders named therein, including Bank of America, N.A. and Silicon Valley Bank (the "Lenders"), for a secured credit facility in the form of a revolving line of credit in the initial amount of up to \$46,500, with an option to increase the available amount to \$86,500 upon the satisfaction of certain conditions (the "Revolving Line of Credit") and a term loan of \$3,500 (the "Term Loan" and together with the Revolving Line of Credit, the "Credit Facility"). We may use borrowings under the Credit Facility for general working capital and corporate purposes. In general, amounts borrowed under the Credit Facility are secured by a lien against all of our assets, with certain exclusions.

As of December 31, 2014, no amounts were outstanding under the Revolving Line of Credit. Subsequent to December 31, 2014, we borrowed \$5,000 under the Revolving Line of Credit. The Revolving Line of Credit requires quarterly payments of interest and matures on November 21, 2018, but may be prepaid in whole or part at any time. Amounts borrowed under the Revolving Line of Credit and Term Loan will bear, at the Company's election, a variable interest at LIBOR plus 2.5% - 3.5% or Lender's Prime Rate plus 1.5% - 2.5% per year and we will pay a fee of 0.375% - 0.5% per year on any unused portion of the Revolving Line of Credit. As of December 31, 2014, \$3,500 was outstanding under the Term Loan at a rate of 2.7%. The Term Loan requires quarterly payments of interest and principal, amortizing fully over the four-year-term such that it is repaid in full on the maturity date of November 21, 2018, but may be prepaid in whole or part at any time. Repayment of amounts borrowed under the Credit Facility may be accelerated in the event that we are in violation of the representations, warranties and covenants made in the Credit Agreement, including certain financial covenants set forth therein, and under other specified default events including, but not limited to, non-payment or inability to pay debt, breach of cross default provisions, insolvency provisions, and change of control.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

11. Credit Facility (Continued)

Principal payments due under our Term Loan for fiscal years 2015 through 2018 is as follows:

<u>Year</u>	<u>Principal Payments</u>
2015	\$ 875
2016	875
2017	875
2018	875
	<u>\$ 3,500</u>

The Company is subject to customary covenants, including a minimum quarterly consolidated leverage ratio, a maximum quarterly consolidated fixed charge coverage ratio, and monthly liquidity minimums. The Company was in compliance with all such financial covenants as of December 31, 2014. The Company is also subject to certain non-financial covenants, and the Company was also in compliance with all such non-financial covenants as of December 31, 2014.

The Company incurred debt issuance costs of \$711. Debt issuance costs are amortized on a straight-line basis over the four year term of the Credit Facility. Amortization expense related to debt issuance costs are included in interest and other (expense) income in the accompanying consolidated statements of operations for the year ended December 31, 2014. Amortization and interest expense recorded amounted to \$34 for the year ended December 31, 2014.

Amortization expense for our debt issuance costs for fiscal years 2015 through 2018 is as follows:

<u>Year</u>	<u>Amortization Expense</u>
2015	\$ 178
2016	178
2017	178
2018	158
	<u>\$ 692</u>

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

12. Income taxes

The income tax expense (benefit) by jurisdiction consists of the following for the years ended December 31:

	<u>2014</u>	<u>2013</u>	<u>2012</u>
U.S. federal:			
Current	\$ 6	\$ (402)	\$ 1,651
Deferred	328	1,158	1,189
Total U.S. federal	<u>\$ 334</u>	<u>\$ 756</u>	<u>\$ 2,840</u>
U.S. state and local:			
Current	\$ 226	\$ 248	\$ 327
Deferred	140	457	(202)
Total U.S. state and local	<u>\$ 366</u>	<u>\$ 705</u>	<u>\$ 125</u>

Income taxes differ from the amounts computed by applying the U.S. federal income tax rate to pretax income before income taxes as a result of the following for the years ended December 31:

	<u>2014</u>	<u>2013</u>	<u>2012</u>
Federal statutory rate	34.0%	34.0%	34.0%
State and local	4.6	(5.7)	1.1
Foreign rate differential	(0.7)	(3.2)	—
Stock options	(0.5)	(0.7)	(2.6)
Non-controlling interests	1.9	15.2	(2.2)
Valuation allowance	(45.1)	(128.5)	—
Transaction costs	—	(6.7)	—
Purchase price adjustments	—	6.6	—
Revaluation of deferred tax assets	—	2.8	—
Uncertain tax positions	(0.1)	(2.9)	—
Return to provision	0.6	9.3	(5.3)
Other	1.4	1.1	2.0
Income taxes	<u>(3.9)%</u>	<u>(78.7)%</u>	<u>27.0%</u>

We have a foreign subsidiary in the United Kingdom, which has generated losses since inception resulting in a \$1,360 deferred tax asset with a corresponding valuation allowance as of December 31, 2014. We also have a majority owned foreign subsidiary in Brazil, which has generated losses since inception resulting in a \$292 deferred tax assets with a corresponding valuation allowance as of December 31, 2014. Foreign loss before income taxes was \$1,251, \$559, and \$61 for 2014, 2013, and 2012, respectively.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

12. Income taxes (Continued)

Deferred income tax reflects the tax effects of temporary differences that gave rise to significant portions of our deferred tax assets and liabilities and consisted of the following for the years ended December 31, 2014 and December 31, 2013, respectively:

	2014	2013
Deferred tax assets:		
Net operating loss carryforwards	\$ 10,115	\$ 3,508
Outside basis differences for U.S. partnerships	3,710	2,842
Stock options	3,348	3,018
Deferred revenue	648	516
Deferred compensation	144	355
State taxes	45	34
Other	1,341	404
Valuation allowance	(12,470)	(4,101)
Net deferred tax assets	6,881	6,576
Deferred tax liabilities:		
Intangible assets	(6,855)	(6,737)
Property and equipment	(2,671)	(2,016)
Net deferred tax liabilities	(9,526)	(8,753)
Net deferred taxes	<u>\$ (2,645)</u>	<u>\$ (2,177)</u>

In assessing the realizability of deferred tax assets, we consider whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. As of December 31, 2014 and 2013, we had federal net operating loss carryforwards of approximately \$35,555 and \$20,389, respectively, state net operating loss carryforwards of approximately \$55,457 and \$37,153, respectively, and foreign net operating loss carryforwards of \$7,661 and \$3,425, respectively. The federal net operating loss carryforwards will begin to expire in 2025, and our foreign net operating loss carryforwards have an indefinite life. Our state net operating loss carryforwards are principally related to California net operating losses and will begin to expire in 2015. Our ability to utilize certain of our net operating loss carryforwards may be limited in the event that a change in ownership, as defined in the Internal Revenue Code, occurs in the future.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

12. Income taxes (Continued)

The following table sets forth the changes in the valuation allowance, for all periods presented:

	<u>Valuation Allowance</u>
Balance, December 31, 2011	\$ 1,822
Additions charged to operations	51
Decrease credited to operations	(204)
Balance, December 31, 2012	1,669
Additions charged to operations	2,432
Decrease credited to operations	—
Balance, December 31, 2013	4,101
Additions charged to operations	8,369
Decrease credited to operations	—
Balance, December 31, 2014	<u>\$ 12,470</u>

During the year ended December 31, 2013, we recorded a \$2,432 increase in our valuation allowance on our federal deferred tax assets, primarily due to changes in our expectations regarding our ability to realize these deferred tax assets. This resulted from a determination that it was more likely than not that certain federal net deferred tax assets would not be realized. We won some significant new contracts for the build out of broadband and IPTV networks for troops stationed on U.S. military bases that require us to make investments and incur losses in advance of experiencing any direct benefit from them including generation of revenues.

In reaching the determination of the valuation allowance, we have evaluated all significant available positive and negative evidence including, but not limited to, our three year cumulative results, trends in our business, expected future results and the character, amount and expiration periods of our net deferred tax assets. The underlying assumptions we used in forecasting future income required significant judgment and took into account our recent performance.

During 2013 and 2012, we realized excess windfall tax benefits of approximately \$55 and \$2,190, respectively, from stock option exercises. These benefits decreased income taxes payable and were recorded as an increase to additional paid-in capital in the accompanying consolidated balance sheets. In accordance with the reporting requirements under ASC 718, we did not include excess windfall tax benefits resulting from stock option exercises as components of our gross deferred tax assets and corresponding valuation allowance disclosures, as tax attributes related to those windfall tax benefits should not be recognized until they result in a reduction of taxes payable. The tax effected amount of gross unrealized net operating loss carryforwards excluded under ASC 718 was approximately \$6,284 at December 31, 2014. When realized, those excess windfall tax benefits are credited to additional paid-in capital.

We recognized interest and penalties related to income tax matters in income taxes which were not material during the years ended December 31, 2014, 2013, and 2012.

We identify, evaluate and measure all uncertain tax positions taken or to be taken on tax returns and record liabilities for the amount of these positions that may not be sustained, or may only partially

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

12. Income taxes (Continued)

be sustained, upon examination by the relevant taxing authorities. Although we believe that our estimates and judgments were reasonable, actual results may differ from these estimates. Some or all of these judgments are subject to review by the taxing authorities. As of December 31, 2014 and 2013, we had \$459 and \$445 in uncertain tax positions, respectively, \$106 of which is a reduction to deferred tax assets, which is presented net of uncertain tax positions, in the accompanying consolidated balance sheets. We accrue interest and penalties related to unrecognized tax benefits as a component of income taxes. As of December 31, 2014 and 2013, we have accrued \$67 and \$53 for related interest, net of federal income tax benefits, and penalties recorded in income tax expense on our consolidated statements of operations, respectively. The amount of unrecognized tax benefits that, if recognized, would affect the effective tax rate at December 31, 2014 was \$286.

A reconciliation of our unrecognized tax benefits, excluding interest and penalties, is as follows:

	<u>Uncertain Tax Positions</u>
Balance, December 31, 2012	\$ 392
Additions for current period tax positions	—
Balance, December 31, 2013 and December 31, 2014	<u>\$ 392</u>

Our annual income taxes and the determination of the resulting deferred tax assets and liabilities involve a significant amount of judgment. Our judgments, assumptions and estimates relative to current income taxes take into account current tax laws, their interpretation of current tax laws and possible outcomes of current and future audits conducted by foreign and domestic tax authorities. We operate within federal, state and international taxing jurisdictions and are subject to audit in these jurisdictions. These audits can involve complex issues which may require an extended period of time to resolve. We are subject to taxation in the United States and in various states. Our tax years 2012 and forward are subject to examination by the IRS and our tax years 2010 and forward are subject to examination by material state jurisdictions. However, due to prior year loss carryovers, the IRS and state tax authorities may examine any tax years for which the carryovers are used to offset future taxable income.

13. Commitments and contingencies**Capital and operating leases**

We lease space in managed and operated locations, primarily airports, under exclusive long-term, non-cancellable contracts to provide Wi-Fi connectivity and cellular phone access to our DAS network. Minimum rent expense is recorded on a straight-line basis over the term of the lease. Rent expense related to our leases for the years ended December 31, 2014, 2013 and 2012 was \$29,434, \$20,234 and \$16,760, respectively.

We lease equipment, primarily data communication equipment and database software under non-cancellable capital leases that will expire over the next four years. The leases are collateralized by the equipment under the lease. Interest expense associated with the capital leases for the years ended December 31, 2014, 2013 and 2012 was \$33, \$15 and \$11, respectively. We also lease office space under non-cancellable operating leases. Rent expense for our leases of office facilities for the years ended

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

13. Commitments and contingencies (Continued)

December 31, 2014, 2013 and 2012 was \$1,621, \$1,227 and \$1,209, respectively. Included in rent expense for the years ended December 31, 2014, 2013 and 2012 was sublease income of \$27, \$54 and \$52, respectively.

Future minimum lease obligations under non-cancellable operating and capital leases at December 31, 2014 are as follows:

<u>Years ended December 31,</u>	<u>Capital Leases</u>	<u>Operating Leases and Airport Guarantees</u>
2015	\$ 331	\$ 10,038
2016	259	9,842
2017	132	9,852
2018	26	8,821
2019	—	6,035
Thereafter	—	33,312
Minimum lease payments	748	<u>\$ 77,900</u>
Less: Amounts representing interest ranging from 3.1% to 11.1%	(58)	
Minimum lease payments	<u>\$ 690</u>	
Current portion	<u>\$ 309</u>	
Non-current portion	<u>\$ 381</u>	

Letters of credit

We have entered into Letter of Credit Authorization agreements (collectively, "Letters of Credit"), which are issued under our Credit Agreement. The Letters of Credit are irrevocable and serve as performance guarantees that will allow our customers to draw upon the available funds if we are in default. As of December 31, 2014, we have Letters of Credit totaling \$3,315 that are scheduled to expire over the next eleven-month period. There have been no drafts drawn under these Letters of Credit as of December 31, 2014. Subsequent to December 31, 2014, the Company established additional Letters of Credit totaling \$600.

Legal proceedings

From time to time, we may be subject to claims, suits, investigations and proceedings arising out of the normal course of business. We are not currently a party to any litigation that we believe could have a material adverse effect on our business, financial position, results of operations or cash flows. Legal costs are expensed as incurred.

Indemnification

Indemnification provisions in our third-party service provider agreements provide that we will indemnify, hold harmless, and reimburse the indemnified parties on a case-by-case basis for losses

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

13. Commitments and contingencies (Continued)

suffered or incurred by the indemnified parties in connection with any claim by any third party as a result of our website, advertising, marketing, payment processing, collection or customer service activities. The maximum potential amount of future payments we could be required to make under these indemnification provisions is undeterminable. We have never paid a claim, nor have we been sued in connection with these indemnification provisions. At December 31, 2014 and 2013, we have not accrued a liability for these guarantees, because the likelihood of incurring a payment obligation in connection with these guarantees is not probable.

Employment contracts

We have entered into employment contracts with six of our officers. These contracts generally provide for severance benefits, including salary continuation, if employment is terminated by us for substantial cause or by the officer for convenience. In addition, in order to assure that they would continue to provide independent leadership consistent with our best interests in the event of an actual or threatened change in control, the contract also generally provides for certain protections in the event of such a change in control. These protections include the payment of certain severance benefits, including salary continuation, upon the termination of employment following a change in control.

Other matters

We have received a claim from one of our venue partners with respect to contractual terms on our revenue share payments. We consider this claim to be without merit and plan to defend against such claim; however, we believe it is reasonably possible a loss ranging from \$0 to \$3,000 has been incurred. We are not currently a party to any other claims that we believe could have a material adverse effect on our business, financial position, results of operations or cash flows.

14. Stock repurchases

On April 1, 2013, the Company approved a stock repurchase program to repurchase up to \$10,000 of the Company's common stock in the open market, exclusive of any commissions, markups or expenses. The stock repurchased will be retired and will resume the status of authorized but unissued shares of common stock. The Company did not repurchase any of our common stock during the year ended December 31, 2014. During the year ended December 31, 2013, we repurchased and retired approximately 722,000 shares under this program for approximately \$4,820, excluding commissions paid, at an average price per share of \$6.68. As of December 31, 2014, the remaining approved amount for repurchases was approximately \$5,180.

15. Stock incentive plans

In March 2011, our board of directors approved the 2011 Plan. The 2011 Plan provides for the grant of incentive and nonstatutory stock options, stock appreciation rights, restricted shares of our common stock, stock units, and performance cash awards. As of January 1st of each year, the number of shares of common stock reserved for issuance under the 2011 Plan shall automatically be increased by a number equal to the lesser of (a) 4.5% of the total number of shares of common stock then outstanding, (b) 3,000,000 shares of common stock or (c) as determined by our board of directors. As of December 31, 2014, 8,693,162 shares of common stock are reserved for issuance. As of

Boingo Wireless, Inc.**Notes to the Consolidated Financial Statements (Continued)****(In thousands, except shares and per share amounts)****15. Stock incentive plans (Continued)**

December 31, 2014, options to purchase 5,229,486 shares of common stock and 2,449,716 RSUs have been granted under the 2011 Plan.

No further awards will be made under our 2001 Plan and it will be terminated. Options outstanding under the 2001 Plan will continue to be governed by their existing terms. As of December 31, 2014, options to purchase 1,525,335 shares of common stock were outstanding under the 2001 Plan.

The following table summarizes our stock-based compensation expense included in the consolidated statements of operations for 2014, 2013 and 2012:

	Years ended December 31,		
	2014	2013	2012
Network operations	\$ 1,356	\$ 888	\$ 352
Development and technology	600	380	352
Selling and marketing	2,017	1,045	571
General and administrative	3,191	2,193	1,460
Total stock-based compensation expense	<u>\$ 7,164</u>	<u>\$ 4,506</u>	<u>\$ 2,735</u>

We capitalized \$398 of stock-based compensation expense for the year ended December 31, 2014.

Stock option awards

We grant stock option awards to both employees and non-employee directors. The grant date for these awards is the same as the measurement date. The stock option awards generally vest over a four year service period with 25% vesting when the individual completes 12 months of continuous service and the remaining 75% vesting monthly thereafter. These awards are valued as of the measurement date and the stock-based compensation expense, net of estimated and actual forfeitures, is recognized

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

15. Stock incentive plans (Continued)

on a straight-line basis over the requisite service period. A summary of the activity for stock option awards for 2014, 2013 and 2012 is presented below:

	Number of Options (000's)	Weighted Average Exercise Price	Weighted- Average Remaining Contract Life (years)	Aggregate Intrinsic Value
Outstanding at December 31, 2011	6,601	\$ 5.50	7.0	\$ 30,996
Granted	1,391	\$ 8.29		
Exercised	(1,899)	\$ 1.36		
Canceled/forfeited	(1,048)	\$ 11.85		
Outstanding at December 31, 2012	5,045	\$ 6.50	6.4	\$ 14,742
Granted	1,351	\$ 6.73		
Exercised	(461)	\$ 1.33		
Canceled/forfeited	(980)	\$ 10.20		
Outstanding at December 31, 2013	4,955	\$ 6.31	6.6	\$ 9,535
Granted	203	\$ 5.99		
Exercised	(458)	\$ 2.53		
Canceled/forfeited	(359)	\$ 7.53		
Outstanding at December 31, 2014	<u>4,341</u>	\$ 6.60	5.8	\$ 11,017
Vested, exercisable and expected to vest at December 31, 2014	4,267	\$ 6.58	5.7	\$ 10,946
Exercisable at December 31, 2014	3,053	\$ 5.83	4.9	\$ 10,014

The aggregate intrinsic value in the table above represents the difference between the estimated fair value of our common stock at December 31, 2014 and the option exercise price, multiplied by the number of in-the-money options at December 31, 2014. The intrinsic value changes are based on the estimated fair value of our common stock.

Stock options to purchase approximately 458,000, 461,000 and 1,899,000 shares of our common stock were exercised during the years ended December 31, 2014, 2013 and 2012 for cash proceeds of \$1,158, \$614 and \$2,573, respectively. The total intrinsic value of stock options exercised for the years ended December 31, 2014, 2013 and 2012 was \$2,027, \$2,662 and \$14,901, respectively. We realized \$55 and \$2,190 of tax benefits for the deductions from stock option exercises during 2013 and 2012, respectively.

The weighted average grant date fair value of options granted for the years ended December 31, 2014, 2013 and 2012 was \$2.92, \$3.03 and \$3.59, respectively.

At December 31, 2014, the total remaining stock-based compensation expense for unvested stock option awards is \$4,479, which is expected to be recognized over a weighted average period of 2.11 years.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

15. Stock incentive plans (Continued)

Restricted stock unit awards

We grant time-based restricted stock units ("RSU") to executive and non-executive personnel and non-employee directors. The time-based RSUs granted to executive and non-executive personnel generally vest over a two to three year period subject to continuous service on each vesting date. The time-based RSUs for our non-employee directors generally vest over a one year period for existing members and 25% per year over a four-year period for new members subject to continuous service on each vesting date.

During the year ended December 31, 2014, we granted performance-based RSUs to executive personnel. These awards vest subject to certain performance objectives based on the Company's annual revenue growth achieved during the specified performance period and certain long-term service conditions. The maximum number of RSUs that may vest is determined based on actual Company achievement with one-third of the performance-based RSUs vesting when the individual completes 12 months of continuous service and the balance vesting over a series of eight successive equal quarterly installments thereafter subject to continuous service on each vesting date. We recognize stock-based compensation expense for performance-based RSUs when we believe that it is probable that the performance objectives will be met. As of December 31, 2014, the performance condition for these performance-based RSUs has been met.

A summary of the RSU activity in 2014 is as follows:

	Number of Shares (000's)	Weighted Average Grant Date Fair Value
Nonvested at December 31, 2012	—	\$ —
Granted	799	\$ 6.21
Vested	(6)	\$ 6.39
Canceled/forfeited	(40)	\$ 6.05
Nonvested at December 31, 2013	753	\$ 6.22
Granted	1,650	\$ 6.02
Vested	(868)	\$ 6.09
Canceled/forfeited	(150)	\$ 6.02
Nonvested at December 31, 2014	<u>1,385</u>	<u>\$ 6.09</u>

During the year ended December 31, 2014, 868,211 shares of time-based RSUs vested. The Company issued 581,866 shares and the remaining shares were withheld to pay minimum statutory federal, state, and local employment payroll taxes on those vested awards.

At December 31, 2014, the total remaining stock-based compensation expense for unvested RSU awards is \$6,901, which is expected to be recognized over a weighted average period of 2.1 years.

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

16. Employee benefit plan

We have a defined contribution savings plan in accordance with Section 401(k) of the Internal Revenue Code. This plan covers substantially all employees who meet the IRS requirements and allows participants to defer a portion of their annual compensation on a pre-tax basis. Company contributions to the plan may be made at the discretion of the board of directors. Employer contributions of \$393, \$330 and \$347 were made to the plan by us in 2014, 2013 and 2012, respectively.

17. Net (loss) income per share attributable to common stockholders

The following table sets forth the computation of basic and diluted net (loss) income per share attributable to common stockholders:

	Years ended December 31,		
	2014	2013	2012
	(in thousands)		
Numerator:			
Net (loss) income attributable to common stockholders, basic and diluted	\$ (19,521)	\$ (3,968)	\$ 7,295
Denominator:			
Weighted average common stock, basic	35,753	35,578	34,774
Effect of dilutive stock options	—	—	2,543
Weighted average common stock, diluted	<u>35,753</u>	<u>35,578</u>	<u>37,317</u>
Net (loss) income per share attributable to common stockholders:			
Basic	\$ (0.55)	\$ (0.11)	\$ 0.21
Diluted	\$ (0.55)	\$ (0.11)	\$ 0.20

For the years ended December 31, 2014 and 2013, we excluded all stock options and RSUs from the computation of diluted net loss per share due to the net loss for the period. For the year ended December 31, 2012, we excluded approximately 2,518,000 stock options in the computation of diluted net income per share as the inclusion would have been anti-dilutive.

18. Quarterly financial data (unaudited)

Summarized unaudited quarterly financial data are as follows:

	2014			
	March 31	June 30	September 30	December 31
Revenue	\$ 26,452	\$ 28,396	\$ 30,822	\$ 33,627
Loss from operations	\$ (5,173)	\$ (3,352)	\$ (3,487)	\$ (6,014)
Net loss attributable to common stockholders	\$ (5,448)	\$ (3,734)	\$ (3,815)	\$ (6,524)
Basic loss per share	\$ (0.15)	\$ (0.10)	\$ (0.11)	\$ (0.18)
Diluted loss per share	\$ (0.15)	\$ (0.10)	\$ (0.11)	\$ (0.18)

Boingo Wireless, Inc.

Notes to the Consolidated Financial Statements (Continued)

(In thousands, except shares and per share amounts)

18. Quarterly financial data (unaudited) (Continued)

	2013			
	March 31	June 30	September 30	December 31
Revenue	\$ 23,134	\$ 26,239	\$ 28,607	\$ 28,766
(Loss) income from operations	\$ (1,502)	\$ (424)	\$ 784	\$ (752)
Net (loss) income attributable to common stockholders	\$ (1,121)	\$ (399)	\$ 354	\$ (2,802)
Basic (loss) earnings per share	\$ (0.03)	\$ (0.01)	\$ 0.01	\$ (0.08)
Diluted (loss) earnings per share	\$ (0.03)	\$ (0.01)	\$ 0.01	\$ (0.08)

Earnings (loss) per share are computed separately for each quarter and the full year using the respective weighted average shares. Therefore, the sum of the quarterly (loss) earnings per share amounts may not equal the annual amounts reported.

19. Subsequent events

In March 2015, we granted 1,264,608 RSUs to executive and non- executive personnel.

Item 15. Exhibits, Financial Statement Schedules

(a) The following documents are filed as part of, or incorporated by reference into, this Annual Report on Form 10-K:

(1)(2) **Financial Statements.** The following consolidated financial statements of Boingo Wireless, Inc., and Report of Independent Registered Public Accounting Firm are included in a separate section of this Annual Report on Form 10-K beginning on page F-2:

<u>Description</u>	<u>Page Number</u>
Report of Independent Registered Public Accounting Firm	F-2
Consolidated Balance Sheets as of December 31, 2014 and 2013	F-3
Consolidated Statements of Operations for the Years Ended December 31, 2014, 2013 and 2012	F-4
Consolidated Statements of Comprehensive Income (Loss) for the Years Ended December 31, 2014, 2013 and 2012	F-5
Consolidated Statements of Stockholder's Equity for the Years Ended December 31, 2014, 2013 and 2012	F-6
Consolidated Statements of Cash Flows for the Years Ended December 31, 2014, 2013 and 2012	F-7
Notes to Consolidated Financial Statements	F-8

All financial statement schedules have been omitted because the required information is not applicable or not present in amounts sufficient to require submission of the schedule, or because the information required is included in our consolidated financial statements or the notes thereto.

(3) **Exhibits.** The exhibits listed under Item 15(b) hereof are filed with, or incorporated by reference into, this Annual Report on Form 10-K. Each management contract or compensatory plan or arrangement is identified separately in item 15(b) hereof.

(b) Exhibits.

The following exhibits are filed as part of, or incorporated by reference into, this Annual Report on Form 10-K:

<u>Exhibit No.</u>	<u>Description</u>	<u>Incorporated by Reference</u>			<u>Filed Herewith</u>
		<u>Form</u>	<u>Date</u>	<u>Number</u>	
3.2	Amended and Restated Certificate of Incorporation.	S-1	03/21/2011	3.2	
3.4	Amended and Restated Bylaws.	S-1	03/21/2011	3.4	
4.1	Amendment No. 1 to Amended and Restated Investor Rights Agreement, dated April 12, 2001.	S-1	04/13/2011	4.1	
4.2	Amended and Restated Investor Rights Agreement among the Registrant and certain stockholders, dated June 27, 2006.	S-1	01/14/2011	4.2	
10.1	Form of Indemnification Agreement to be entered into between the Registrant and each of its directors and officers.	S-1	03/21/2011	10.1	
10.2	Amended and Restated 2001 Stock Incentive Plan.†	S-1	01/14/2011	10.2	

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Exhibit No.	Description	Incorporated by Reference			Filed Herewith
		Form	Date	Number	
10.3	Form of Amended and Restated 2001 Stock Plan Stock Option Agreement.	S-1	01/14/2011	10.3	
10.4	2011 Equity Incentive Plan and forms of agreements thereunder.†	S-1	03/21/2011	10.4	
10.5	2011 Equity Incentive Plan Notice of Stock Unit Award (Performance Stock Units).†	8-K	03/07/2014	99.1	
10.6	Letter agreement between the Registrant and David Hagan, dated April 11, 2011.†	S-1	04/13/2011	10.5	
10.7	2010 Management Incentive Compensation Plan.†	S-1	01/14/2011	10.7	
10.8	Office Lease Agreement, dated April 2007, between CA-10960 Wilshire Limited Partnership and Registrant.	S-1	01/14/2011	10.8	
10.9	Lease Amendment dated August 19, 2014 between CA-10960 Wilshire Limited Partnership and Registrant.	10-Q	11/10/2014	10.1	
10.10	License Agreement for Wireless Communications Access System, dated November 17, 2005, between City of Chicago and Chicago Concourse Development Group, LLC.^	S-1	04/29/2011	10.9	
10.10A	Consent to Change in Ownership and Amendment of Agreement, dated June 22, 2006, between City of Chicago and Chicago Concourse Development Group, LLC.	S-1	2/25/2011	10.9A	
10.11	Amendment Agreement, dated December 31, 2014 between the Registrant and the City of Chicago.#				X
10.12	Telecommunications Network Access Agreement, dated August 26, 1999, between The Port Authority of New York and New Jersey and New York Telecom Partners, LLC.^	S-1	04/29/2011	10.10	
10.13	Supplemental Agreement, dated March 28, 2001 between The Port Authority of New York and New Jersey and New York Telecom Partners, LLC.^	S-1	04/29/2011	10.10A	
10.14	Supplemental Agreement, dated June 30, 2002 between the Port Authority of New York and New Jersey and New York Telecom Partners, LLC.#	10-Q	11/10/2014	10.2	
10.15	Supplemental Agreement, dated November 30, 2006 between the Port Authority of New York and New Jersey and New York Telecom Partners, LLC.#	10-Q	11/10/2014	10.3	
10.16	Letter, dated August 19, 2013, from New York Telecom Partners, LLC to The Port Authority of New York and New Jersey.#	10-Q	11/12/2013	10.17	

10.17 Supplemental Agreement, dated July 21, 2014 10-Q 11/10/2014 10.4
between the Port Authority of New York and
New Jersey and New York Telecom
Partners, LLC.#

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Exhibit No.	Description	Incorporated by Reference			Filed Herewith
		Form	Date	Number	
10.18	Management Incentive Compensation Plan.	S-1	03/21/2011	10.11	
10.19	Letter agreement between the Registrant and Peter Hovenier, dated April 1, 2013.†	8-K	04/02/2013	10.1	
10.20	Letter Agreement between the Registrant and Nick Hulse, dated May 1, 2013.†	10-Q	05/10/2013	10.16	
10.21	Letter agreement between the Registrant and Dawn Callahan, dated January 1, 2013.†	10-K	3/17/2014	10.15	
10.22	Letter agreement between the Registrant and Tom Tracey, dated September 23, 2011.†	10-K	3/17/2014	10.16	
10.23	Letter agreement between the Registrant and Derek Peterson, dated January 30, 2013.†	10-K	3/17/2014	10.17	
10.24	Credit agreement between the Registrant and Bank of America, N.A.#				X
21.1	List of subsidiaries.				X
23.1	Consent of PricewaterhouseCoopers LLP, Independent Registered Public Accounting Firm.				X
24.1	Power of Attorney (included in Signature Page)				X
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act.				X
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act.				X
32.1	Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act.*				X
32.2	Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act.*				X
101.INS	XBRL Instance Document				X
101.SCH	XBRL Taxonomy Extension Schema Document				X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document				X
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document				X
101.LAB	XBRL Taxonomy Extension Label Linkbase Document				X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document				X

* Furnished herewith.

^ Portions of this exhibit (indicated by asterisks) have been omitted pursuant to an order granting confidential treatment. These portions have been submitted separately to the Securities and Exchange Commission.

- # Portions of this exhibit (indicated by asterisks) have been omitted pursuant to a request for confidential treatment. These portions have been submitted separately to the Securities and Exchange Commission.
- † Indicates a management contract or compensatory plan.

CONFIDENTIAL TREATMENT REQUESTED

**AMENDMENT NO. 2
LICENSE AGREEMENT “AGREEMENT” FOR WIRELESS
COMMUNICATION ACCESS SYSTEMS**

This Amendment No. 2 to License Agreement for Wireless Communications Access System, by and between City of Chicago and Chicago Concourse Development Group, LLC dated November 17, 2005 (the “Agreement”), is made and entered into as of this 31st day of December 2014, by and between the City of Chicago “City”, a municipal corporation and home rule unit of government under the Constitution of the State of Illinois, and Chicago Concourse Development Group, LLC. “Licensee”, a subsidiary of Boingo Wireless Incorporated, and a Delaware Limited Liability Company. The parties hereby agree as follows:

Pursuant to Article 1.1, Section 11.3 of the Agreement, entitled Amendments, the following terms and conditions shall be incorporated as “Exhibit A WCAS Design and Performance Requirements, Schedule 4: WCAS Performance Improvement Requirements—2015 Amendment.”

1. Licensee will provide City with enhanced reporting of performance measurements including, data throughput speeds, access point availability, and the number of users currently connected. This summary report will detail performance of the Wi-Fi networks throughout O’Hare and Midway airports. The reports will be delivered as electronic documents with scope and frequency to be agreed upon between Licensee and City Department of Aviation staff.
2. Licensee must complete at O’Hare and Midway airports an airport wide access point upgrade to [*], on or before [*]. Licensee shall commence upgrades to the WiFi networks in [*] and the schedule for upgrades at O’Hare and Midway will be coordinated between Licensee and City Department of Aviation staff.
3. Licensee must provide on a monthly basis, beginning [*] after the network upgrades are completed, statistics that confirm that the WiFi speeds listed below are being attained no less than [*] of the time each month at both O’Hare and Midway airports. Licensee will establish the parameters for benchmark performance testing.
 - a. Complimentary Sessions:
 - i. Burst speed of [*] available for five minutes allocable throughout the session on demand, with a minimum speed of [*] during the 30 minute complimentary session. Each unique device will be granted one complimentary session per calendar day.
 - b. Pay As You Go Sessions:
 - i. Burst speed of [*] available for five minutes allocable throughout the session on demand, with a minimum speed of [*] during the session.
 - c. Subscription Sessions:
 - i. Burst speed of [*] available for five minutes allocable throughout the session on demand, with a minimum speed of [*] during the session.
4. Licensee must increase available internet Bandwidth, as needed, to ensure that WiFi Session Minimum Speeds - listed in Item 3 above - are maintained as user consumption increases.
5. Licensee must complete the implementation of the Location Based Services (“LBS”) infrastructure by [*] [*]. The supporting software application to display expected wait times at all TSA checkpoints used by travelers must be completed on or before [*]. Licensee will display this information on the Boingo public Wi-Fi Walled Gardens available to passengers at ORD and MOW airports. Licensee will provide a link to the same, or similar, data displayed on Licensee’s Walled Garden to City’s Aviation IT Department for integration on City’s Fly Chicago website. Licensee will further supply access to this specific data to City’s Aviation IT Department for City’s use on other City provided display systems. Licensee will not be responsible for any additional costs to display or interface this data with other display systems and/or other third party assets. Licensee will also not be responsible for funding additional enhancements to this application or providing other LBS applications.

*CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

6. Licensee must complete the implementation of the RAD technologies "South Airfield Wi-Fi" pilot project at O'Hare Airport that provides Wi Fi access to vehicles, people, and security cameras, allowing back end connectivity to the CDA network, on or before [*]. Licensee's responsibility will be limited to procuring and installing the hardware. The third party vendor will be solely responsible for all other costs associated with the proof of concept trial. In the event that the proof of concept is unsuccessful, the vendor will remove their hardware and neither City nor Licensee will have any responsibility for the equipment cost and Licensee will absorb only installation costs. In the event that City wishes to expand the program after the proof of concept, Licensee will have no obligation to fund or otherwise support that expansion.
7. Licensee must complete the build out of WiFi infrastructure in the public areas of the Federal Inspection Station ("FIS") at Terminal 5 at O'Hare airport to accommodate the connectivity requirements of the Mobile Passport Control smartphone applications, on or before [*]. Licensee will further complete the build out of DAS infrastructure in the public areas of the same FIS facility by [*], [*] and make every effort to gain cellular Carrier participation to provide their respective services on the network by that date however it is understood by both parties that Carrier participation is solely at the discretion of each individual Carrier.

If the Licensee is unwilling or unable to meet any one of the benchmarks or requirements contained within the Amendment, it will be considered an Event of Default. Pursuant to the Commissioner's authority under Article 9, Section 9.1 of the Agreement, the Licensee will be granted [*] to cure any default after receipt of written notice by City. If the Event of Default cannot be cured within [*], but Licensee promptly begins and diligently and continuously proceeds to cure the failure within the time period granted and after that continues to diligently and continuously proceed to cure the failure, and the failure is reasonably susceptible of cure within [*] from delivery of the notice, Licensee will have the additional time, not to exceed [*] additional days, to cure the Event of Default.

If the Event of Default is not cured in the time allowed, the City through the Commissioner may elect to terminate the Agreement in its entirety, pursuant to Section 9.2.A.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 to AGREEMENT as of the date first above written.

Chicago Department of Aviation

/s/ Michael Boland

Michael Boland
Acting Commissioner

December 31, 2014

Date

*CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

Concourse Development Group, LLC

signature illegible

Name

Manager

Title

December 31, 2014

Date

Boingo Wireless Incorporated

/s/ Peter Hovenier

Name

CFO

Title

December 31, 2014

Date

CONFIDENTIAL TREATMENT REQUESTED

CREDIT AGREEMENT

Dated as of November 21, 2014

among

BOINGO WIRELESS, INC.

and

NEW YORK TELECOM PARTNERS, LLC
as the Borrowers,

CERTAIN DOMESTIC SUBSIDIARIES OF BOINGO WIRELESS, INC.,
as the Guarantors,

BANK OF AMERICA, N.A.,
as Administrative Agent, Swing Line Lender and an L/C Issuer,

and

THE OTHER LENDERS PARTY HERETO

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,
as Sole Lead Arranger and Sole Book Runner

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EXHIBITS

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C	Form of Revolving Note
D	Form of Swing Line Note
E	Form of Term Note
F	Form of Compliance Certificate
G	Form of Joinder Agreement
H	Form of Assignment and Assumption
I	Forms of U.S. Tax Compliance Certificates
J	Form of Secured Party Designation Notice
K	Form of Notice of Loan Prepayment
L	Form of Letter of Credit Report

CREDIT AGREEMENT

This CREDIT AGREEMENT is entered into as of November 21, 2014 among BOINGO WIRELESS, INC., a Delaware corporation (the “Company”), New York Telecom Partners, LLC, a Delaware limited liability company (“NY Telecom” and together with the Company, each a “Borrower” and collectively, the “Borrowers”), the Guarantors (defined herein), the Lenders (defined herein) and BANK OF AMERICA, N.A., as Administrative Agent, Swing Line Lender and an L/C Issuer.

The Borrowers have requested that the Lenders provide (a) a \$46,500,000 revolving credit facility to the Company and (b) a \$3,500,000 term loan facility to NY Telecom; in each case, for the purposes set forth herein, and the Lenders are willing to do so on the terms and conditions set forth herein.

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

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

1.01 Defined Terms.

As used in this Agreement, the following terms shall have the meanings set forth below:

“Acquisition” means, with respect to any Person, the acquisition by such Person, in a single transaction or in a series of related transactions, of (a) all or any substantial portion of the property of another Person, or any division, line of business or other business unit of another Person or (b) at least a majority of the Voting Stock of another Person, in each case whether or not involving a merger or consolidation with such other Person and whether for cash, property, services, assumption of Indebtedness, securities or otherwise.

“Administrative Agent” means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 11.02 or such other address or account as the Administrative Agent may from time to time notify the Company and the Lenders.

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

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Aggregate Excluded DAS Capital Expenditures” means, for any period, for the Company and its Subsidiaries on a consolidated basis, the aggregate amount of all Excluded DAS Capital Expenditures in connection with all DAS Installations for such period; provided, however, (x) with respect to the fiscal periods ending December 31, 2014, March 31, 2015 and June 30, 2015, up to \$10,000,000 of Consolidated Capital Expenditures in connection with DAS Installations that would otherwise be classified as Excluded DAS Capital Expenditures shall not be so classified as “Excluded DAS Capital Expenditures”, shall not be included in “Aggregate Excluded DAS Capital Expenditures” and shall, for

the avoidance of doubt, be included in clause (a) of the definition of “Eligible DAS Capital Expenditures” and (y) with respect to any fiscal period ending thereafter, up to \$5,000,000 of Consolidated Capital Expenditures in connection with DAS Installations that would otherwise be classified as Excluded DAS Capital Expenditures shall not be so classified as “Excluded DAS Capital Expenditures”, shall not be included in “Aggregate Excluded DAS Capital Expenditures” and shall, for the avoidance of doubt, be included in clause (a) of the definition of “Eligible DAS Capital Expenditures”; provided, further, however, any portion of Consolidated Capital Expenditures with respect to any DAS Installation that is included in “Eligible DAS Capital Expenditures” pursuant to the immediately preceding proviso shall no longer be so included (and shall automatically become “Excluded DAS Capital Expenditures”) if the Company or the applicable Subsidiary, as the case may be, has not entered into a written agreement with a wireless carrier, in each case, reasonably acceptable to the Administrative Agent prior to the date that is nine (9) months after commencement of the applicable DAS Installation (or, solely with respect to the DAS Installation at the World Trade Center in New York, New York, twelve (12) months) that requires such wireless carrier to make cash payments to the Company or the applicable Subsidiary, as the case may be, on account of such Consolidated Capital Expenditures with respect to such DAS Installation.

“Aggregate Revolving Commitments” means the Revolving Commitments of all the Lenders. The aggregate principal amount of the Aggregate Revolving Commitments in effect on the Closing Date is FORTY-SIX MILLION FIVE HUNDRED THOUSAND DOLLARS (\$46,500,000.00).

“Agreement” means this Credit Agreement.

“Applicable Percentage” means with respect to any Lender at any time, (a) with respect to such Lender’s Revolving Commitment at any time, the percentage (carried out to the ninth decimal place) of the Aggregate Revolving Commitments represented by such Lender’s Revolving Commitment at such time, subject to adjustment as provided in Section 2.15; provided, that, if the commitment of each Lender to make Revolving Loans and the obligation of the L/C Issuers to make L/C Credit Extensions have been terminated pursuant to Section 9.02 or if the Aggregate Revolving Commitments have expired, then the Applicable Percentage of each Lender shall be determined based on the Applicable Percentage of such Lender most recently in effect, giving effect to any subsequent assignments and (b) with respect to such Lender’s portion of the outstanding Term Loan at any time, the percentage (carried out to the ninth decimal place) of the outstanding principal amount of the Term Loan held by such Lender at such time. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption or other agreement pursuant to which such Lender becomes a party hereto, as applicable.

“Applicable Rate” means, with respect to Revolving Loans, the Term Loan, Swing Line Loans, Letters of Credit and the Commitment Fee, the following percentages per annum, based upon the Consolidated Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 7.02(b):

Pricing Tier	Consolidated Leverage Ratio	Commitment Fee	Letter of Credit Fee	Eurodollar Rate Loans	Base Rate Loans
1	> 2.00:1.00	0.50%	3.50%	3.50%	2.50%
2	≤ 2.00:1.00 but > 1.00:1.00	0.50%	3.00%	3.00%	2.00%
3	≤ 1.00:1.00	0.375%	2.50%	2.50%	1.50%

Any increase or decrease in the Applicable Rate resulting from a change in the Consolidated Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 7.02(b); provided, that, if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the request of the Required Lenders, Pricing Tier 1 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and shall continue to apply until the first Business Day immediately following the date a Compliance Certificate is delivered in accordance with Section 7.02(b), whereupon the Applicable Rate shall be adjusted based upon the calculation of the Consolidated Leverage Ratio contained in such Compliance Certificate. The Applicable Rate in effect from the Closing Date to the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 7.02(b) for the fiscal year ending December 31, 2014 shall be determined based upon Pricing Tier 3. Notwithstanding anything to the contrary contained in this definition, the determination of the Applicable Rate for any period shall be subject to the provisions of Section 2.10(b).

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

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 11.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit H or any other form (including electronic documentation generated by MarkitClear or other electronic platform) approved by the Administrative Agent.

“Assumed Contribution Margin” means, as of any date of determination, (a) with respect to any date occurring from the Closing Date to and including the date that financial statements are delivered by the Company for the fiscal year ending December 31, 2014 pursuant to Section 7.01(a), twenty-five percent (25%) and (b) with respect to any date occurring thereafter in any fiscal year, a percentage obtained by the Administrative Agent in its reasonable discretion (and designated in writing to the Company and each Lender) from the following formula: (i) (A) total consolidated cash payments actually received in the immediately preceding fiscal year by the Company and its Subsidiaries from wireless carriers on account of DAS Installations completed in the immediately preceding fiscal year divided by (B) all Consolidated Capital Expenditures made in the immediately preceding fiscal year in connection with such DAS Installations completed in the immediately preceding fiscal year minus (ii) 1.

“Attributable Indebtedness” means, on any date, (a) in respect of any Capital Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, (b) in respect of any Synthetic Lease of any Person, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a Capital Lease and (c) in respect of any Securitization Transaction of any Person, the outstanding principal amount of such financing, after taking into account reserve accounts and making appropriate adjustments, determined by the Administrative Agent in its reasonable judgment.

“Audited Financial Statements” means the audited consolidated balance sheet of the Company and its Subsidiaries for the fiscal year ended December 31, 2013, and the related consolidated statements of income or operations, shareholders’ equity and cash flows for such fiscal year of the Company and its Subsidiaries, including the notes thereto, audited by independent public accountants of recognized national standing and prepared in conformity with GAAP.

“Availability Period” means, with respect to the Revolving Commitments, the period from and including the Closing Date to the earliest of (a) the Maturity Date, (b) the date of termination of the

Aggregate Revolving Commitments pursuant to Section 2.06, and (c) the date of termination of the commitment of each Lender to make Loans and of the obligation of the L/C Issuers to make L/C Credit Extensions pursuant to Section 9.02.

“Bank of America” means Bank of America, N.A. and its successors.

“Bank of America Fee Letter” means that certain fee letter agreement, dated as of September 25, 2014 among the Company, Bank of America and MLPFS.

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 0.50%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate” and (c) the Eurodollar Rate plus 1.00%. The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in the “prime rate” announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate.

“Borrower” and “Borrowers” have the meaning specified in the introductory paragraph hereto.

“Borrower Materials” has the meaning specified in Section 7.02.

“Borrowing” means each of the following: (a) a borrowing of Swing Line Loans pursuant to Section 2.04 and (b) a borrowing consisting of simultaneous Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Lenders pursuant to Section 2.01.

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

“Businesses” means, at any time, a collective reference to the businesses operated by the Company and its Subsidiaries at such time.

“Capital Lease” means, as applied to any Person, any lease of any property by that Person as lessee which, in accordance with GAAP, is required to be accounted for as a capital lease on the balance sheet of that Person.

“Cash Collateralize” means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the L/C Issuers or the Lenders, as collateral for L/C Obligations or obligations of the Lenders to fund participations in respect of L/C Obligations, cash or deposit account balances or, if the Administrative Agent and the L/C Issuer benefiting from such collateral shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent and the applicable L/C Issuer. “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Equivalents” means, as at any date, (a) securities issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof (provided that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than twelve months from the date of acquisition, (b) Dollar denominated time deposits and certificates of deposit of (i) any Lender, (ii) any domestic commercial bank of recognized standing having capital and surplus in excess of \$500,000,000 or (iii) any bank whose short-term commercial paper rating from S&P is at least A-1 or the equivalent thereof or from Moody’s is at least P-1 or the equivalent thereof (any such bank being an “Approved Bank”), in each case with maturities of not more than 270 days from the date of acquisition, (c) commercial paper and variable or fixed rate notes issued by any Approved Bank (or by the parent company thereof) or any variable rate notes issued by, or guaranteed by, any domestic corporation rated A-1 (or the equivalent thereof) or better by S&P or P-1 (or the equivalent thereof) or better by Moody’s and maturing within six months of the date of acquisition, (d) repurchase agreements entered into by any Person with a bank or trust company (including any of the Lenders) or recognized securities dealer having capital and surplus in excess of \$500,000,000 for direct obligations issued by or fully guaranteed by the United States in which such Person shall have a perfected first priority security interest (subject to no other Liens) and having, on the date of purchase thereof, a fair market value of at least 100% of the amount of the repurchase obligations and (e) Investments, classified in accordance with GAAP as current assets, in money market investment programs registered under the Investment Company Act of 1940 which are administered by reputable financial institutions having capital of at least \$500,000,000 and the portfolios of which are limited to Investments of the character described in the foregoing subdivisions (a) through (d).

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided, that, notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall

in each case be deemed to be a “ Change in Law ”, regardless of the date enacted, adopted or issued.

“ Change of Control ” means the occurrence of any of the following events:

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

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

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

(c) the Company shall cease to own and control, of record and beneficially, directly or indirectly, 100% of the outstanding economic and voting Equity Interests of NY Telecom.

“Closing Date” means the date hereof.

“Collateral” means a collective reference to all real and personal property with respect to which Liens in favor of the Administrative Agent, for the benefit of the holders of the Obligations, are purported to be granted pursuant to and in accordance with the terms of the Collateral Documents.

“Collateral Documents” means a collective reference to the Security Agreement, the Pledge Agreement, the Mortgages and other security documents as may be executed and delivered by the Loan Parties pursuant to the terms of Section 7.14.

“Commitment” means, as to each Lender, the Revolving Commitment of such Lender and the Term Loan Commitment of such Lender.

“Commitment Fee” has the meaning specified in Section 2.09(a).

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*) as amended or otherwise modified, and any successor statute.

“Company” has the meaning specified in the introductory paragraph hereto.

“Compliance Certificate” means a certificate substantially in the form of Exhibit F.

“Concourse Chicago” means Chicago Concourse Development Group, LLC, a Delaware limited liability company.

“Concourse Detroit” means Concourse Communications Detroit, LLC, a Delaware limited liability company.

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

“Consolidated Adjusted Cash Flow” means, for any period, for the Company and its Subsidiaries on a consolidated basis, an amount equal to Consolidated Net Income for such period plus (a) the following (without duplication) to the extent deducted in calculating such Consolidated Net Income: (i) Consolidated Interest Charges for such period, (ii) the provision for federal, state, local and foreign income taxes payable by the Company and its Subsidiaries for such period, (iii) depreciation and

amortization expense for such period (excluding any depreciation and/or amortization expense for such period in connection with any DAS Installation), (iv) any non-cash stock-based compensation expense for such period and (v) any other non-cash charges, expenses or losses for such period (excluding write-downs of accounts receivable and any other non-cash charges, expenses or losses to the extent representing accruals of or reserves for cash items in any future period or an amortization of a prepaid cash expense), all as determined in accordance with GAAP, minus (b) the following (without duplication) to the extent included in calculating such Consolidated Net Income: (i) all non-cash income or gains for such period and (ii) federal, state, local and foreign income tax credits of the Company and its Subsidiaries during such period plus (c) an amount equal to the product of (i) Eligible DAS Capital Expenditures for such period multiplied by (ii) the Assumed Contribution Margin as of the applicable date of calculation of “Consolidated Adjusted Cash Flow”. To the extent included in Consolidated Net Income, any non-cash gains or losses from the mark-to-market of Swap Contracts shall be excluded from the calculation of Consolidated Adjusted Cash Flow.

“Consolidated Capital Expenditures” means, for any period, for the Company and its Subsidiaries on a consolidated basis, all capital expenditures (including capitalized labor and capitalized software development), as determined in accordance with GAAP; provided, however, that Consolidated Capital Expenditures shall not include (a) expenditures made with proceeds of any Involuntary Disposition to the extent such expenditures are used to purchase property that is the same as or similar to the property subject to such Involuntary Disposition or (b) Permitted Acquisitions.

“Consolidated Cash Taxes” means, for any period, for the Company and its Subsidiaries on a consolidated basis, the aggregate of all taxes, as determined in accordance with GAAP, to the extent the same are paid in cash during such period.

“Consolidated Fixed Charge Coverage Ratio” means, as of any date of determination, the ratio of (a) the total of (i) Consolidated Adjusted Cash Flow for the period of the four fiscal quarters most recently ended minus (ii) Consolidated Cash Taxes for such period minus (iii) an amount equal to the lesser of (x) Consolidated Capital Expenditures for such period and (y) three percent (3%) of Consolidated Revenues for such period to (b) Consolidated Fixed Charges for the period of the four fiscal quarters most recently ended.

“Consolidated Fixed Charges” means, for any period, for the Company and its Subsidiaries on a consolidated basis, an amount equal to the sum of (a) the cash portion of Consolidated Interest Charges for such period plus (b) Consolidated Scheduled Funded Debt Payments for such period plus (c) the amount of cash Restricted Payments made by the Loan Parties during such period plus (d) an amount equal to fifteen percent (15%) of the average daily balance of the aggregate Outstanding Amount of Revolving Loans and L/C Borrowings during such period (in the first year of this Agreement such calculation will be based on the average daily balance for the number of days subsequent to the Closing Date), all as determined in accordance with GAAP. Notwithstanding the foregoing, for any calculation of Consolidated Fixed Charges occurring prior to the one-year anniversary of the Closing Date, actual cash Consolidated Interest Charges from the Closing Date through the applicable fiscal quarter end shall be annualized for purposes of calculating the cash portion of Consolidated Interest Charges for the relevant calculation period of four fiscal quarters.

“Consolidated Funded Indebtedness” means Funded Indebtedness of the Company and its Subsidiaries on a consolidated basis determined in accordance with GAAP.

“Consolidated Interest Charges” means, for any period, for the Company and its Subsidiaries on a consolidated basis, an amount equal to the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses in connection with borrowed money (including capitalized interest) or in

connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, plus (b) the portion of rent expense with respect to such period under Capital Leases that is treated as interest in accordance with GAAP plus (c) the implied interest component of Synthetic Leases with respect to such period.

“Consolidated Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness as of such date to (b) Consolidated Adjusted Cash Flow for the period of the four fiscal quarters most recently ended.

“Consolidated Net Income” means, for any period, for the Company and its Subsidiaries on a consolidated basis, the net income of the Company and its Subsidiaries for that period (excluding (a) extraordinary items for such period, (b) the net income of any Subsidiary during such period to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of such income is not permitted by operation of the terms of its Organization Documents or any agreement, instrument or Law applicable to such Subsidiary during such period, except that the Company’s equity in any net loss of any such Subsidiary for such period shall be included in determining Consolidated Net Income and (c) any income (or loss) for such period of any Person if such Person is not the Company or a Subsidiary, except that the Company’s equity in the net income of any such Person for such period shall be included in Consolidated Net Income up to the amount of cash actually distributed by such Person during such period to the Company or a Subsidiary as a dividend or other distribution (and in the case of a dividend or other distribution to a Subsidiary, such Subsidiary is not precluded from further distributing such amount to the Company as described in clause (b) hereof)), as determined in accordance with GAAP.

“Consolidated Revenues” means, for any period, for the Company and its Subsidiaries on a consolidated basis, total revenues as determined in accordance with GAAP.

“Consolidated Scheduled Funded Debt Payments” means for any period for the Company and its Subsidiaries on a consolidated basis, the sum of all scheduled payments of principal on Consolidated Funded Indebtedness, as determined in accordance with GAAP. For purposes of this definition, “scheduled payments of principal” (a) shall be determined without giving effect to any reduction of such scheduled payments resulting from the application of any voluntary or mandatory prepayments made during the applicable period, (b) shall be deemed to include the Attributable Indebtedness in respect of Capital Leases, Securitization Transactions and Synthetic Leases and (c) shall not include any voluntary prepayments or mandatory prepayments required pursuant to Section 2.05. Notwithstanding the foregoing, for the four fiscal quarter periods ending December 31, 2014, March 31, 2015, June 30, 2015 and September 30, 2015, “scheduled payments of principal” with respect to the Term Loan shall in the case of each such four fiscal quarter period be deemed to be \$875,000.

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

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto. Without limiting the generality of the foregoing, a Person shall be deemed to be Controlled by another Person if such other Person possesses, directly or indirectly, power to vote 10% or more of the securities having ordinary voting power for the election of directors, managing general partners or the equivalent.

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

“DAS Installation” means any “Distributed Antenna System” installation, upfitting, upgrading or similar activity by the Company or any Subsidiary.

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

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

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

“Defaulting Lender” means, subject to Section 2.15(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Company in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, an L/C Issuer, the Swing Line Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swing Line Loans) within two Business Days of the date when due, (b) has notified the Company, the Administrative Agent, an L/C Issuer or the Swing Line Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Company, to confirm in writing to the Administrative Agent and the Company that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Company), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided, that, a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interests in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.15(b)) as of the date established therefor by the Administrative

Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to the Company, the L/C Issuers, the Swing Line Lender and each other Lender promptly following such determination.

“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition to any Person (including any Sale and Leaseback Transaction) of any property by any Loan Party or any Subsidiary (including the Equity Interests of any Subsidiary), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith, but excluding: (a) the sale, lease, license, transfer or other disposition of inventory in the ordinary course of business, (b) the sale, lease, license, transfer or other disposition in the ordinary course of business of surplus, obsolete or worn out property no longer used or useful in the conduct of business (in each case, as determined in the good faith judgment of the Company) of any Loan Party and its Subsidiaries, (c) any sale, lease, license, transfer or other disposition of property to any Loan Party or any Subsidiary; provided, that if the transferor of such property is a Loan Party (i) the transferee thereof must be a Loan Party or (ii) to the extent such transaction constitutes an Investment, such transaction is permitted under Section 8.02, and (d) any Involuntary Disposition.

“Dollar” and “\$” mean lawful money of the United States.

“Dollar Equivalent” means, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in Euro, the equivalent amount thereof in Dollars as determined by the L/C Issuer at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of Dollars with Euro.

“Domestic Subsidiary” means any Subsidiary that is organized under the laws of any state of the United States or the District of Columbia.

“Earn Out Obligations” means, with respect to an Acquisition, all obligations of the Company or any Subsidiary to make earn out or other contingency payments (including purchase price adjustments, non-competition and consulting agreements, or other indemnity obligations) pursuant to the documentation relating to such Acquisition. For purposes of determining the aggregate consideration paid for an Acquisition at the time of such Acquisition, the amount of any Earn Out Obligations shall be deemed to be the maximum amount of the earn-out payments in respect thereof as specified in the documents relating to such Acquisition. For purposes of determining the amount of any Earn Out Obligations to be included in the definition of Funded Indebtedness, the amount of Earn Out Obligations shall be deemed to be the aggregate liability in respect thereof, as determined in accordance with GAAP.

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 11.06(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 11.06(b)(iii)) or for purposes of an assignment permitted pursuant to Section 10.09, any acquisition vehicle formed pursuant to Section 10.09 in connection with any credit bid.

“Eligible DAS Capital Expenditures” means, for any period, for the Company and its Subsidiaries on a consolidated basis, the total of (a) all Consolidated Capital Expenditures made in connection with DAS Installations during such period minus (b) Aggregate Excluded DAS Capital Expenditures during such period.

“Environmental Laws” means any and all federal, state, local, foreign and other applicable statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the

environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Company, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

“ERISA” means the Employee Retirement Income Security Act of 1974.

“ERISA Affiliate” means any trade or business (whether or not incorporated) under common control with a Borrower within the meaning of Section 414(b) or (c) of the Internal Revenue Code (and Sections 414(m) and (o) of the Internal Revenue Code for purposes of provisions relating to Section 412 of the Internal Revenue Code).

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of any Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a “substantial employer” as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by any Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Sections 4041 or 4041A of ERISA; (e) the institution by the PBGC of proceedings to terminate a Pension Plan; (f) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (g) the determination that any Pension Plan is considered an at-risk plan or a plan in endangered or critical status within the meaning of Sections 430, 431 and 432 of the Internal Revenue Code or Sections 303, 304 and 305 of ERISA; or (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Borrower or any ERISA Affiliate.

“Euro” and “€” mean the single currency of the Participating Member States.

“Euro Equivalent” means, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in Euro as determined by the L/C Issuer at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of Euro with Dollars.

“Eurodollar Base Rate” means:

(a) for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum equal to the London Interbank Offered Rate (“LIBOR”) or a comparable or successor rate, which rate is approved by the Administrative Agent, as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; and

(b) for any interest rate calculation with respect to a Base Rate Loan on any date, the rate per annum equal to LIBOR, at approximately 11:00 a.m., London time, determined two Business Days prior to such date for Dollar deposits with a term of one month commencing that date;

provided, that, (i) to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate shall be applied to the applicable Interest Period in a manner consistent with market practice; provided, further, that, to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied to the applicable Interest Period as otherwise reasonably determined by the Administrative Agent and (ii) if the Eurodollar Base Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Eurodollar Rate” means (a) for any Interest Period with respect to any Eurodollar Rate Loan, a rate per annum determined by the Administrative Agent to be equal to the quotient obtained by dividing (i) the Eurodollar Base Rate for such Eurodollar Rate Loan for such Interest Period by (ii) one minus the Eurodollar Reserve Percentage for such Eurodollar Rate Loan for such Interest Period and (b) for any day with respect to any Base Rate Loan bearing interest at a rate based on the Eurodollar Rate, a rate per annum determined by the Administrative Agent to be equal to the quotient obtained by dividing (i) the Eurodollar Base Rate for such Base Rate Loan for such day by (ii) one minus the Eurodollar Reserve Percentage for such Base Rate Loan for such day.

“Eurodollar Rate Loan” means a Loan that bears interest at a rate based on clause (a) of the definition of “Eurodollar Rate”.

“Eurodollar Reserve Percentage” means, for any day, the reserve percentage (expressed as a decimal, carried out to five decimal places) in effect on such day, whether or not applicable to any Lender, under regulations issued from time to time by the FRB for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to Eurocurrency funding (currently referred to as “Eurocurrency liabilities”). The Eurodollar Rate for each outstanding Eurodollar Rate Loan and for each outstanding Base Rate Loan the interest on which is determined by reference to the Eurodollar Rate, in each case, shall be adjusted automatically as of the effective date of any change in the Eurodollar Reserve Percentage.

“Event of Default” has the meaning specified in Section 9.01.

“Excluded DAS Capital Expenditures” means, with respect to any DAS Installation and for any period, Consolidated Capital Expenditures during such period in connection with such DAS Installation if the Company or the applicable Subsidiary, as the case may be, has not entered into a written agreement with a wireless carrier reasonably acceptable to the Administrative Agent prior to the end of such period that requires such wireless carrier to reimburse the Company or the applicable Subsidiary, as the case may be, for such Consolidated Capital Expenditures with respect to such DAS Installation.

“Excluded Property” means, with respect to any Loan Party, including any Person that becomes a Loan Party after the Closing Date as contemplated by Section 7.12, (a) any owned or leased real or personal property which is located outside of the United States unless requested by the Administrative Agent or the Required Lenders, (b) any personal property (including, without limitation, motor vehicles) in respect of which perfection of a Lien is not either (i) governed by the Uniform Commercial Code or (ii) effected by appropriate evidence of the Lien being filed in either the United States Copyright Office or the United States Patent and Trademark Office, unless requested by the Administrative Agent or the Required Lenders, (c) the Equity Interests of any direct Foreign Subsidiary of a Loan Party to the extent not required to be pledged to secure the Obligations pursuant to Section 7.14(a), (d) any property which, subject to the terms of Section 8.09, is subject to a Lien of the type described in Section 8.01(i) pursuant to documents which prohibit such Loan Party from granting any other Liens in such property, (e) any leasehold interest of any Loan Party in office space and (f) any assets as to which the Administrative Agent and the Company agree in writing that the cost of obtaining or perfecting a security interest in such assets is excessive in relation to the value of such assets as Collateral.

“Excluded Subsidiary” means Concourse Detroit; provided, that, Concourse Detroit shall cease to be an “Excluded Subsidiary” on any date that, for the period of four consecutive fiscal quarters of the Company most recently ended prior to such date, Concourse Detroit generates any revenue or otherwise has any portion of Consolidated Revenues attributable to it.

“Excluded Swap Obligation” means, with respect to any Loan Party, any Swap Obligation if, and to the extent that, all or a portion of the Guaranty of such Loan Party of, or the grant under a Loan Document by such Loan Party of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act (or the application or official interpretation thereof) by virtue of such Loan Party’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act (determined after giving effect to Section 4.08 hereof and any and all guarantees of such Loan Party’s Swap Obligations by other Loan Parties) at the time the Guaranty of such Loan Party, or grant by such Loan Party of a security interest, becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a Master Agreement governing more than one Swap Contract, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to Swap Contracts for which such Guaranty or security interest becomes illegal.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. Federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Company under Section 11.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that pursuant to Section 3.01(a)(ii), (a)(iii) or (c), amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party

hereto or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient's failure to comply with Section 3.01(e) and (d) any U.S. federal withholding taxes imposed under FATCA.

“Existing Letters of Credit” means the letters of credit described by date of issuance, letter of credit number, undrawn amount, name of beneficiary and date of expiry on Schedule 1.01.

“Facilities” means, at any time, a collective reference to the facilities and real properties owned, leased or operated by any Loan Party or any Subsidiary and the facilities and properties where any Loan Party or any Subsidiary has licensed the right to use property in the ordinary course of its business.

“FASB ASC” means the Accounting Standards Codification of the Financial Accounting Standards Board.

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

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent.

“Fee Letters” means (a) the Bank of America Fee Letter and (b) the SVB Fee Letter.

“Foreign Lender” means (a) if a Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if a Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which such Borrower is resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

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

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

“Fronting Exposure” means, at any time there is a Defaulting Lender, (a) with respect to an L/C Issuer, such Defaulting Lender's Applicable Percentage of the outstanding L/C Obligations in respect of Letters of Credit issued by such L/C Issuer other than L/C Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof and (b) with respect to the Swing Line Lender, such Defaulting Lender's Applicable Percentage of Swing Line Loans other than Swing Line Loans as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders in accordance with the terms hereof.

“Fund” means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“Funded Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

- (a) all obligations, whether current or long-term, for borrowed money (including the Obligations) and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) all purchase money Indebtedness;
- (c) the principal portion of all obligations under conditional sale or other title retention agreements relating to property purchased by such Person or any Subsidiary thereof (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business);
- (d) all obligations arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments;
- (e) all obligations in respect of the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not past due for more than 90 days after the date on which such trade account payable was created (unless subject to a bona fide dispute)), including, without limitation, any Earn Out Obligations;

(f) the Attributable Indebtedness of Capital Leases, Securitization Transactions and Synthetic Leases;

(g) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interests in such Person or any other Person, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends;

(h) all Funded Indebtedness of others secured by (or for which the holder of such Funded Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on, or payable out of the proceeds of production from, property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed;

(i) all Guarantees with respect to Funded Indebtedness of the types specified in clauses (a) through (h) above of another Person; and

(j) all Funded Indebtedness of the types referred to in clauses (a) through (i) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or joint venturer, except to the extent that such Funded Indebtedness is expressly made non-recourse to such Person.

For purposes hereof, the amount of any direct obligation arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments shall be the maximum amount available to be drawn thereunder.

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board, consistently applied and as in effect from time to time.

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Guarantee” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion of the related primary obligation, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“Guarantors” means (a) each Domestic Subsidiary identified as a “Guarantor” on the signature pages hereto, (b) each other Person that joins as a Guarantor pursuant to Section 7.12, (c) with respect to (i) Obligations under any Secured Swap Agreement, (ii) Obligations under any Secured Treasury Management Agreement, (iii) any Swap Obligation of a Specified Loan Party (determined before giving effect to Sections 4.01 and 4.08) under the Guaranty, each Borrower and (d) the successors and permitted assigns of the foregoing; provided, however, it is understood and agreed that Concourse Detroit shall not be required to become a “Guarantor” hereunder until such time as it no longer satisfies the condition set forth in the definition of “Excluded Subsidiary”.

“Guaranty” means the Guaranty made by the Guarantors in favor of the Administrative Agent, the Lenders and the other holders of the Obligations pursuant to Article IV.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“Honor Date” has the meaning set forth in Section 2.03(c).

“IFRS” means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements delivered under or referred to herein.

“Impacted Loans” has the meaning specified in Section 3.03.

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

- (a) all Funded Indebtedness;
- (b) the Swap Termination Value of any Swap Contract;
- (c) all Guarantees with respect to outstanding Indebtedness of the types specified in clauses (a) and (b) above of any other Person; and
- (d) all Indebtedness of the types referred to in clauses (a) through (c) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person or a Subsidiary thereof is a general partner or joint venturer, unless such Indebtedness is expressly made non-recourse to such Person or such Subsidiary.

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

“Indemnitees” has the meaning specified in Section 11.04(b).

“Information” has the meaning specified in Section 11.07.

“Interest Payment Date” means (a) as to any Eurodollar Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date; provided, however, that if any Interest Period for a Eurodollar Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan (including a Swing Line Loan), the last Business Day of each March, June, September and December and the Maturity Date.

“Interest Period” means as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date one, two, three or six months thereafter (in each case, subject to availability), as selected by the applicable Borrower in its Loan Notice; provided that:

- (a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a Eurodollar Rate Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;
- (b) any Interest Period pertaining to a Eurodollar Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period with respect to any Loan shall extend beyond the Maturity Date.

“Interim Financial Statements” means the unaudited consolidated financial statements of the Company and its Subsidiaries for the fiscal quarter ended June 30, 2014, including balance sheets and statements of income or operations, shareholders’ equity and cash flows.

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

“Internal Revenue Service” means the United States Internal Revenue Service.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) an Acquisition. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“Involuntary Disposition” means any loss of, damage to or destruction of, or any condemnation or other taking for public use of, any property of any Loan Party or any of its Subsidiaries.

“IP Rights” has the meaning specified in Section 6.17.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

“Issuer Documents” means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the applicable L/C Issuer and the Company (or any Subsidiary) or in favor of such L/C Issuer and relating to any such Letter of Credit.

“Joinder Agreement” means a joinder agreement substantially in the form of Exhibit G executed and delivered by a Domestic Subsidiary in accordance with the provisions of Section 7.12.

“Laws” means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“L/C Advance” means, with respect to each Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Applicable Percentage.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Borrowing of Revolving Loans.

“L/C Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

“L/C Issuer” means (a) Bank of America in its capacity as an issuer of Letters of Credit hereunder, (b) Silicon Valley Bank, in its capacity as an issuer of Letters of Credit hereunder (including as the issuer of the Existing Letters of Credit), or (c) any successor issuer of Letters of Credit hereunder. All singular references to the L/C Issuer shall mean any L/C Issuer, either L/C Issuer, the L/C Issuer that has issued the applicable Letter of Credit or all L/C Issuers, as the context may require.

“L/C Obligations” means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“Lenders” means each of the Persons identified as a “Lender” on the signature pages hereto, each Person that executes a lender joinder agreement or commitment agreement in accordance with Section 2.02(f) and their respective successors and assigns and, as the context requires, includes the Swing Line Lender.

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Company and the Administrative Agent.

“Letter of Credit” means any standby letter of credit issued hereunder providing for the payment of cash upon the honoring of a presentation thereunder and shall include the Existing Letter(s) of Credit.

“Letter of Credit Application” means an application and agreement for the issuance or amendment of a letter of credit in the form from time to time in use by the applicable L/C Issuer.

“Letter of Credit Expiration Date” means the day that is thirty (30) days prior to the Maturity Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

“Letter of Credit Fee” has the meaning specified in Section 2.03(h).

“Letter of Credit Report” means a certificate substantially in the form of Exhibit L or any other form approved by the Administrative Agent.

“Letter of Credit Sublimit” means an amount equal to the lesser of (a) the Aggregate Revolving Commitments and (b) \$15,000,000. The Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Revolving Commitments.

“LIBOR” has the meaning specified in the definition of “Eurodollar Base Rate”.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance

on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

“Liquidity” means, as of any date of determination, an amount equal to (a) unrestricted cash and Cash Equivalents of the Loan Parties at such date that would be set forth on a consolidating balance sheet of the Company and its Subsidiaries for such date plus (b) availability under the Aggregate Revolving Commitments as of such date, solely to the extent that if such availability was to be drawn by the Company at such time, the Loan Parties, upon giving effect to the incurrence of such Indebtedness on a Pro Forma Basis, would be in compliance with the financial covenant set forth in Section 8.11(a) as of the most recent fiscal quarter for which the Borrower was required to deliver financial statements pursuant to Section 7.01(a) or (b), as certified to the Administrative Agent by the Company in a certificate in form and substance reasonably satisfactory to the Administrative Agent.

“Loan” means an extension of credit by a Lender to a Borrower under Article II in the form of a Revolving Loan, Swing Line Loan or Term Loan.

“Loan Documents” means this Agreement, each Note, each Issuer Document, each Joinder Agreement, any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.14 of this Agreement, each Collateral Document, each Fee Letter and any other agreement, instrument or document designated by its terms as a “Loan Document” (but specifically excluding Secured Swap Agreements and Secured Treasury Management Agreements).

“Loan Notice” means a notice of (a) a Borrowing of Loans, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Eurodollar Rate Loans, in each case pursuant to Section 2.02(a), which, if in writing, shall be substantially in the form of Exhibit A or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent) appropriately completed and signed by a Responsible Officer of the applicable Borrower.

“Loan Parties” means, collectively, each Borrower and each Guarantor.

“London Banking Day” means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

“Master Agreement” has the meaning specified in the definition of “Swap Contract”.

“Maturity Date” means November 21, 2018.

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect upon, the operations, business, assets, properties, liabilities (actual or contingent) or financial condition of the Company and its Subsidiaries taken as a whole; (b) a material impairment of the rights and remedies of the Administrative Agent or any Lender under any Loan Document to which it is a party; (c) a material impairment of the ability of any Loan Party to perform its material obligations under any Loan Document to which it is a party; or (d) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.

“Minimum Collateral Amount” means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances provided to reduce or eliminate Fronting Exposure during the existence of a Defaulting Lender, an amount equal to 102% of the Fronting Exposure of the applicable L/C Issuer with respect to Letters of Credit issued and outstanding at such time, (b) with respect to Cash Collateral consisting of cash or deposit account balances provided in accordance with the provisions of

Section 2.14(a)(i), (a)(ii) or (a)(iii), an amount equal to 102% of the Outstanding Amount of all L/C Obligations, and (c) otherwise, an amount determined by the Administrative Agent and the applicable L/C Issuer in their reasonable discretion.

“MLPFS” means Merrill Lynch, Pierce, Fenner & Smith Incorporated, in its capacity as sole lead arranger and book runner.

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.

“Mortgages” means the mortgages, deeds of trust or deeds to secure debt that purport to grant to the Administrative Agent, for the benefit of the holders of the Obligations, a security interest in the fee interest and/or leasehold interests of any Loan Party in real property (other than Excluded Property).

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which any Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Multiple Employer Plan” means a Plan which has two or more contributing sponsors (including any Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

“Non-Consenting Lender” means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 11.01 and (b) has been approved by the Required Lenders.

“Non-Defaulting Lender” means, at any time, each Lender that is not a Defaulting Lender at such time.

“Note” or “Notes” means the Revolving Notes, the Swing Line Note and/or the Term Notes, individually or collectively, as appropriate.

“Notice of Loan Prepayment” means a notice of prepayment with respect to a Loan, which shall be in substantially the form of Exhibit K or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent) appropriately completed and signed by a Responsible Officer of the applicable Borrower.

“Obligations” means with respect to each Borrower and each Guarantor, (a) all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, and (b) all obligations of any Loan Party owing to a Treasury Management Bank or a Swap Bank in respect of Secured Treasury Management Agreements or Secured Swap Agreements, in the case of each of clauses (a) and (b), whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding; provided, however, that the “Obligations” of a Loan Party shall exclude any Excluded Swap Obligations with respect to such Loan Party.

“Organization Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any

non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

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

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.06).

“Outstanding Amount” means (a) with respect to any Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of any Loans occurring on such date; and (b) with respect to any L/C Obligations on any date, the Dollar Equivalent amount of the aggregate amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Company of Unreimbursed Amounts.

“Participating Member State” means any member state of the European Union that has the Euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

“Participant” has the meaning specified in Section 11.06(d).

“Participant Register” has the meaning specified in Section 11.06(d).

“PBGC” means the Pension Benefit Guaranty Corporation or any successor thereto.

“Pension Act” means the Pension Protection Act of 2006.

“Pension Funding Rules” means the rules of the Internal Revenue Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Internal Revenue Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Section 412, 430, 431, 432 and 436 of the Internal Revenue Code and Sections 302, 303, 304 and 305 of ERISA.

“Pension Plan” means any employee pension benefit plan (including a Multiple Employer Plan or a Multiemployer Plan) that is maintained or is contributed to by any Borrower and any ERISA Affiliate

and is either covered by Title IV of ERISA or is subject to minimum funding standards under Section 412 of the Internal Revenue Code.

“Permitted Acquisitions” means Investments consisting of an Acquisition by any Loan Party; provided, that: (a) no Default shall have occurred and be continuing or would result from such Acquisition, (b) the property acquired (or the property of the Person acquired) in such Acquisition is used or useful in the same or a related line of business as the Company and its Subsidiaries were engaged in on the Closing Date (or any reasonable extensions or expansions thereof), (c) the Administrative Agent shall have received all items in respect of the Equity Interests or property acquired in such Acquisition required to be delivered by the terms of Section 7.12 and/or Section 7.14, (d) in the case of an Acquisition of the Equity Interests of another Person, the board of directors (or other comparable governing body) of such other Person shall have duly approved such Acquisition, (e) the Company shall have delivered to the Administrative Agent a Pro Forma Compliance Certificate demonstrating that, upon giving Pro Forma Effect to such Acquisition, (i) the Loan Parties would be in compliance with the financial covenants set forth in Section 8.11(a) and (b), as of the most recent fiscal quarter end for which the Company was required to deliver financial statements pursuant to Section 7.01(a) or (b), and (ii) the Consolidated Leverage Ratio is at least 0.50 less than the ratio required to be maintained at such time by Section 8.11(a), (f) the Company shall have delivered to the Administrative Agent pro forma financial statements for the Company and its Subsidiaries after giving effect to such Acquisition for the twelve month period ending as of the most recent fiscal quarter in a form satisfactory to the Administrative Agent, (g) the representations and warranties made by the Loan Parties in each Loan Document shall be true and correct in all respects at and as if made as of the date of such Acquisition (after giving effect thereto) except to the extent such representations and warranties expressly relate to an earlier date in which case they shall be true and correct in all respects as of such earlier date and except that for purposes of this clause (g), the representations and warranties contained in subsections (a) and (b) of Section 6.05 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 7.01, (h) if such transaction involves the purchase of an interest in a partnership between the Company (or a Subsidiary) as a general partner and entities unaffiliated with a Company or such Subsidiary as the other partners, such transaction shall be effected by having such equity interest acquired by a corporate holding company directly or indirectly wholly-owned by the Company newly formed for the sole purpose of effecting such transaction, (i) immediately after giving effect to such Acquisition, the Loan Parties shall have at least \$25,000,000 of Liquidity, (j) the aggregate cash and non-cash consideration (including any assumption of Indebtedness, deferred purchase price, any Earn Out Obligations and any equity consideration) paid by the Loan Parties for all such Acquisitions occurring during any fiscal year shall not exceed \$10,000,000 and (k) the aggregate cash and non-cash consideration (including any assumption of Indebtedness, deferred purchase price, any Earn Out Obligations and any equity consideration) paid by the Loan Parties for all such Acquisitions occurring during the term of this Agreement shall not exceed \$25,000,000.

“Permitted Liens” means, at any time, Liens in respect of property of any Loan Party or any of its Subsidiaries permitted to exist at such time pursuant to the terms of Section 8.01.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan), maintained for employees of any Borrower or any ERISA Affiliate or any such Plan to which any Borrower or any ERISA Affiliate is required to contribute on behalf of any of its employees.

“Platform” has the meaning specified in Section 7.02.

“Pledge Agreement” means the pledge agreement dated as of the Closing Date executed in favor of the Administrative Agent, for the benefit of the holders of the Obligations, by each of the Loan Parties, as amended or modified from time to time in accordance with the terms hereof.

“Pro Forma Basis”, “Pro Forma Compliance” and “Pro Forma Effect” means, in respect of a Specified Transaction, that such Specified Transaction and the following transactions in connection therewith (to the extent applicable) shall be deemed to have occurred as of the first day of the applicable period of measurement for the applicable covenant or requirement: (a) (i) with respect to any Disposition, Involuntary Disposition or sale, transfer or other disposition that results in a Person ceasing to be a Subsidiary, income statement and cash flow statement items (whether positive or negative) attributable to the Person or property disposed of shall be excluded and (ii) with respect to any Acquisition or Investment, income statement and cash flow statement items (whether positive or negative) attributable to the Person or property acquired shall be included to the extent relating to any period applicable in such calculations to the extent (A) such items are not otherwise included in such income statement items for the Company and its Subsidiaries in accordance with GAAP or in accordance with any defined terms set forth in Section 1.01 and (B) such items are supported by financial statements or other information satisfactory to the Administrative Agent, (b) any retirement of Indebtedness and (c) any incurrence or assumption of Indebtedness by the Company or any Subsidiary (and if such Indebtedness has a floating or formula rate, such Indebtedness shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate which is or would be in effect with respect to such Indebtedness as at the relevant date of determination); provided, that, (x) Pro Forma Basis, Pro Forma Compliance and Pro Forma Effect in respect of any Specified Transaction shall be calculated in a reasonable and factually supportable manner and certified by a Responsible Officer of the Company and (y) any such calculation shall be subject to the applicable limitations set forth in the definition of Consolidated Adjusted Cash Flow.

“Pro Forma Compliance Certificate” means a certificate of a Responsible Officer of the Company containing reasonably detailed calculations of the Consolidated Leverage Ratio and the Consolidated Fixed Charge Coverage Ratio as of the most recent fiscal quarter end for which the Company was required to deliver financial statements pursuant to Section 7.01(a) or (b) after giving Pro Forma Effect to the applicable Specified Transaction.

“Public Lender” has the meaning specified in Section 7.02.

“Qualified ECP Guarantor” means, at any time, each Loan Party with total assets exceeding \$10,000,000 or that qualified at such time as an “eligible contract participant” under the Commodity Exchange Act and can cause another Person to qualify as an “eligible contract participant” at such time under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“Real Property Security Documents” means with respect to the fee interest and/or leasehold interest of any Loan Party in any real property:

- (a) a fully executed and notarized Mortgage encumbering the fee interest and/or leasehold interest of such Loan Party in such real property;
- (b) if requested by the Administrative Agent in its sole discretion, maps or plats of an as-built survey of the sites of such real property certified to the Administrative Agent and the title insurance company issuing the policies referred to in clause (c) of this definition in a manner satisfactory to each of the Administrative Agent and such title insurance company, dated a date satisfactory to each of the Administrative Agent and such title insurance company by an independent professional licensed land surveyor, which maps or plats and the surveys on which

they are based shall be sufficient to delete any standard printed survey exception contained in the applicable title policy and be made in accordance with the Minimum Standard Detail Requirements for Land Title Surveys jointly established and adopted by the American Land Title Association and the American Congress on Surveying and Mapping in 2011 with items 2, 3, 4, 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 10, 11(a), 13, 14, 16,17, 18 and 19 on Table A thereof completed;

(c) ALTA mortgagee title insurance policies issued by a title insurance company acceptable to the Administrative Agent with respect to such real property, assuring the Administrative Agent that the Mortgage covering such real property creates a valid and enforceable first priority mortgage lien on such real property, free and clear of all defects and encumbrances except Permitted Liens, which title insurance policies shall otherwise be in form and substance satisfactory to the Administrative Agent and shall include such endorsements as are requested by the Administrative Agent;

(d) evidence as to (i) whether such real property is in an area designated by the Federal Emergency Management Agency as having special flood or mud slide hazards (a “Flood Hazard Property”) and (ii) if such real property is a Flood Hazard Property, (A) whether the community in which such real property is located is participating in the National Flood Insurance Program, (B) the applicable Loan Party’s written acknowledgment of receipt of written notification from the Administrative Agent (1) as to the fact that such real property is a Flood Hazard Property and (2) as to whether the community in which each such Flood Hazard Property is located is participating in the National Flood Insurance Program and (C) copies of insurance policies or certificates of insurance of the Company and its Subsidiaries evidencing flood insurance satisfactory to the Administrative Agent and naming the Administrative Agent and its successors and/or assigns as sole loss payee on behalf of the Lenders;

(e) if requested by the Administrative Agent in its sole discretion, an environmental assessment report, as to such real property, in form and substance and from professional firms acceptable to the Administrative Agent;

(f) if requested by the Administrative Agent in its sole discretion, evidence reasonably satisfactory to the Administrative Agent that such real property, and the uses of such real property, are in compliance in all material respects with all applicable zoning laws (the evidence submitted as to which should include the zoning designation made for such real property, the permitted uses of such real property under such zoning designation and, if available, zoning requirements as to parking, lot size, ingress, egress and building setbacks);

(g) in the case of a leasehold interest of any Loan Party in such real property, (i) such estoppel letters, consents and waivers from the landlords on such real property as may be reasonably required by the Administrative Agent, which estoppel letters shall be in the form and substance satisfactory to the Administrative Agent and (ii) evidence that the applicable lease, a memorandum of lease with respect thereto, or other evidence of such lease in form and substance satisfactory to the Administrative Agent, has been or will be recorded in all places to the extent necessary or desirable, in the judgment of the Administrative Agent, so as to enable the Mortgage encumbering such leasehold interest to effectively create a valid and enforceable first priority lien (subject to Permitted Liens) on such leasehold interest in favor of the Administrative Agent (or such other Person’s as may be required or desired under local law); and

(h) if requested by the Administrative Agent in its sole discretion, an opinion of legal counsel to the Loan Party granting the Mortgage on such real property, addressed to the

Administrative Agent and each Lender, in form and substance reasonably acceptable to the Administrative Agent.

“Recipient” means the Administrative Agent, any Lender, an L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

“Register” has the meaning specified in Section 11.06(c).

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the thirty-day notice period has been waived.

“Request for Credit Extension” means (a) with respect to a Borrowing, conversion or continuation of Loans, a Loan Notice, (b) with respect to an L/C Credit Extension, a Letter of Credit Application and (c) with respect to a Swing Line Loan, a Swing Line Loan Notice.

“Required Lenders” means, at any time, Lenders that have Total Credit Exposures representing more than 50% of the Total Credit Exposures of all Lenders; provided, however, if at any time there exist three (3) or fewer Lenders that are not Affiliates, the above percentage shall remain 50% but “Required Lenders” shall include at least two (2) Lenders that are not Affiliates. The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time; provided that, the amount of any participation in any Swing Line Loan and Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the Swing Line Lender or the applicable L/C Issuer, as the case may be, in making such determination.

“ Responsible Officer ” means the chief executive officer, president, chief financial officer, treasurer, assistant treasurer or controller of a Loan Party and, solely for purposes of the delivery of certificates pursuant to Sections 5.01 or 7.12(b), the secretary or any assistant secretary of a Loan Party and, solely for purposes of notices given pursuant to Article II, any other officer or employee of the applicable Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent or any other officer or employee of the applicable Loan Party designated in or pursuant to an agreement between the applicable Loan Party and the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party. To the extent requested by the Administrative Agent, each Responsible Officer will provide an incumbency certificate and appropriate authorization documentation, in each case, in form and substance satisfactory to the Administrative Agent.

“ Restricted Payment ” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests of any Loan Party or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests or on account of any return of capital to the Company’s stockholders, partners or members (or the equivalent Person thereof), or any setting apart of funds or property for any of the foregoing.

“Revaluation Date” means, with respect to any Letter of Credit denominated in Euro, each of the following: (a) each date of issuance thereof, (b) each date of an amendment of any such Letter of Credit having the effect of increasing the amount thereof, (c) each date of any payment by the L/C Issuer under any such Letter of Credit, and (d) such additional dates as the L/C Issuer shall determine or the Required Lenders shall require.

“Revolving Commitment” means, as to each Lender, its obligation to (a) make Revolving Loans to the Company pursuant to Section 2.01, (b) purchase participations in L/C Obligations and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender’s name on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

“Revolving Credit Exposure” means, as to any Lender at any time, the aggregate principal amount at such time of its outstanding Revolving Loans and such Lender’s participation in L/C Obligations and Swing Line Loans at such time.

“Revolving Loan” has the meaning specified in Section 2.01(a).

“Revolving Note” has the meaning specified in Section 2.11(a).

“S&P” means Standard & Poor’s Financial Services LLC, a subsidiary of The McGraw-Hill Companies, Inc., and any successor thereto.

“Sale and Leaseback Transaction” means, with respect to any Loan Party or any Subsidiary, any arrangement, directly or indirectly, with any Person whereby the Loan Party or such Subsidiary shall sell or transfer any property used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred.

“Sanctions” has the meaning set forth in Section 6.22.

“SEC” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“Secured Party Designation Notice” means a notice from any Lender or an Affiliate of a Lender substantially in the form of Exhibit J.

“Secured Swap Agreement” means any Swap Contract permitted under Section 8.03 between any Loan Party and any Swap Bank; provided that for any of the foregoing to be included as a “Secured Swap Agreement” on any date of determination by the Administrative Agent, the applicable Swap Bank (other than the Administrative Agent or an Affiliate of the Administrative Agent) must have delivered a Secured Party Designation Notice to the Administrative Agent prior to such date of determination.

“Secured Treasury Management Agreement” means any Treasury Management Agreement between any Loan Party and any Treasury Management Bank; provided, that for any of the foregoing to be included as a “Secured Treasury Management Agreement” on any date of determination by the Administrative Agent, the applicable Treasury Management Bank (other than the Administrative Agent or an Affiliate of the Administrative Agent) must have delivered a Secured Party Designation Notice to the Administrative Agent prior to such date of determination.

“Securitization Transaction” means, with respect to any Person, any financing transaction or series of financing transactions (including factoring arrangements) pursuant to which such Person or any Subsidiary of such Person may sell, convey or otherwise transfer, or grant a security interest in, accounts, payments, receivables, rights to future lease payments or residuals or similar rights to payment to a special purpose subsidiary or affiliate of such Person.

“Security Agreement” means the security agreement dated as of the Closing Date executed in favor of the Administrative Agent, for the benefit of the holders of the Obligations, by each of the Loan Parties, as amended or modified from time to time in accordance with the terms hereof.

“Solvent” or “Solvency” means, with respect to any Person as of a particular date, that on such date (a) such Person is able to pay its debts and other liabilities, contingent obligations and other commitments as they mature in the ordinary course of business, (b) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay as such debts and liabilities mature in their ordinary course, (c) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person’s property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged or is to engage, (d) the fair value of the property of such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person and (e) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“Specified Loan Party” has the meaning set forth in Section 4.08.

“Specified Transaction” means (a) any Acquisition, any Disposition, any sale, transfer or other disposition that results in a Person ceasing to be a Subsidiary, any Involuntary Disposition, any Investment that results in a Person becoming a Subsidiary, in each case, whether by merger, consolidation or otherwise, or any incurrence or repayment of Indebtedness or (b) any other event that by the terms of the Loan Documents requires Pro Forma Compliance with a test or covenant or requires such test or covenant to be calculated on a Pro Forma Basis.

“Spot Rate” for a currency means the rate determined by the L/C Issuer to be the rate quoted by the L/C Issuer as the spot rate for the purchase by the L/C Issuer of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided that the L/C Issuer may obtain such spot rate from another financial institution designated by the Administrative Agent or the L/C Issuer if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency; and provided further that the L/C Issuer may use such spot rate quoted on the date as of which the foreign exchange computation is made in the case of any Letter of Credit denominated in Euro.

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of Voting Stock is at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Company.

“SVB Fee Letter” means that certain fee letter agreement, dated as of the Closing Date among the Company and SVB.

“Swap Bank” means any Person that (a) at the time it enters into a Swap Contract, is a Lender or the Administrative Agent or an Affiliate of a Lender or the Administrative Agent, (b) in the case of any Swap Contract in effect on or prior to the Closing Date, is, as of the Closing Date or within 30 days thereafter, a Lender or the Administrative Agent or an Affiliate of a Lender or the Administrative Agent and a party to a Swap Contract or (c) within 30 days after the time it enters into the applicable Swap Contract, becomes a Lender, the Administrative Agent or an Affiliate of a Lender or the Administrative Agent, in each case, in its capacity as a party to such Swap Contract.

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

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

“Swap Termination Value” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s) and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

“Swing Line Lender” means Bank of America in its capacity as provider of Swing Line Loans, or any successor swing line lender hereunder.

“Swing Line Loan” has the meaning specified in Section 2.04(a).

“Swing Line Loan Notice” means a notice of a Borrowing of Swing Line Loans pursuant to Section 2.04(b), which, if in writing, shall be substantially in the form of Exhibit B or such other form as is approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the Company.

“Swing Line Note” has the meaning specified in Section 2.11(a).

“Swing Line Sublimit” means an amount equal to the lesser of (a) the Aggregate Revolving Commitments and (b) \$5,000,000. The Swing Line Sublimit is part of, and not in addition to, the Aggregate Revolving Commitments.

“Synthetic Lease” means any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing arrangement whereby the arrangement is considered borrowed money indebtedness for tax purposes but is classified as an operating lease or does not otherwise appear on a balance sheet under GAAP.

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Term Loan” has the meaning specified in Section 2.01(b).

“Term Loan Commitment” means, as to each Lender, its obligation to make its portion of the Term Loan to NY Telecom pursuant to Section 2.01(b), in the principal amount set forth opposite such Lender’s name on Schedule 2.01. The aggregate principal amount of the Term Loan Commitments of all of the Lenders as in effect on the Closing Date is THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000.00).

“Term Note” has the meaning specified in Section 2.11(a).

“Threshold Amount” means \$2,500,000.

“Total Credit Exposure” means, as to any Lender at any time, the unused Commitments, Revolving Credit Exposure and Outstanding Amount of all Term Loans of such Lender at such time.

“Total Revolving Outstandings” means the aggregate Outstanding Amount of all Revolving Loans, all Swing Line Loans and all L/C Obligations.

“Treasury Management Agreement” means any agreement governing the provision of treasury or cash management services, including deposit accounts, overdraft, credit or debit card, funds transfer, automated clearinghouse, zero balance accounts, returned check concentration, controlled disbursement, lockbox, account reconciliation and reporting and trade finance services and other cash management services.

“Treasury Management Bank” means any Person that (a) at the time it enters into a Treasury Management Agreement, is a Lender or the Administrative Agent or an Affiliate of a Lender or the Administrative Agent, (b) in the case of any Treasury Management Agreement in effect on or prior to the Closing Date, is, as of the Closing Date or within 30 days thereafter, a Lender or the Administrative Agent or an Affiliate of a Lender or the Administrative Agent and a party to a Treasury Management Agreement or (c) within 30 days after the time it enters into the applicable Treasury Management Agreement, becomes a Lender, the Administrative Agent or an Affiliate of a Lender or the Administrative Agent, in each case, in its capacity as a party to such Treasury Management Agreement.

“Type” means, with respect to any Loan, its character as a Base Rate Loan or a Eurodollar Rate Loan.

“United States” and “U.S.” mean the United States of America.

“Unreimbursed Amount” has the meaning specified in Section 2.03(c)(i).

“U.S. Person” means any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Internal Revenue Code.

“U.S. Tax Compliance Certificate” has the meaning specified in Section 3.01(e)(ii)(B)(III).

“Voting Stock” means, with respect to any Person, Equity Interests issued by such Person the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even though the right so to vote has been suspended by the happening of such a contingency.

“Wholly Owned Subsidiary” means any Person 100% of whose Equity Interests are at the time owned by the Company directly or indirectly through other Persons 100% of whose Equity Interests are at the time owned, directly or indirectly, by the Company.

1.02 Other Interpretive Provisions.

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including the Loan Documents and any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, modified, extended, restated, replaced or supplemented from time to time (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “hereto,” “herein,” “hereof” and “hereunder,” and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Preliminary Statements, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Preliminary Statements, Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory rules, regulations, orders and provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified, extended, restated, replaced or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all real and personal property and tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

1.03 Accounting Terms.

(a) Generally. Except as otherwise specifically prescribed herein, all accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein; provided, however, that calculations of Attributable Indebtedness under any Synthetic Lease or the implied interest component of any Synthetic Lease shall be made by the Company in accordance with accepted financial practice and consistent with the terms of such Synthetic Lease. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Company and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 and FASB ASC 470-20 on financial liabilities shall be disregarded.

(b) Changes in GAAP. The Company will provide a written summary of material changes in GAAP and in the consistent application thereof with each annual and quarterly Compliance Certificate delivered in accordance with Section 7.02(b). If at any time any change in GAAP (including the adoption of IFRS) would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Company or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Company shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided, that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Company shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Without limiting the foregoing, leases shall continue to be classified and accounted for on a basis consistent with that reflected in the Audited Financial Statements for all purposes of this Agreement, notwithstanding any change in GAAP relating thereto, unless the parties hereto shall enter into a mutually acceptable amendment addressing such changes, as provided for above.

(c) Pro Forma Calculations. Notwithstanding anything to the contrary contained herein, all calculations of the Consolidated Leverage Ratio (including for purposes of determining the Applicable Rate) and the Consolidated Fixed Charge Coverage Ratio shall be made on a Pro Forma Basis with respect to all Specified Transactions occurring during the applicable four quarter period to which such calculation relates, and/or subsequent to the end of such four quarter period but not later than the date of such calculation; provided, that, notwithstanding the foregoing, when calculating the Consolidated Leverage Ratio and/or the Consolidated Fixed Charge Coverage Ratio for purposes of determining (x) compliance with Section 8.11(a) and (b) and/or (y) the Applicable Rate, any Specified Transaction and any related adjustment contemplated in the definition of Pro Forma Basis that occurred subsequent to the end of the applicable four quarter period shall not be given Pro Forma Effect. For purposes of determining compliance with any provision of this Agreement which requires Pro Forma Compliance with

any financial covenant set forth in Section 8.11(a) or (b), (x) in the case of any such compliance required after delivery of financial statements for the fiscal year ending December 31, 2014, such Pro Forma Compliance shall be determined by reference to the maximum Consolidated Leverage Ratio and/or minimum Consolidated Fixed Charge Coverage Ratio, as applicable, permitted for the fiscal quarter most recently then ended for which financial statements have been delivered (or were required to have been delivered) in accordance with Section 7.01(a) or (b), or (y) in the case of any such compliance required prior to the delivery referred to in clause (x) above, such Pro Forma Compliance shall be determined by reference to the maximum Consolidated Leverage Ratio and/or minimum Consolidated Fixed Charge Coverage Ratio, as applicable, permitted for the fiscal year ending December 31, 2014.

(d) Consolidation of Variable Interest Entities. All references herein to consolidated financial statements of the Company and its Subsidiaries or to the determination of any amount for the Company and its Subsidiaries on a consolidated basis or any similar reference shall, in each case, be deemed to include each variable interest entity that the Company is required to consolidate pursuant to FASB ASC 810 as if such variable interest entity were a Subsidiary as defined herein.

1.04 Rounding.

Any financial ratios required to be maintained by the Company pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

1.05 Times of Day.

Unless otherwise specified, all references herein to times of day shall be references to Pacific time (daylight or standard, as applicable).

1.06 Letter of Credit Amounts.

Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the Dollar Equivalent of the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the Dollar Equivalent of the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

1.07 Exchange Rates; Currency Equivalents.

(a) The L/C Issuer shall determine the Spot Rates as of each Revaluation Date to be used for calculating Dollar Equivalent amounts of Credit Extensions and Outstanding Amounts denominated in Euro. Such Spot Rates shall become effective as of such Revaluation Date and shall be the Spot Rates employed in converting any amounts between the applicable currencies until the next Revaluation Date to occur. Except for purposes of financial statements delivered by the Loan Parties hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any currency (other than Dollars) for purposes of the Loan Documents shall be such Dollar Equivalent amount as so determined by the L/C Issuer.

(b) Wherever in this Agreement in connection with the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Letter of Credit is denominated in Euro, such amount shall be the relevant Euro Equivalent of such Dollar amount (rounded to the nearest unit of Euro, with 0.5 of a unit being rounded upward), as determined by the L/C Issuer.

ARTICLE II

THE COMMITMENTS AND CREDIT EXTENSIONS

2.01 Commitments.

(a) Revolving Loans. Subject to the terms and conditions set forth herein, each Lender severally agrees to make loans (each such loan, a "Revolving Loan") to the Company in Dollars from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of such Lender's Revolving Commitment; provided, however, that after giving effect to any Borrowing of Revolving Loans, (i) the Total Revolving Outstandings shall not exceed the Aggregate Revolving Commitments, and (ii) the Revolving Credit Exposure of any Lender shall not exceed such Lender's Revolving Commitment. Within the limits of each Lender's Revolving Commitment, and subject to the other terms and conditions hereof, the Company may borrow under this Section 2.01, prepay under Section 2.05, and reborrow under this Section 2.01. Revolving Loans may be Base Rate Loans or Eurodollar Rate Loans, or a combination thereof, as further provided herein.

(b) Term Loan. Subject to the terms and conditions set forth herein, each Lender severally agrees to make its portion of a term loan (the "Term Loan") to NY Telecom in Dollars on the Closing Date in an amount not to exceed such Lender's Term Loan Commitment. Amounts repaid on the Term Loan may not be reborrowed. The Term Loan may consist of Base Rate Loans or Eurodollar Rate Loans or a combination thereof, as further provided herein.

2.02 Borrowings, Conversions and Continuations of Loans.

(a) Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon the applicable Borrower's irrevocable notice to the Administrative Agent, which may be given by (A) telephone or (B) a Loan Notice; provided, that, each telephonic notice by a Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Loan Notice, appropriately completed and signed by a Responsible Officer of such Borrower. Each such Loan Notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of, Eurodollar Rate Loans or of any conversion of Eurodollar Rate Loans to Base Rate Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans. Each Borrowing of, conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof. Except as provided in Sections 2.03(c) and 2.04(c), each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof. Each Loan Notice (whether telephonic or written) shall specify (i) whether the applicable Borrower is requesting a Borrowing, a conversion of Loans from one Type to the other, or a continuation of Eurodollar Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted

or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the applicable Borrower fails to specify a Type of a Loan in a Loan Notice, then the applicable Loans shall be made as Base Rate Loans. If the applicable Borrower fails to give a timely notice requesting a conversion or continuation with respect to a Eurodollar Rate Loan, then the applicable Loans shall be continued, effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans as Eurodollar Rate Loans with an Interest Period of one month. If the applicable Borrower requests a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans in any Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage of the applicable Loans, and if no timely notice of a conversion or continuation is provided by the applicable Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans as described in the preceding subsection. In the case of a Borrowing, each Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 5.02 (and, if such Borrowing is the initial Credit Extension, Section 5.01), the Administrative Agent shall make all funds so received available to the applicable Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the applicable Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and acceptable to) the Administrative Agent by the applicable Borrower; provided, however, that if, on the date of a Borrowing of Revolving Loans, there are L/C Borrowings outstanding, then the proceeds of such Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings and second, shall be made available to the Company as provided above.

(c) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of the Interest Period for such Eurodollar Rate Loan. During the existence of a Default, no Loans may be requested as, converted to or continued as Eurodollar Rate Loans without the consent of the Required Lenders, and the Required Lenders may demand that any or all of the then outstanding Eurodollar Rate Loans be converted immediately to Base Rate Loans.

(d) The Administrative Agent shall promptly notify the Company and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Company and the Lenders of any change in Bank of America's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than eight (8) Interest Periods in effect with respect to all Loans.

(f) The Company may at any time and from time to time, upon prior written notice by the Company to the Administrative Agent, increase the Aggregate Revolving Commitments (but not the Letter of Credit Sublimit or the Swing Line Sublimit) by a maximum aggregate amount of up to FORTY MILLION DOLLARS (\$40,000,000.00) with additional Revolving Commitments from any existing Lender with a Revolving Commitment or new Revolving

Commitments from any other Person selected by the Company and acceptable to the Administrative Agent and the L/C Issuers; provided, that:

- (i) any such increase shall be in a minimum principal amount of \$5,000,000 and in integral multiples of \$1,000,000 in excess thereof;
- (ii) no Default or Event of Default shall exist and be continuing at the time of any such increase;
- (iii) no existing Lender shall be under any obligation to increase its Revolving Commitment and any such decision whether to increase its Revolving Commitment shall be in such Lender's sole and absolute discretion;
- (iv) (A) any new Lender shall join this Agreement by executing such joinder documents required by the Administrative Agent and/or (B) any existing Lender electing to increase its Revolving Commitment shall have executed a commitment agreement satisfactory to the Administrative Agent;
- (v) as a condition precedent to such increase, the Company shall deliver to the Administrative Agent a certificate of each Loan Party dated as of the date of such increase (in sufficient copies for each Lender) signed by a Responsible Officer of such Loan Party (1) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such increase, and (2) in the case of the Company, certifying that, before and after giving effect to such increase, (x) the representations and warranties contained in Article VI and the other Loan Documents are true and correct in all respects on and as of the date of such increase, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all respects as of such earlier date, and except that for purposes of this Section 2.02(f), the representations and warranties contained in subsections (a) and (b) of Section 6.05 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 7.01, and (y) no Default or Event of Default exists;
- (vi) a Responsible Officer of the Company shall deliver to the Administrative Agent a Pro Forma Compliance Certificate demonstrating that, upon giving Pro Forma Effect to any such increase in the Revolving Commitments (and assuming for such calculation that such increase is fully drawn), the Loan Parties would be in compliance with the financial covenants set forth in Section 8.11(a) and (b) as of the most recent fiscal quarter for which the Company was required to deliver financial statements pursuant to Section 7.01(a) or (b); and
- (vii) Schedule 2.01 shall be deemed revised to include any increase in the Aggregate Revolving Commitments pursuant to this Section 2.02(f) and to include thereon any Person that becomes a Lender pursuant to this Section 2.02(f).

The Company shall prepay any Loans owing by it and outstanding on the date of any such increase (and pay any additional amounts required pursuant to Section 3.05) to the extent necessary to keep the outstanding Loans ratable with any revised Commitments arising from any nonratable increase in the Commitments under this Section.

2.03 Letters of Credit.

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) each L/C Issuer agrees, in reliance upon the agreements of the Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit denominated in Dollars for the account of the Company or any of its Subsidiaries, and to amend or extend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; and (B) the Lenders severally agree to participate in Letters of Credit issued for the account of the Company or its Subsidiaries and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Revolving Outstandings shall not exceed the Aggregate Revolving Commitments, (y) the Revolving Credit Exposure of any Lender shall not exceed such Lender's Revolving Commitment and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by the Company for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Company that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Company's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Company may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. Furthermore, each Lender acknowledges and confirms that it has a participation interest in the liability of the L/C Issuer under the Existing Letters of Credit in a percentage equal to its Applicable Percentage of the Revolving Loans. The Company's reimbursement obligations in respect of the Existing Letters of Credit, and each Lender's obligations in connection therewith, shall be governed by the terms of this Agreement.

- (ii) No L/C Issuer shall issue any Letter of Credit if:

(A) subject to Section 2.03(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Required Lenders have approved such expiry date; or

(B) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Lenders have approved such expiry date.

(iii) No L/C Issuer shall be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such L/C Issuer from issuing such Letter of Credit, or any Law applicable to such L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such L/C Issuer shall prohibit, or request that such L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital

requirement (for which such L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which such L/C Issuer in good faith deems material to it;

(B) the issuance of such Letter of Credit would violate one or more policies of such L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and such L/C Issuer, such Letter of Credit is in an initial stated amount less than \$5,000;

(D) such Letter of Credit is to be denominated in a currency other than Dollars (it being understood that certain Existing Letter(s) of Credit are denominated in a currency other than Dollars); or

(E) any Lender is at that time a Defaulting Lender, unless such L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to such L/C Issuer (in its sole discretion) with the Company or such Lender to eliminate such L/C Issuer's actual or potential Fronting Exposure (after giving effect to Section 2.15(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which such L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(iv) The applicable L/C Issuer shall not amend any Letter of Credit if such L/C Issuer would not be permitted at such time to issue the Letter of Credit in its amended form under the terms hereof.

(v) The applicable L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) such L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(vi) The applicable L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and such L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article X with respect to any acts taken or omissions suffered by such L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article X included such L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to such L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Company delivered to an L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit

Application, appropriately completed and signed by a Responsible Officer of the Company. Such Letter of Credit Application may be sent by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by the applicable L/C Issuer, by personal delivery or by any other means acceptable to the applicable L/C Issuer. Such Letter of Credit Application must be received by the applicable L/C Issuer and the Administrative Agent not later than 11:00 a.m. at least five (5) Business Days (or such later date and time as the Administrative Agent and such L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as such L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as such L/C Issuer may require. Additionally, the Company shall furnish to the applicable L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as such L/C Issuer or the Administrative Agent may require.

(ii) Promptly after receipt of any Letter of Credit Application, the applicable L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Company and, if not, such L/C Issuer will provide the Administrative Agent with a copy thereof. Unless such L/C Issuer has received written notice from any Lender, the Administrative Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article V shall not be satisfied, then, subject to the terms and conditions hereof, such L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Company or the applicable Subsidiary or enter into the applicable amendment, as the case may be, in each case in accordance with such L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from such L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Applicable Percentage times the amount of such Letter of Credit.

(iii) If the Company so requests in any applicable Letter of Credit Application, the applicable L/C Issuer may, in its sole discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit such L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the applicable L/C Issuer, the Company shall not be

required to make a specific request to such L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) the applicable L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that such L/C Issuer shall not permit any such extension if (A) such L/C Issuer has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.03(a) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is five (5) Business Days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Lenders have elected not to permit such extension or (2) from the Administrative Agent, any Lender or the Company that one or more of the applicable conditions specified in Section 5.02 is not then satisfied, and in each case directing such L/C Issuer not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable L/C Issuer will also deliver to the Company and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of drawing under such Letter of Credit, the applicable L/C Issuer shall notify the Company and the Administrative Agent thereof. In the case of a Letter of Credit denominated in Euro, the Company shall reimburse the L/C Issuer in Dollars, unless the L/C Issuer (at its option) shall have specified in such notice that it will require reimbursement in Euro. In the case of any such reimbursement in Dollars of a drawing under a Letter of Credit denominated in Euro, the L/C Issuer shall notify the Company of the Dollar Equivalent of the amount of the drawing promptly following the determination thereof. Not later than 11:00 a.m. on the date of any payment by the applicable L/C Issuer under a Letter of Credit (each such date, an “Honor Date”), the Company shall reimburse such L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing. In the event that (A) a drawing denominated in Euro is to be reimbursed in Dollars pursuant to this Section 2.03(c) and (B) the Dollar amount paid by the Company, whether on or after the Honor Date, shall not be adequate on the date of that payment to purchase in accordance with normal banking procedures a sum denominated in Euro equal to the drawing, the Company agrees, as a separate and independent obligation, to indemnify the L/C Issuer for the loss resulting from its inability on that date to purchase Euro in the full amount of the drawing. If the Company fails to so reimburse the applicable L/C Issuer by such time, the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (expressed in Dollars in the amount of the Dollar Equivalent thereof in the case of a Letter of Credit denominated in Euro) (the “Unreimbursed Amount”), and the amount of such Lender’s Applicable Percentage thereof. In such event, the Company shall be deemed to have requested a Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the conditions set forth in Section 5.02 (other than the delivery of a Loan Notice) and provided that, after giving effect to such Borrowing, the Total Revolving Outstandings shall not exceed the Aggregate Revolving Commitments. Any notice given by an L/C Issuer or the

Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) to the Administrative Agent for the account of the applicable L/C Issuer at the Administrative Agent's Office in an amount in Dollars equal to its Applicable Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Company in such amount. The Administrative Agent shall remit the funds so received to the applicable L/C Issuer.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Borrowing of Base Rate Loans because the conditions set forth in Section 5.02 cannot be satisfied or for any other reason, the Company shall be deemed to have incurred from the applicable L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Lender's payment to the Administrative Agent for the account of such L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Lender funds its Revolving Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the applicable L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's Applicable Percentage of such amount shall be solely for the account of such L/C Issuer.

(v) Each Lender's obligation to make Revolving Loans or L/C Advances to reimburse the applicable L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against such L/C Issuer, the Company or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender's obligation to make Revolving Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 5.02 (other than delivery by the Company of a Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Company to reimburse the applicable L/C Issuer for the amount of any payment made by such L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Administrative Agent for the account of the applicable L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), then, without limiting the other provisions of this Agreement, such L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount in Dollars with interest thereon for the period from the date such payment is required to the date on which such payment is

immediately available to such L/C Issuer at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by such L/C Issuer in accordance with banking industry rules on interbank compensation. A certificate of such L/C Issuer submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after an L/C Issuer has made a payment under any Letter of Credit and has received from any Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if the Administrative Agent receives for the account of such L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Company or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Percentage thereof (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's L/C Advance was outstanding) in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of an L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 11.05 (including pursuant to any settlement entered into by such L/C Issuer in its discretion), each Lender shall pay to the Administrative Agent for the account of such L/C Issuer its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Company to reimburse the L/C Issuers for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

- (i) any lack of validity or enforceability of such Letter of Credit, this Agreement or any other Loan Document;
- (ii) the existence of any claim, counterclaim, setoff, defense or other right that the Company or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), an L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;
- (iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

- (iv) waiver by an L/C Issuer of any requirement that exists for such L/C Issuer's protection and not the protection of the Company or any waiver by an L/C Issuer which does not in fact materially prejudice the Company;
- (v) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;
- (vi) any payment made by an L/C Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under such Letter of Credit if presentation after such date is authorized by the ISP;
- (vii) any payment by an L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by an L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;
- (viii) any adverse change in the relevant exchange rates or in the availability of Euro to the Company or any Subsidiary in the relevant currency markets generally; or
- (ix) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Company or any Subsidiary.

The Company shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Company's instructions or other irregularity, the Company will immediately notify the applicable L/C Issuer. The Company shall be conclusively deemed to have waived any such claim against the applicable L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) Role of L/C Issuer. Each Lender and the Company agree that, in paying any drawing under a Letter of Credit, an L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by such Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuers, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of an L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Company hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Company's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuers, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of an L/C Issuer shall be liable or responsible for any of the matters described in clauses (i) through (ix) of Section 2.03(e); provided, however, that anything in such clauses to the contrary

notwithstanding, the Company may have a claim against an L/C Issuer, and such L/C Issuer may be liable to the Company, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Company which the Company proves were caused by such L/C Issuer's willful misconduct or gross negligence or such L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit unless such L/C Issuer is prevented or prohibited from so paying as a result of any order or directive of any court or other Governmental Authority. In furtherance and not in limitation of the foregoing, an L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and such L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. A L/C Issuer may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(g) Applicability of ISP; Limitation of Liability. Unless otherwise expressly agreed by the applicable L/C Issuer and the Company when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit) the rules of the ISP shall apply to each standby Letter of Credit. Notwithstanding the foregoing, no L/C Issuer shall be responsible to the Company for, and no L/C Issuer's rights and remedies against the Company shall be impaired by, any action or inaction of such L/C Issuer required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Law or any order of a jurisdiction where such L/C Issuer or the beneficiary is located, the practice stated in the ISP, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade — International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(h) Letter of Credit Fees. The Company shall pay to the Administrative Agent for the account of each Lender in accordance, subject to Section 2.15, with its Applicable Percentage a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit equal to the Applicable Rate times the Dollar Equivalent of the daily maximum amount available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. Letter of Credit Fees shall be (i) computed on a quarterly basis in arrears and (ii) due and payable on the first Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Lenders while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

(i) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuers. The Company shall pay directly to Bank of America for its own account a fronting fee with respect to each Letter of Credit issued by Bank of America, at the rate per annum specified in the Bank of America Fee Letter, computed on the Dollar Equivalent of the actual daily maximum

amount available to be drawn under such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit) and on a quarterly basis in arrears. Such fronting fee shall be due and payable on the tenth Business Day after the end of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. The Company shall pay directly to Silicon Valley Bank for its own account a fronting fee with respect to each Letter of Credit issued by Silicon Valley Bank on the dates and in the amounts set forth in the SVB Fee Letter. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. In addition, the Company shall pay directly to each L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(j) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(k) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Company shall be obligated to reimburse the applicable L/C Issuer hereunder for any and all drawings under such Letter of Credit. The Company hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of the Company, and that the Company's business derives substantial benefits from the businesses of such Subsidiaries.

(l) L/C Issuer Reports to the Administrative Agent. Unless otherwise agreed by the Administrative Agent, each L/C Issuer shall, in addition to its notification obligations set forth elsewhere in this Section 2.03, provide the Administrative Agent a Letter of Credit Report, as set forth below:

(i) reasonably prior to the time that such L/C Issuer issues, amends, renews, increases or extends a Letter of Credit, the date of such issuance, amendment, renewal, increase or extension and the stated amount of the applicable Letters of Credit after giving effect to such issuance, amendment, renewal or extension (and whether the amounts thereof shall have changed);

(ii) on each Business Day on which such L/C Issuer makes a payment pursuant to a Letter of Credit, the date and amount of such payment;

(iii) on any Business Day on which the Company fails to reimburse a payment made pursuant to a Letter of Credit required to be reimbursed to such L/C Issuer on such day, the date of such failure and the amount of such payment;

(iv) on any other Business Day, such other information as the Administrative Agent shall reasonably request as to the Letters of Credit issued by such L/C Issuer; and

(v) for so long as any Letter of Credit issued by an L/C Issuer is outstanding, such L/C Issuer shall deliver to the Administrative Agent (A) on the last Business Day of each calendar month, (B) at all other times a Letter of Credit Report is required to be

delivered pursuant to this Agreement, and (C) on each date that (1) an L/C Credit Extension occurs or (2) there is any expiration, cancellation and/or disbursement, in each case, with respect to any such Letter of Credit, a Letter of Credit Report appropriately completed with the information for every outstanding Letter of Credit issued by such L/C Issuer.

2.04 Swing Line Loans.

(a) Swing Line Facility. Subject to the terms and conditions set forth herein, the Swing Line Lender, in reliance upon the agreements of the other Lenders set forth in this Section 2.04, may in its sole discretion make loans (each such loan, a “Swing Line Loan”) to the Company in Dollars from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit; provided, however, that (x) after giving effect to any Swing Line Loan, (i) the Total Revolving Outstandings shall not exceed the Aggregate Revolving Commitments, and (ii) the Revolving Credit Exposure of any Lender shall not exceed such Lender’s Revolving Commitment, (y) the Company shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan, and (z) the Swing Line Lender shall not be under any obligation to make any Swing Line Loan if it shall determine (which determination shall be conclusive and binding absent manifest error) that it has, or by such Credit Extension may have, Fronting Exposure. Within the foregoing limits, and subject to the other terms and conditions hereof, the Company may borrow under this Section 2.04, prepay under Section 2.05, and reborrow under this Section 2.04. Each Swing Line Loan shall be a Base Rate Loan. Immediately upon the making of a Swing Line Loan, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Lender’s Applicable Percentage times the amount of such Swing Line Loan.

(b) Borrowing Procedures. Each Borrowing of Swing Line Loans shall be made upon the Company’s irrevocable notice to the Swing Line Lender and the Administrative Agent, which may be given by (A) telephone or (B) a Swing Line Loan Notice; provided, that, each such telephonic notice must be confirmed promptly by delivery to the Swing Line Lender and the Administrative Agent of a written Swing Line Loan Notice, appropriately completed and signed by a Responsible Officer of the Company. Each such Swing Line Loan Notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum principal amount of \$100,000, and (ii) the requested borrowing date, which shall be a Business Day. Promptly after receipt by the Swing Line Lender of any telephonic Swing Line Loan Notice, the Swing Line Lender will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Administrative Agent (by telephone or in writing) of the contents thereof. Unless the Swing Line Lender has received notice (by telephone or in writing) from the Administrative Agent (including at the request of any Lender) prior to 2:00 p.m. on the date of the proposed Borrowing of Swing Line Loans (A) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the first proviso to the first sentence of Section 2.04(a), or (B) that one or more of the applicable conditions specified in Article V is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender will, not later than 3:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Company.

(c) Refinancing of Swing Line Loans.

(i) The Swing Line Lender at any time in its sole discretion may request, on behalf of the Company (which hereby irrevocably requests and authorizes the Swing Line Lender to so request on its behalf), that each Lender make a Base Rate Loan in an amount equal to such Lender's Applicable Percentage of the amount of Swing Line Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the conditions set forth in Section 5.02 (other than the delivery of a Loan Notice) and provided that, after giving effect to such Borrowing, the Total Revolving Outstandings shall not exceed the Aggregate Revolving Commitments. The Swing Line Lender shall furnish the Company with a copy of the applicable Loan Notice promptly after delivering such notice to the Administrative Agent. Each Lender shall make an amount equal to its Applicable Percentage of the amount specified in such Loan Notice available to the Administrative Agent in immediately available funds (and the Administrative Agent may apply Cash Collateral available with respect to the applicable Swing Line Loan) for the account of the Swing Line Lender at the Administrative Agent's Office not later than 1:00 p.m. on the day specified in such Loan Notice, whereupon, subject to Section 2.04(c)(ii), each Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Company in such amount. The Administrative Agent shall remit the funds so received to the Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Borrowing of Revolving Loans in accordance with Section 2.04(c)(i), the request for Base Rate Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Lenders fund its risk participation in the relevant Swing Line Loan and each Lender's payment to the Administrative Agent for the account of the Swing Line Lender pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the Swing Line Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the Swing Line Lender in accordance with banking industry rules on interbank compensation. A certificate of the Swing Line Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Lender's obligation to make Revolving Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right that such Lender may have against the Swing Line Lender, the Company or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence,

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event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender's obligation to make Revolving Loans pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 5.02. No such purchase or funding of risk participations shall relieve or otherwise impair the obligation of the Company to repay Swing Line Loans, together with interest as provided herein.

(d) Repayment of Participations.

(i) At any time after any Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Lender its Applicable Percentage of such payment (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's risk participation was funded) in the same funds as those received by the Swing Line Lender.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 11.05 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Lender shall pay to the Swing Line Lender its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate. The Administrative Agent will make such demand upon the request of the Swing Line Lender. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Company for interest on the Swing Line Loans. Until each Lender funds its Revolving Loans that are Base Rate Loans or risk participation pursuant to this Section 2.04 to refinance such Lender's Applicable Percentage of any Swing Line Loan, interest in respect of such Applicable Percentage shall be solely for the account of the Swing Line Lender.

(f) Payments Directly to Swing Line Lender. The Company shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

2.05 Prepayments.

(a) Voluntary Prepayments.

(i) Revolving Loans and Term Loan. The applicable Borrower may, upon notice from such Borrower to the Administrative Agent pursuant to delivery to the Administrative Agent of a Notice of Loan Prepayment, at any time or from time to time voluntarily prepay Revolving Loans or the Term Loan in whole or in part without premium or penalty; provided that (A) such notice must be received by the Administrative Agent not later than 11:00 a.m. (1) three Business Days prior to any date of prepayment of Eurodollar Rate Loans and (2) on the date of prepayment of Base Rate Loans; (B) any such prepayment of Eurodollar Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess

thereof (or, if less, the entire principal amount thereof then outstanding); and (C) any prepayment of Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof (or, if less, the entire principal amount thereof then outstanding). Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and whether the Loans to be prepaid are the Revolving Loans or the Term Loan. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. If such notice is given by a Borrower, such Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Subject to Section 2.15, each such prepayment shall be applied to the Loans of the Lenders in accordance with their respective Applicable Percentages. Each such prepayment of the Term Loan shall be applied to the Term Loan to the remaining principal amortization payments of the Term Loan in inverse order of maturity until the Term Loan has been paid in full.

(ii) Swing Line Loans. The Company may, upon notice to the Swing Line Lender pursuant to delivery to the Swing Line Lender of a Notice of Loan Prepayment (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m. on the date of the prepayment, and (ii) any such prepayment shall be in a minimum principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof (or, if less, the entire principal thereof then outstanding). Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Company, the Company shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(b) Mandatory Prepayments of Loans.

(i) Revolving Commitments. If for any reason the Total Revolving Outstandings at any time exceed the Aggregate Revolving Commitments then in effect, the Company shall immediately prepay Revolving Loans and/or the Swing Line Loans and/or Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess; provided, however, that the Company shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.05(b)(i) unless after the prepayment in full of the Revolving Loans and the Swing Line Loans the Total Revolving Outstandings exceed the Aggregate Revolving Commitments then in effect.

(ii) Application of Mandatory Prepayments. All amounts required to be paid pursuant to Section 2.05(b)(i) shall be applied ratably to Revolving Loans and Swing Line Loans and (after all Revolving Loans and Swing Line Loans have been repaid) to Cash Collateralize L/C Obligations.

Within the parameters of the application set forth above, prepayments shall be applied first to Base Rate Loans and then to Eurodollar Rate Loans in direct order of Interest Period maturities. All prepayments under this Section 2.05(b) shall be subject to Section 3.05, but otherwise without premium or penalty, and shall be accompanied by interest on the principal amount prepaid through the date of prepayment.

2.06 Termination or Reduction of Aggregate Revolving Commitments.

(a) Optional Reductions. The Company may, upon notice to the Administrative Agent, terminate the Aggregate Revolving Commitments, or from time to time permanently reduce the Aggregate Revolving Commitments to an amount not less than the Outstanding Amount of Revolving Loans, Swing Line Loans and L/C Obligations; provided that (i) any such notice shall be received by the Administrative Agent not later than 12:00 noon five (5) Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$2,000,000 or any whole multiple of \$1,000,000 in excess thereof and (iii) the Company shall not terminate or reduce (A) the Aggregate Revolving Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Outstandings would exceed the Aggregate Revolving Commitments, (B) the Letter of Credit Sublimit if, after giving effect thereto, the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder would exceed the Letter of Credit Sublimit, or (C) the Swing Line Sublimit if, after giving effect thereto and to any concurrent prepayments hereunder, the Outstanding Amount of Swing Line Loans would exceed the Swing Line Sublimit.

(b) Mandatory Reductions. If after giving effect to any reduction or termination of Revolving Commitments under this Section 2.06, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the Aggregate Revolving Commitments at such time, the Letter of Credit Sublimit or the Swing Line Sublimit, as the case may be, shall be automatically reduced by the amount of such excess.

(c) Notice. The Administrative Agent will promptly notify the Lenders of any termination or reduction of the Letter of Credit Sublimit, the Swing Line Sublimit or the Aggregate Revolving Commitments under this Section 2.06. Upon any reduction of the Aggregate Revolving Commitments, the Revolving Commitment of each Lender shall be reduced by such Lender's Applicable Percentage of such reduction amount. All fees in respect of the Aggregate Revolving Commitments accrued until the effective date of any termination of the Aggregate Revolving Commitments shall be paid on the effective date of such termination.

2.07 Repayment of Loans.

(a) Revolving Loans. The Company shall repay to the Lenders on the Maturity Date the aggregate principal amount of all Revolving Loans outstanding on such date.

(b) Swing Line Loans. The Company shall repay each Swing Line Loan on the earliest to occur of (i) the date within one (1) Business Day of demand therefor by the Swing Line Lender, (ii) the date ten (10) Business Days after such Swing Line Loan is made and (iii) the Maturity Date.

(c) Term Loan. NY Telecom shall repay the outstanding principal amount of the Term Loan in installments on the last Business Day of each March, June, September and December and on the Maturity Date, in each case, in the respective amounts set forth in the table below (as such installments may hereafter be adjusted as a result of prepayments made pursuant to Section 2.05), unless accelerated sooner pursuant to Section 9.02:

<u>Payment Dates</u>	<u>Principal Amortization Payment</u>
March, 2015	\$218,750
June, 2015	\$218,750
September, 2015	\$218,750
December, 2015	\$218,750
March, 2016	\$218,750
June, 2016	\$218,750
September, 2016	\$218,750
December, 2016	\$218,750
March, 2017	\$218,750
June, 2017	\$218,750
September, 2017	\$218,750
December, 2017	\$218,750
March, 2018	\$218,750
June, 2018	\$218,750
September, 2018	\$218,750
Maturity Date	Outstanding Principal Balance of Term Loan

2.08 Interest.

(a) Subject to the provisions of subsection (b) below, (i) each Eurodollar Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the sum of the Eurodollar Rate for such Interest Period plus the Applicable Rate, (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate and (iii) each Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate.

(b) (i) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, all outstanding Obligations hereunder shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) If any amount (other than principal of any Loan) is not paid when due (after giving effect to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Upon the request of the Required Lenders, while any Event of Default exists, the Borrowers shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iv) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest

hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

2.09 Fees.

In addition to certain fees described in subsections (h) and (i) of Section 2.03:

(a) Commitment Fee. The Company shall pay to the Administrative Agent, for the account of each Lender in accordance with its Applicable Percentage, a commitment fee (the "Commitment Fee") at a rate per annum equal to the product of (i) the Applicable Rate times (ii) the actual daily amount by which the Aggregate Revolving Commitments exceed the sum of (y) the Outstanding Amount of Revolving Loans and (z) the Outstanding Amount of L/C Obligations, subject to adjustment as provided in Section 2.15. For the avoidance of doubt, the Outstanding Amount of Swing Line Loans shall not be counted towards or considered usage of the Aggregate Revolving Commitments for purposes of determining the Commitment Fee. The Commitment Fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in Article V is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the Maturity Date; provided, that (A) no Commitment Fee shall accrue on the Revolving Commitment of a Defaulting Lender so long as such Lender shall be a Defaulting Lender and (B) any Commitment Fee accrued with respect to the Revolving Commitment of a Defaulting Lender during the period prior to the time such Lender became a Defaulting Lender and unpaid at such time shall not be payable by the Company so long as such Lender shall be a Defaulting Lender. The Commitment Fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(b) Fee Letters. The Company shall pay to MLPFS, the Administrative Agent and SVB for their own respective accounts fees in the amounts and at the times specified in the Fee Letters. Such fees shall be fully earned when paid and shall be non-refundable for any reason whatsoever.

2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate.

(a) All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to the Eurodollar Rate) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) If, as a result of any restatement of or other adjustment to the financial statements of the Company or for any other reason, the Company or the Lenders determine that (i) the Consolidated Leverage Ratio as calculated by the Company as of any applicable date was inaccurate and (ii) a proper calculation of the Consolidated Leverage Ratio would have resulted in

higher pricing for such period, the Borrowers shall immediately and retroactively be obligated to pay to the Administrative Agent for the account of the applicable Lenders or the L/C Issuers, as the case may be, promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to a Borrower under the Bankruptcy Code of the United States, automatically and without further action by the Administrative Agent, any Lender or the L/C Issuers), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. This paragraph shall not limit the rights of the Administrative Agent, any Lender or the L/C Issuers, as the case may be, under Section 2.03(c)(iii), 2.03(i) or 2.08(b) or under Article IX. The Borrowers' obligations under this paragraph shall survive the termination of the Commitments of all of the Lenders and the repayment of all other Obligations hereunder.

2.11 Evidence of Debt.

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the applicable Borrower shall execute and deliver to such Lender (through the Administrative Agent) a promissory note, which shall evidence such Lender's Loans in addition to such accounts or records. Each such promissory note shall (i) in the case of Revolving Loans, be in the form of Exhibit C (a "Revolving Note"), (ii) in the case of Swing Line Loans, be in the form of Exhibit D (a "Swing Line Note") and (iii) in the case of the Term Loan, be in the form of Exhibit E (a "Term Note"). Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in subsection (a), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

2.12 Payments Generally; Administrative Agent's Clawback.

(a) General. All payments to be made by the Borrowers shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrowers hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's

Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. Subject to the definition of "Interest Period", if any payment to be made by any Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurodollar Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of any Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the applicable Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the applicable Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to such Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation and (B) in the case of a payment to be made by such Borrower, the interest rate applicable to Base Rate Loans. If such Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to such Borrower the amount of such interest paid by such Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by a Borrower shall be without prejudice to any claim such Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

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

A notice of the Administrative Agent to any Lender or any Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to a Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article V are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to Section 11.04(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 11.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 11.04(c).

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

2.13 Sharing of Payments by Lenders.

If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the Loans made by it, or the participations in L/C Obligations or in Swing Line Loans held by it (excluding any amounts applied by the Swing Line Lender to outstanding Swing Line Loans) resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Loans or participations and accrued interest thereon greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and subparticipations in L/C Obligations and Swing Line Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (x) any payment made by or on behalf of a Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (y) the application of Cash Collateral provided for in Section 2.14 or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations or Swing Line Loans to any assignee or participant, other than an assignment to the

Company or any Subsidiary thereof (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

2.14 Cash Collateral.

(a) Certain Credit Support Events. If (i) an L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, (ii) as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, (iii) the Company shall be required to provide Cash Collateral pursuant to Section 9.02(c), or (iv) there shall exist a Defaulting Lender, the Company shall immediately (in the case of clause (iii) above) or within one Business Day (in all other cases) following any request by the Administrative Agent or the L/C Issuers, provide Cash Collateral in an amount not less than the applicable Minimum Collateral Amount (determined in the case of Cash Collateral provided pursuant to clause (iv) above, after giving effect to Section 2.15(a)(iv) and any Cash Collateral provided by the Defaulting Lender).

(b) Grant of Security Interest. The Company, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuers and the Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.14(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent or the L/C Issuers as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Company will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at Bank of America. The Company shall pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.14 or Sections 2.03, 2.05, 2.15 or 9.02 in respect of Letters of Credit shall be held and applied in satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender) (or, as appropriate, its assignee following compliance with Section 11.06(b)(vi)) or (ii) the determination by the

Administrative Agent and the L/C Issuers that there exists excess Cash Collateral; provided, however, (x) any such release shall be without prejudice to, and any disbursement or other transfer of Cash Collateral shall be and remain subject to, any other Lien conferred under the Loan Documents and the other applicable provisions of the Loan Documents, and (y) the Person providing Cash Collateral and the L/C Issuers may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

2.15 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) Waivers and Amendment. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders" and Section 11.01.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amount received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article IX or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.08, shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the L/C Issuers or Swing Line Lender hereunder; third, to Cash Collateralize the each L/C Issuer's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.14; fourth, as the Company may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Company, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the L/C Issuers' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.14; sixth, to the payment of any amounts owing to the Lenders, the L/C Issuers or Swing Line Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any L/C Issuer or the Swing Line Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrowers as a result of any judgment of a court of competent jurisdiction obtained by the Borrowers against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided, that, if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 5.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Obligations owed to, such Defaulting

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Lender until such time as all Loans and funded and unfunded participations in L/C Obligations and Swing Line Loans are held by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to Section 2.15(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.15(a)(ii), shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any fee payable under Section 2.09(a) for any period during which that Lender is a Defaulting Lender (and the Company shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.14.

(C) With respect to any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (B) above, the Company shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each L/C Issuer the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. All or any part of such Defaulting

Lender's participation in L/C Obligations and Swing Line Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's Revolving Commitment) but only to the extent that (x) the conditions set forth in Section 5.02 are satisfied at the time of such reallocation (and, unless the Company shall have otherwise notified the Administrative Agent at such time, the Borrowers shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swing Line Loans . If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Company shall, without prejudice to any right or remedy available to it hereunder or under applicable Law, (x) first, prepay Swing Line Loans in an amount equal to the Swing Line

Lender's Fronting Exposure and (y) second, Cash Collateralize the L/C Issuers' Fronting Exposure in accordance with the procedures set forth in Section 2.14.

(b) Defaulting Lender Cure. If the Company, the Administrative Agent, the Swing Line Lender and the L/C Issuers agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.15(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided, that, no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrowers while that Lender was a Defaulting Lender; provided, further, that, except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender having been a Defaulting Lender.

ARTICLE III

TAXES, YIELD PROTECTION AND ILLEGALITY

3.01 Taxes.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable Laws. If any applicable Laws (as determined in the good faith discretion of the Administrative Agent) require the deduction or withholding of any Tax from any such payment by the Administrative Agent or a Loan Party, then the Administrative Agent or such Loan Party shall be entitled to make such deduction or withholding, upon the basis of the information and documentation to be delivered pursuant to subsection (e) below.

(ii) If any Loan Party or the Administrative Agent shall be required by the Internal Revenue Code to withhold or deduct any Taxes, including both United States Federal backup withholding and withholding taxes, from any payment, then (A) the Administrative Agent shall withhold or make such deductions as are determined by the Administrative Agent to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) the Administrative Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Internal Revenue Code, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(iii) If any Loan Party or the Administrative Agent shall be required by any applicable Laws other than the Internal Revenue Code to withhold or deduct any Taxes from any payment, then (A) such Loan Party or the Administrative Agent, as required by such Laws, shall withhold or make such deductions as are determined by it to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) such Loan Party or the Administrative Agent, to the extent required by such Laws, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such Laws, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by the Loan Parties. Without limiting the provisions of subsection (a) above, the Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Tax Indemnifications. (i) Each of the Loan Parties shall, and does hereby, jointly and severally indemnify each Recipient, and shall make payment in respect thereof within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Company by a Lender or an L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or an L/C Issuer, shall be conclusive absent manifest error. Each of the Loan Parties shall, and does hereby, jointly and severally indemnify the Administrative Agent, and shall make payment in respect thereof within 10 days after demand therefor, for any amount which a Lender or an L/C Issuer for any reason fails to pay indefeasibly to the Administrative Agent as required pursuant to Section 3.01(c)(ii) below.

(ii) Each Lender and each L/C Issuer shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 10 days after demand therefor, (x) the Administrative Agent against any Indemnified Taxes attributable to such Lender or such L/C Issuer (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (y) the Administrative Agent and the Loan Parties, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.06(d) relating to the maintenance of a Participant Register and (z) the Administrative Agent and the Loan Parties, as applicable, against any Excluded Taxes attributable to such Lender or such L/C Issuer, in each case, that are payable or paid by the Administrative Agent or a Loan Party in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability

delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender and each L/C Issuer hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender or such L/C Issuer, as the case may be, under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this clause (ii).

(d) Evidence of Payments. Upon request by any Loan Party or the Administrative Agent, as the case may be, after any payment of Taxes by any Loan Party or by the Administrative Agent to a Governmental Authority as provided in this Section 3.01, each Loan Party shall deliver to the Administrative Agent or the Administrative Agent shall deliver to the Company, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to the Company or the Administrative Agent, as the case may be.

(e) Status of Lenders; Tax Documentation. (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Company and the Administrative Agent, at the time or times reasonably requested by the Company or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Company or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Company or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Company or the Administrative Agent as will enable the Company or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(e)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

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

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

(I) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect

to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(II) executed originals of Internal Revenue Service Form W-8ECI,

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

(IV) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, a U.S. Tax Compliance Certificate substantially in the form of Exhibit I-2 or Exhibit I-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit I-4 on behalf of each such direct and indirect partner;

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

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Internal Revenue Code, as applicable), such Lender shall deliver to the Company and the Administrative Agent at the time or times prescribed by law and at such time or

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

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Company and the Administrative Agent in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. Unless required by applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender or an L/C Issuer, or have any obligation to pay to any Lender or any L/C Issuer, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or such L/C Issuer, as the case may be. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this Section 3.01, it shall pay to the Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by a Loan Party under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Loan Party, upon the request of the Recipient, agrees to repay the amount paid over to the Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to the Loan Party pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Loan Party or any other Person.

(g) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender or an L/C Issuer, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

3.02 Illegality

If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurodollar Rate, or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the

authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Company through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Eurodollar Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Company that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrowers shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurodollar Rate, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurodollar Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurodollar Rate. Upon any such prepayment or conversion, the Borrowers shall also pay accrued interest on the amount so prepaid or converted.

3.03 Inability to Determine Rates.

If in connection with any request for a Eurodollar Rate Loan or a conversion to or continuation thereof or otherwise, (a) the Administrative Agent determines that (i) Dollar deposits are not being offered to banks in the applicable offshore interbank eurodollar market for such currency for the applicable amount and Interest Period of such Eurodollar Rate Loan or (ii) adequate and reasonable means do not exist for determining the Eurodollar Base Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan or in connection with an existing or proposed Base Rate Loan (in each case with respect to this clause (a), “Impacted Loans”), or (b) the Administrative Agent or the Required Lenders determine that for any reason the Eurodollar Base Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan does not adequately and fairly reflect the cost to the Lenders of funding such Loan, the Administrative Agent will promptly notify the Company and all Lenders. Thereafter, (x) the obligation of the Lenders to make or maintain Eurodollar Rate Loans shall be suspended (to the extent of the affected Eurodollar Rate Loans or Interest Periods) and (y) in the event of a determination described in the preceding sentence with respect to the Eurodollar Rate component of the Base Rate, the utilization of the Eurodollar Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent revokes such notice. Upon receipt of such notice, the Borrowers may revoke any pending request for a Borrowing, conversion or continuation of Eurodollar Rate Loans (to the extent of the affected Eurodollar Rate Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

Notwithstanding the foregoing, if the Administrative Agent has made the determination described in clause (a)(i) of this Section and the Borrower shall so request, the Administrative Agent, the affected Lenders and the Borrower shall negotiate in good faith to amend the definition of “Eurodollar Rate” and other applicable provisions to preserve the original intent thereof in light of such change; provided that, until so amended, such Impacted Loans will be handled as otherwise provided pursuant to the terms of this Section.

3.04 Increased Costs.

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

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in the Eurodollar Rate) or any L/C Issuer;

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

(iii) impose on any Lender or any L/C Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan the interest on which is determined by reference to the Eurodollar Rate (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or such L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or such L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or such L/C Issuer, the Borrowers will pay to such Lender or such L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

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

(c) Certificates for Reimbursement. A certificate of a Lender or an L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or such L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Company shall be conclusive absent manifest error. The Borrowers shall pay such Lender or such L/C Issuer, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or an L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or such L/C Issuer's right to demand such compensation, provided that the Borrowers shall not be required to compensate a Lender or an L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender or such L/C Issuer, as the case may be, notifies the Company of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

3.05 Compensation for Losses.

Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrowers shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by a Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by such Borrower; or

(c) any assignment of a Eurodollar Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Company pursuant to Section 11.13;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrowers shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurodollar Rate Loan made by it at the Eurodollar Base Rate used in determining the Eurodollar Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan was in fact so funded.

3.06 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or requires the Borrowers to pay any Indemnified Taxes or additional amounts to any Lender, an L/C Issuer or any Governmental Authority for the account of any Lender or any L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then at the request of the Company such Lender or such L/C Issuer shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or such L/C Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the

case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or such L/C Issuer, as the case may be, to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or such L/C Issuer, as the case may be. The Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender or any L/C Issuer in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrowers are required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 3.06(a), the Company may replace such Lender in accordance with Section 11.13.

3.07 Survival.

All of the Borrowers' obligations under this Article III shall survive termination of the Aggregate Revolving Commitments, repayment of all other Obligations hereunder and resignation of the Administrative Agent.

ARTICLE IV

GUARANTY

4.01 The Guaranty.

Each of the Guarantors hereby jointly and severally guarantees to each Lender, each Swap Bank, each Treasury Management Bank, and the Administrative Agent as hereinafter provided, as primary obligor and not as surety, the prompt payment of all Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory Cash Collateralization or otherwise) strictly in accordance with the terms thereof. The Guarantors hereby further agree that if any of the Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory Cash Collateralization or otherwise), the Guarantors will, jointly and severally, promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration, as a mandatory Cash Collateralization or otherwise) in accordance with the terms of such extension or renewal.

Notwithstanding any provision to the contrary contained herein or in any other of the Loan Documents, Secured Swap Agreements or Secured Treasury Management Agreements, (i) the obligations of each Guarantor under this Agreement and the other Loan Documents shall be limited to an aggregate amount equal to the largest amount that would not render such obligations subject to avoidance under the Debtor Relief Laws or any comparable provisions of any applicable state law and (ii) the Obligation of a Guarantor that are guaranteed under this Guaranty shall exclude any Excluded Swap Obligations with respect to such Guarantor.

4.02 Obligations Unconditional.

The obligations of the Guarantors under Section 4.01 are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Loan Documents, Secured Swap Agreements or Secured Treasury Management Agreements, or any other

agreement or instrument referred to therein, or any substitution, release, impairment or exchange of any other guarantee of or security for any of the Obligations, and, to the fullest extent permitted by applicable law, irrespective of any law or regulation or other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 4.02 that the obligations of the Guarantors hereunder shall be absolute and unconditional under any and all circumstances. Each Guarantor agrees that such Guarantor shall have no right of subrogation, indemnity, reimbursement or contribution against any Borrower or any other Guarantor for amounts paid under this Article IV until such time as the Obligations have been paid in full and the Commitments have expired or terminated. Without limiting the generality of the foregoing, it is agreed that, to the fullest extent permitted by law, the occurrence of any one or more of the following shall not alter or impair the liability of any Guarantor hereunder, which shall remain absolute and unconditional as described above:

(a) at any time or from time to time, without notice to any Guarantor, the time for any performance of or compliance with any of the Obligations shall be extended, or such performance or compliance shall be waived;

(b) any of the acts mentioned in any of the provisions of any of the Loan Documents, any Secured Swap Agreement, or any Secured Treasury Management Agreement, or any other agreement or instrument referred to in the Loan Documents, such Secured Swap Agreements or such Secured Treasury Management Agreements shall be done or omitted;

(c) the maturity of any of the Obligations shall be accelerated, or any of the Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Loan Documents, any Secured Swap Agreement or any Secured Treasury Management Agreement, or any other agreement or instrument referred to in the Loan Documents, such Secured Swap Agreements or such Secured Treasury Management Agreements shall be waived or any other guarantee of any of the Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with;

(d) any Lien granted to, or in favor of, the Administrative Agent or any Lender or Lenders as security for any of the Obligations shall fail to attach or be perfected; or

(e) any of the Obligations shall be determined to be void or voidable (including, without limitation, for the benefit of any creditor of any Guarantor) or shall be subordinated to the claims of any Person (including, without limitation, any creditor of any Guarantor).

With respect to its obligations hereunder, each Guarantor hereby expressly waives diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that the Administrative Agent or any Lender exhaust any right, power or remedy or proceed against any Person under any of the Loan Documents, any Secured Swap Agreement or any Secured Treasury Management Agreement, or any other agreement or instrument referred to in the Loan Documents, such Secured Swap Agreements or such Secured Treasury Management Agreements, or against any other Person under any other guarantee of, or security for, any of the Obligations.

4.03 Reinstatement.

The obligations of the Guarantors under this Article IV shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Obligations is rescinded or must be otherwise restored by any holder of any of the Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and each Guarantor agrees that it will indemnify the Administrative Agent and each Lender on demand for all reasonable costs and expenses

(including, without limitation, the fees, charges and disbursements of counsel) incurred by the Administrative Agent or such Lender in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar law.

4.04 Certain Additional Waivers.

Each Guarantor agrees that such Guarantor shall have no right of recourse to security for the Obligations, except through the exercise of rights of subrogation pursuant to Section 4.02 and through the exercise of rights of contribution pursuant to Section 4.06.

4.05 Remedies.

The Guarantors agree that, to the fullest extent permitted by law, as between the Guarantors, on the one hand, and the Administrative Agent and the Lenders, on the other hand, the Obligations may be declared to be forthwith due and payable as provided in Section 9.02 (and shall be deemed to have become automatically due and payable in the circumstances provided in said Section 9.02) for purposes of Section 4.01 notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Obligations being deemed to have become automatically due and payable), the Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Guarantors for purposes of Section 4.01. The Guarantors acknowledge and agree that their obligations hereunder are secured in accordance with the terms of the Collateral Documents and that the Lenders may exercise their remedies thereunder in accordance with the terms thereof.

4.06 Rights of Contribution.

The Guarantors agree among themselves that, in connection with payments made hereunder, each Guarantor shall have contribution rights against the other Guarantors as permitted under applicable law. Such contribution rights shall be subordinate and subject in right of payment to the obligations of such Guarantors under the Loan Documents and no Guarantor shall exercise such rights of contribution until all Obligations have been paid in full and the Commitments have terminated.

4.07 Guarantee of Payment; Continuing Guarantee.

The guarantee in this Article IV is a guaranty of payment and not of collection, is a continuing guarantee, and shall apply to all Obligations whenever arising.

4.08 Keepwell.

Each Loan Party that is a Qualified ECP Guarantor at the time the Guaranty in this Article IV by any Loan Party that is not then an “eligible contract participant” under the Commodity Exchange Act (a “Specified Loan Party”) or the grant of a security interest under the Loan Documents by any such Specified Loan Party, in either case, becomes effective with respect to any Swap Obligation, hereby jointly and severally, absolutely, unconditionally and irrevocably undertakes to provide such funds or other support to each Specified Loan Party with respect to such Swap Obligation as may be needed by such Specified Loan Party from time to time to honor all of its obligations under the Loan Documents in respect of such Swap Obligation (but, in each case, only up to the maximum amount of such liability that can be hereby incurred without rendering such Qualified ECP Guarantor’s obligations and undertakings under this Article IV voidable under applicable Debtor Relief Laws, and not for any greater amount). The

obligations and undertakings of each applicable Loan Party under this Section shall remain in full force and effect until such time as the Obligations (other than contingent indemnification obligations that survive the termination of this Agreement) have been paid in full and the Commitments have expired or terminated. Each Loan Party intends this Section to constitute, and this Section shall be deemed to constitute, a guarantee of the obligations of, and a “keepwell, support, or other agreement” for the benefit of, each Specified Loan Party for all purposes of the Commodity Exchange Act.

ARTICLE V

CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

5.01 Conditions of Initial Credit Extension.

This Agreement shall become effective upon and the obligation of each L/C Issuer and each Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

(a) Loan Documents. Receipt by the Administrative Agent of executed counterparts of this Agreement and the other Loan Documents, each properly executed by a Responsible Officer of the signing Loan Party and, in the case of this Agreement, by each Lender.

(b) Opinions of Counsel. Receipt by the Administrative Agent of favorable opinions of legal counsel to the Loan Parties, addressed to the Administrative Agent and each Lender, dated as of the Closing Date, and in form and substance satisfactory to the Administrative Agent.

(c) Financial Statements. The Administrative Agent shall have received:

(i) (A) the Audited Financial Statements and (B) the audited consolidated balance sheet of the Company and its Subsidiaries for each of the fiscal years ended December 31, 2011, and December 31, 2012, and the related consolidated statements of income or operations, shareholders' equity and cash flows for each such fiscal year of the Company and its Subsidiaries, including the notes thereto, audited by independent public accountants of recognized national standing and prepared in conformity with GAAP;

(ii) the Interim Financial Statements; and

(iii) financial projections for the Company and its Subsidiaries in form and substance satisfactory to the Lenders for the fiscal year ending December 31, 2015.

(d) No Material Adverse Change. There shall not have occurred a material adverse change since December 31, 2013 in the operations, business, assets, properties, liabilities (actual or contingent) or financial condition of the Company and its Subsidiaries, taken as a whole.

(e) Litigation. There shall not exist any action, suit, investigation or proceeding pending or, to the knowledge of the Loan Parties after due and diligent investigation, threatened in any court or before an arbitrator or Governmental Authority that could reasonably be expected to have a Material Adverse Effect.

(f) Organization Documents, Resolutions, Etc. Receipt by the Administrative Agent of the following, each of which shall be originals or facsimiles (followed promptly by originals), in form and substance satisfactory to the Administrative Agent and its legal counsel:

(i) copies of the Organization Documents of each Loan Party certified to be true and complete as of a recent date by the appropriate Governmental Authority of the state or other jurisdiction of its incorporation or organization, where applicable, and certified by a secretary or assistant secretary of such Loan Party to be true and correct as of the Closing Date;

(ii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party; and

(iii) such documents and certifications as the Administrative Agent may require to evidence that each Loan Party is duly organized or formed, and is validly existing, in good standing and qualified to engage in business in its state of organization or formation.

(g) Perfection and Priority of Liens. Receipt by the Administrative Agent of the following:

(i) searches of Uniform Commercial Code filings in the jurisdiction of formation of each Loan Party or where a filing would need to be made in order to perfect the Administrative Agent's security interest in the Collateral, copies of the financing statements on file in such jurisdictions and evidence that no Liens exist other than Permitted Liens;

(ii) UCC financing statements for each appropriate jurisdiction as is necessary, in the Administrative Agent's sole discretion, to perfect the Administrative Agent's security interest in the Collateral;

(iii) all certificates evidencing any certificated Equity Interests pledged to the Administrative Agent pursuant to the Pledge Agreement, together with duly executed in blank and undated stock powers attached thereto;

(iv) searches of ownership of, and Liens on, intellectual property of each Loan Party in the appropriate governmental offices;

(v) duly executed notices of grant of security interest in the form required by the Security Agreement as are necessary, in the Administrative Agent's sole discretion, to perfect the Administrative Agent's security interest in the intellectual property of the Loan Parties; and

(vi) in the case of any personal property Collateral located at a premises leased by a Loan Party with a fair market value for such Collateral of \$200,000 or more at any one location, such estoppel letters, consents and waivers from the landlords on such real property as may be reasonably required by the Administrative Agent; provided, that, the aggregate fair market value for Collateral located at all such premises for which

such estoppel letters, consents and/or waivers shall not be required shall not exceed \$1,000,000 in the aggregate.

- (h) Real Property Collateral. Receipt by the Administrative Agent of Real Property Security Documents with respect to the fee interest and/or leasehold interest of any Loan Party in each real property identified on Schedule 6.20(a).
- (i) Evidence of Insurance. Receipt by the Administrative Agent of copies of insurance policies or certificates of insurance of the Loan Parties evidencing liability and casualty insurance meeting the requirements set forth in the Loan Documents, including, but not limited to, naming the Administrative Agent as additional insured (in the case of liability insurance) or Lender's loss payee (in the case of hazard insurance) on behalf of the holders of the Obligations.
- (j) Closing Certificate. Receipt by the Administrative Agent of a certificate signed by a Responsible Officer of the Company certifying that the conditions specified in Sections 5.01(d), (e) and (m) and Sections 5.02(a) and (b) have been satisfied.
- (k) Solvency Certificate. The Administrative Agent shall have received certification as to the financial condition and Solvency of the Company and its Subsidiaries on the Closing Date on a consolidated basis (after giving effect to the transactions contemplated hereby) from a Responsible Officer of the Company.
- (l) Perfection Certificate. The Administrative Agent shall have received a completed perfection certificate, in form and substance reasonably satisfactory to the Administrative Agent, duly executed by a Responsible Officer of the Company.
- (m) Existing Indebtedness. Receipt by the Administrative Agent of evidence that all existing Indebtedness for borrowed money of the Company and its Subsidiaries (other than Indebtedness permitted to exist pursuant to Section 8.03) shall have been repaid in full and all security interests related thereto shall have been terminated on or prior to the Closing Date.
- (n) Fees and Expenses. Receipt by the Administrative Agent, MLPFS and the Lenders of any fees and expenses required to be paid or reimbursed, as the case may be, on or before the Closing Date.
- (o) Attorney Costs. Unless waived by the Administrative Agent, the Company shall have paid all fees, charges and disbursements of counsel to the Administrative Agent to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Company and the Administrative Agent).
- (p) Other. Receipt by the Administrative Agent and the Lenders of such other documents, instruments, agreements and information as requested by the Administrative Agent or any Lender, including, but not limited to, information regarding litigation, tax, accounting, labor, insurance, pension liabilities (actual or contingent), real estate leases, material contracts, debt agreements, property ownership, environmental matters, contingent liabilities and management of the Company and its Subsidiaries; such information may include, if requested by the Administrative Agent, asset appraisal reports and written audits of accounts receivable, inventory, payables, controls and systems.

Without limiting the generality of the provisions of the last paragraph of Section 10.03, for purposes of determining compliance with the conditions specified in this Section 5.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

5.02 Conditions to all Credit Extensions.

The obligation of each Lender and each L/C Issuer to honor any Request for Credit Extension is subject to the following conditions precedent:

(a) The representations and warranties of the Company and each other Loan Party contained in Article VI or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all respects on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all respects as of such earlier date, and except that for purposes of this Section 5.02, the representations and warranties contained in subsections (a) and (b) of Section 6.05 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 7.01.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, the applicable L/C Issuer and/or the Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

Each Request for Credit Extension submitted by a Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 5.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES

The Loan Parties represent and warrant to the Administrative Agent and the Lenders that:

6.01 Existence, Qualification and Power.

Each Loan Party (a) is duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, and (c) is duly qualified and is licensed and in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (b) (i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

6.02 Authorization; No Contravention.

The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party have been duly authorized by all necessary corporate or other organizational action, and do not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law (including, without limitation, Regulation U or Regulation X issued by the FRB).

6.03 Governmental Authorization; Other Consents.

No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document other than (a) those that have already been obtained and are in full force and effect and (b) filings to perfect the Liens created by the Collateral Documents.

6.04 Binding Effect.

Each Loan Document has been duly executed and delivered by each Loan Party that is party thereto. Each Loan Document constitutes a legal, valid and binding obligation of each Loan Party that is party thereto, enforceable against each such Loan Party in accordance with its terms.

6.05 Financial Statements; No Material Adverse Effect.

(a) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Company and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Company and its Subsidiaries as of the date thereof, including liabilities for taxes, commitments and Indebtedness.

(b) The Interim Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Company and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments; and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Company and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(c) From the date of the Audited Financial Statements to and including the Closing Date, there has been no Disposition by any Loan Party or any Subsidiary, or any Involuntary Disposition, of any material part of the business or property of any Loan Party or any Subsidiary, and no purchase or other acquisition by any of them of any business or property (including any Equity Interests of any other Person) material to any Loan Party or any Subsidiary, in each case,

which is not reflected in the foregoing financial statements or in the notes thereto and has not otherwise been disclosed in writing to the Lenders on or prior to the Closing Date.

(d) Since the date of the Audited Financial Statements, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

6.06 Litigation.

There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Loan Parties after due and diligent investigation, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against any Loan Party or any of its Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby or (b) could reasonably be expected to have a Material Adverse Effect.

6.07 No Default.

(a) Neither any Loan Party nor any Subsidiary is in default under or with respect to any Contractual Obligation that could reasonably be expected to have a Material Adverse Effect.

(b) No Default has occurred and is continuing.

6.08 Ownership of Property; Liens.

Each Loan Party and its Subsidiaries has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The property of each Loan Party and its Subsidiaries is subject to no Liens, other than Permitted Liens.

6.09 Environmental Compliance.

Except as could not reasonably be expected to have a Material Adverse Effect:

(a) Each of the Facilities and all operations at the Facilities are in compliance with all applicable Environmental Laws, and there is no violation of any Environmental Law with respect to the Facilities or the Businesses, and there are no conditions relating to the Facilities or the Businesses that could give rise to liability under any applicable Environmental Laws.

(b) None of the Facilities contains, or has previously contained, any Hazardous Materials at, on or under the Facilities in amounts or concentrations that constitute or constituted a violation of, or could give rise to liability under, Environmental Laws.

(c) Neither any Loan Party nor any Subsidiary has received any written or verbal notice of, or inquiry from any Governmental Authority regarding, any violation, alleged violation, non-compliance, liability or potential liability regarding environmental matters or compliance with Environmental Laws with regard to any of the Facilities or the Businesses, nor does any Responsible Officer of any Loan Party have knowledge or reason to believe that any such notice will be received or is being threatened.

(d) Hazardous Materials have not been transported or disposed of from the Facilities, or generated, treated, stored or disposed of at, on or under any of the Facilities or any other location, in each case by or on behalf of any Loan Party or any Subsidiary in violation of, or in a manner that would be reasonably likely to give rise to liability under, any applicable Environmental Law.

(e) No judicial proceeding or governmental or administrative action is pending or, to the knowledge of the Loan Parties, threatened, under any Environmental Law to which any Loan Party or any Subsidiary is or will be named as a party, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to any Loan Party, any Subsidiary, the Facilities or the Businesses.

(f) There has been no release or threat of release of Hazardous Materials at or from the Facilities, or arising from or related to the operations (including, without limitation, disposal) of any Loan Party or any Subsidiary in connection with the Facilities or otherwise in connection with the Businesses, in violation of or in amounts or in a manner that could give rise to liability under Environmental Laws.

6.10 Insurance.

(a) The properties of the Loan Parties and their Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of such Persons, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the applicable Loan Party or the applicable Subsidiary operates. The insurance coverage of the Loan Parties and their Subsidiaries as in effect on the Closing Date is outlined as to carrier, policy number, expiration date, type, amount and deductibles on Schedule 6.10.

(b) The Company and its Subsidiaries maintain, if available, fully paid flood hazard insurance on all real property that is located in a special flood hazard area and that constitutes Collateral, on such terms and in such amounts as required by The National Flood Insurance Reform Act of 1994 or as otherwise required by the Administrative Agent.

6.11 Taxes.

The Loan Parties and their Subsidiaries have filed all federal and state income and other material tax returns and reports required to be filed, and have paid all federal and state income and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against any Loan Party or any Subsidiary that would, if made, have a Material Adverse Effect. Neither any Loan Party nor any Subsidiary thereof is party to any tax sharing agreement.

6.12 ERISA Compliance.

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Internal Revenue Code and other federal or state laws. Each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Internal Revenue Code has received a favorable determination letter from the Internal Revenue Service to the effect that the form of

such Plan is qualified under Section 401(a) of the Internal Revenue Code and the trust related thereto has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 501(a) of the Internal Revenue Code or an application for such a letter is currently being processed by the Internal Revenue Service. To the best knowledge of the Loan Parties, nothing has occurred that would prevent, or cause the loss of, such tax-qualified status.

(b) There are no pending or, to the best knowledge of the Loan Parties, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) (i) No ERISA Event has occurred and neither any Borrower nor any ERISA Affiliate is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan; (ii) each Borrower and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Internal Revenue Code) is sixty percent (60%) or higher and neither any Borrower nor any ERISA Affiliate knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below sixty percent (60%) as of the most recent valuation date; (iv) neither any Borrower nor any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (v) neither any Borrower nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA; and (vi) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that could reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

6.13 Subsidiaries.

Set forth on Schedule 6.13 is a complete and accurate list as of the Closing Date of each Subsidiary of any Loan Party, together with (a) jurisdiction of formation, (b) number of shares of each class of Equity Interests outstanding, (c) number and percentage of outstanding shares of each class owned (directly or indirectly) by any Loan Party or any Subsidiary and (d) number and effect, if exercised, of all outstanding options, warrants, rights of conversion or purchase and all other similar rights with respect thereto. The outstanding Equity Interests of each Subsidiary of any Loan Party are validly issued, fully paid and non-assessable.

6.14 Margin Regulations; Investment Company Act.

(a) No Borrower is engaged and no Borrower will engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock. Following the application of the proceeds of each Borrowing or drawing under each Letter of Credit, not more than 25% of the value of the assets (either of a Borrower only or of such Borrower and its Subsidiaries on a consolidated basis) subject to the provisions of Section 8.01 or Section 8.05 or subject to any restriction contained in any agreement or instrument between such Borrower and any Lender or any Affiliate of any Lender relating to Indebtedness and within the scope of Section 9.01(e) will be margin stock.

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(b) None of any Loan Party, any Person Controlling any Loan Party, or any Subsidiary is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

6.15 Disclosure.

No report, financial statement, certificate or other information furnished (excluding projections, forward-looking information and information of a general economic or industry nature), whether in writing or orally, by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case, as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. All projections furnished by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the negotiation of any Loan Document were prepared in good faith based upon assumptions that were believed by the preparer thereof to be reasonable at the time made, it being understood and agreed that such projections are not a guarantee of financial performance and actual results may differ from the projections and such differences may be material.

6.16 Compliance with Laws.

Each Loan Party and each Subsidiary is in compliance with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

6.17 Intellectual Property: Licenses, Etc.

Each Loan Party and its Subsidiaries own, or possess the legal right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, “IP Rights”) that are reasonably necessary for the operation of their respective businesses. Set forth on Schedule 6.17 is a list of all IP Rights registered or pending registration with the United States Copyright Office or the United States Patent and Trademark Office and owned by each Loan Party as of the Closing Date. Except for such claims or infringements, as applicable, that could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (i) no claim has been asserted and is pending by any Person challenging or questioning the use of any IP Rights or the validity or effectiveness of any IP Rights, nor does any Loan Party know of any such claim, and (ii) the use of any IP Rights by any Loan Party or any of its Subsidiaries or the granting of a right or a license in respect of any IP Rights from any Loan Party or any of its Subsidiaries does not infringe on the rights of any Person. As of the Closing Date, none of the IP Rights owned by any of the Loan Parties or any of their Subsidiaries is subject to any licensing agreement or similar arrangement except as set forth on Schedule 6.17.

6.18 Solvency.

The Loan Parties are Solvent on a consolidated basis.

6.19 Perfection of Security Interests in the Collateral.

The Collateral Documents create valid security interests in, and Liens on, the Collateral purported to be covered thereby, which security interests and Liens are currently perfected security interests and Liens, prior to all other Liens other than Permitted Liens.

6.20 Business Locations.

Set forth on Schedule 6.20(a) is a list of all real property located in the United States that is owned or leased by the Loan Parties as of the Closing Date. Set forth on Schedule 6.20(b) is the tax payer identification number and organizational identification number of each Loan Party as of the Closing Date. The exact legal name and state of organization of (a) each Borrower is as set forth on the signature pages hereto and (b) each Guarantor is (i) as set forth on the signature pages hereto, (ii) as set forth on the signature pages to the Joinder Agreement pursuant to which such Guarantor became a party hereto or (iii) as may be otherwise disclosed by the Loan Parties to the Administrative Agent in accordance with Section 8.13(c). Except as set forth on Schedule 6.20(c), no Loan Party has during the five years preceding the Closing Date (i) changed its legal name, (ii) changed its state of formation, or (iii) been party to a merger, consolidation or other change in structure.

6.21 Labor Matters.

There are no collective bargaining agreements or Multiemployer Plans covering the employees of any Loan Party or any Subsidiary as of the Closing Date and neither any Loan Party nor any Subsidiary has suffered any strikes, walkouts, work stoppages or other material labor difficulty within the five years preceding the Closing Date.

6.22 Government Sanctions.

The Company represents that neither the Company nor any of its Subsidiaries (collectively, the “Company Group”) or, to the knowledge of the Company Group, any director, officer, employee, agent, affiliate or representative of the Company Group is an individual or entity currently the subject to any sanctions administered or enforced by the United States Government, including without limitation, the U.S. Department of Treasury’s Office of Foreign Assets Control (“OFAC”), the United Nations Security Council (“UNSC”), the European Union, Her Majesty’s Treasury (“HMY”), or other relevant sanctions authority (“Sanctions”), nor is the Company Group located, organized or resident in a country or territory that is the subject of Sanctions.

6.23 PATRIOT Act.

To the extent applicable, the Company and each Subsidiary is in compliance, in all material respects, with (a) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (b) the PATRIOT Act.

6.24 Anti-Corruption Laws .

To the extent applicable, no part of the proceeds of any Loan or Letter of Credit will be used by any Loan Party, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended, or any similar laws,

rules or regulations issued, administered or enforced by any Governmental Authority having jurisdiction over any of the Company or any other Loan Party.

ARTICLE VII

AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Loan Parties shall and shall cause each Subsidiary to:

7.01 Financial Statements.

Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) upon the earlier of the date that is ninety (90) days after the end of each fiscal year of the Company and the date such information is filed with the SEC, a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, changes in shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing acceptable to the Required Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit; and

(b) upon the earlier of the date that is forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Company and the date such information is filed with the SEC, a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income or operations, changes in shareholders' equity and cash flows for such fiscal quarter and for the portion of the Company's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by a Responsible Officer of the Company as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the Company and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes.

7.02 Certificates; Other Information.

Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) concurrently with the delivery of the financial statements referred to in Section 7.01(a), a certificate of its independent certified public accountants certifying such financial statements and stating that in making the examination necessary therefor no knowledge was obtained of any Event of Default under Section 8.11 or, if any such Event of Default shall exist, stating the nature and status of such event (it being understood that such requirement may be

satisfied by the inclusion of a no-default statement in the footnotes to the financial statements delivered pursuant to Section 7.01(a));

(b) concurrently with the delivery of the financial statements referred to in Sections 7.01(a) and (b), a duly completed Compliance Certificate signed by a Responsible Officer of the Company (including, certifications of a Responsible Officer of the Company with respect to (i) the amounts of Aggregate Excluded DAS Capital Expenditures and Eligible DAS Capital Expenditures for the applicable period, (ii) the number of subscribers located at military bases at which the Company and its Subsidiaries provide broadband networks and (iii) solely with respect to each Compliance Certificate delivered concurrently with the financial statements referred to in Section 7.01(a), an annual summary of completed DAS Installations during the period covered by such financial statements and a calculation of the Assumed Contribution Margin for such period (it being understood that such calculation method shall be subject to the approval of the Administrative Agent in its reasonable discretion));

(c) no more than 30 days following the end of each fiscal year of the Company, beginning with the fiscal year ending December 31, 2014, an annual business plan and budget of the Company and its Subsidiaries containing, among other things, pro forma financial statements for each quarter of the current fiscal year;

(d) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the equityholders of any Loan Party, and copies of all annual, regular, periodic and special reports and registration statements which a Loan Party may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(e) promptly after any request by the Administrative Agent or any Lender, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of the Company by independent accountants in connection with the accounts or books of the Company or any Subsidiary, or any audit of any of them;

(f) promptly after the furnishing thereof, copies of any statement or report furnished to any holder of debt securities of any Loan Party or any Subsidiary thereof pursuant to the terms of any indenture, loan or credit or similar agreement and not otherwise required to be furnished to the Lenders pursuant to Section 7.01 or any other clause of this Section 7.02;

(g) promptly, and in any event within five Business Days after receipt thereof by any Loan Party or any Subsidiary thereof, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of any Loan Party or any Subsidiary thereof;

(h) promptly, such additional information regarding the business, financial or corporate affairs of any Loan Party or any Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request;

(i) not later than the last Business Day of each calendar month, a certificate of a Responsible Officer of the Company evidencing compliance with Section 8.11(c) as of the last

day of the immediately preceding calendar month, in form and detail satisfactory to the Administrative Agent; and

(j) concurrently with the delivery of the financial statements referred to in Section 7.01(a), a certificate of a Responsible Officer of the Company (i) listing (A) all applications by any Loan Party, if any, for Copyrights, Patents or Trademarks (each such term as defined in the Security Agreement) made since the date of the prior certificate (or, in the case of the first such certificate, the Closing Date), (B) all issuances of registrations or letters on existing applications by any Loan Party for Copyrights, Patents and Trademarks (each such term as defined in the Security Agreement) received since the date of the prior certificate (or, in the case of the first such certificate, the Closing Date), and (C) all Trademark Licenses, Copyright Licenses and Patent Licenses (each such term as defined in the Security Agreement) entered into by any Loan Party since the date of the prior certificate (or, in the case of the first such certificate, the Closing Date), and (ii) attaching the insurance binder or other evidence of insurance for any insurance coverage of any Loan Party or any Subsidiary that was renewed, replaced or modified during the period covered by such financial statements.

Documents required to be delivered pursuant to Section 7.01(a) or (b) or Section 7.02 (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Company posts such documents, or provides a link thereto on the Company's website on the Internet at the website address listed on Schedule 11.02; or (ii) on which such documents are posted on the Company's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided, that: (i) the Company shall deliver paper copies of such documents to the Administrative Agent or any Lender upon its request to the Company to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Company shall notify the Administrative Agent and each Lender (by facsimile or e-mail) of the posting of any such documents and provide to the Administrative Agent by e-mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Company with any such request for delivery by a Lender, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Company hereby acknowledges that (a) the Administrative Agent and/or MLPFS may, but shall not be obligated to, make available to the Lenders and the L/C Issuers materials and/or information provided by or on behalf of the Company hereunder (collectively, the "Borrower Materials") by posting the Borrower Materials on Debt Domain, IntraLinks, Syndtrak or another similar electronic system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Company or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Person's securities. The Company hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Company shall be deemed to have authorized the Administrative Agent, MLPFS and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Company or its securities for purposes of United States federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 11.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the

Platform designated as “Public Side Information;” and (z) the Administrative Agent and MLPFS shall be entitled to treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform that is not designated as “Public Side Information.”

7.03 Notices.

(a) Promptly (and in any event, within two Business Days) notify the Administrative Agent and each Lender of the occurrence of any Default.

(b) Promptly (and in any event, within five Business Days) notify the Administrative Agent and each Lender of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) Promptly (and in any event, within five Business Days) notify the Administrative Agent and each Lender of the occurrence of any ERISA Event.

(d) Promptly (and in any event, within five Business Days) notify the Administrative Agent and each Lender of any material change in accounting policies or financial reporting practices by the Company or any Subsidiary, including any determination by the Company referred to in Section 2.10(b).

Each notice pursuant to this Section 7.03(a) through (d) shall be accompanied by a statement of a Responsible Officer of the Company setting forth details of the occurrence referred to therein and stating what action the applicable Loan Party has taken and proposes to take with respect thereto. Each notice pursuant to Section 7.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

7.04 Payment of Obligations.

Pay and discharge, as the same shall become due and payable, (a) all federal and state income and other material tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Loan Party or such Subsidiary and (b) all material lawful claims which, if unpaid, would by law become a Lien upon its property.

7.05 Preservation of Existence, Etc.

(a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization except in a transaction permitted by Section 8.04 or 8.05.

(b) Preserve, renew and maintain in full force and effect its good standing under the Laws of the jurisdiction of its organization, except to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(c) Take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(d) Preserve or renew all of its material registered patents, copyrights, trademarks, trade names and service marks, the non-preservation or non-renewal of which could reasonably be expected to have a Material Adverse Effect.

7.06 Maintenance of Properties.

(a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted.

(b) Make all necessary repairs thereto and renewals and replacements thereof, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(c) Use the standard of care typical in the industry in the operation and maintenance of its facilities.

7.07 Maintenance of Insurance.

(a) Maintain with financially sound and reputable insurance companies not Affiliates of the Company, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons.

(b) Without limiting the foregoing, (i) maintain, if available, fully paid flood hazard insurance on all real property that is located in a special flood hazard area and that constitutes Collateral, on such terms and in such amounts as required by The National Flood Insurance Reform Act of 1994 or as otherwise required by the Administrative Agent, (ii) furnish to the Administrative Agent evidence of the renewal (and payment of renewal premiums therefor) of all such policies prior to the expiration or lapse thereof, and (iii) furnish to the Administrative Agent prompt written notice of any redesignation of any such improved real property into or out of a special flood hazard area.

(c) Cause the Administrative Agent and its successors and/or assigns to be named as lender's loss payee or mortgagee as its interest may appear, and/or additional insured with respect to any such insurance providing liability coverage or coverage in respect of any Collateral, and cause each provider of any such insurance to agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to the Administrative Agent, that it will give the Administrative Agent thirty days (or such lesser amount as the Administrative Agent may agree) prior written notice before any such policy or policies shall be altered or canceled.

7.08 Compliance with Laws.

Comply with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

7.09 Books and Records.

(a) Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions

and matters involving the assets and business of such Loan Party or such Subsidiary, as the case may be.

(b) Maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over such Loan Party or such Subsidiary, as the case may be.

7.10 Inspection Rights.

Permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the expense of the Borrowers and at such reasonable times during normal business hours and as often as may be desired, upon reasonable advance notice to the Company; provided, that, in the absence of an Event of Default, the Borrowers will not be required to reimburse the expense of more than one such visit in any twelve-month period and only the Administrative Agent on behalf of the Lenders may exercise the right to each such annual visit; provided, further, that, when an Event of Default exists, the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrowers at any time during normal business hours and without advance notice.

7.11 Use of Proceeds.

Use the proceeds of the Credit Extensions (a) to refinance certain existing Indebtedness, (b) to finance working capital and capital expenditures, (c) for other general corporate purposes and (d) for Permitted Acquisitions; provided that in no event shall the proceeds of the Credit Extensions be used in contravention of any Law or of any Loan Document.

7.12 Additional Subsidiaries.

(a) Within thirty (30) days after the acquisition or formation of any Subsidiary (provided, that, Concourse Detroit ceasing to be an Excluded Subsidiary but remaining a Subsidiary shall be deemed to constitute the acquisition of a Subsidiary for all purposes of this Section 7.12), notify the Administrative Agent thereof in writing, together with the (i) jurisdiction of formation, (ii) number of shares of each class of Equity Interests outstanding, (iii) number and percentage of outstanding shares of each class owned (directly or indirectly) by the Company or any Subsidiary and (iv) number and effect, if exercised, of all outstanding options, warrants, rights of conversion or purchase and all other similar rights with respect thereto; and

(b) Within thirty (30) days after the acquisition or formation of any Subsidiary (or such later date as the Administrative Agent may agree in its sole discretion) (provided, that, Concourse Detroit ceasing to be an Excluded Subsidiary but remaining a Subsidiary shall be deemed to constitute the acquisition of a Subsidiary for all purposes of this Section 7.12), if such Subsidiary is a Domestic Subsidiary, cause such Person to (i) become a Guarantor by executing and delivering to the Administrative Agent a Joinder Agreement or such other documents as the Administrative Agent shall deem appropriate for such purpose, and (ii) deliver to the Administrative Agent documents of the types referred to in Sections 5.01(f) and (g) and favorable opinions of counsel to such Person (which shall cover, among other things, the legality, validity, binding effect and enforceability of the documentation referred to in clause (i)), all in form, content and scope satisfactory to the Administrative Agent.

7.13 ERISA Compliance.

Do, and cause each of its ERISA Affiliates to do, each of the following: (a) maintain each Plan in compliance in all material respects with the applicable provisions of ERISA, the Internal Revenue Code and other federal or state law; (b) cause each Plan that is qualified under Section 401(a) of the Internal Revenue Code to maintain such qualification; and (c) make all required contributions to any Plan subject to Section 412, Section 430 or Section 431 of the Internal Revenue Code.

7.14 Pledged Assets.

(a) Equity Interests. Cause (i) 100% of the issued and outstanding Equity Interests of each Domestic Subsidiary and (ii) 65% (or such greater percentage that, due to a change in an applicable Law after the date hereof, (A) could not reasonably be expected to cause the undistributed earnings of such Foreign Subsidiary as determined for United States federal income tax purposes to be treated as a deemed dividend to such Foreign Subsidiary's United States parent and (B) could not reasonably be expected to cause any material adverse tax consequences) of the issued and outstanding Equity Interests entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) and 100% of the issued and outstanding Equity Interests not entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) in each Foreign Subsidiary directly owned by a Loan Party to be subject at all times to a first priority, perfected Lien in favor of the Administrative Agent, for the benefit of the holders of the Obligations, pursuant to the terms and conditions of the Collateral Documents, together with opinions of counsel and any filings and deliveries necessary in connection therewith to perfect the security interests therein, all in form and substance satisfactory to the Administrative Agent.

(b) Other Property. Cause all property (other than Excluded Property) of each Loan Party to be subject at all times to first priority, perfected and, in the case of real property (whether leased or owned), title insured Liens in favor of the Administrative Agent to secure the Obligations pursuant to the Collateral Documents or, with respect to any such property acquired subsequent to the Closing Date, such other additional security documents as the Administrative Agent shall request (subject to Permitted Liens) and, in connection with the foregoing, deliver to the Administrative Agent such other documentation as the Administrative Agent may request including filings and deliveries necessary to perfect such Liens, Organization Documents, resolutions, Real Property Security Documents, landlord's waivers and favorable opinions of counsel to such Person, all in form, content and scope reasonably satisfactory to the Administrative Agent.

7.15 Accounts.

Each Loan Party will maintain its principal deposit and operating accounts with Lenders at all times; provided, that, should any Person cease to be a Lender, the Loan Parties shall have ninety (90) days after such cessation to transfer any applicable accounts to another Lender.

7.16 Post-Closing Obligations. Use commercially reasonable efforts to deliver to the Administrative Agent not later than the date that is ninety (90) days following the Closing Date (or such later date as the Administrative Agent may agree in its sole discretion) an executed landlord waiver for the leased real property location of the Loan Parties at 10960 Wilshire Blvd., Los Angeles, California 90024.

ARTICLE VIII
NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, no Loan Party shall, nor shall it permit any Subsidiary to, directly or indirectly:

8.01 Liens.

Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

- (a) Liens pursuant to any Loan Document;
- (b) Liens existing on the date hereof and listed on Schedule 8.01 and any renewals or extensions thereof; provided, that: (i) the property covered thereby is not changed, (ii) the amount secured or benefited thereby is not increased, (iii) the direct or any contingent obligor with respect thereto is not changed, and (iv) any renewal or extension of the obligations secured or benefited thereby is permitted by Section 8.03(b);
- (c) Liens (other than Liens imposed under ERISA) for taxes, assessments or governmental charges or levies not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;
- (d) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics, materialmen and suppliers and other Liens imposed by law or pursuant to customary reservations or retentions of title arising in the ordinary course of business, provided that such Liens secure only amounts not yet due and payable or, if due and payable, are unfiled and no other action has been taken to enforce the same or are being contested in good faith by appropriate proceedings for which adequate reserves determined in accordance with GAAP have been established;
- (e) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;
- (f) deposits to secure (i) the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business and (ii) lease obligations under real property leases entered into in the ordinary course of business in amounts not to exceed three months' lease payments under such leases;
- (g) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which 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 applicable Person;
- (h) Liens securing judgments for the payment of money (or appeal or other surety bonds relating to such judgments) not constituting an Event of Default under Section 9.01(h);

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- (i) Liens securing Indebtedness permitted under Section 8.03(e); provided that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness, (ii) the Indebtedness secured thereby does not exceed the cost (negotiated on an arm's length basis) of the property being acquired on the date of acquisition and (iii) such Liens attach to such property concurrently with or within ninety days after the acquisition thereof;
- (j) leases, subleases, licenses or sublicenses granted to others not interfering in any material respect with the business of any Loan Party or any of their respective Subsidiaries;
- (k) any interest of title of a lessor under, and Liens arising from UCC financing statements (or equivalent filings, registrations or agreements in foreign jurisdictions) relating to, leases permitted by this Agreement;
- (l) normal and customary rights of setoff upon deposits of cash in favor of banks or other depository institutions;
- (m) Liens of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection;
- (n) Liens of sellers of goods to the Company and any of its Subsidiaries arising under Article 2 of the Uniform Commercial Code or similar provisions of applicable law in the ordinary course of business, covering only the goods sold and securing only the unpaid purchase price for such goods and related expenses;

(o) Liens, if any, in favor of the Administrative Agent on Cash Collateral delivered pursuant to Section 2.14(a);

(p) Liens on property of a Person existing at the time such Person is acquired or merged with or into or consolidated with any Loan Party or Subsidiary after the Closing Date to the extent securing Indebtedness permitted by Section 8.03 (and not created in anticipation or contemplation thereof); provided that such Liens do not extend to property not subject to such Liens at the time of acquisition (other than improvements thereon and proceeds thereof);

(q) the filing of UCC financing statements solely as a precautionary measure in connection with operating leases or consignment of goods, in each case, in the ordinary course of business; and

(r) Liens securing Indebtedness incurred pursuant to Section 8.03(g); provided, that: (i) such Liens do not extend to, or encumber, property which constitutes Collateral and (ii) such Liens extend only to the property of the Foreign Subsidiary incurring such Indebtedness or any of its Subsidiaries that are Foreign Subsidiaries.

8.02 Investments.

Make any Investments, except:

(a) Investments held by the Company or a Subsidiary in the form of cash or Cash Equivalents;

(b) Investments existing as of the Closing Date and set forth in Schedule 8.02;

- (c) Investments in any Person that is a Loan Party prior to giving effect to such Investment;
- (d) Investments by any Subsidiary that is not a Loan Party in any other Subsidiary that is not a Loan Party;
- (e) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;
- (f) Guarantees permitted by Section 8.03(f);
- (g) Permitted Acquisitions;
- (h) Investments by the Company in corporate securities, bank certificates of deposit, U.S. treasury and agency obligations, asset-back securities and money market mutual funds made in accordance with the investment policy of the Company (as such policy is in effect on the Closing Date) approved by the board of directors of the Company (the “Company Investment Policy”), in each case, (i) having a final maturity of not more than twenty-four (24) months and (ii) meeting the applicable requirements of clauses 1 through 6 of Article III of the Company Investment Policy and each other applicable requirement of the Company Investment Policy; and
- (i) other Investments not exceeding \$3,000,000 in the aggregate at any one time outstanding.

8.03 Indebtedness.

Create, incur, assume or suffer to exist any Indebtedness, except:

- (a) Indebtedness under the Loan Documents;
- (b) Indebtedness of the Company and its Subsidiaries set forth in Schedule 8.03;
- (c) intercompany Indebtedness permitted under Section 8.02;
- (d) obligations (contingent or otherwise) of the Company or any Subsidiary existing or arising under any Swap Contract, provided that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation or taking a “market view;” and (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party;
- (e) purchase money Indebtedness (including obligations in respect of Capital Leases or Synthetic Leases) hereafter incurred by the Company or any of its Subsidiaries to finance the purchase of fixed assets, and renewals, refinancings and extensions thereof, provided that (i) the total of all such Indebtedness for all such Persons taken together shall not exceed an aggregate principal amount of \$7,500,000 at any one time outstanding; (ii) such Indebtedness when incurred shall not exceed the purchase price of the asset (s) financed; and (iii) no such Indebtedness shall

be refinanced for a principal amount in excess of the principal balance outstanding thereon at the time of such refinancing.

(f) Guarantees with respect to Indebtedness of any Loan Party permitted under this Section 8.03; provided that if the Indebtedness being Guaranteed is subordinated to the Obligations, such Guarantee shall be subordinated to the Guaranty on terms at least as favorable to the Lenders as those contained in the subordination of such Indebtedness;

(g) Indebtedness incurred by Foreign Subsidiaries in an aggregate amount not to exceed \$1,000,000 at any time outstanding;

(h) unsecured Indebtedness in respect of financing insurance premiums (not to exceed 12 months of premiums) in the ordinary course of business;

(i) obligations in respect of bid, performance or surety, appeal or similar bonds, completion guarantees, workers' compensation claims, self-insurance obligations and bankers acceptances (other than for an obligation for borrowed money), in each case provided in the ordinary course of business;

(j) Earn Out Obligations incurred in connection with the consummation of a Permitted Acquisition; provided, that, (i) such Earn Out Obligations are not secured by any Lien on any Collateral, (ii) the aggregate amount that could be required to be paid in connection with all such Earn Out Obligations in existence at any one time (assuming satisfaction of all payment criteria in connection therewith to the maximum extent) shall not exceed \$5,000,000 and (iii) for the avoidance of doubt, each such Earn Out Obligation must comply with clauses (j) and (k) of the definition of "Permitted Acquisitions" in Section 1.01 hereof;

(k) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds in the ordinary course of business, and in respect of netting services, overdraft protection and other similar arrangements in connection with deposit accounts in the ordinary course of business, in each case that is promptly repaid;

(l) unsecured Indebtedness of the Company and its Subsidiaries not permitted by the foregoing clauses of this Section 8.03, in an aggregate principal amount for all such Indebtedness not to exceed \$2,000,000 at any one time outstanding; and

(m) refinancings, renewals, or extensions of Indebtedness permitted under clauses (b) and (j) of this Section 8.03, so long as: (i) the terms and conditions of such refinancings, renewals or extensions are not, in the Administrative Agent's reasonable judgment, materially more onerous to the Loan Parties taken as a whole than the terms and conditions of the Indebtedness being refinanced, (ii) such refinancings, renewals or extensions do not result in an increase in the principal amount of the Indebtedness so refinanced, renewed, or extended (other than attributable to the accretion of original issue discount, interest, capitalization of interest or payment premiums in respect of the Indebtedness being refinanced and costs and expenses related thereto and by an amount equal to any existing commitments unutilized thereunder), (iii) such refinancing, renewal or extension has a final maturity date equal to or later than the final maturity date of, and has a weighted average life to maturity equal to or greater than the weighted average life to maturity of, the Indebtedness being refinanced, renewed or extended, (iv) no Default or Event of Default exists immediately prior to or after giving effect to the incurrence of such Indebtedness, (v) the Company shall have delivered to the Administrative Agent a Pro Forma Compliance Certificate

demonstrating that, upon giving Pro Forma Effect to the incurrence of such Indebtedness, (A) the Loan Parties would be in compliance with the financial covenants set forth in Section 8.11(a) and (b) as of the most recent fiscal quarter end for which the Company was required to deliver financial statements pursuant to Section 7.01(a) or (b) and (vi) if the Indebtedness being refinanced, renewed or extended is subordinated in right of payment to the Obligations, such refinancing, renewal or extension is subordinated in right of payment to the Obligations on terms, taken as a whole, as favorable in all material respects as those contained in the documents governing the Indebtedness being refinanced, renewed or extended.

8.04 Fundamental Changes.

Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person; provided that, notwithstanding the foregoing provisions of this Section 8.04 but subject to the terms of Sections 7.12 and 7.14, (a) the Company may merge or consolidate with any of its Subsidiaries (other than NY Telecom) provided that the Company shall be the continuing or surviving corporation, (b) NY Telecom may merge or consolidate with any of its Subsidiaries provided that NY Telecom shall be the continuing or surviving corporation, (c) any Loan Party (other than a Borrower) may merge or consolidate with any other Loan Party (other than a Borrower), (d) any Subsidiary that is not a Loan Party may be merged or consolidated with or into any Loan Party provided that such Loan Party shall be the continuing or surviving corporation and (e) any Subsidiary that is not a Loan Party may be merged or consolidated with or into any other Subsidiary that is not a Loan Party.

8.05 Dispositions.

Make any Disposition unless (a) the consideration paid in connection therewith shall be cash or Cash Equivalents paid contemporaneous with consummation of the transaction and shall be in an amount not less than the fair market value of the property disposed of, (b) such transaction does not involve the sale or other disposition of a minority equity interest in any Subsidiary, (c) no Default or Event of Default has occurred and is continuing both immediately prior to and after giving effect to such Disposition, (d) such transaction does not involve a sale or other disposition of receivables other than receivables owned by or attributable to other property concurrently being disposed of in a transaction otherwise permitted under this Section 8.05, and (e) the aggregate net book value of all of the assets sold or otherwise Disposed of by the Company and its Subsidiaries in all such transactions occurring during any fiscal year shall not exceed \$2,000,000.

8.06 Restricted Payments.

Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

- (a) each Subsidiary may make Restricted Payments to a Borrower or any Guarantor;
- (b) the Company and each Subsidiary may declare and make dividend payments or other distributions payable solely in the Equity Interests of such Person; and
- (c) the Company may make any other Restricted Payment (including, for the avoidance of doubt, stock repurchases); provided, that, (x) no Default or Event of Default shall have occurred and be continuing at the time of such Restricted Payment or would result from such Restricted Payment, (y) the Company shall have delivered to the Administrative Agent a Pro Forma Compliance Certificate demonstrating that, upon giving effect to such Restricted Payment

on a Pro Forma Basis, (A) the Loan Parties would be in compliance with the financial covenants set forth in Section 8.11 as of the most recent fiscal quarter end for which the Borrower was required to deliver financial statements pursuant to Section 7.01(a) or (b) and (B) the Loan Parties have Liquidity of at least \$25,000,000 and (z) the aggregate amount of all such Restricted Payments by the Company during any fiscal year shall not exceed \$5,000,000.

8.07 Change in Nature of Business.

Engage in any material line of business substantially different from those lines of business conducted by the Company and its Subsidiaries on the Closing Date or any business substantially related or incidental thereto.

8.08 Transactions with Affiliates and Insiders.

Enter into or permit to exist any transaction or series of transactions with any officer, director or Affiliate of such Person other than (a) advances of working capital to any Loan Party, (b) transfers of cash and assets to any Loan Party, (c) intercompany transactions expressly permitted by Section 8.02, Section 8.03, Section 8.04, Section 8.05 or Section 8.06, (d) normal and reasonable compensation and reimbursement of expenses of officers and directors in the ordinary course of business and (e) except as otherwise specifically limited in this Agreement, other transactions which are entered into in the ordinary course of such Person's business on terms and conditions substantially as favorable to such Person as would be obtainable by it in a comparable arms-length transaction with a Person other than an officer, director or Affiliate.

8.09 Burdensome Agreements.

Enter into, or permit to exist, any Contractual Obligation that (a) encumbers or restricts the ability of any such Person to (i) make Restricted Payments to any Loan Party, (ii) pay any Indebtedness or other obligations owed to any Loan Party, (iii) make loans or advances to any Loan Party, (iv) transfer any of its property to any Loan Party, (v) pledge its property pursuant to the Loan Documents or any renewals, refinancings, exchanges, refundings or extension thereof or (vi) act as a Loan Party pursuant to the Loan Documents or any renewals, refinancings, exchanges, refundings or extension thereof, except (in respect of any of the matters referred to in clauses (i)-(v) above) for (1) this Agreement and the other Loan Documents, (2) any document or instrument governing Indebtedness incurred pursuant to Section 8.03(e), provided that any such restriction contained therein relates only to the asset or assets constructed or acquired in connection therewith, (3) any Permitted Lien or any document or instrument governing any Permitted Lien, provided that any such restriction contained therein relates only to the asset or assets subject to such Permitted Lien or (4) customary restrictions and conditions contained in any agreement relating to the sale of any property permitted under Section 8.05 pending the consummation of such sale, or (b) requires the grant of any security for any obligation if such property is given as security for the Obligations.

8.10 Use of Proceeds.

Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

8.11 Financial Covenants.

(a) Consolidated Leverage Ratio . Permit the Consolidated Leverage Ratio as of the end of any fiscal quarter of the Company to be greater than (i) for any fiscal quarter ending during the period from the Closing Date to and including December 31, 2015, 2.50 to 1.0, (ii) for any fiscal quarter ending during the period from January 1, 2016 to and including December 31, 2016, 2.25 to 1.0 and (ii) for any fiscal quarter ending thereafter, 2.00 to 1.0.

(b) Consolidated Fixed Charge Coverage Ratio . Permit the Consolidated Fixed Charge Coverage Ratio as of the end of any fiscal quarter of the Company to be less than (i) for any fiscal quarter of the Company ending during the period from the Closing Date to and including December 31, 2015, 1.50 to 1.0 and (ii) for any fiscal quarter ending thereafter, 1.75 to 1.0.

(c) Liquidity . Permit Liquidity of the Loan Parties, as of the last day of any calendar month, to be less than \$15,000,000.

8.12 Prepayment of Other Indebtedness, Etc.

Make (or give any notice with respect thereto) any voluntary or optional payment or prepayment or redemption or acquisition for value of (including without limitation, by way of depositing money or securities with the trustee with respect thereto before due for the purpose of paying when due), refund, refinance or exchange of any Indebtedness of any Loan Party or any Subsidiary (other than (x) Indebtedness arising under the Loan Documents and (y) the specific refinancings, renewals and extensions permitted pursuant to Section 8.03(m)).

8.13 Organization Documents; Fiscal Year; Legal Name, State of Formation and Form of Entity.

(a) Amend, modify or change its Organization Documents in a manner adverse to the Lenders.

(b) Change its fiscal year.

(c) Without providing ten (10) days prior written notice to the Administrative Agent, change its name, state of formation or form of organization.

8.14 Ownership of Subsidiaries.

Notwithstanding any other provisions of this Agreement to the contrary, (a) permit any Person (other than any Loan Party) to own any Equity Interests of any Subsidiary of any Loan Party (other than the Equity Interests of Concourse Chicago and Concourse Detroit that, in each case, are owned on the Closing Date by a Person who is not a Loan Party), except to qualify directors where required by applicable law or to satisfy other requirements of applicable law with respect to the ownership of Equity Interests of Foreign Subsidiaries, (b) permit any Loan Party or any Subsidiary of any Loan Party to issue or have outstanding any shares of preferred Equity Interests (other than shares of preferred Equity Interests of Tego Communications, Inc. in existence on the Closing Date that are solely owned by the Company) or (c) create, incur, assume or suffer to exist any Lien on any Equity Interests of any Subsidiary of any Loan Party, except for Permitted Liens.

8.15 Sale Leasebacks.

Enter into any Sale and Leaseback Transaction.

8.16 Sanctions.

Directly or indirectly, use the proceeds of any Loan or Letter of Credit, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity, to fund any activities or business with any individual or entity, or in any country or territory, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any individual or entity (including any individual or entity participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES

9.01 Events of Default.

Any of the following shall constitute an Event of Default:

(a) Non-Payment. A Borrower or any other Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or any L/C Obligation, or (ii) within three Business Days after the same becomes due, any interest on any Loan or on any L/C Obligation, or any fee due hereunder, or (iii) within five Business Days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. Any Loan Party fails to perform or observe any term, covenant or agreement contained in any of Section 7.01, 7.02, 7.03, 7.05(a), 7.07, 7.10, 7.11, 7.12, 7.15 or 7.16 or Article VIII or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty days; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Company or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made; or

(e) Cross-Default. (i) Any Loan Party or any Subsidiary (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guarantee (other than Indebtedness hereunder and Indebtedness under Swap Contracts) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with

the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which the Company or any Subsidiary is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which the Company or any Subsidiary is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by the Company or such Subsidiary as a result thereof is greater than the Threshold Amount; or

(f) Insolvency Proceedings, Etc. Any Loan Party or any of its Subsidiaries institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party or any of its Subsidiaries becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within thirty days after its issue or levy; or

(h) Judgments. There is entered against any Loan Party or any Subsidiary (i) one or more final judgments or orders for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of thirty consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of any Loan Party under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of the Threshold Amount, or (ii) a Borrower or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of the Threshold Amount; or

(j) Invalidity of Loan Documents. Any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party or any other Person contests in any manner the validity or enforceability of any Loan

Document; or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any Loan Document; or

(k) Change of Control. There occurs any Change of Control.

9.02 Remedies Upon Event of Default.

If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

- (a) declare the commitment of each Lender to make Loans and any obligation of each L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;
- (b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrowers;
- (c) require that the Company Cash Collateralize the L/C Obligations (in an amount equal to the Minimum Collateral Amount with respect thereto); and
- (d) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to a Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of each L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Company to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

9.03 Application of Funds.

After the exercise of remedies provided for in Section 9.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 9.02), any amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the L/C Issuers (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuers) arising under the Loan Documents and amounts payable under Article III, ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans and L/C Borrowings and fees, premiums and scheduled periodic payments, and any interest accrued thereon, due under any Secured Swap Agreement, ratably among the Lenders, the Swap Banks and the L/C Issuers in proportion to the respective amounts described in this clause Third held by them;

Fourth, to (a) payment of that portion of the Obligations constituting accrued and unpaid principal of the Loans and L/C Borrowings, (b) payment of breakage, termination or other payments, and any interest accrued thereon, due under any Secured Swap Agreement, (c) payments of amounts due under any Secured Treasury Management Agreement and (d) Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit, ratably among the Lenders, Swap Banks, Treasury Management Banks and the L/C Issuers in proportion to the respective amounts described in this clause Fourth held by them; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrowers or as otherwise required by Law.

Subject to Sections 2.03(c) and 2.14, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fourth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

Excluded Swap Obligations with respect to any Loan Party shall not be paid with amounts received from such Loan Party or such Loan Party's assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section.

Notwithstanding the foregoing, Obligations arising under Secured Treasury Management Agreements and Secured Swap Agreements shall be excluded from the application described above if the Administrative Agent has not received a Secured Party Designation Notice, together with such supporting documentation as the Administrative Agent may request, from the applicable Treasury Management Bank or Swap Bank, as the case may be (other than, in each case, the Administrative Agent or its Affiliate). Each Treasury Management Bank or Swap Bank not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article X for itself and its Affiliates as if a "Lender" party hereto.

ARTICLE X

ADMINISTRATIVE AGENT

10.01 Appointment and Authority.

(a) Each of the Lenders and each L/C Issuer hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof,

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together with such actions and powers as are incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuers, and neither any Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(b) The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders (in its capacities as a Lender, Swing Line Lender (if applicable), potential Swap Banks and potential Treasury Management Banks) and each L/C Issuer hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender and such L/C Issuer for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are incidental thereto. In this connection, the Administrative Agent, as "collateral agent" and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 10.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this Article X and Article XI (including Section 11.04(c), as though such co-agents, sub-agents and attorneys-in-fact were the "collateral agent" under the Loan Documents) as if set forth in full herein with respect thereto.

10.02 Rights as a Lender.

The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its

individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust, financial, advisory, underwriting or other business with any Loan Party or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders or to provide notice to or consent of the Lenders with respect thereto.

10.03 Exculpatory Provisions.

The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent and its Related Parties:

- (a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;
- (b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative

Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may affect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

Neither the Administrative Agent nor any of its Related Parties shall be liable for any action taken or not taken by the Administrative Agent under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby or thereby (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 11.01 and 9.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and non-appealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Borrowers, a Lender or an L/C Issuer.

Neither the Administrative Agent nor any of its Related Parties shall have any duty or obligation to any Lender or participant or any other Person to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral or (vi) the satisfaction of any condition set forth in Article V or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

10.04 Reliance by Administrative Agent.

The Administrative Agent shall be entitled to rely upon, and shall be fully protected in relying and shall not incur any liability for relying upon, any notice, request, certificate, communication, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall be fully protected in relying and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or such L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or such L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Loan Parties), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

10.05 Delegation of Duties.

The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

10.06 Resignation of Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuers and the Company. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Company, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the “Resignation Effective Date”), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders and the L/C Issuers, appoint a successor Administrative Agent meeting the qualifications set forth above. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable Law by notice in writing to the Company and such Person remove such Person as the Administrative Agent and, in consultation with the Company, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days (or such earlier day as shall be agreed by the Required Lenders) (the “Removal Effective Date”), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the L/C Issuers under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and each L/C Issuer directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor’s appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other

than as provided in Section 3.01(g) and other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Company to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Company and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 11.04 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Any resignation by or removal of Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation or removal as L/C Issuer and Swing Line Lender. If Bank of America resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all of its Letters of Credit outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto, including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment by the Company of a successor L/C Issuer or Swing Line Lender hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as applicable (b) the retiring L/C Issuer and Swing Line Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

10.07 Non-Reliance on Administrative Agent and Other Lenders.

Each Lender and each L/C Issuer acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and each L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

10.08 No Other Duties; Etc.

Anything herein to the contrary notwithstanding, none of the bookrunners, arrangers, syndication agents, documentation agents or co-agents shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an L/C Issuer hereunder.

10.09 Administrative Agent May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on any Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations (other than obligations under Swap Contracts or Treasury Management Agreements to which the Administrative Agent is not a party) that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuers and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuers and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuers and the Administrative Agent under Sections 2.03(h) and (i), 2.09 and 11.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each L/C Issuer to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuers, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 11.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

The holders of the Obligations hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code of the United States, including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any similar Laws in any other jurisdictions to which a Loan Party is subject, (b) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the holders of the Obligations shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of

the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (ii) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (a)(i) through (iv) of Section 11.01 of this Agreement, (iii) the Administrative Agent shall be authorized to assign the relevant Obligations to any such acquisition vehicle pro rata by the Lenders, as a result of which each of the Lenders shall be deemed to have received a pro rata portion of any Equity Interests and/or debt instruments issued by such an acquisition vehicle on account of the assignment of the Obligations to be credit bid, all without the need for any holder of the Obligations or acquisition vehicle to take any further action, and (iv) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any holder of the Obligations or any acquisition vehicle to take any further action.

10.10 Collateral and Guaranty Matters.

Each Lender (including in its capacities as a potential Treasury Management Bank and a potential Swap Bank) and each L/C Issuer irrevocably authorize the Administrative Agent, at its option and in its discretion:

- (a) to release any Lien on any Collateral granted to or held by the Administrative Agent under any Loan Document (i) upon termination of the Aggregate Revolving Commitments and payment in full of all Obligations (other than contingent indemnification obligations) and the expiration or termination of all Letters of Credit, (ii) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other Disposition permitted hereunder or under any other Loan Document or any Involuntary Disposition, or (iii) as approved in accordance with Section 11.01;
- (b) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 8.01(i); and
- (c) to release any Guarantor from its obligations under the Guaranty if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty, pursuant to this Section 10.10.

The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative

Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

10.11 Treasury Management Banks and Swap Banks.

No Treasury Management Bank or Swap Bank that obtains the benefit of Section 9.03, the Guaranty or any Collateral by virtue of the provisions hereof or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) (or to notice of or to consent to any amendment, waiver or modification of the provisions hereof or of the Guaranty or any Collateral Document) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article X to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Treasury Management Agreements and Secured Swap Agreements except to the extent expressly provided herein and unless the Administrative Agent has received a Secured Party Designation Notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Treasury Management Bank or Swap Bank, as the case may be. The Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Treasury Management Agreements and Secured Swap Agreements.

ARTICLE XI

MISCELLANEOUS

11.01 Amendments, Etc.

(a) No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by a Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Company or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, further, that :

(i) no such amendment, waiver or consent shall:

(A) extend or increase the Commitment of a Lender (or reinstate any Commitment terminated pursuant to Section 9.02) without the written consent of such Lender whose Commitment is being extended or increased (it being understood and agreed that a waiver of any condition precedent set forth in Section 5.02 or of any Default or a mandatory reduction in Commitments is not considered an extension or increase in Commitments of any Lender);

(B) postpone any date fixed by this Agreement or any other Loan Document for any payment of principal (excluding mandatory prepayments), interest, fees or other amounts due to the Lenders (or any of them) or any scheduled or mandatory reduction of the Commitments hereunder or under any other Loan Document without the written consent of each Lender entitled to receive such payment or whose Commitments are to be reduced;

(C) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (i) of the final proviso to this Section 11.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender entitled to receive such payment of principal, interest, fees or other amounts; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of “Default Rate” or to waive any obligation of the Company to pay interest or Letter of Credit Fees at the Default Rate;

(D) change Section 2.13 or Section 9.03 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender directly affected thereby;

(E) change any provision of this Section 11.01(a) or the definition of “Required Lenders” without the written consent of each Lender directly affected thereby;

(F) except in connection with a Disposition permitted under Section 8.05, release all or substantially all of the Collateral without the written consent of each Lender directly affected thereby; or

(G) release a Borrower or, except in connection with a merger or consolidation permitted under Section 8.04 or a Disposition permitted under Section 8.05, all or substantially all of the Guarantors without the written consent of each Lender directly affected thereby, except to the extent the release of any Guarantor is permitted pursuant to Section 10.10 (in which case such release may be made by the Administrative Agent acting alone);

(ii) unless also signed by the applicable L/C Issuer, no amendment, waiver or consent shall affect the rights or duties of such L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it;

(iii) unless also signed by the Swing Line Lender, no amendment, waiver or consent shall affect the rights or duties of the Swing Line Lender under this Agreement; and

(iv) unless also signed by the Administrative Agent, no amendment, waiver or consent shall affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document;

provided, however, that notwithstanding anything to the contrary herein, (i) each Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto, (ii) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender, (iii) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code of the United States supersedes the unanimous consent provisions set forth herein and (iv) the Required Lenders shall determine whether or not to allow a Loan Party to use cash collateral in the context of a bankruptcy or insolvency proceeding and such determination shall be binding on all of the Lenders.

(b) Notwithstanding anything herein to the contrary, (x) this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent, the Company, the other Loan Parties and the relevant Lenders providing such additional credit facilities (i) to add one or more additional credit facilities to this Agreement, to permit the extensions of credit from time to time outstanding hereunder 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 the Revolving Loans and the accrued interest and fees in respect thereof and to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and (ii) to change, modify or alter Section 2.13 or Section 9.03 or any other provision hereof relating to the pro rata sharing of payments among the Lenders to the extent necessary to effectuate any of the amendments (or amendments and restatements) enumerated in this clause (x), (y) in order to implement any additional Commitments in accordance with Section 2.02(f), this Agreement may be amended for such purpose (but solely to the extent necessary to implement such additional Commitments in accordance with Section 2.02(f)) by the Company, the other Loan Parties, the Administrative Agent and the relevant Lenders providing such additional Commitments and (z) if following the Closing Date, the Administrative Agent and the Company shall have jointly identified an inconsistency, obvious error or omission of a technical or immaterial nature, in each case, in any provision of the Loan Documents, then the Administrative Agent and the Loan Parties shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Loan Documents if the same is not objected to in writing by the Required Lenders within five (5) Business Days following receipt of notice thereof.

(c) Notwithstanding anything herein to the contrary, as to any amendment, amendment and restatement or other modifications otherwise approved in accordance with this Section, it shall not be necessary to obtain the consent or approval of any Lender that, upon giving effect to such amendment, amendment and restatement or other modification, would have no Commitment or outstanding Loans so long as such Lender receives payment in full of the principal of and interest accrued on each Loan made by, and all other amounts owing to, such Lender or accrued for the account of such Lender under this Agreement and the other Loan Documents at the time such amendment, amendment and restatement or other modification becomes effective.

11.02 Notices and Other Communications; Facsimile Copies.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Company or any other Loan Party, the Administrative Agent, an L/C Issuer or the Swing Line Lender, to the address, facsimile number, e-mail address or telephone number specified for such Person on Schedule 11.02; and

(ii) if to any other Lender, to the address, facsimile number, e-mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrower).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and

other communications sent by facsimile or e-mail transmission shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuers hereunder may be delivered or furnished by electronic communication (including e-mail address and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or any L/C Issuer pursuant to Article II if such Lender or such L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent, the Swing Line Lender, the L/C Issuers or the Borrowers may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to any Loan Party, any Lender, any L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of a Borrower's, any Loan Party's or the Administrative Agent's transmission of Borrower Materials or any other Information through the Internet or any telecommunications, electronic or other information transmission systems, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to a Borrower, any other Loan Party, any Lender, any L/C Issuer or any other Person for indirect, special, consequential or punitive damages (as opposed to direct or actual damages).

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(d) Change of Address, Etc. Each Borrower, the Administrative Agent, each L/C Issuer and the Swing Line Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number or e-mail address for notices and other communications hereunder by notice to the Company, the Administrative Agent, the L/C Issuers and the Swing Line Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and e-mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to a Borrower or its securities for purposes of United States federal or state securities laws.

(e) Reliance by Administrative Agent, L/C Issuer and Lenders. The Administrative Agent, the L/C Issuers and the Lenders shall be entitled to rely and act upon any notices (including telephonic or electronic Loan Notices, Letter of Credit Applications and Swing Line Loan Notices) purportedly given by or on behalf of any Loan Party even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Loan Parties shall indemnify the Administrative Agent, the L/C Issuers, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of a Loan Party. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

No failure by any Lender, any L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 10.01 for the benefit of all the Lenders and the L/C Issuers; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any L/C Issuer or the Swing Line Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as an L/C Issuer or Swing Line Lender, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff

rights in accordance with Section 11.08 (subject to the terms of Section 2.13), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 10.01 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

11.04 Expenses; Indemnity; and Damage Waiver.

(a) Costs and Expenses. The Loan Parties shall pay (i) all reasonable out-of-pocket expenses incurred by the MLPFS, the Administrative Agent and their respective Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent and MLPFS) in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by an L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by MLPFS, the Administrative Agent, any Lender or any L/C Issuer (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or any L/C Issuer), and shall pay all fees and time charges for attorneys who may be employees of MLPFS, the Administrative Agent, any Lender or any L/C Issuer, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Loan Parties. The Loan Parties shall indemnify MLPFS, the Administrative Agent (and any sub-agent thereof), each Lender and each L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnatee”) against, and hold each Indemnatee harmless from, any and all losses, claims, damages, liabilities and related reasonable expenses (including the reasonable fees, charges and disbursements of any counsel for any Indemnatee), and shall indemnify and hold harmless each Indemnatee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnatee, incurred by any Indemnatee or asserted against any Indemnatee by any Person (including a Borrower or any other Loan Party) arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by an L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by a Loan Party or any of its Subsidiaries, or any Environmental Liability related in any way to a Loan Party or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the

foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Company or any other Loan Party, and regardless of whether any Indemnitee is a party thereto, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Indemnitee; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or the breach in bad faith by such Indemnitee of its obligations hereunder, if the Company or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. Without limiting the provisions of Section 3.01(c), this Section 11.04(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Reimbursement by Lenders. To the extent that the Loan Parties for any reason fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by them to MLPFS, the Administrative Agent (or any sub-agent thereof), an L/C Issuer, the Swing Line Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to MLPFS, the Administrative Agent (or any such sub-agent), such L/C Issuer, the Swing Line Lender or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' Applicable Percentages (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided, further that, the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against MLPFS, the Administrative Agent (or any such sub-agent), such L/C Issuer or the Swing Line Lender in its capacity as such, or against any Related Party of any of the foregoing acting for MLPFS, the Administrative Agent (or any such sub-agent), an L/C Issuer or the Swing Line Lender in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, no Loan Party shall assert, and each Loan Party hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section and the indemnity provisions of Section 11.02(e) shall survive the resignation of the Administrative Agent, any L/C Issuer and the Swing Line Lender, the replacement of any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all the other Obligations.

11.05 Payments Set Aside.

To the extent that any payment by or on behalf of any Loan Party is made to the Administrative Agent, any L/C Issuer or any Lender, or the Administrative Agent, any L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the L/C Issuers under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

11.06 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the parties hereto and thereto and their respective successors and assigns permitted hereby, except that no Borrower may assign or otherwise transfer any of its rights or obligations hereunder or thereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (e) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuers and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment and the Loans (including for purposes of this subsection (b), participations in L/C Obligations and Swing Line Loans) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and/or the Loans at the time owing to it or contemporaneous assignments to related Approved Funds that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if “Trade Date” is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000 in the case of an assignment of Revolving Loans and \$1,000,000 in the case of an assignment of Term Loans unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Company otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, that this Section 11.06(b)(i)(B) shall not apply to assignments permitted pursuant to Section 10.09;

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender’s Loans and Commitments, and rights and obligations with respect thereto assigned, except that this clause (ii) shall not (A) apply to the Swing Line Lender’s rights and obligations in respect of Swing Line Loans or (B) prohibit any Lender from assigning all or a portion of its rights and obligations in respect of its Revolving Commitment (and the related Revolving Loans thereunder) and its outstanding Term Loans on a non-pro rata basis;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Company (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided, that, the Company shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof; and provided further, that the Company’s consent shall not be required during the primary syndication of the credit facility provided herein;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (i) any Revolving Commitment if such assignment is to a Person that is not a Lender with a Revolving Commitment, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (ii) any Term Loan to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund;

(C) the consent of the L/C Issuers and the Swing Line Lender shall be required for any assignment in respect of the Revolving Commitments.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment; provided, further, that such processing and recordation fee shall not apply to any assignment permitted pursuant to Section 10.09.

The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons . No such assignment shall be made (A) to the Company or any of the Company's Affiliates or Subsidiaries, (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B) or (C) to a natural Person.

(vi) Certain Additional Payments . In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Company and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, any L/C Issuer or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swing Line Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01 , 3.04 , 3.05 and 11.04 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, each applicable Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register . The Administrative Agent, acting solely for this purpose as an agent of the Borrowers (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the

equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Company and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Company or the Administrative Agent, sell participations to any Person (other than a natural Person, a Defaulting Lender or a Borrower or any Affiliate or Subsidiary of a Borrower) (each, a “Participant”) in all or a portion of such Lender’s rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender’s participations in L/C Obligations and/or Swing Line Loans) owing to it); provided that (i) such Lender’s obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrowers, the Administrative Agent, the other Lenders and the L/C Issuers shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 11.04(c) without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in clauses (i) through (vii) of Section 11.01(a) that affects such Participant. Each Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 3.01(e) shall be delivered to the Lender who sells the participation) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 3.06 and 11.13 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 3.01 or 3.04, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrowers’ request and expense, to use reasonable efforts to cooperate with the Borrowers to effectuate the provisions of Section 3.06 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 11.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Loans or other obligations under the Loan Documents (the “Participant Register”); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant’s interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such

commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(f) Resignation as L/C Issuer or Swing Line Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time Bank of America assigns all of its Commitment and Loans pursuant to subsection (b) above, Bank of America may, (i) upon thirty days' notice to the Company and the Lenders, resign as L/C Issuer and/or (ii) upon thirty days' notice to the Company, resign as Swing Line Lender. In the event of any such resignation as L/C Issuer or Swing Line Lender, the Company shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swing Line Lender hereunder; provided, however, that no failure by the Company to appoint any such successor shall affect the resignation of Bank of America as L/C Issuer or Swing Line Lender, as the case may be. If Bank of America resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender, (1) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as the case may be, and (2) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

11.07 Treatment of Certain Information; Confidentiality.

(a) Treatment of Confidential Information. Each of the Administrative Agent, the Lenders and each L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (i) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (ii) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (iii) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (iv) to any other party hereto, (v) in connection with the exercise of any remedies hereunder or under any

other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (vi) subject to an agreement containing provisions substantially the same as those of this Section, to (A) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or (B) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to a Loan Party and its obligations, this Agreement or payments hereunder, (vii) on a confidential basis to (A) any rating agency in connection with rating the a Borrower or its Subsidiaries or the credit facilities provided hereunder, (B) the provider of any Platform or other electronic delivery service used by the Administrative Agent, an L/C Issuer and/or the Swing Line Lender to deliver Borrower Materials or notices to the Lenders or (C) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (viii) with the consent of the Company or (ix) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, any L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than any Loan Party. For purposes of this Section, “Information” means all information received from a Loan Party or any Subsidiary relating to the Loan Parties or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any L/C Issuer on a nonconfidential basis prior to disclosure by such Loan Party or any Subsidiary, provided that, in the case of information received from a Loan Party or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

(b) Non-Public Information. Each of the Administrative Agent, the Lenders and the L/C Issuers acknowledges that (i) the Information may include material non-public information concerning the Company or a Subsidiary, as the case may be, (ii) it has developed compliance procedures regarding the use of material non-public information and (iii) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

11.08 Set-off

If an Event of Default shall have occurred and be continuing, each Lender, each L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Administrative Agent, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, such L/C Issuer or any such Affiliate to or for the credit or the account of any Borrower or any other Loan Party against any and all of the obligations of such Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or such L/C Issuer or their respective Affiliates, irrespective of whether or not such Lender, L/C Issuer or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of such Borrower or such Loan Party may be contingent or unmatured or are owed to a branch office or Affiliate of such Lender or L/C Issuer different from the branch office or Affiliate holding such deposit or obligated on such indebtedness; provided, that, in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.15 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the L/C Issuers and the Lenders and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to

such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such L/C Issuer or their respective Affiliates may have. Each Lender and L/C Issuer agrees to notify the Company and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

11.09 Interest Rate Limitation.

Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “Maximum Rate”). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrowers. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

11.10 Counterparts; Integration; Effectiveness.

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent or an L/C Issuer, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 5.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging means (e.g. “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement.

11.11 Survival of Representations and Warranties.

All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

11.12 Severability.

If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions

the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 11.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, the L/C Issuers or the Swing Line Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

11.13 Replacement of Lenders.

If the Company is entitled to replace a Lender pursuant to the provisions of Section 3.06, or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Company may, at their sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.06), all of its interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

- (a) the Company shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 11.06(b);
- (b) such Lender shall have received payment of an amount equal to one hundred percent (100%) of the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Company (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(d) such assignment does not conflict with applicable Laws ; and

(e) in the case of any such assignment resulting from a Non-Consenting Lender's failure to consent to a proposed change, waiver, discharge or termination with respect to any Loan Document, the applicable replacement bank, financial institution or Fund consents to the proposed change, waiver, discharge or termination; provided that the failure by such Non-Consenting Lender to execute and deliver an Assignment and Assumption shall not impair the validity of the removal of such Non-Consenting Lender and the mandatory assignment of such Non-Consenting Lender's Commitments and outstanding Loans and participations in L/C Obligations and Swing Line Loans pursuant to this Section 11.13 shall nevertheless be effective without the execution by such Non-Consenting Lender of an Assignment and Assumption.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Company to require such assignment and delegation cease to apply.

11.14 Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST ANY OTHER PARTY HERETO OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY OTHER FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST A BORROWER OR ANY OTHER LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION IN ORDER TO ENFORCE ANY RIGHTS WITH RESPECT TO ANY COLLATERAL.

(c) WAIVER OF VENUE. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY

PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

11.15 Waiver of Right to Trial by Jury.

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

11.16 Electronic Execution of Assignments and Certain Other Documents.

The words “execute,” “execution,” “signed,” “signature” and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided, that, notwithstanding anything contained herein to the contrary the Administrative Agent is under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it; provided, further, that without limiting the foregoing, upon the request of any party, any electronic signature shall be promptly followed by such manually executed counterpart.

11.17 USA PATRIOT Act.

Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrowers that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “PATRIOT Act”), it is required to obtain, verify and record information that identifies the Borrowers, which information includes the name and address of the Borrowers and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrowers in accordance with the Act. The Borrowers shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Act.

11.18 No Advisory or Fiduciary Relationship.

In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Borrower acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a)(i) the arranging and other services regarding this Agreement provided by the Administrative Agent, MLPFS, and the Lenders are arm's-length commercial transactions between the Borrowers and their respective Affiliates, on the one hand, and the Administrative Agent, MLPFS and the Lenders on the other hand, (ii) each Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) each Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b)(i) the Administrative Agent, MLPFS and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not and will not be acting as an advisor, agent or fiduciary, for the Borrowers or any of their respective Affiliates or any other Person and (ii) neither the Administrative Agent, MLPFS nor any Lender has any obligation to the Borrowers or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Administrative Agent, MLPFS and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrowers and their respective Affiliates, and neither the Administrative Agent, MLPFS nor any Lender has any obligation to disclose any of such interests to the Borrowers or their respective Affiliates. To the fullest extent permitted by law, each Borrower hereby waives and releases, any claims that it may have against the Administrative Agent, MLPFS or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

11.19 Appointment of Company.

Each of the Guarantors and NY Telecom, in its capacity as a Borrower, hereby appoints the Company to act as its agent for all purposes of this Agreement, the other Loan Documents and all other documents and electronic platforms entered into in connection herewith and agrees that (a) the Company may execute such documents and provide such authorizations on behalf of such Guarantors and NY Telecom as the Company deems appropriate in its sole discretion and each Guarantor and NY Telecom shall be obligated by all of the terms of any such document and/or authorization executed on its behalf, (b) any notice of communication delivered by the Administrative Agent, an L/C Issuer or a Lender to the Company shall be deemed delivered to each Loan Party and (c) the Administrative Agent, the L/C Issuers, the Swing Line Lender or the Lenders may accept, and be permitted to rely on, any document, authorization, instrument or agreement executed by the Company on behalf of each of the Guarantors and NY Telecom.

11.20 Joint and Several Liability of Borrowers, Etc.

(a) Each of the Borrowers is accepting joint and several liability hereunder in consideration of the financial accommodation to be provided by the Lenders under this Agreement and the other documents evidencing the Obligations, for the mutual benefit, directly and indirectly, of each of the Borrowers and in consideration of the undertakings of each of the Borrowers to accept joint and several liability for the obligations of each of them.

(b) Each of the Borrowers jointly and severally hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the other Borrower with respect to the payment and performance of all of the Obligations, it

being the intention of the parties hereto that all the Obligations shall be the joint and several obligations of each of the Borrowers without preferences or distinction among them.

(c) If and to the extent that a Borrower shall fail to make any payment with respect to any of the Obligations as and when due or to perform any obligations under the Loan Documents in accordance with the terms thereof, then in each such event, the other Borrower will make such payment with respect to, or perform, such obligation.

(d) The obligations of each Borrower under the provisions of this Section 11.20 constitute full recourse obligations of such Borrower, enforceable against it to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of this Agreement or any other circumstances whatsoever.

(e) Except as otherwise expressly provided herein, each Borrower hereby waives notice of acceptance of its joint and several liability, notice of occurrence of any Default (except to the extent notice is expressly required to be given pursuant to the terms of this Agreement), or of any demand for any payment under this Agreement, notice of any action at any time taken or omitted by the Administrative Agent or the Lenders under or in respect of any of the Obligations, any requirement of diligence and, generally, all demands, notices and other formalities of every kind in connection with this Agreement. Each Borrower hereby assents to, and waives notice of, any extension or postponement of the time for the payment of any of the Obligations, the acceptance of any partial payment thereon, any waiver, consent or other action or acquiescence by the Lenders at any time or times in respect of any default by any Borrower in the performance or satisfaction of any term, covenant, condition or provision of this Agreement, any and all other indulgences whatsoever by the Lenders in respect of any of the Obligations, and the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of such Obligations or the addition, substitution or release, in whole or in part, of any Borrower. Without limiting the generality of the foregoing, each Borrower assents to any other action or delay in acting or any failure to act on the part of the Administrative Agent or the Lenders, including, without limitation, any failure strictly or diligently to assert any right or to pursue any remedy or to comply fully with applicable laws or regulations thereunder which might, but for the provisions of this Section 11.20, afford grounds for terminating, discharging or relieving such Borrower, in whole or in part, from any of its obligations under this Section 11.20, it being the intention of each Borrower that, so long as any of the Obligations hereunder remain unsatisfied, the obligations of such Borrower under this Section 11.20 shall not be discharged except by performance and then only to the extent of such performance. The obligations of each Borrower under this Section 11.20 shall not be diminished or rendered unenforceable by any winding up, reorganization, arrangement, liquidation, reconstruction or similar proceeding with respect to any reconstruction or similar proceeding with respect to any Borrower or the Lenders. The joint and several liability of the Borrowers hereunder shall continue in full force and effect notwithstanding any absorption, merger, amalgamation or any other change whatsoever in the name, membership, constitution or place of formation of any Borrower or the Lenders.

(f) The provisions of this Section 11.20 are made for the benefit of the Administrative Agent and the Lenders and their respective successors and assigns, and may be enforced by any such Person from time to time against any of the Borrowers as often as occasion therefore may arise and without requirement on the part of any Lender first to marshal any of its claims or to exercise any of its rights against any other Borrower or to exhaust any remedies available to it against any other Borrower or to resort to any other source or means of obtaining payment of any of the Obligations or to elect any other remedy. The provisions of this Section 11.20 shall remain in effect until all the Obligations shall have been paid in full or otherwise fully

satisfied. If at any time, any payment, or any part thereof, made in respect of any of the Obligations, is rescinded or must otherwise be restored or returned by the Lenders upon the insolvency, bankruptcy or reorganization of any of the Borrowers, or otherwise, the provisions of this Section 11.20 will forthwith be reinstated and in effect as though such payment had not been made.

(g) Notwithstanding any provision to the contrary contained herein or in any other of the Loan Documents or other documents evidencing the Obligations, the obligations of each Borrower hereunder shall be limited to an aggregate amount equal to the largest amount that would not render its obligations hereunder subject to avoidance under Section 548 of the Bankruptcy Code of the United States or any comparable provisions of any applicable Debtor Relief Law.

11.21 California Judicial Reference.

Notwithstanding anything to the contrary contained in this Agreement, if any action or proceeding is filed in a court of the State of California by or against any party hereto in connection with any of the transactions contemplated by this Agreement or any other Loan Document, (a) the court shall, and is hereby directed to, make a general reference pursuant to California Code of Civil Procedure Section 638 to a referee (who shall be a single active or retired judge) to hear and determine all of the issues in such action or proceeding (whether of fact or of law) and to report a statement of decision, provided that at the option of any party to such proceeding, any such issues pertaining to a “provisional remedy” as defined in California Code of Civil Procedure Section 1281.8 shall be heard and determined by the court, and (b) without limiting the generality of Section 11.04, the Loan Parties shall be solely responsible to pay all fees and expenses of any referee appointed in such action or proceeding.

[SIGNATURE PAGES FOLLOW]

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

BORROWERS:

BOINGO WIRELESS, INC.,
a Delaware corporation

By: /s/ Peter Hovenier
Name: Peter Hovenier
Title: Chief Financial Officer, Secretary

NEW YORK TELECOM PARTNERS, LLC,
a Delaware limited liability company

By: /s/ Peter Hovenier
Name: Peter Hovenier
Title: Chief Financial Officer

GUARANTORS:

ADVANCED WIRELESS GROUP, LLC,
a Florida limited liability company

By: /s/ Peter Hovenier
Name: Peter Hovenier
Title: Manager

BOINGO BROADBAND, LLC,
a Delaware limited liability company

By: /s/ Peter Hovenier
Name: Peter Hovenier
Title: Chief Financial Officer, Treasurer and Secretary

CHICAGO CONCOURSE DEVELOPMENT GROUP, LLC,
a Delaware limited liability company

By: /s/ Peter Hovenier
Name: Peter Hovenier
Title: Manager

CONCOURSE COMMUNICATIONS BALTIMORE, LLC,
a Delaware limited liability company

By: /s/ Peter Hovenier

Name: Peter Hovenier

Title: Chief Financial Officer, Treasurer and Secretary

CONCOURSE COMMUNICATIONS CANADA, INC.,
a Delaware corporation

By: /s/ Peter Hovenier

Name: Peter Hovenier

Title: Treasurer and Secretary

CONCOURSE COMMUNICATIONS GROUP, LLC,
a Delaware limited liability company

By: /s/ Peter Hovenier

Name: Peter Hovenier

Title: Manager

CONCOURSE COMMUNICATIONS ILLINOIS, LLC,
an Illinois limited liability company

By: /s/ Peter Hovenier

Name: Peter Hovenier

Title: Chief Financial Officer, Treasurer and Secretary

CONCOURSE COMMUNICATIONS MINNESOTA, LLC,
a Delaware limited liability company

By: /s/ Peter Hovenier

Name: Peter Hovenier

Title: Chief Financial Officer, Treasurer and Secretary

CONCOURSE COMMUNICATIONS NASHVILLE, LLC,
an Illinois limited liability company

By: /s/ Peter Hovenier

Name: Peter Hovenier

Title: Chief Financial Officer, Treasurer and Secretary

CONCOURSE COMMUNICATIONS OTTAWA, LLC,
an Illinois limited liability company

By: /s/ Peter Hovenier

Name: Peter Hovenier

Title: Chief Financial Officer, Treasurer and Secretary

CONCOURSE COMMUNICATIONS SSP, LLC,
a Delaware limited liability company

By: /s/ Peter Hovenier

Name: Peter Hovenier

Title: Chief Financial Officer, Treasurer and Manager

CONCOURSE COMMUNICATIONS ST. LOUIS, LLC,
a Delaware limited liability company

By: /s/ Peter Hovenier

Name: Peter Hovenier

Title: Chief Financial Officer, Treasurer and Secretary

CONCOURSE HOLDING CO., LLC,
a Delaware limited liability company

By: /s/ Peter Hovenier

Name: Peter Hovenier

Title: Manager

ELECTRONIC MEDIA SYSTEMS, INC.,
a Florida corporation

By: /s/ Peter Hovenier

Name: Peter Hovenier

Title: Treasurer and Secretary

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ENDEKA GROUP, INC.,
a California corporation

By: /s/ Peter Hovenier

Name: Peter Hovenier

Title: Treasurer, CFO & Secretary

INGATE HOLDING, LLC,
an Illinois limited liability company

By: /s/ Peter Hovenier

Name: Peter Hovenier

Title: Chief Financial Officer, Treasurer and Secretary

INGATE TECHNOLOGIES, LLC,
a Delaware limited liability company

By: /s/ Peter Hovenier
Name: Peter Hovenier
Title: Chief Financial Officer, Treasurer and Secretary

OPTI-FI NETWORKS, LLC,
a Delaware limited liability company

By: /s/ Peter Hovenier
Name: Peter Hovenier
Title: Chief Financial Officer, Treasurer and Secretary

TEGO COMMUNICATIONS, INC.,
a Delaware corporation

By: /s/ Peter Hovenier
Name: Peter Hovenier
Title: Secretary and Treasurer

ADMINISTRATIVE
AGENT:

BANK OF AMERICA, N.A.,
as Administrative Agent

By: /s/ Mollie S. Canup
Name: Mollie S. Canup
Title: Vice President

LENDERS:

BANK OF AMERICA, N.A.,
as a Lender, Swing Line Lender and an L/C Issuer

By: /s/ Julie Yamauchi
Name: Julie Yamauchi
Title: Senior Vice President

SILICON VALLEY BANK,
as a Lender and an L/C Issuer

By: /s/ Ted Bell
Name: Ted Bell
Title: Vice President

SCHEDULE 1.01
(EXISTING LETTERS OF CREDIT)

[*]

*CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

[*]

*CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

SCHEDULE 2.01

COMMITMENTS AND APPLICABLE PERCENTAGES

Lender	Revolving Commitment	Applicable Percentage of Aggregate Revolving Commitments	Term Loan Commitment	Applicable Percentage of Term Loan Commitments
Bank of America, N.A.	[*]	[*]	[*]	[*]
Silicon Valley Bank	[*]	[*]	[*]	[*]
Total	\$ 46,500,000.00	100.000000000%	\$ 3,500,000.00	100.000000000%

*CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

SCHEDULE 6.10
(INSURANCE)

(See Attached)

Client#: 22713

BOINWIRE

ACORDTM

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/03/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. certificate holder in lieu of such endorsement(s). A statement on this certificate does not confer rights to the

PRODUCER Barney & Barney 101 Enterprise, Ste 330 CA License #0H18131 Aliso Viejo, CA 92656	CONTACT NAME: [Omitted] PHONE (A/C, No, Ext): [Omitted] FAX: [Omitted] E-MAIL ADDRESS: [Omitted] [Omitted]
INSURED Boingo Wireless, Inc. 10960 Wilshire Blvd., Suite 800 Los Angeles, CA 90024	INSURER(S) AFFORDING COVERAGE INSURER A: Hartford Casualty Insurance Com [Omitted] INSURER B: NOVA Casualty Company [Omitted] INSURER C: Hartford Fire Insurance Company [Omitted] INSURER D: Sentinel Insurance Company, Ltd [Omitted] INSURER E: INSURER F:

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID AMTS.

MR	TYPE OF INSURANCE	ADDL NR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-TECT <input type="checkbox"/> LOC			[Omitted]	07/01/2014	07/01/2015	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea. occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$ INCLUDED \$ \$ \$ \$ \$ \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS MADE DED <input type="checkbox"/> RETENTION \$10,000			[Omitted]	07/01/2014	07/01/2015	EACH OCCURRENCE \$25,000,000 AGGREGATE \$25,000,000 \$ \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				WC STATU-TORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
C	Tech E&O Claims Made			[Omitted]	07/01/2014	07/01/2015	Each Glitch/Agg \$5 MIL 1st Party Exp \$1 MIL Ded \$50,000

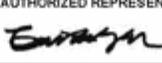
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space's required)
Bank of America, N.A., as Administrative Agent, I.S.A.O.A., A.T.I.M.A., is named as additional insured per the attached. 30 days notice of cancellation is granted.

CERTIFICATE HOLDER

Bank of America, N.A., as Administrative Agent
ISAOA, ATIMA
Bank of America Plaza
TX1-492-14-06
901 Main Street
I Dallas, TX 75202

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE


NAMED INSUREDS

Advanced Wireless Group, LLC
Boingo Broadband LLC
Boingo Holding Participacoes Ltda (Incorporated 12/13/13)
Boingo Limited
Boingo Wireless, Inc.
Chicago Concourse Development Group, LLC
Concourse Communications Baltimore, LLC
Concourse Communications Canada, Inc.
Concourse Communications Detroit, LLC
Concourse Communications Group, LLC
Concourse Communications Illinois, LLC
Concourse Communications Minnesota, LLC
Concourse Communications Nashville, LLC
Concourse Communications Ottawa, LLC
Concourse Communications Puerto Rico, LLC
Concourse Communications SSP, LLC
Concourse Communications St. Louis, LLC
Concourse Communications UK, Limited
Concourse Holding Co., LLC
Concourse Telecomunicacoes Brasil Ltda.
Electronic Media Systems, Inc.
Endeka Group, Inc. (Acquisition 2/22/2013/Wifi Installation)
InGate Holding, LLC
InGate Technologies, LLC
New York Telecom Partners, LLC
Opt-Fi Networks, LLC
Tego Communications, Inc.

ACORD TM EVIDENCE OF COMMERCIAL PROPERTY INSURANCE		DATE (MM/DD/YYYY)
THIS EVIDENCE OF COMMERCIAL PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.		
PRODUCER NAME CONTACT PERSON AND ADDRESS	PHONE (949) 540-6912	COMPANY NAME AND ADDRESS Hartford Casualty Insurance Company NAIC NO: 29424
Barney & Barney 101 Enterprise, Ste 330 CA License #0H18131 Aliso Viejo, CA 92656		IF MULTIPLE COMPANIES, COMPLETE SEPARATE FORM FOR EACH
FAX No. (A/C, No. Ext):	[Omitted]	E-MAIL ADDRESS: [Omitted]
CODE:	SUB CODE:	POLICY TYPE
AGENCY CUSTOMER ID N	[Omitted]	LOAN NUMBER
NAMED INSURED AND ADDRESS	Boingo Wireless, Inc. 10960 Wilshire Blvd., Suite 800 Los Angeles, CA 90024	POLICY NUMBER [Omitted]
ADDITIONAL NAMED INSURED(S)		EFFECTIVE DATE 07/01/2014
		EXPIRATION DATE 07/01/2015
		CONTINUED UNTIL TERMINATED IF CHECKED
		THIS REPLACES PRIOR EVIDENCE DATED

PROPERTY INFORMATION (Use REMARKS on Page 2, if more space is required) BUILDING OR BUSINESS PERSONAL PROPERTY

LOCATION/DESCRIPTION

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION	PERILS INSURED	BASIC	BROAD	X	SPECIAL	
COMMERCIAL PROPERTY COVERAGE AMOUNT OF INSURANCE \$ 10,415,000						DED: 2,500
	YES	NO	N/A			
<input type="checkbox"/> BUSINESS INCOME <input type="checkbox"/> RENTAL VALUE	X					If YES, LIMIT: 2,000,000 Actual Loss Sustained; # of months
BLANKET COVERAGE	X					If YES, indicate value(s) reported on property identified above: \$ 10,415,000
TERRORISM COVERAGE	X					Attach Disclosure Notice / DEC
IS THERE A TERRORISM-SPECIFIC EXCLUSION?		X				
IS DOMESTIC TERRORISM EXCLUDED?		X				
LIMITED FUNGUS COVERAGE	X					If YES, LIMIT: 50,000 DED: 2,500
FUNGUS EXCLUSION (IF "YES", specify organization's form used)		X				
REPLACEMENT COST	X					
AGREED VALUE	X					
COINSURANCE	X					If Yes, %
EQUIPMENT BREAKDOWN (If Applicable)	X					If YES, LIMIT: DED:
ORDINANCE OR LAW - Coverage for loss to undamaged portion of bldg.						If YES, LIMIT: DED:
- Demolition Costs	X					If YES, LIMIT: 1,000,000 DED: 2,500
- Incr. Cost of Construction	X					If YES, LIMIT: 1000000 DED: 2,500
EARTH MOVEMENT (if Applicable)	X					If YES, LIMIT: DED:
FLOOD (if Applicable)	X					If YES, LIMIT: DED:
WIND/HAIL (if Subject to Different Provisions)	X					If YES, LIMIT: DED:
PERMISSION TO WAIVE SUBROGATION IN FAVOR OF MORTGAGE HOLDER PRIOR TO LOSS			X			

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST

<input type="checkbox"/> MORTGAGEE	CONTRACT OF SALE	LENDER SERVICING AGENT NAME AND ADDRESS
<input checked="" type="checkbox"/> LENDERS LOSS PAYABLE		
NAME AND ADDRESS		AUTHORIZED REPRESENTATIVE
Bank of America, N.A., as Administrative Agent; ISAOA, ATIMA Bank of America Plaza TX1-492-14-06 901 Main Street Dallas, TX 75202		

***** Description of Operations *****

Bank of America, N.A., as Administrative Agent, I.S.A.O.A., A.T.I.M.A., is named as Lender's Loss Payee.

Loc	Address	City	State	Zip Code				
1	10960 Wishire Blvd. #800	Los Angeles	CA	90024				
2	1920 E. Maple Avenue	El Segundo	CA	90245				
3	1905 - 1945 Lunt Avenue	Elk Grove Village	IL	60007				
4	Ohare Airport	10000 West O'Hare	Chicago IL	60666				
5	Midway Airport	5700 South Cicero	Chicago IL	60638				
6	Terminal Building BWI Airport	7062 Elk Road.	Baltimore	MD	21240			
7	200 W. Madison Street	Chicago IL	60606					
8	2150 S Central Expressway #1000	McKinney	TX	48242				
9	Detroit Metro Airport	Detroit	MI	48242				
10	3000 Marcus Avenue #2E6	Lake Success	NY	11042				
11	1261 Howard St. 3rd Floor	San Francisco	CA	94102				
12	419 Lafayette St. 2nd Floor	New York	NY	10003				
13	444 S Cedros Ave, Ste. 295	Solana Beach	CA	92075				
14	6540 Lusk Blvd Suite C175	San Diego	CA	92121				
15	Logan Airport 1 Harborside Drive	Boston	MA	02128				
16	10460 NW 46th Street	Miami	FL	33178				
17	San Francisco Ill Airport	San Francisco	CA	94128				
18	4501 Abbott Drive Omaha	NE	68102					
19	7800 Col. H. Wier Cook Mem Dr.	Indiannpolis	IN	46241				
20	2627 N. Hollywood Blvd.	Burbank	CA	91505				
21	6900 Airport Blvd. Sacramento	CA	95807					
22	800 Boylston Street	Boston	MA	02199				
23	2000 Post Road	Warwick RI	02886					
24	4200 Genessee St. Cheektowaga	NY	14225					
25	3225 N. Harbor Drive	San Diego	CA	92101				
26	LAX	Los Angeles	CA	90045				
27	John Wayne Auirport, 3160 Airway Ave.	Costa Mesa	CA	92626				
28	4300 Glumack Road	St. Paul	MN	55111				
29	1 Airport Drive	Oakland	CA	94621				
30	Baltimore-Wash. Marshall	MD	21240					

\$500,000 Unscheduled Premises Limit

SCHEDULE 6.13
(SUBSIDIARIES)

Entity Name	Parent	Jurisdiction of Formation	Number of Shares/Equity Interests Outstanding .	Percentage of Outstanding Shares of each Class Owned	Options, Warrants,, Rights of Conversion or Purchase
Advanced Wireless Group, LLC	Boingo Wireless, Inc., Electronic Media Systems, Inc.	FL	Boingo Wireless, Inc. (10 Units) Electronic Media Systems (90 Units)	Boingo Wireless, Inc. (10%) Electronic Media Systems (90%)	N/A
Boingo Broadband LLC	Concourse Communications Group, LLC	DE	100% of Membership Interests	100%	N/A
Boingo Holding Participacoes Ltda.	Boingo Wireless, Inc., Timeo Participacoes Ltda.	Brazil	Boingo Wireless, Inc. (75% of all equity interests), Timeo Participacoes Ltda (25% of all equity interests)	Boingo Wireless, Inc. (75% interest)	N/A
Boingo Limited	Boingo Wireless, Inc.	England and Wales	1 Share	100%	N/A
Chicago Concourse Development Group, LLC	Concourse Communications Group, LLC, Rico Computer Enterprises, Inc.	DE	Concourse Communication s Group, LLC (70% equity interest), Rico Computer Enterprises, Inc. (30% equity interest)	Concourse Communications Group, LLC (70% interest)	N/A
Concourse Communications Baltimore, LLC	Concourse Communications Group, LLC	DE	100% of Membership Interest	100%	N/A
Concourse	Concourse	DE	100 shares	100%	N/A

Communications Canada, Inc.	Communications Group, LLC				
Concourse Communications Detroit, LLC	Concourse Communications Group, LLC, Detroit Concourse Partners, LLC	DE	Concourse Communications Group, LLC (70,000 Common Units), Detroit Concourse Partners, LLC (30,000 Class A Units)	Concourse Communications Group, LLC (70%)	N/A
Concourse Communications Group, LLC	Concourse Holding Co., LLC	DE	100% of Membership Interests	100%	N/A
Concourse Communications Illinois, LLC	Concourse Communications Group, LLC	IL	100% of Membership Interests	100%	N/A
Concourse Communications Minnesota, LLC	Concourse Communications Group, LLC	DE	100% of Membership Interests	100%	N/A
Concourse Communications Nashville, LLC	Concourse Communications Group, LLC	IL	100% of Membership Interests	100%	N/A
Concourse Communications Ottawa, LLC	Concourse Communications Group, LLC	IL	100% of Membership Interests	100%	N/A
Concourse Communications Puerto Rico, LLC	Concourse Communications Group, LLC	PR	1,000 Units	100%	N/A
Concourse Communications SSP, LLC	Concourse Communications Group, LLC	DE	100% of Membership Interests	100%	N/A
Concourse Communications St. Louis, LLC	Concourse Communications Group, LLC	DE	100% of Membership Interests	100%	N/A
Concourse Communications UK Limited	Concourse Communications Group, LLC	England and Wales	1,000 Ordinary Shares	100%	N/A
Concourse Holding Co., LLC	Boingo Wireless, Inc., Tego Communications, Inc.	DE	Boingo Wireless, Inc. (6,466.918 Class A Units, 7,347,129 Common	Boingo Wireless, Inc. (50.1%), Tego Communications, Inc. (49.9%)	Employee Equity Plan (652,008 Units)

			Units), Tego Communication s, Inc. (4,206.126 Class A Units, 3,116.926 Class B Units, 7,323,052 Common Units)		
Concourse Telecomunicacoes Brasil Ltda.	Boingo Holding Participacoes Ltda., Timeo Participacoes Ltda.	Brazil	Boingo Holding Participacoes Ltda. (99.999% equity interest), Timeo Participacoes Ltda. (.001% equity interest)	Boingo Holding Participacoes Ltda.. (99.999% interest)	N/A
Electronic Media Systems, Inc.	Boingo Wireless, Inc.	FL	100 Shares	100%	N/A
Endeka Group, Inc.	Boingo Wireless, Inc.	CA	1 share	100%	N/A
InGate Holding, LLC	Concourse Communications Group, LLC	IL	100% of Membership Interests	100%	N/A
InGate Technologies, LLC	InGate Holding, LLC	DE	100% of Membership Interests	100%	N/A
New York Telecom Partners, LLC	Concourse Communications Group, LLC	DE	100% of all Membership Units	100%	N/A
Opti-Fi Networks, LLC	Boingo Wireless, Inc.	DE	100% of Membership Interests	100%	N/A
Tego Communications, Inc.	Boingo Wireless, Inc.	DE	60,003 Common Shares and 5,323.7 Series A Preferred held by Boingo Wireless, Inc.	100%	N/A

SCHEDULE 6.17
(INTELLECTUAL PROPERTY RIGHTS)

TRADEMARKS, SERVICE MARKS, TRADE NAMES: (VARIOUS OWNERSHIP - SEE BELOW)

CONCOURSE COMMUNICATIONS GROUP, LLC
REGISTERED MARKS

Mark	Registration No.	Registration Date
CC CONCOURSE COMMUNICATIONS GROUP, LLC and Design	2630504	10/8/02
CONCOURSE COMMUNICATIONS	3650218	7/7/09

ADVANCED WIRELESS GROUP, LLC
REGISTERED MARKS

Mark	Registration No.	Registration Date
AWG-WIFI	4364687	7/9/13

BOINGO WIRELESS, INC.
REGISTERED MARKS

Mark	Registration No.	Registration Date
BOINGO	2873172	8/17/04
BOINGO and Design	3517731	10/14/08
BOINGO WI-FINDER	4020471	8/30/11
DON'T JUST GO BOINGO	3473546	7/22/08
CLOUDNINE 9 MEDIA and Design	4274673	1/15/13

PENDING APPLICATIONS

Mark	Serial No.	Filing Date
BOINGO BROADBAND	86155174	12/31/13

PATENTS: (ALL OWNED BY BOINGO WIRELESS, INC.)

Mark	Serial No.	Filing Date
Method And Apparatus For Monitoring Wireless Network Access	8767686	7/1/14
System, Method And Apparatus For Dynamic Wireless Network Discovery	8831660	9/9/14

SCHEDULE 6.20(A)
(LOCATIONS OF REAL PROPERTY)

Office Space (Excluded Property)

Location	Leased/Owned	Lessee
10960 Wilshire Blvd. Suite 800, Los Angeles, CA. 90024	Leased	Boingo Wireless, Inc.
10960 Wilshire Blvd. Suite 120, Los Angeles, CA. 90024	Leased	Boingo Wireless, Inc.
10960 Wilshire Blvd. Suite 2300 & 2400, Los Angeles, CA. 90024	Leased (these locations will replace Suites 800 and 120.	Boingo Wireless, Inc.
6540 Lusk Blvd. Suite C175, San Diego, CA. 92121	Leased	Endeka Group, Inc.
2150 S. Central Expressway, Suite 160 McKinney, TX 75070	Leased	Boingo Wireless, Inc.
2215 York Road, Suite 415 Oak Brook, IL. 60523	Leased	Boingo Wireless, Inc.
1261 Howard Street, 3rd Floor San Francisco, CA 94103	Leased	Boingo Wireless, Inc.
3000 Marcus Avenue Suite 2E6 Lake Success, NY 11042	Leased	New York Telecom Partners, LLC
580 Broadway, Suite 901 New York, NY. 10012	Leased	Boingo Wireless, Inc.

SCHEDULE 6.20(B)
(TAXPAYER AND ORGANIZATIONAL IDENTIFICATION NUMBERS)

[OMITTED]

SCHEDULE 6.20(C)
(CHANGES IN LEGAL NAME, STATE OF FORMATION, STRUCTURE)

On February 22, 2013, E-Marines Acquisition Corporation, a California corporation, merged into Endeka Group, Inc., a California corporation.

SCHEDULE 8.01
(LIENS EXISTING ON THE CLOSING DATE)

None.

SCHEDULE 8.02
(INVESTMENTS EXISTING ON THE CLOSING DATE)

Investments constituting ownership of the Equity Interests in Subsidiaries described on Schedule 6.13.

SCHEDULE 8.03
(INDEBTEDNESS EXISTING ON THE CLOSING DATE)

None.

SCHEDULE 11.02
LENDING OFFICES, CERTAIN ADDRESSES FOR NOTICES

LOAN PARTIES:

Boingo Wireless, Inc.
New York Telecom Partners, LLC (c/o Boingo Wireless, Inc.)
10960 Wilshire Blvd., Suite 800
Los Angeles, CA 90024
Attention: [Omitted]

With a copy to: (which shall not constitute notice)

Chapman and Cutler LLP
595 Market Street, 26th Floor
San Francisco, CA 94105
Attention: [Omitted]
Email: [Omitted]

ADMINISTRATIVE AGENT:

Administrative Agent's Office

(for payments and requests for Credit Extensions):

Bank of America, N.A., as Administrative Agent
Bank of America Plaza
901 Main Street
Mail Code: TX1-492-14-04
Dallas, TX 75202-3714
Attention: [Omitted]
Telephone: [Omitted]
Telecopier: [Omitted]

Electronic Mail: [Omitted]

Wire Instructions:

Pay to: Bank of America, N.A.
New York, NY
ABA [Omitted]
Acct # [Omitted]
Acct Name: [Omitted]
Ref: Boingo Wireless, Inc & New York Telecom Partners, LLC (NY Telecom)

Other Notices as Administrative Agent (for Financial Reporting requirements, Bank Group Communications, etc.):

Bank of America, N.A., as Administrative Agent
Gateway Village-Building 900

900 West Trade Street
Mail Code: NC 1-026-06-03
Charlotte, NC 28255
Attention: [Omitted]
Telephone: [Omitted]
Telecopier: [Omitted]
Electronic Mail: [Omitted]

BANK OF AMERICA, N.A., AS L/C ISSUER:

For Standby Letters of Credit:

Bank of America, N.A., as L/C Issuer
Trade Services Standbys — PA
1 Fleet Way
Mail Code: PA6-580-02-30
Scranton, PA 18507
Attention: Letters of Credit Customer Service
Telephone: [Omitted]
Telecopier: N/A
Electronic Mail: [Omitted]

SWING LINE LENDER:

Bank of America, N.A., as Swing Line Lender
Bank of America Plaza
901 Main Street
Mail Code: TX1-492-14-04
Dallas, TX 75202-3714
Attention: [Omitted]
Telephone: [Omitted]
Telecopier: [Omitted]
Electronic Mail: [Omitted]

SILICON VALLEY BANK:

Silicon Valley Bank
15260 Ventura Blvd., Suite 1800
Sherman Oaks, CA 91403
Telephone: [Omitted]
Email: [Omitted]
Attn: [Omitted]
Managing Director, Southern California
Corporate Finance

EXHIBIT A

FORM OF LOAN NOTICE

Date: _____,

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Credit Agreement, dated as of November 21, 2014 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), among Boingo Wireless, Inc., a Delaware corporation (the "Company"), New York Telecom Partners, LLC, a Delaware limited liability company ("NY Telecom") and together with the Company, each a "Borrower" and collectively, the "Borrowers"), the Guarantors from time to time party thereto, the Lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent.

The undersigned hereby requests (select one):

- A Borrowing of [Revolving Loans] [the Term Loan](1)
- A conversion or continuation of [Revolving Loans][the Term Loan]
 1. On _____ (a Business Day).
 2. In the amount of \$ _____.
 3. Comprised of _____.
[Type of Loan requested]
 4. For Eurodollar Rate Loans: with an Interest Period of _____ (2) months.

[With respect to such Borrowing, the undersigned Borrower hereby represents and warrants that (i) such request complies with the requirements of Section 2.01 of the Credit Agreement and (ii) each of the conditions set forth in Sections 5.02(a) and (b) of the Credit Agreement has been satisfied on and as of the date of such Borrowing.]

(1) As set forth in Section 2.01(a) and (b) of the Credit Agreement, the Company shall be the sole Borrower with respect to Revolving Loans and NY Telecom shall be the sole Borrower with respect to the Term Loan.

(2) Per the definition of "Interest Period" in Section 1.01 of the Credit Agreement, one, two, three or six months (in each case, subject to availability).

[BOINGO WIRELESS, INC.,
a Delaware corporation

By: _____
Name:
Title:]

[NEW YORK TELECOM PARTNERS, LLC, a Delaware limited
liability company

By: _____
Name:
Title:]

EXHIBIT B

FORM OF SWING LINE LOAN NOTICE

Date: _____ ,

To: Bank of America, N.A., as Swing Line Lender

Cc: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Credit Agreement, dated as of November 21, 2014 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement;" the terms defined therein being used herein as therein defined), among Boingo Wireless, Inc., a Delaware corporation (the "Company"), New York Telecom Partners, LLC, a Delaware limited liability company ("NY Telecom") and together with the Company, each a "Borrower" and collectively, the "Borrowers"), the Guarantors from time to time party thereto, the Lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent.

The undersigned hereby requests a Swing Line Loan:

1. On _____ (a Business Day).
2. In the amount of \$ _____ .

With respect to such Borrowing of Swing Line Loans, the Company hereby represents and warrants that (i) such request complies with the requirements of Section 2.04(a) of the Credit Agreement and (ii) each of the conditions set forth in Sections 5.02(a) and (b) of the Credit Agreement has been satisfied on and as of the date of such Borrowing.

BOINGO WIRELESS, INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

EXHIBIT C

FORM OF REVOLVING NOTE

FOR VALUE RECEIVED, the undersigned (the "Company"), hereby promises to pay to _____ or registered assigns (the "Lender"), in accordance with the provisions of the Credit Agreement (as hereinafter defined), the principal amount of each Revolving Loan from time to time made by the Lender to the Company under that certain Credit Agreement, dated as of November 21, 2014 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement;" the terms defined therein being used herein as therein defined), among the Company, as a Borrower, NY Telecom Partners, LLC, a Delaware limited liability company, as a Borrower, the Guarantors from time to time party thereto, the Lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent.

The Company promises to pay interest on the unpaid principal amount of each Revolving Loan from the date of such Revolving Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Credit Agreement. All payments of principal and interest shall be made to the Administrative Agent for the account of the Lender in Dollars in immediately available funds at the Administrative Agent's Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Credit Agreement.

This Revolving Note is one of the Revolving Notes referred to in the Credit Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein. Upon the occurrence and continuation of one or more of the Events of Default specified in the Credit Agreement, all amounts then remaining unpaid on this Revolving Note shall become, or may be declared to be, immediately due and payable all as provided in the Credit Agreement. Revolving Loans made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Revolving Note and endorse thereon the date, amount and maturity of its Revolving Loans and payments with respect thereto.

The Company, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Revolving Note.

THIS REVOLVING NOTE AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS REVOLVING NOTE AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

IN WITNESS WHEREOF, the Company has caused this Revolving Note to be duly executed and delivered by its officer thereunto duly authorized as of the date and at the place first written above.

BOINGO WIRELESS, INC.,
a Delaware corporation

By: _____
Name:
Title:

EXHIBIT D

FORM OF SWING LINE NOTE

FOR VALUE RECEIVED, the undersigned (the “Company”), hereby promises to pay to BANK OF AMERICA, N.A. or its registered assigns (the “Swing Line Lender”), in accordance with the provisions of the Credit Agreement (as hereinafter defined), the principal amount of each Swing Line Loan from time to time made by the Swing Line Lender to the Company under that certain Credit Agreement, dated as of November 21, 2014 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “Credit Agreement,” the terms defined therein being used herein as therein defined), among the Company, as a Borrower, New York Telecom Partners, LLC, a Delaware limited liability company, as a Borrower, the Guarantors from time to time party thereto, the Lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent.

The Company promises to pay interest on the unpaid principal amount of each Swing Line Loan from the date of such Swing Line Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Credit Agreement. All payments of principal and interest shall be made directly to the Swing Line Lender in Dollars in immediately available funds. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Credit Agreement.

This Swing Line Note is the Swing Line Note referred to in the Credit Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein. Upon the occurrence and continuation of one or more of the Events of Default specified in the Credit Agreement, all amounts then remaining unpaid on this Swing Line Note shall become, or may be declared to be, immediately due and payable all as provided in the Credit Agreement. Swing Line Loans made by the Swing Line Lender shall be evidenced by one or more loan accounts or records maintained by the Swing Line Lender in the ordinary course of business. The Swing Line Lender may also attach schedules to this Swing Line Note and endorse thereon the date, amount and maturity of its Swing Line Loans and payments with respect thereto.

The Company, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Swing Line Note.

THIS SWING LINE NOTE AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS SWING LINE NOTE AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

IN WITNESS WHEREOF, the Company has caused this Swing Line Note to be duly executed and delivered by its officer thereunto duly authorized as of the date and at the place first written above.

BOINGO WIRELESS, INC.,
a Delaware corporation

By: _____
Name:
Title:

EXHIBIT E

FORM OF TERM NOTE

FOR VALUE RECEIVED, the undersigned (“NY Telecom”), hereby promises to pay to _____ or registered assigns (the “Lender”), in accordance with the provisions of the Credit Agreement (as hereinafter defined), the principal amount of the Term Loan made by the Lender to NY Telecom under that certain Credit Agreement, dated as of November 21, 2014 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “Credit Agreement,” the terms defined therein being used herein as therein defined), among NY Telecom, as a Borrower, Boingo Wireless, Inc., a Delaware corporation, as a Borrower, the Guarantors from time to time party thereto, the Lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent.

NY Telecom promises to pay interest on the unpaid principal amount of the Term Loan from the date of such Term Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Credit Agreement. All payments of principal and interest shall be made to the Administrative Agent for the account of the Lender in Dollars in immediately available funds at the Administrative Agent’s Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Credit Agreement.

This Term Note is one of the Term Notes referred to in the Credit Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein. Upon the occurrence and continuation of one or more of the Events of Default specified in the Credit Agreement, all amounts then remaining unpaid on this Term Note shall become, or may be declared to be, immediately due and payable all as provided in the Credit Agreement. The Term Loan made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Term Note and endorse thereon the date, amount and maturity of its Term Loans and payments with respect thereto.

NY Telecom, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Term Note.

THIS TERM NOTE AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS TERM NOTE AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

IN WITNESS WHEREOF, NY Telecom has caused this Term Note to be duly executed and delivered by its officer thereunto duly authorized as of the date and at the place first written above.

NEW YORK TELECOM PARTNERS, LLC,
a Delaware limited liability company

By: _____
Name:
Title:

EXHIBIT F

FORM OF COMPLIANCE CERTIFICATE

For the fiscal [year][quarter] ended _____, 20 ____ .

I, _____, [Title] of BOINGO WIRELESS, INC., a Delaware corporation (the "Company"), hereby certify that, to the best of my knowledge and belief, with respect to that certain Credit Agreement, dated as of November 21, 2014 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), among the Company, as a Borrower, New York Telecom Partners, LLC, a Delaware limited liability company ("NY Telecom" and together with the Company, each a "Borrower" and collectively, the "Borrowers"), the Guarantors from time to time party thereto, the Lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent.:

[Use following paragraph 1 for fiscal year-end financial statements:]

[I. Attached hereto as Schedule 1 are the year-end audited financial statements required by Section 7.01(a) of the Credit Agreement for the fiscal year of the Company ended as of the above date, together with the report and opinion of an independent certified public accountant required by such section.]

[Use following paragraph 1 for fiscal quarter-end financial statements:]

[1. Attached hereto as Schedule 1 are the unaudited financial statements required by Section 7.01(b) of the Credit Agreement for the fiscal quarter of the Company ended as of the above date. Such financial statements fairly present the financial condition, results of operations, shareholders' equity and cash flows of the Company and its Subsidiaries as at such date and for such period, subject only to normal year-end audit adjustments and the absence of footnotes.]

2. The undersigned has reviewed and is familiar with the terms of the Credit Agreement and has made, or has caused to be made, a review of the transactions and condition (financial or otherwise) of the Company and its Subsidiaries during the accounting period covered by the attached financial statements.

3. A review of the activities of the Company and its Subsidiaries during such fiscal period has been made under the supervision of the undersigned with a view to determining whether during such fiscal period the Company and its Subsidiaries performed and observed all their respective obligations under the Loan Documents, and

[select one:]

[to the knowledge of the undersigned during such fiscal period, the Company and its Subsidiaries performed and observed each covenant and condition of the Loan Documents applicable to it.]

[or:]

[the following covenants or conditions have not been performed or observed and the following is a list of each such Default and its nature and status:]

4. The financial covenant analyses and calculation as of the last day of and for the period covered by the financial statements enclosed herewith and set forth on Schedule 2 attached hereto are true and accurate on and as of the date of this Certificate.

[5. The following is a summary of all material changes in GAAP and in the consistent application thereof since (the date of the last similar certification): [insert summary]]

[Include paragraph 6 for Compliance Certificates delivered in connection with fiscal-year-end statements]

6. Attached hereto as Schedule 3 is a list of all (a) applications by any Loan Party for Copyrights, Patents or Trademarks since [the fiscal period covered by the previous fiscal year-end Compliance Certificate] [the Closing Date], (b) issuances of registrations or letters on any such existing applications received since [the fiscal period covered by the previous fiscal year-end Compliance Certificate] [the Closing Date] and (c) all Trademark Licenses, Patent Licenses and Copyright Licenses entered into by any Loan Party since [the fiscal period covered by the previous fiscal year-end Compliance Certificate] [the Closing Date].

[Include paragraph 7 for Compliance Certificates delivered in connection with fiscal-year-end statements]

7. Attached hereto as Schedule 4 is the insurance binder or other evidence of insurance for any Loan Party or Subsidiary that was renewed, replaced, or modified during the fiscal period covered by the financial statements delivered herewith.

8. Schedule 5 attached hereto identifies the number of subscribers located at military bases at which the Company and its Subsidiaries provide broadband networks.

[Include paragraph 9 for Compliance Certificates delivered in connection with fiscal-year-end statements]

9. Attached hereto as Schedule 6 is (1) a summary of completed DAS Installations during the period covered by the fiscal-year end statements delivered in connection herewith and (2) a calculation of the Assumed Contribution Margin for such period.

[signature page follows]

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of _____, 20__ .

BOINGO WIRELESS, INC.,
a Delaware corporation

By: _____
Name:
Title:

Schedule 1 to Compliance Certificate

Financial Statements for [Fiscal Quarter Ending] [Fiscal Year Ending]

, 20[]

Schedule 2 to Compliance Certificate

Computation of Financial Covenants

Capitalized terms used but not defined herein have the meanings set forth in the Credit Agreement. In the event of conflict between the provisions and formulas set forth in this Schedule 2 and the provisions and formulas set forth in the Credit Agreement, the provisions and formulas of the Credit Agreement shall prevail.

1. Consolidated Leverage Ratio

(a) Consolidated Funded Indebtedness as of such date

(i) Funded Indebtedness of the Company and its Subsidiaries, (without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP):

- | | | |
|-----|---|----|
| (A) | all obligations, whether current or long-term, for borrowed money (including the Obligations) and all obligations of the Company and its Subsidiaries evidenced by bonds, debentures, notes, loan agreements or other similar instruments | \$ |
| (B) | all purchase money Indebtedness | \$ |
| (C) | the principal portion of all obligations under conditional sale or other title retention agreements relating to property purchased by the Company and its Subsidiaries or any Subsidiary thereof (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business) | \$ |
| (D) | all obligations arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments | \$ |
| (E) | all obligations in respect of the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not past due for more than 90 days after the date on which such trade account payable was created (unless subject to a bona fide dispute)), including, without limitation any Earn Out Obligations | \$ |
| (F) | the Attributable Indebtedness of Capital Leases, Securitization Transactions and Synthetic Leases | \$ |
-

(G)	all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interests in such Person or any other Person, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends	\$
(H)	all Funded Indebtedness of others secured by (or for which the holder of such Funded Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on, or payable out of the proceeds of production from, property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed	\$
(I)	all Guarantees with respect to Funded Indebtedness of the types specified in clauses (A) through (H) above of another Person	\$
(J)	all Funded Indebtedness of the types referred to in clauses (A) through (I) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or joint venturer, except to the extent that Funded Indebtedness is expressly made non-recourse to such Person	\$
(ii)	Consolidated Funded Indebtedness 1.(a)(i)(A) + 1.(a)(i)(B) + 1.(a)(i)(C) + 1.(a)(i)(D) + 1.(a)(i)(E) + 1.(a)(i)(F) + 1.(a)(i)(G) + 1.(a)(i)(H) + 1.(a)(i)(I) + 1.(a)(i)(J)	\$
(b)	Consolidated Adjusted Cash Flow for the period of four fiscal quarters most recently ended ⁽³⁾	
(i)	Consolidated Net Income for such period	\$
	The following (without duplication) to the extent deducted in calculating such Consolidated Net Income:	
(ii)	Consolidated Interest Charges for such period	\$
(iii)	the provision for federal, state, local and foreign income taxes payable by the Company and its Subsidiaries for such period	\$

(3) To the extent included in Consolidated Net Income, any non-cash gains or losses from the mark-to-market of Swap Contracts shall be excluded from the calculation of Consolidated Adjusted Cash Flow.

(iv) depreciation and amortization expense for such period (excluding any depreciation and/or amortization expense for such period in

	connection with any DAS Installation)	\$
(v)	any non-cash stock-based compensation expense for such period	\$
(vi)	any other non-cash charges, expenses or losses for such period (excluding write-downs of accounts receivable and any other non-cash charges, expenses or losses to the extent representing accruals of or reserves for cash items in any future period or an amortization of a prepaid cash expense), all as determined in accordance with GAAP	\$
	The following clauses (vii) and (viii) (without duplication) to the extent included in calculating such Consolidated Net Income:	
(vii)	all non-cash income or gains for such period	\$
(viii)	federal, state, local and foreign income tax credits of the Company and its Subsidiaries during such period	\$
(ix)	Eligible DAS Capital Expenditures for such period	
	(A) Consolidated Capital Expenditures made in connection with DAS Installations during such period:	\$
	(B) Aggregate Excluded DAS Capital Expenditures during such period:	\$
	(C) Line (A) — Line (B):	\$
(x)	Assumed Contribution Margin:	%
(xi)	Line (ix)(C) * Line (x) =	\$
(xii)	Consolidated Adjusted Cash Flow: 1.(b)(i) + 1.(b)(ii) + 1.(b)(iii) + 1.(b)(iv) + 1.(b)(v) + 1.(b)(vi) — 1.(b)(vii) — 1.(b)(viii) + 1.b.(xi):	\$
(c)	Consolidated Leverage Ratio 1.(a)(ii)/ 1.(b)(xii)	. to 1.0 Maximum Permitted: See <u>Section 8.11(a)</u> of Credit Agreement

2. Consolidated Fixed Charge Coverage Ratio

(a)	Consolidated Adjusted Cash Flow for the period of the four fiscal quarters most recently ended [1.(b)(xii) above]	\$
(i)	Consolidated Cash Taxes for such period	\$
(ii)	The lesser of (x) Consolidated Capital Expenditures for such period and (y) three percent (3%) of Consolidated Revenues for such period	\$
(iii)	2.(a)-2.(a)(i)-2.(a)(ii)	\$
(b)	Consolidated Fixed Charges for the period of the four fiscal quarters most recently ended	
(i)	the cash portion of Consolidated Interest Charges for such Period(4)	\$
(ii)	Consolidated Scheduled Funded Debt Payments for such Periods(5)	\$
(iii)	the amount of cash Restricted Payments made by the Loan Parties during such period	\$
(iv)	the average daily balance of the aggregate Outstanding Amount of Revolving Loans and L/C Borrowings during such period(6)	\$
(v)	Line (iv) * 0.15 =	\$
(vi)	2.(b)(i) + 2.(b)(ii) + 2.(b)(iii) + 2.(b)(v)	\$

(c) Consolidated Fixed Charge Coverage Ratio
2.(a)(i ii)/2.(b)(vi)

. :1.0
Minimum Permitted:
See Section 8.11(b)
of Credit Agreement

3. Liquidity as of the last day of the most recent calendar month covered by the financial statements delivered in connection herewith:

- (a) unrestricted cash and Cash Equivalents of the Loan Parties at such date that would be set forth on a consolidating balance sheet of the Company and its Subsidiaries for such date: \$
- (b) availability under the Aggregate Revolving Commitments as of such date, solely to the extent that if such availability was to be drawn

(4) For any calculation of Consolidated Fixed Charges occurring prior to the one-year anniversary of the Closing Date, actual cash Consolidated Interest Charges from the Closing Date through the applicable fiscal quarter end shall be annualized for purposes of calculating the cash portion of Consolidated Interest Charges for the relevant calculation period of four fiscal quarters.

(5) For the four fiscal quarter periods ending December 31, 2014, March 31, 2015, June 30, 2015 and September 30, 2015, “scheduled payments of principal” with respect to the Term Loan shall in the case of each such four fiscal quarter period be deemed to be \$875,000.

(6) In the first year of the Credit Agreement such calculation will be based on the average daily balance for the number of days subsequent to the Closing Date.

by the Company at such time, the Loan Parties, upon giving effect to the incurrence of such Indebtedness on a Pro Forma Basis, would be in compliance with the Consolidated Leverage Ratio covenant in Section 8.11(a) of the Credit Agreement as of the most recent fiscal quarter for which the Borrower was required to deliver financial statements pursuant to Section 7.01(a) or (b) \$

(c) Liquidity (3.(a) + 3.(b))

\$
Minimum Permitted:
\$15,000,000

Schedule 3

Intellectual Property

Schedule 5

Military Base Subscribers

Schedule 6

DAS Installations and Calculation of Assumed Contribution Margin

EXHIBIT G

FORM OF JOINDER AGREEMENT

THIS JOINDER AGREEMENT (this "Agreement"), dated as of _____, 20____, is by and between _____, a _____ (the "New Subsidiary"), and BANK OF AMERICA, N.A., in its capacity as Administrative Agent under that certain Credit Agreement (as it may be amended, modified, restated or supplemented from time to time, the "Credit Agreement"), dated as of November 21, 2014, by and among BOINGO WIRELESS, INC., a Delaware corporation (the "Company"), NEW YORK TELECOM PARTNERS, LLC, a Delaware limited liability company ("NY Telecom") and together with the Company, each a "Borrower" and collectively, the "Borrowers"), the Guarantors from time to time party thereto, the Lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent. All of the defined terms in the Credit Agreement are incorporated herein by reference.

The Loan Parties are required by Section 7.12 of the Credit Agreement to cause the New Subsidiary to become a "Guarantor". Accordingly, the New Subsidiary hereby agrees as follows with the Administrative Agent, for the benefit of the holders of the Obligations:

1. The New Subsidiary hereby acknowledges, agrees and confirms that, by its execution of this Agreement, the New Subsidiary will be deemed to be a party to the Credit Agreement and a "Guarantor" for all purposes of the Credit Agreement, and shall have all of the obligations of a Guarantor thereunder as if it had executed the Credit Agreement. The New Subsidiary hereby ratifies, as of the date hereof, and agrees to be bound by, all of the terms, provisions and conditions applicable to the Guarantors contained in the Credit Agreement. Without limiting the generality of the foregoing terms of this paragraph 1, the New Subsidiary hereby jointly and severally together with the other Guarantors, guarantees to each Lender, each Swap Bank, each Treasury Management Bank, and the Administrative Agent, as provided in Article IV of the Credit Agreement, the prompt payment of the Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory Cash Collateralization or otherwise) strictly in accordance with the terms thereof.

2. The New Subsidiary hereby acknowledges, agrees and confirms that, by its execution of this Agreement, the New Subsidiary will be deemed to be a party to the Security Agreement, and shall have all the obligations of a "Grantor" (as such term is defined in the Security Agreement) thereunder as if it had executed the Security Agreement. The New Subsidiary hereby ratifies, as of the date hereof, and agrees to be bound by, all of the terms, provisions and conditions contained in the Security Agreement. Without limiting generality of the foregoing terms of this paragraph 2, the New Subsidiary hereby grants to the Administrative Agent, for the benefit of the Secured Parties (as such term is defined in Section 1 of the Security Agreement), a continuing security interest in, and a right of set off against any and all right, title and interest of the New Subsidiary in and to the Collateral (as such term is defined in Section 2 of the Security Agreement) of the New Subsidiary.

3. The New Subsidiary hereby acknowledges, agrees and confirms that, by its execution of this Agreement, the New Subsidiary will be deemed to be a party to the Pledge Agreement, and shall have all the obligations of an "Pledgor" (as such term is defined in the Pledge Agreement) thereunder as if it had executed the Pledge Agreement. The New Subsidiary hereby ratifies, as of the date hereof, and agrees to be bound by, all of the terms, provisions and conditions contained in the Pledge Agreement. Without limiting generality of the foregoing terms of this paragraph 3, the New Subsidiary hereby grants to the Administrative Agent, for the

benefit of the Secured Parties (as such term is defined in Section 1 of the Pledge Agreement), a continuing security interest in, and a right of set off against any and all right, title and interest of the New Subsidiary in and to the Pledged Collateral (as such term is defined in Section 2 of the Pledge Agreement) of the New Subsidiary.

4. The New Subsidiary hereby represents and warrants to the Administrative Agent, for the benefit of the holders of the Obligations, that:

(i) The New Subsidiary's chief executive office, tax payer identification number, organization identification number, and chief place of business are (and for the prior four months have been) located at the locations set forth on Schedule 1 attached hereto and the New Subsidiary keeps its books and records at such locations.

(ii) The location of all owned and leased real property of the New Subsidiary is as shown on Schedule 2 attached hereto.

(iii) The New Subsidiary's legal name and jurisdiction of organization is as shown in this Agreement and the Subsidiary has not in the past five years changed its name, been party to a merger, consolidation or other change in structure or used any tradename except as set forth in Schedule 3 attached hereto.

(iv) Set forth on Schedule 4 attached hereto is a complete and accurate list of each Subsidiary of the New Subsidiary, together with (a) jurisdiction of organization, (b) number of shares of each class of Equity Interests outstanding, (c) number and percentage of outstanding shares of each class owned (directly or indirectly) by such Subsidiary and (d) number and effect, if exercised, of all outstanding options, warrants, rights of conversion or purchase and all other similar rights with respect thereto.

(v) The patents, copyrights, and trademarks listed on Schedule 5 attached hereto constitute all of the registrations and applications for the patents, copyrights and trademarks owned by the New Subsidiary.

(vi) The deposit accounts and investment accounts listed on Schedule 6 attached hereto constitute all of the deposit accounts and investment accounts owned by the New Subsidiary.

5. The address of the New Subsidiary for purposes of all notices and other communications is _____, _____, Attention of _____ (Facsimile No. _____).

6. The New Subsidiary hereby waives acceptance by the Administrative Agent, any Lender or any other holder of the Obligations of the guaranty by the New Subsidiary under Article IV of the Credit Agreement upon the execution of this Agreement by the New Subsidiary.

7. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging means (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Agreement.

8. THIS AGREEMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

[*signature pages follow*]

IN WITNESS WHEREOF, the New Subsidiary has caused this Joinder Agreement to be duly executed by its authorized officers, and the Administrative Agent, has caused the same to be accepted by its authorized officer, as of the day and year first above written.

[NEW SUBSIDIARY]

By: _____
Name:
Title:

Acknowledged and accepted:

BANK OF AMERICA, N.A.,
as Administrative Agent

By: _____
Name:
Title:

Schedule 1

[Chief Executive Office, Tax Identification Number, Organization Identification Number and Chief Place of Business of Subsidiary]

Schedule 2

[Owned and Leased Real Property]

Schedule 3

[Mergers, Consolidations, Changes in Structure and Tradenames]

Schedule 4

[Subsidiaries]

Schedule 5

[Patents, Copyrights, and Trademarks]

Schedule 6

[Deposit and Investment Accounts]

Exhibit H

FORM OF ASSIGNMENT AND ASSUMPTION

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

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor’s rights and obligations as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto in the amount[s] and equal to the percentage interest[s] identified below of the outstanding rights and obligations of the Assignor under the respective facilities identified below (including, without limitation, Letters of Credit and Guarantees included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as, the “Assigned Interest”). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: _____
[Assignor [is][is not] a Defaulting Lender.]
2. Assignee: _____
[and is an Affiliate/Approved Fund of [*identify Lender*](7)]
3. Borrowers: BOINGO WIRELESS, INC., a Delaware corporation and NEW YORK TELECOM PARTNERS, LLC, a Delaware limited liability company
4. Administrative Agent: Bank of America, N.A., as the administrative agent under the Credit Agreement
5. Credit Agreement: Credit Agreement dated as of November 21, 2014, among the Borrowers, the Guarantors from time to time party thereto, the Lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent

(7) Select as applicable.

6. Assigned Interest:

<u>Facility Assigned(8)</u>	<u>Aggregate Amount of Commitment/Loans for all Lenders*</u>	<u>Amount of Commitment/Loans Assigned*</u>	<u>Percentage Assigned of Commitment/Loans(9)</u>
	\$	\$	%
	\$	\$	%
	\$	\$	%

[7. Trade Date:]10 (10)

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

[signature pages follow]

(8) Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment (e.g. "Revolving Commitment," "Term Loan Commitment," etc.)

* Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

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

(10) To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.

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

ASSIGNOR
[NAME OF ASSIGNOR]

By: _____
Name:
Title:

ASSIGNEE
[NAME OF ASSIGNEE]

By: _____
Name:
Title:

[Consented to and](11) Accepted:

BANK OF AMERICA, N.A.,
Administrative Agent

By _____
Name:
Title:

[Consented to:](12)

[BANK OF AMERICA, N.A., as [L/C Issuer][and Swing Line Lender]

By _____
Name:
Title:

[BOINGO WIRELESS, INC.],
a Delaware corporation

By _____
Name:
Title:

(11) To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.

(12) To be added only if the consent of the Company and/or other parties (e.g. L/C Issuer or Swing Line Lender) is required by the terms of the Credit Agreement.

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and (iv) it is [not] a Defaulting Lender, and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Company, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Company, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2 Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets the requirements to be an assignee under Section 11.06(b)(iii) and (v) of the Credit Agreement (subject to such consents, if any, as may be required under Section 11.06(b)(iii) of the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 7.01 thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest, and (vii) if it is a Foreign Lender, attached hereto is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee, and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

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

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy or other electronic communication shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption and any claims, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Assignment and Assumption and the transactions contemplated hereby shall be governed by, and construed in accordance with, the law of the State of New York.

EXHIBIT I-1

**FORM OF
U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of November 21, 2014 (as amended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among Boingo Wireless, Inc., a Delaware corporation (the “Company”), New York Telecom Partners, LLC, a Delaware limited liability company (“NY Telecom” and together with the Company, each a “Borrower” and collectively, the “Borrowers”), the Guarantors from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iii) it is not a ten percent shareholder of a Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code and (iv) it is not a controlled foreign corporation related to a Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished the Administrative Agent and the Company with a certificate of its non-U.S. Person status on IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Company and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Company and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____
Name: _____
Title: _____

Date: _____, 20

EXHIBIT 1-2

**FORM OF
U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of November 21, 2014 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Boingo Wireless, Inc., a Delaware corporation (the "Company"), New York Telecom Partners, LLC, a Delaware limited liability company ("NY Telecom" and together with the Company, each a "Borrower" and collectively, the "Borrowers"), the Guarantors from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iii) it is not a ten percent shareholder of a Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code, and (iv) it is not a controlled foreign corporation related to a Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____
Name: _____
Title: _____

Date: _____, 20

EXHIBIT 1-3

**FORM OF
U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of November 21, 2014 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Boingo Wireless, Inc., a Delaware corporation (the "Company"), New York Telecom Partners, LLC, a Delaware limited liability company ("NY Telecom" and together with the Company, each a "Borrower" and collectively, the "Borrowers"), the Guarantors from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of a Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to a Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____
Name: _____
Title: _____

Date: _____, 20

EXHIBIT 1-4

**FORM OF
U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of November 21, 2014 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Boingo Wireless, Inc., a Delaware corporation (the "Company"), New York Telecom Partners, LLC, a Delaware limited liability company ("NY Telecom" and together with the Company, each a "Borrower" and collectively, the "Borrowers"), the Guarantors from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of a Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to a Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished the Administrative Agent and the Company with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Company and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Company and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____
Name: _____
Title: _____

Date: _____, 20

EXHIBIT J

FORM OF SECURED PARTY DESIGNATION NOTICE

Date: _____,

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

THIS SECURED PARTY DESIGNATION NOTICE is made by, _____ a _____ (the "Designor"), to BANK OF AMERICA, N.A., as Administrative Agent under that certain Credit Agreement referenced below (in such capacity, the "Administrative Agent"). All capitalized terms not defined herein shall have the meaning ascribed to them in the Credit Agreement.

W I T N E S S E T H :

WHEREAS, Boingo Wireless, Inc., a Delaware corporation (the "Company"), New York Telecom Partners, LLC, a Delaware limited liability company ("NY Telecom") and together with the Company, each a "Borrower" and collectively, the "Borrowers"), the Guarantors identified therein, the Lenders identified therein and Bank of America, N.A., as Administrative Agent have entered into that certain Credit Agreement, dated as of November 21, 2014 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement") pursuant to which certain loans and financial accommodations have been made to the Borrowers;

WHEREAS, in connection with the Credit Agreement, a Lender or Affiliate of a Lender is permitted to designate its [Treasury Management Agreement][Swap Contract] as a ["Secured Treasury Management Agreement"]["Secured Swap Agreement"] under the Credit Agreement and the Collateral Documents;

WHEREAS, the Credit Agreement requires that the Designor deliver this Secured Party Designation Notice to the Administrative Agent; and

WHEREAS, the Designor has agreed to execute and deliver this Secured Party Designation Notice:

1. Designation. [_____] hereby designates the [Treasury Management Agreement][Swap Contract] described on Schedule 1 hereto to be a ["Secured Treasury Management Agreement"]["Secured Swap Agreement"] and hereby represents and warrants to the Administrative Agent that such [Treasury Management Agreement][Swap Contract] satisfies all the requirements under the Loan Documents to be so designated. By executing and delivering this Secured Party Designation Notice, the Designor, as provided in the Credit Agreement, hereby agrees to be bound by all of the provisions of the Loan Documents which are applicable to it as a provider of a [Secured Treasury Management Agreement][Secured Swap Agreement] and hereby (a) confirms that it has received a copy of the Loan Documents and such other documents and information as it has deemed appropriate to make its own decision to enter into this Secured Party Designation Notice, (b) appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Credit Agreement, the other Loan Documents or any other instrument or document furnished pursuant thereto as are delegated to the Administrative Agent by the terms thereof, together with such powers as are incidental thereto (including, without limitation, the provisions of Section 10.01 of the Credit Agreement), and (c) agrees that it will be bound by the provisions of the Loan Documents and will perform in accordance with its terms all the obligations which by the terms of the Loan Documents are

required to be performed by it as a provider of a [Treasury Management Agreement][Swap Contract]. Without limiting the foregoing, the Designor agrees to indemnify the Administrative Agent as contemplated by Section 11.04(c) of the Credit Agreement.

2. GOVERNING LAW. THIS SECURED PARTY DESIGNATION NOTICE AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS SECURED PARTY DESIGNATION NOTICE AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

[*signature page follows*]

IN WITNESS WHEREOF , the undersigned have caused this Secured Party Designation Notice to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

DESIGNOR:

By: _____
Name: _____
Title: _____

BANK OF AMERICA, N.A., as Administrative Agent

By: _____
Name: _____
Title: _____

Schedule 1

To Secured Party Designation Notice

EXHIBIT K

FORM OF NOTICE OF LOAN PREPAYMENT

TO: Bank of America, N.A., as [Administrative Agent][Swing Line Lender]

RE: Credit Agreement, dated as of November 21, 2014 (as amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time, the "Credit Agreement"; the terms defined therein being used herein as therein defined), among Boingo Wireless, Inc., a Delaware corporation (the "Company"), New York Telecom Partners, LLC, a Delaware limited liability company ("NY Telecom") and together with the Company, each a "Borrower" and collectively, the "Borrowers"), the other Guarantors party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent

DATE: , 20[]

The undersigned Borrower hereby notifies the [Administrative Agent][Swing Line Lender] that on , pursuant to the terms of Section 2.05 of the Credit Agreement, the undersigned Borrower intends to prepay the following Loans as more specifically set forth below:

Voluntary prepayment of [Revolving Loans][the Term Loan] in the following amount(s):

Eurodollar Rate Loans: \$ (13)
Applicable Interest Period: (14)

Base Rate Loans: \$ (15)

Voluntary prepayment of Swing Line Loans in the following amount(s): \$ (16)

Delivery of an executed counterpart of a signature page of this notice by fax transmission or other electronic mail transmission (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this notice.

[Signature page follows]

(13) Minimum principal prepayment required of \$1,000,000 (or, if less, the entire principal amount thereof then outstanding).

(14) Per the definition of "Interest Period" in Section 1.01 of the Credit Agreement, one, two, three or six months (in each case, subject to availability).

(15) Minimum principal prepayment required of \$1,000,000 (or, if less, the entire principal amount thereof then outstanding).

(16) Minimum principal prepayment required of \$500,000 (or, if less, the entire principal amount thereof then outstanding).

The undersigned Borrower has caused this Notice of Loan Prepayment to be duly executed and delivered as of the date first above written.

[BONGO WIRELESS, INC.,
a Delaware corporation

By: _____
Name:
Title:]

[NEW YORK TELECOM PARTNERS, LLC,
a Delaware limited liability company

By: _____
Name:
Title:]

EXHIBIT L

FORM OF LETTER OF CREDIT REPORT

TO: Bank of America, N.A., as Administrative Agent

RE: Credit Agreement, dated as of November 21, 2014, by and among Boingo Wireless, Inc., a Delaware corporation (the “Company”), as a Borrower, NY Telecom Partners, LLC, a Delaware limited liability company, as a Borrower, the Guarantors, the Lenders and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender (as amended, modified, extended, restated, replaced, or supplemented from time to time, the “Credit Agreement”; capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Credit Agreement)

DATE: [Date]

The undersigned, [insert name of L/C Issuer] (the “L/C Issuer”) hereby delivers this report to the Administrative Agent, pursuant to the terms of Section 2.03(1) of the Credit Agreement.

The L/C Issuer plans to issue, amend, renew, increase or extend the follow Letter(s) of Credit on [insert date].

<u>L/C No.</u>	<u>Maximum Face Amount</u>	<u>Current Face Amount</u>	<u>Currency</u>	<u>Financials or Performance SBLC</u>	<u>Beneficiary Name</u>	<u>Issuance Date</u>	<u>Expiry Date</u>	<u>Auto Renewal</u>	<u>Date of Amendment</u>	<u>Amount of Amendment</u>
----------------	----------------------------	----------------------------	-----------------	---------------------------------------	-------------------------	----------------------	--------------------	---------------------	--------------------------	----------------------------

[The L/C Issuer made a payment, with respect to L/C No. _____, on [insert date] in the amount of [\$] _____].

[The Company failed to reimburse the L/C Issuer for a payment made in the amount of [\$][insert amount of such payment] pursuant to L/C No. _____ on [insert date of such failure], with respect to L/C No. _____.]

Set forth in the table below is a description of each Letter of Credit issued by the undersigned and outstanding on the date hereof.

<u>L/C No.</u>	<u>Maximum Face Amount</u>	<u>Current Face Amount</u>	<u>Currency</u>	<u>Financials or Performance SBLC</u>	<u>Beneficiary Name</u>	<u>Issuance Date</u>	<u>Expiry Date</u>	<u>Auto Renewal</u>	<u>Date of Amendment</u>	<u>Amount of Amendment</u>
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Delivery of an executed counterpart of a signature page of this notice by fax transmission or other electronic mail transmission (e.g. “ pdf ’ or “ tif ’) shall be effective as delivery of a manually executed counterpart of this notice.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[L/C ISSUER],
as L/C Issuer

By: _____
Name: _____
Title: _____

[QuickLinks](#) -- Click here to rapidly navigate through this document

Exhibit 21.1

List of Subsidiaries as of December 31, 2014

<u>Name of Subsidiary</u>	<u>Jurisdiction</u>
Advanced Wireless Group, LLC	Florida
Boingo Broadband, LLC.	California
Boingo Holding Participações, Ltda.	Brazil
Boingo UK Ltd.	England
Chicago Concourse Development Group, LLC	Delaware
Concourse Communications Baltimore, LLC	Delaware
Concourse Communications Canada, Inc.	Delaware
Concourse Communications Detroit, LLC	Delaware
Concourse Communications Group, LLC	Delaware
Concourse Communications Illinois, LLC	Illinois
Concourse Communications Minnesota, LLC	Delaware
Concourse Communications Nashville, LLC	Illinois
Concourse Communications Ottawa, LLC	Illinois
Concourse Communications Puerto Rico, LLC	Puerto Rico
Concourse Communications SSP, LLC	Delaware
Concourse Communications St. Louis, LLC	Delaware
Concourse Communications UK, Ltd.	England
Concourse Holding Co., Inc	Delaware
Concourse Telecomunicacoes Brasil Ltda	Brazil
Electronic Media Systems, Inc.	Florida
Endeka Group, Inc.	California
InGate Holding, LLC	Illinois
InGate Technologies, LLC	Delaware
New York Telecom Partners, LLC	Delaware
Opti-Fi Networks, LLC	Delaware
togo Communications, Inc.	Delaware

QuickLinks

[Exhibit 21.1](#)

[List of Subsidiaries as of December 31, 2014](#)

[QuickLinks](#) -- Click here to rapidly navigate through this document

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (No. 333-174157, No. 333-181180, No. 333-187471, and No. 333-195248) of Boingo Wireless, Inc. of our report dated March 16, 2015 relating to the financial statements and the effectiveness of internal control over financial reporting, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP
Los Angeles, California
March 16, 2015

QuickLinks

[Exhibit 23.1](#)

[Consent of Independent Registered Public Accounting Firm](#)

Certification

I, David Hagan, certify that:

1. I have reviewed this annual report on Form 10-K of Boingo Wireless, 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)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 16, 2015

/s/ DAVID HAGAN

David Hagan
Chairman of the Board and Chief Executive Officer
(Principal Executive Officer)

QuickLinks

[Exhibit 31.1](#)

[Certification](#)

Certification

I, Peter Hovenier, certify that:

1. I have reviewed this annual report on Form 10-K of Boingo Wireless, 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)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 16, 2015

/s/ PETER HOVENIER

Peter Hovenier
*Chief Financial Officer (Principal Financial and
Accounting Officer)*

QuickLinks

[Exhibit 31.2](#)

[Certification](#)

Certification of Chief Executive Officer

Pursuant to 18 U.S.C. § 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Boingo Wireless, Inc. (the "Company") hereby certifies, to such officer's knowledge, that:

- (i) the accompanying Annual Report on Form 10-K of the Company for the period ended December 31, 2014 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
- (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 16, 2015

/s/ DAVID HAGAN

David Hagan
Chairman of the Board and Chief Executive Officer

(Principal Executive Officer)

The foregoing certification is being furnished solely to accompany the Report pursuant to 18 U.S.C. § 1350, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing. A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

QuickLinks

[Exhibit 32.1](#)

[Certification of Chief Executive Officer](#)

Certification of Chief Financial Officer

Pursuant to 18 U.S.C. § 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Boingo Wireless, Inc. (the "Company") hereby certifies, to such officer's knowledge, that:

- (i) the accompanying Annual Report on Form 10-K of the Company for the period ended December 31, 2014 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
- (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 16, 2015

/s/ PETER HOVENIER

Peter Hovenier
Chief Financial Officer
(Principal Financial and Accounting Officer)

The foregoing certification is being furnished solely to accompany the Report pursuant to 18 U.S.C. § 1350, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing. A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

QuickLinks

[Exhibit 32.2](#)

[Certification of Chief Financial Officer](#)