ECPG 10-Q 3/31/2012

Section 1: 10-Q (FORM 10-Q)

Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended March 31, 2012

OR

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

For the transition period from_____ to_____.

COMMISSION FILE NUMBER: 000-26489

ENCORE CAPITAL GROUP, INC.

(Exact name of registrant as specified in its charter)

Delaware	**48-1090909**
(State or other jurisdiction of incorporation or organization)	**(IRS Employer Identification No.)**
3111 Camino Del Rio North, Suite 1300 San Diego, California	**92108**
(Address of principal executive offices)	**(Zip code)**

(877) 445 - 4581
(Registrant's telephone number, including area code)

(Not Applicable)
(Former name, former address and former fiscal year, if changed since last report)

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions 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 ☐

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

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Class	Outstanding at April 16, 2012
Common Stock, $0.01 par value	24,695,920 shares

Table of Contents

ENCORE CAPITAL GROUP, INC.
INDEX TO FORM 10-Q

Table of Contents

PART I. FINANCIAL INFORMATION
Item 1. Condensed Consolidated Financial Statements (Unaudited)

ENCORE CAPITAL GROUP, INC.
Condensed Consolidated Statements of Financial Condition
(In Thousands, Except Par Value Amounts)
(Unaudited)

	March 31, 2012	December 31, 2011
Assets		
Cash and cash equivalents	$ 15,446	$ 8,047
Accounts receivable, net	3,615	3,265
Investment in receivable portfolios, net	741,580	716,454
Deferred court costs, net	39,839	38,506
Property and equipment, net	19,603	17,796
Other assets	11,842	11,968
Goodwill	6,047	15,985
Identifiable intangible assets, net	—	462
Total assets	$837,972	$ 812,483
Liabilities and stockholders' equity		
Liabilities:		
Accounts payable and accrued liabilities	$ 31,161	$ 29,628
Income tax payable	2,078	—
Deferred tax liabilities, net	16,333	15,709
Debt	398,246	388,950
Other liabilities	5,297	6,661
Total liabilities	453,115	440,948
Commitments and contingencies		
Stockholders' equity:		
Convertible preferred stock, $.01 par value, 5,000 shares authorized, no shares issued and outstanding	—	—
Common stock, $.01 par value, 50,000 shares authorized, 24,696 shares and 24,520 shares issued and outstanding as of March 31, 2012 and December 31, 2011, respectively	247	245
Additional paid-in capital	124,638	123,406
Accumulated earnings	261,258	249,852
Accumulated other comprehensive loss	(1,286)	(1,968)
Total stockholders' equity	384,857	371,535
Total liabilities and stockholders' equity	$837,972	$ 812,483

See accompanying notes to condensed consolidated financial statements

Table of Contents

ENCORE CAPITAL GROUP, INC.

Condensed Consolidated Statements of Comprehensive Income
(In Thousands, Except Per Share Amounts)
(Unaudited)

	Three Months Ended March 31,	
	2012	2011
Revenues		
Revenue from receivable portfolios, net	$126,405	$105,326
Servicing fees and other related revenue	3,817	4,977
Total revenues	130,222	110,303
Operating expenses		
Salaries and employee benefits (excluding stock-based compensation expense)	23,109	19,040
Stock-based compensation expense	2,266	1,765
Cost of legal collections	38,635	36,509
Other operating expenses	12,411	10,096
Collection agency commissions	3,959	3,914
General and administrative expenses	14,132	10,169
Depreciation and amortization	1,363	1,053
Impairment charge for goodwill and identifiable intangible assets	10,349	—
Total operating expenses	106,224	82,546
Income from operations	23,998	27,757
Other (expense) income		
Interest expense	(5,515)	(5,593)
Other income	267	116
Total other expenses	(5,248)	(5,477)
Income before income taxes	18,750	22,280
Provision for income taxes	(7,344)	(8,601)
Net income	$ 11,406	$ 13,679
Weighted average shares outstanding:		
Basic	24,779	24,260
Diluted	25,740	25,451
Earnings per share:		
Basic	$ 0.46	$ 0.56
Diluted	$ 0.44	$ 0.54
Other comprehensive income:		
Unrealized gain on derivative instruments	$ 1,122	$ 836
Income tax provision related to unrealized gain on derivative instruments	(440)	(329)
Other comprehensive income, net of tax	682	507
Comprehensive income	$ 12,088	$ 14,186

See accompanying notes to condensed consolidated financial statements

ENCORE CAPITAL GROUP, INC.

Condensed Consolidated Statements of Stockholders' Equity
(Unaudited, In Thousands)

	Common Stock		Additional Paid-In	Accumulated	Accumulated Other Comprehensive	Total
	Shares	Par	Capital	Earnings	(Loss) Income	Equity
Balance at December 31, 2011	24,520	$245	$ 123,406	$ 249,852	$ (1,968)	$371,535
Net income	—	—	—	11,406	—	11,406
Other comprehensive income:						
Unrealized gain on derivative instruments, net of tax	—	—	—	—	682	682
Exercise of stock options and issuance of share-based awards, net of shares withheld for employee taxes	176	2	(2,018)	—	—	(2,016)
Stock-based compensation	—	—	2,266	—	—	2,266
Tax benefit related to stock-based compensation	—	—	984	—	—	984
Balance at March 31, 2012	24,696	$247	$ 124,638	$ 261,258	$ (1,286)	$384,857

See accompanying notes to condensed consolidated financial statements

ENCORE CAPITAL GROUP, INC.

Condensed Consolidated Statements of Cash Flows
(Unaudited, In Thousands)

	Three Months Ended March 31,	
	2012	2011
Operating activities:		
Net income	$ 11,406	$ 13,679
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	1,363	1,053
Impairment charge for goodwill and identifiable intangible assets	10,349	—
Amortization of loan costs	466	440
Stock-based compensation expense	2,266	1,765
Deferred income tax expense (benefit)	623	(58)
Excess tax benefit from stock-based payment arrangements	(1,067)	(1,343)
Provision for allowances on receivable portfolios, net	373	5,498
Changes in operating assets and liabilities		
Other assets	(326)	(1,819)
Deferred court costs	(1,333)	(2,128)
Prepaid income tax and income taxes payable	2,130	8,437
Accounts payable, accrued liabilities and other liabilities	853	(450)
Net cash provided by operating activities	27,103	25,074
Investing activities:		
Purchases of receivable portfolios	(130,463)	(90,675)
Collections applied to investment in receivable portfolios, net	104,230	80,211
Proceeds from put-backs of receivable portfolios	734	900
Purchases of property and equipment	(1,555)	(630)
Net cash used in investing activities	(27,054)	(10,194)
Financing activities:		
Payment of loan costs	—	(734)
Proceeds from senior secured notes	—	25,000
Proceeds from revolving credit facility	43,500	19,000
Repayment of revolving credit facility	(34,500)	(46,000)
Proceeds from exercise of stock options	1,061	297
Taxes paid related to net share settlement of equity awards	(2,093)	(1,439)
Excess tax benefit from stock-based payment arrangements	1,067	1,343
Repayment of capital lease obligations	(1,685)	(877)
Net cash provided by (used in) financing activities	7,350	(3,410)
Net increase in cash and cash equivalents	7,399	11,470
Cash and cash equivalents, beginning of period	8,047	10,905
Cash and cash equivalents, end of period	$ 15,446	$ 22,375
Supplemental disclosures of cash flow information:		
Cash paid for interest	$ 5,119	$ 5,002
Cash paid for income taxes	4,075	166
Supplemental schedule of non-cash investing and financing activities:		
Fixed assets acquired through capital lease	1,564	371

See accompanying notes to condensed consolidated financial statements

ENCORE CAPITAL GROUP, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Note 1: Ownership, Description of Business and Summary of Significant Accounting Policies

Encore Capital Group, Inc. ("Encore"), through its subsidiaries (collectively, the "Company"), is a leader in consumer debt buying and recovery. The Company purchases portfolios of defaulted consumer receivables and manages them by partnering with individuals as they repay their obligations and work toward financial recovery. Defaulted receivables are consumers' unpaid financial commitments to credit originators, including banks, credit unions, consumer finance companies, commercial retailers, auto finance companies, and telecommunication companies, which the Company purchases at deep discounts. Defaulted receivables also include receivables subject to bankruptcy proceedings, or consumer bankruptcy receivables.

The Company purchases receivables based on robust, account-level valuation methods and employs a suite of proprietary statistical and behavioral models across the full extent of its operations. These investments allow the Company to value portfolios accurately (and limit the risk of overpaying), avoid buying portfolios that are incompatible with its methods or goals and precisely align the accounts it purchases with its operational channels to maximize future collections. As a result, the Company has been able to realize significant returns from the receivables it acquires. The Company maintains strong relationships with many of the largest credit providers in the United States, and possesses one of the industry's best collection staff retention rates.

The Company expands upon the insights created during its purchasing process when building account collection strategies. The Company's proprietary consumer-level collectability analysis is the primary determinant of whether an account is actively serviced post-purchase. Throughout the Company's ownership period, it continuously refines this analysis to determine the most effective collection strategy to pursue for each account. After the Company's preliminary analysis, it seeks to collect on only a fraction of the accounts it purchases, through one or more of its collection channels. The channel identification process is analogous to a funneling system where the Company first differentiates those consumers who are not able to pay, from those who are able to pay. Consumers who the Company believes are financially incapable of making any payments, are facing extenuating circumstances or hardships (such as medical issues), are serving in the military, or are currently receiving social security as their only means of financial sustenance are excluded from the next step of its collection process and are designated as inactive. The remaining pool of accounts in the funnel then receives further evaluation. At that point, the Company analyzes and determines a consumer's willingness to pay. Based on that analysis, the Company will pursue collections through letters and/or phone calls to its consumers. Despite its efforts to reach consumers and work out a settlement option, only a small number of consumers who are contacted choose to engage with the Company. Those who do are often offered deep discounts on their obligations, or are presented with payment plans that are better suited to meet their daily cash flow needs. The majority of contacted consumers, however, ignore both the Company's calls and letters, and therefore the Company must then make the difficult decision to pursue collections through legal means.

In addition, the Company provides bankruptcy support services to some of the largest companies in the financial services industry through its wholly owned subsidiary, Ascension Capital Group, Inc. ("Ascension"). Leveraging a proprietary software platform dedicated to bankruptcy servicing, Ascension's operational platform integrates lenders, trustees, and consumers across the bankruptcy lifecycle. As discussed in Note 13 "Goodwill and Identifiable Intangible Assets," on May 7, 2012, the Company's Board of Directors (the "Board") approved a plan to sell Ascension. At this time, the Company has reached an agreement in principle to sell Ascension to a third party.

Financial Statement Preparation

The accompanying interim condensed consolidated financial statements have been prepared by Encore, without audit, in accordance with the instructions to the Quarterly Report on Form 10-Q, and Rule 10-01 of Regulation S-X promulgated by the Securities and Exchange Commission and, therefore, do not include all information and footnotes necessary for a fair presentation of its consolidated financial position, results of operations and cash flows in accordance with accounting principles generally accepted in the United States.

In the opinion of management, the unaudited financial information for the interim periods presented reflects all adjustments, consisting of only normal and recurring adjustments, necessary for a fair presentation of the Company's consolidated financial position, results of operations, and cash flows. These condensed consolidated financial statements should be read in conjunction with the consolidated financial statements included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2011. Operating results for interim periods are not necessarily indicative of operating results for an entire fiscal year.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts and the disclosure of contingent amounts in the Company's financial statements and the accompanying notes. Actual results could materially differ from those estimates.

Basis of Consolidation

Encore is a Delaware holding company whose principal assets are its investments in various wholly owned subsidiaries. All significant intercompany accounts and transactions have been eliminated in consolidation.

Reclassification

Certain reclassifications have been made to the condensed consolidated financial statements to conform to the current year's presentation.

Note 2: Earnings per Share

Basic earnings per share is calculated by dividing net earnings available to common stockholders by the weighted average number of shares of common stock outstanding during the period. Diluted earnings per share is calculated on the basis of the weighted average number of shares of common stock plus the effect of dilutive potential common shares outstanding during the period using the treasury stock method. Dilutive potential common shares include outstanding stock options and restricted stock units.

The components of basic and diluted earnings per share are as follows *(in thousands, except earnings per share)*:

	Three Months Ended March 31,	
	2012	2011
Net income available for common shareholders (A)	$11,406	$13,679
Weighted average outstanding shares of common stock (B)	24,779	24,260
Dilutive effect of stock-based awards	961	1,191
Common stock and common stock equivalents (C)	25,740	25,451
Earnings per share:		
Basic (A/B)	$ 0.46	$ 0.56
Diluted (A/C)	$ 0.44	$ 0.54

Employee stock options to purchase approximately 209,000 and 39,000 shares of common stock were outstanding during the three months ended March 31, 2012 and 2011, respectively, but not included in the computation of diluted earnings per common share because the effect on diluted earnings per share would be anti-dilutive.

Note 3: Fair Value Measurements

The Company accounts for certain assets and liabilities at fair value. The authoritative guidance for fair value measurements defines fair value as the price that would be received upon sale of an asset or the price paid to transfer a liability, in an orderly transaction between market participants at the measurement date (*i.e.* the "exit price"). The guidance utilizes a fair value hierarchy that prioritizes the inputs used in valuation techniques to measure fair value into three broad levels. The following is a brief description of each level:

- Level 1: Observable inputs such as quoted prices (unadjusted) in active markets for identical assets or liabilities.
- Level 2: Inputs other than quoted prices that are observable for the asset or liability, either directly or indirectly. These include quoted prices for similar assets or liabilities in active markets and quoted prices for identical or similar assets or liabilities in markets that are not active.
- Level 3: Unobservable inputs that reflect the reporting entity's own assumptions.

Financial assets and liabilities measured at fair value on a recurring basis are summarized below (*in thousands*):

	Fair Value Measurements as of March 31, 2012			
	Level 1	Level 2	Level 3	Total
Assets				
Foreign currency exchange contracts	$ —	$ 85	$ —	$ 85
Liabilities				
Interest rate swap agreements	—	(1,225)	—	(1,225)
Foreign currency exchange contracts	—	(956)	—	(956)

	Fair Value Measurements as of December 31, 2011			
	Level 1	Level 2	Level 3	Total
Assets				
Foreign currency exchange contracts	$ —	$ 168	$ —	$ 168
Liabilities				
Interest rate swap agreements	—	(1,014)	—	(1,014)
Foreign currency exchange contracts	—	(2,371)	—	(2,371)

Fair values of derivative instruments included in Level 2 are estimated using industry standard valuation models. These models project future cash flows and discount the future amounts to a present value using market-based observable inputs including interest rate curves, foreign currency exchange rates, and forward and spot prices for currencies. As of March 31, 2012, the Company did not have any financial instruments carried at fair value that required Level 3 measurement.

Financial instruments not required to be carried at fair value

Borrowings under the Company's revolving credit facility are carried at historical cost, adjusted for additional borrowings less principal repayments, which approximates fair value. For investment in receivable portfolios, there is no active market or observable inputs for the fair value estimation. The Company does not consider it practical to attempt to estimate the fair value of such financial instruments due to the excessive costs that would be incurred in doing so.

Note 4: Derivatives and Hedging Instruments

The Company uses derivative instruments to manage risks related to interest rates and foreign currency. The Company's outstanding interest rate swap contracts and foreign currency exchange contracts qualify for hedge accounting treatment under the authoritative guidance for derivatives and hedging.

Interest Rate Swaps

The Company may periodically enter into derivative financial instruments, typically interest rate swap agreements, to reduce its exposure to fluctuations in interest rates on variable interest rate debt and their impact on earnings and cash flows. As of March 31, 2012, the Company had six interest rate swap agreements outstanding with a total notional amount of $150.0 million. Under the swap agreements, the Company receives floating interest rate payments based on one-month reserve-adjusted LIBOR and makes interest payments based on fixed interest rates. The Company intends to continue electing the one-month reserve-adjusted LIBOR as the benchmark interest rate on the debt being hedged through its term. No credit spread was hedged. The Company designates its interest rate swap instruments as cash flow hedges.

The authoritative accounting guidance requires companies to recognize derivative instruments as either an asset or liability measured at fair value in the statement of financial position. The effective portion of the change in fair value of the derivative instrument is recorded in other comprehensive income ("OCI"). The ineffective portion of the change in fair value of the derivative instrument, if any, is recognized in interest expense in the period of change. From the inception of the hedging program, the Company has determined that the hedging instruments are highly effective.

Foreign Currency Exchange Contracts

The Company has operations in India, which exposes the Company to foreign currency exchange rate fluctuations due to transactions denominated in Indian rupees, such as employee salaries and rent expenditures. To mitigate this risk, the Company enters into derivative financial instruments, principally forward contracts, which are designated as cash flow hedges, to mitigate fluctuations in the cash payments of future forecasted transactions in Indian rupees for up to 36 months. The Company adjusts the level and use of derivatives as soon as practicable after learning that an exposure has changed, and the Company reviews all exposures and derivative positions on an ongoing basis.

Gains and losses on cash flow hedges are recorded in accumulated other comprehensive income (loss) until the hedged transaction is recorded in the consolidated financial statements. Once the underlying transaction is recorded in the consolidated financial statements, the Company reclassifies the accumulated other comprehensive income or loss on the derivative into earnings. If all or a portion of the forecasted transaction was cancelled, this would render all or a portion of the cash flow hedge ineffective and the Company would reclassify the ineffective portion of the hedge into earnings. The Company generally does not experience ineffectiveness of the hedge relationship and the accompanying consolidated financial statements do not include any such gains or losses.

As of March 31, 2012, the total notional amount of the forward contracts to buy Indian rupees in exchange for U.S. dollars was $32.0 million. All outstanding contracts qualified for hedge accounting treatment as of March 31, 2012. The Company estimates that approximately $0.7 million of net derivative loss included in OCI will be reclassified into earnings within the next 12 months. No gains or losses were reclassified from OCI into earnings as a result of forecasted transactions that failed to occur during the three months ended March 31, 2012 and 2011.

The Company does not enter into derivative instruments for trading or speculative purposes.

The following table summarizes the fair value of derivative instruments as recorded in the Company's consolidated statements of financial position *(in thousands):*

	March 31, 2012		December 31, 2011	
	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
Derivatives designated as hedging instruments:				
Interest rate swaps	Other liabilities	$ (1,225)	Other liabilities	$ (1,014)
Foreign currency exchange contracts	Other assets	85	Other assets	168
Foreign currency exchange contracts	Other liabilities	(956)	Other liabilities	(2,371)

The following tables summarize the effects of derivatives in cash flow hedging relationships on the Company's statements of comprehensive income during the three months ended March 31, 2012 and 2011 *(in thousands):*

	Gain or (Loss) Recognized in OCI-Effective Portion		Location of Gain or (Loss) Reclassified from OCI into Income - Effective Portion	Gain or (Loss) Reclassified from OCI into Income -Effective Portion		Location of Gain or (Loss) Recognized - Ineffective Portion and Amount Excluded from Effectiveness Testing	Amount of Gain or (Loss) Recognized - Ineffective Portion and Amount Excluded from Effectiveness Testing	
	Three Months Ended March 31,			Three Months Ended March 31,			Three Months Ended March 31,	
	2012	2011		2012	2011		2012	2011
Interest rate swaps	$ (211)	$506	Interest expense	$—	$—	Other (expense) income	$—	$—
Foreign currency exchange contracts	903	355	Salaries and employee benefits	(116)	73	Other (expense) income	—	—
Foreign currency exchange contracts	297	65	General and administrative expenses	(16)	18	Other (expense) income	—	—

Note 5: Stock-Based Compensation

On March 9, 2009, the Board approved an amendment and restatement of the 2005 Stock Incentive Plan ("2005 Plan"), which was originally adopted on March 30, 2005, for Board members, employees, officers, and executives of, and consultants and advisors to, the Company. The amendment and restatement of the 2005 Plan increased by 2,000,000 shares the maximum number of shares of the Company's common stock that may be issued or be subject to awards under the plan, established a new 10-year term for the plan and made certain other amendments. The 2005 Plan amendment was approved by the Company's stockholders on June 9, 2009. The 2005 Plan provides for the granting of incentive stock options, nonqualified stock options, stock appreciation rights, restricted stock, restricted stock units, and performance-based awards to eligible individuals. As amended, the 2005 Plan allows the granting of an aggregate of 3,500,000 shares of the Company's common stock for awards, plus the number of shares of stock that were available for future awards under the prior 1999 Equity Participation Plan ("1999 Plan"). In addition, shares subject to options granted under either the 1999 Plan or the 2005 Plan that terminate or expire without being exercised will become available for grant under the 2005 Plan. The benefit provided under these plans is compensation subject to authoritative guidance for stock-based compensation.

In accordance with authoritative guidance for stock-based compensation, compensation expense is recognized only for those shares expected to vest, based on the Company's historical experience and future expectations. Total compensation expense during the three months ended March 31, 2012 and 2011 was $2.3 million and $1.8 million, respectively.

The Company's stock-based compensation arrangements are described below:

Stock Options

The 2005 Plan permits the granting of stock options to certain employees and directors of the Company. Option awards are generally granted with an exercise price equal to the market price of the Company's stock at the date of issuance. They generally vest over three to five years of continuous service, and have ten-year contractual terms.

The Company uses the Black-Scholes option-pricing model to determine the fair-value of stock-based awards. All options are amortized ratably over the requisite service periods of the awards, which are generally the vesting periods.

The fair value for options granted was estimated at the date of grant using a Black-Scholes option-pricing model with the following weighted-average assumptions (there were no options granted for the three months ended March 31, 2012):

	Three Months Ended March 31,	
	2012	2011
Weighted average fair value of options granted	$ —	$ 13.26
Risk free interest rate	—	2.0%
Dividend yield	—	0.0%
Volatility factor of the expected market price of the Company's common stock	—	61%
Weighted-average expected life of options	—	5 Years

Unrecognized compensation cost related to stock options as of March 31, 2012, was $2.1 million. The weighted-average remaining expense period, based on the unamortized value of these outstanding stock options, was approximately 1.6 years.

A summary of the Company's stock option activity as of March 31, 2012, and changes during the three months ended, is presented below:

	Number of Shares	Option Price Per Share	Weighted Average Exercise Price	Aggregate Intrinsic Value *(in thousands)*
Outstanding at December 31, 2011	2,182,940	$ 0.51 – $24.65	$ 13.00	
Granted	—	—	—	
Cancelled/forfeited	—	—	—	
Exercised	(55,867)	0.51 – 16.19	3.79	
Outstanding at March 31, 2012	2,127,073	$ 0.51 – $24.65	$ 13.24	$ 20,238
Exercisable at March 31, 2012	1,432,745	$ 0.51 – $24.65	$ 12.21	$ 14,959

The total intrinsic value of options exercised during the three months ended March 31, 2012 and 2011 was $1.1 million and $1.2 million, respectively. As of March 31, 2012, the weighted-average remaining contractual life of options outstanding and options exercisable was 5.6 years and 4.5 years, respectively.

Non-Vested Shares

Under the Company's 2005 Plan, Board members, employees, officers and executives of, and consultants and advisors to, the Company are eligible to receive restricted stock units and restricted stock awards. In accordance with the authoritative guidance, the fair value of these non-vested shares is equal to the closing sale price of the Company's common stock on the date of issuance. The total number of these awards expected to vest is adjusted by estimated forfeiture rates. As of March 31, 2012, 18,830 of the non-vested shares are expected to vest over approximately one to two years based on certain performance goals ("Performance-Based Awards"). The fair value of the Performance-Based Awards is expensed over the expected vesting period, net of estimated forfeitures. If performance goals are not expected to be met, the compensation expense previously recognized would be reversed. No reversals of compensation expense related to the Performance-Based Awards have been made as of March 31, 2012. The remaining 350,611 non-vested shares are not performance-based, and will vest over approximately one to three years of continuous service.

A summary of the status of the Company's restricted stock units and restricted stock awards as of March 31, 2012, and changes during the three months ended, is presented below:

	Non-Vested Shares	Weighted Average Grant Date Fair Value
Non-vested at December 31, 2011	589,117	$19.22
Awarded	17,681	$23.38
Vested	(231,918)	$16.92
Cancelled/forfeited	(5,439)	$22.85
Non-vested at March 31, 2012	369,441	$20.81

Unrecognized compensation expense related to non-vested shares as of March 31, 2012, was $4.8 million. The weighted-average remaining expense period, based on the unamortized value of these outstanding non-vested shares, was approximately 1.7 years. The fair value of restricted stock units and restricted stock awards vested during the three months ended March 31, 2012 and 2011 was $5.3 million and $4.7 million, respectively.

Note 6: Investment in Receivable Portfolios, Net

In accordance with the authoritative guidance for loans and debt securities acquired with deteriorated credit quality, discrete receivable portfolio purchases during a quarter are aggregated into pools based on common risk characteristics. Once a static pool is established, the portfolios are permanently assigned to the pool. The discount (*i.e.*, the difference between the cost of each static pool and the related aggregate contractual receivable balance) is not recorded because the Company expects to collect a relatively small percentage of each static pool's contractual receivable balance. As a result, receivable portfolios are recorded at cost at the time of acquisition. The purchase cost of the portfolios includes certain fees paid to third parties incurred in connection with the direct acquisition of the receivable portfolios.

In compliance with the authoritative guidance, the Company accounts for its investments in consumer receivable portfolios using either the interest method or the cost recovery method. The interest method applies an internal rate of return ("IRR") to the cost basis of the pool, which remains unchanged throughout the life of the pool, unless there is an increase in subsequent expected cash flows. Subsequent increases in expected cash flows are generally recognized prospectively through an upward adjustment of the pool's IRR over its remaining life. Subsequent decreases in expected cash flows do not change the IRR, but are recognized as an allowance to the cost basis of the pool, and are reflected in the consolidated statements of comprehensive income as a reduction in revenue, with a corresponding valuation allowance, offsetting the investment in receivable portfolios in the consolidated statements of financial condition.

The Company utilizes its proprietary forecasting models to continuously evaluate the economic life of each pool. The collection forecast of each pool is generally estimated to be between 84 to 96 months based on the expected collection period of each pool. The Company often experiences collections beyond the 84 to 96 month collection forecast. As of March 31, 2012, the total estimated remaining collections beyond the 84 to 96 month collection forecast was $104.2 million.

The Company accounts for each static pool as a unit for the economic life of the pool (similar to one loan) for recognition of revenue from receivable portfolios, for collections applied to the cost basis of receivable portfolios and for provision for loss or allowance. Revenue from receivable portfolios is accrued based on each pool's IRR applied to each pool's adjusted cost basis. The cost basis of each pool is increased by revenue earned and decreased by gross collections and portfolio allowances.

If the amount and timing of future cash collections on a pool of receivables are not reasonably estimable, the Company accounts for such portfolios on the cost recovery method as Cost Recovery Portfolios. The accounts in these portfolios have different risk characteristics than those included in other portfolios acquired during the same quarter, or the necessary information was not available to estimate future cash flows and, accordingly, they were not aggregated with other portfolios. Under the cost recovery method of accounting, no income is recognized until the purchase price of a Cost Recovery Portfolio has been fully recovered.

Accretable yield represents the amount of revenue the Company expects to generate over the remaining life of its existing investment in receivable portfolios based on estimated future cash flows. Total accretable yield is the difference between future estimated collections and the current carrying value of a portfolio. All estimated cash flows on portfolios where the cost basis has been fully recovered are classified as zero basis cash flows.

The following table summarizes the Company's accretable yield and an estimate of zero basis future cash flows at the beginning and end of the period presented *(in thousands)*:

	Accretable Yield	Estimate of Zero Basis Cash Flows	Total
Balance at December 31, 2011	$ 821,527	$ 32,676	$ 854,203
Revenue recognized, net	(119,340)	(7,065)	(126,405)
Net additions to existing portfolios[1]	131,039	3,608	134,647
Additions for current purchases[1]	119,533	—	119,533
Balance at March 31, 2012	$ 952,759	$ 29,219	$ 981,978

(1) Estimated remaining collections include anticipated collections beyond the 84 to 96 month collection forecast.

	Accretable Yield	Estimate of Zero Basis Cash Flows	Total
Balance at December 31, 2010	$ 739,785	$ 4,274	$ 744,059
Revenue recognized, net	(101,709)	(3,617)	(105,326)
Net additions to existing portfolios	18,715	2,948	21,663
Additions for current purchases	93,098	—	93,098
Balance at March 31, 2011	$ 749,889	$ 3,605	$ 753,494

During the three months ended March 31, 2012, the Company purchased receivable portfolios with a face value of $2.9 billion for $130.5 million, or a purchase cost of 4.5% of face value. The estimated future collections at acquisition for these portfolios amounted to $235.9 million. During the three months ended March 31, 2011, the Company purchased receivable portfolios with a face value of $2.9 billion for $90.7 million, or a purchase cost of 3.1% of face value. The estimated future collections at acquisition for these portfolios amounted to $178.4 million.

All collections realized after the net book value of a portfolio has been fully recovered ("Zero Basis Portfolios") are recorded as revenue ("Zero Basis Revenue"). During the three months ended March 31, 2012 and 2011, approximately $6.0 million and $3.0 million, respectively, were recognized as revenue on portfolios for which the related cost basis has been fully recovered.

The following tables summarize the changes in the balance of the investment in receivable portfolios during the following periods (*in thousands, except percentages*):

	Three Months Ended March 31, 2012			
	Accrual Basis Portfolios	Cost Recovery Portfolios	Zero Basis Portfolios	Total
Balance, beginning of period	$ 716,454	$ —	$ —	$ 716,454
Purchases of receivable portfolios	130,463	—	—	130,463
Gross collections[1]	(223,943)	—	(7,065)	(231,008)
Put-backs and recalls[2]	(734)	—	—	(734)
Revenue recognized	120,746	—	6,032	126,778
(Portfolio allowances) portfolio allowance reversals, net	(1,406)	—	1,033	(373)
Balance, end of period	$ 741,580	$ —	$ —	$ 741,580
Revenue as a percentage of collections[3]	53.9%	0.0%	85.4%	54.9%

	Three Months Ended March 31, 2011			
	Accrual Basis Portfolios	Cost Recovery Portfolios	Zero Basis Portfolios	Total
Balance, beginning of period	$ 644,753	$ —	$ —	$ 644,753
Purchases of receivable portfolios	90,675	—	—	90,675
Gross collections[1]	(187,417)	—	(3,617)	(191,034)
Put-backs and recalls[2]	(900)	—	—	(900)
Revenue recognized	107,804	—	3,020	110,824
(Portfolio allowances) portfolio allowance reversals, net	(6,095)	—	597	(5,498)
Balance, end of period	$ 648,820	$ —	$ —	$ 648,820
Revenue as a percentage of collections[3]	57.5%	0.0%	83.5%	58.0%

(1) Does not include amounts collected on behalf of others.
(2) Put-backs represent accounts that are returned to the seller in accordance with the respective purchase agreement (" Put-Backs"). Recalls represent accounts that are recalled by the seller in accordance with the respective purchase agreement (" Recalls").
(3) Revenue as a percentage of collections excludes the effects of net portfolio allowances or net portfolio allowance reversals.

The following table summarizes the change in the valuation allowance for investment in receivable portfolios during the periods presented (*in thousands*):

	Valuation Allowance Three Months Ended March 31,	
	2012	2011
Balance at beginning of period	$ 109,494	$ 98,671
Provision for portfolio allowances	1,759	6,095
Reversal of prior allowance	(1,386)	(597)
Balance at end of period	$ 109,867	$ 104,169

The Company currently utilizes various business channels for the collection of its receivables. The following table summarizes the total collections by collection channel *(in thousands)*:

	Three Months Ended March 31,	
	2012	2011
Collection sites	$ 109,870	$ 88,541
Legal collections	109,572	88,488
Collection agencies	11,586	13,990
Other	—	54
	$ 231,028	$ 191,073

Note 7: Deferred Court Costs, Net

The Company contracts with a nationwide network of attorneys that specialize in collection matters. The Company generally refers charged-off accounts to its contracted attorneys when it believes the related debtor has sufficient assets to repay the indebtedness and has, to date, been unwilling to pay. In connection with the Company's agreement with the contracted attorneys, it advances certain out-of-pocket court costs ("Deferred Court Costs"). The Company capitalizes Deferred Court Costs in its consolidated financial statements and provides a reserve for those costs that it believes will ultimately be uncollectible. The Company determines the reserve based on its analysis of court costs that have been advanced and those that have been recovered. Deferred Court Costs not recovered within three years of placement are fully written-off. Collections received from these debtors are first applied against related court costs with the balance applied to the debtors' account.

Deferred Court Costs for the three-year deferral period consist of the following as of the dates presented (*in thousands*):

	March 31, 2012	December 31, 2011
Court costs advanced	$ 231,055	$ 228,977
Court costs recovered	(61,929)	(60,017)
Court costs reserve	(129,287)	(130,454)
	$ 39,839	$ 38,506

Note 8: Other Assets

Other assets consist of the following (*in thousands*):

	March 31, 2012	December 31, 2011
Debt issuance costs, net of amortization	$ 3,827	$ 4,293
Prepaid expenses	5,500	5,232
Security deposit—India building lease	1,630	1,482
Deferred compensation assets	748	722
Prepaid income tax	—	53
Other	137	186
	$ 11,842	$ 11,968

Deferred compensation assets represent monies held in a trust associated with the Company's deferred compensation plan.

Note 9: Debt

The Company is obligated under borrowings as follows *(in thousands)*:

	March 31, 2012	December 31, 2011
Revolving credit facility	$314,000	$305,000
Senior secured notes	75,000	75,000
Capital lease obligations and other	9,246	8,950
	$398,246	$388,950

Revolving Credit Facility

On April 10 and May 8, 2012, Encore entered into amendments to its revolving credit facility. The amendments added new lenders, appointed a new administrative agent, changed the borrowing base advance rate, increased the aggregate revolving loan commitment by $145.0 million, from $410.5 million to $555.5 million, and reset the accordion feature by an additional $100.0 million, resulting in a maximum of $655.5 million that can be borrowed under the facility. Additionally, the May 8, 2012 amendment approved the acquisition discussed in Note 14 "Subsequent Event."

Loan fees and other loan costs associated with the above amendments amounted to approximately $0.7 million. These costs will be included in other assets in the Company's consolidated statements of financial condition and amortized over the remaining term of the facility.

Provisions of the amended revolving credit facility include:

- Interest at a floating rate equal to, at the Company's option, either: (1) reserve adjusted LIBOR, plus a spread that ranges from 350 to 400 basis points, depending on the Company's leverage; or (2) Alternate Base Rate ("ABR"), plus a spread that ranges from 250 to 300 basis points, depending on the Company's leverage. ABR, as defined in the agreement, means the highest of (i) the rate of interest publicly announced by JPMorgan Chase Bank as its prime rate in effect at its principal office in New York City, (ii) the federal funds effective rate from time to time, plus 0.5% and (iii) reserved adjusted LIBOR for a one month interest period on the applicable date, plus 1.0%;
- $10.0 million sub-limits for swingline loans and letters of credit;
- A borrowing base equal to (1) the lesser of (i) 30% - 35% (depending, as defined in the amendment, on the Company's trailing 12-month cost per dollar collected) of eligible estimated remaining collections, initially set at 33%, and (ii) the product of the net book value of all receivable portfolios acquired on or after January 1, 2005 multiplied by 95%, minus (2) the aggregate principal amount outstanding of the senior secured notes;
- Restrictions and covenants, which limit, among other things, the payment of dividends and the incurrence of additional indebtedness and liens;
- Repurchases of up to $50.0 million of Encore's common stock, subject to compliance with certain covenants and available borrowing capacity;
- A change of control definition, which excludes acquisitions of stock by Red Mountain Capital Partners LLC, JCF FPK I LP and their respective affiliates of up to 50% of the outstanding shares of Encore's voting stock;
- Events of default which, upon occurrence, may permit the lenders to terminate the revolving credit facility and declare all amounts outstanding to be immediately due and payable;

- An annual capital expenditure maximum of $12.5 million;
- An annual rental expense maximum of $12.5 million;
- An outstanding capital lease maximum of $12.5 million;
- An acquisition limit of $100.0 million; and
- Collateralization by all assets of the Company, other than the assets of Propel (as defined in Note 14 “Subsequent Event”).

At March 31, 2012, the outstanding balance on the revolving credit facility was $314.0 million, which bore a weighted average interest rate of 4.15% for the three months ended March 31, 2012. As discussed above, on April 10 and May 8, 2012, Encore entered into amendments to its revolving credit facility thereby increasing the aggregate revolving loan commitment by $145.0 million.

Subject to compliance with the revolving credit facility, Encore is authorized by its Board to repurchase up to $50.0 million of its common stock.

Senior Secured Notes

As of March 31, 2012, Encore had $75.0 million in senior secured notes with certain affiliates of Prudential Capital Group. Twenty five million dollars of the senior secured notes bear an annual interest rate of 7.375% and mature in 2018. These notes require quarterly interest only payments through May 2013. Beginning in May 2013, the notes require a quarterly payment of interest plus $1.25 million of principal. The remaining fifty million dollars of the senior secured notes bear an annual interest rate of 7.75% and mature in 2017 with principal amortization beginning in December 2012. These notes require quarterly interest only payments through December 2012. Beginning in December 2012, the notes require a quarterly payment of interest plus $2.5 million of principal.

The senior secured notes are guaranteed in full by certain of Encore’s subsidiaries and are collateralized by all assets of the Company. The senior secured notes may be accelerated and become automatically and immediately due and payable upon certain events of default, including certain events related to insolvency, bankruptcy or liquidation. Additionally, the senior secured notes may be accelerated at the election of the holder or holders of a majority in principal amount of the senior secured notes upon certain events of default by the Company, including the breach of affirmative covenants regarding guarantors, collateral, most favored lender treatment or minimum revolving credit facility commitment or the breach of any negative covenant. If the Company prepays the senior secured notes at any time for any reason, payment will be at the higher of par or the present value of the remaining scheduled payments of principal and interest on the portion being prepaid. The discount rate used to determine the present value is 50 basis points over the then current Treasury Rate corresponding to the remaining average life. The covenants are substantially similar to those in the revolving credit facility. Prudential Capital Group and the administrative agent for the lenders of the revolving credit facility have an intercreditor agreement related to collateral, actionable default, powers and duties and remedies, among other topics.

Capital Lease Obligations

The Company has capital lease obligations primarily for certain computer equipment. As of March 31, 2012, the Company’s combined obligations for these computer equipment leases were approximately $8.3 million. These lease obligations require monthly or quarterly payments through July 2016 and have implicit interest rates that range from zero to approximately 7.7%.

Note 10: Income Taxes

The Company recorded an income tax provision of $7.3 million, reflecting an effective rate of 39.2% of pretax income during the three months ended March 31, 2012. The effective tax rate for the three months ended March 31, 2012 primarily consisted of a provision for federal income taxes of 32.7% (which is net of a benefit for state taxes of 2.3%) and a blended provision for state taxes of 6.5%.

The Company recorded an income tax provision of $8.6 million, reflecting an effective rate of 38.6% of pretax income during the three months ended March 31, 2011. The effective tax rate for the three months ended March 31, 2011 primarily consisted of a provision for federal income taxes of 32.7% (which is net of a benefit for state taxes of 2.3%), a blended provision for state taxes of 6.7%, and a net benefit for the permanent book versus tax differences of 0.8%.

The Company’s subsidiary in India was operating under a tax holiday through March 31, 2011, at which time the tax holiday expired. If there had been no tax holiday for the quarter ended March 31, 2011, the Company would have expensed an additional $0.6 million in income taxes. The Company’s subsidiary in Costa Rica is operating under a 100% tax holiday for the next eight years and a 50% tax holiday for the following four years. The impact of the tax holiday in Costa Rica for the three months ended March 31, 2012 was immaterial.

As of March 31, 2012, the Company had a gross unrecognized tax benefit of $1.9 million that, if recognized, would result in a net tax benefit of approximately $1.2 million and would have a positive effect on the Company's effective tax rate. During the three months ended March 31, 2012, there were no material changes to the unrecognized tax benefit.

During the three months ended March 31, 2012, the Company did not provide for the United States income taxes or foreign withholding taxes on the quarterly undistributed earnings from continuing operations of its subsidiary operating outside of the United States. Undistributed earnings of the subsidiary during the three months ended March 31, 2012 and 2011, were approximately $2.4 million and $1.9 million, respectively. Such undistributed earnings are considered permanently reinvested.

Note 11: Purchase Concentrations

The following table summarizes purchases by seller sorted by total aggregate cost (*in thousands, except percentages*):

	Three Months Ended March 31, 2012	
	Cost	%
Seller 1	$ 39,789	30.5%
Seller 2	27,792	21.3%
Seller 3	15,335	11.8%
Seller 4	13,642	10.5%
Seller 5	7,864	6.0%
Other sellers	26,041	19.9%
	$ 130,463	100.0%
Adjustments[(1)]	(60)	
Purchases, net	$ 130,403	

(1) Adjusted for Put-backs and Recalls.

Note 12: Commitments and Contingencies

Litigation

The Company is involved in disputes and legal actions from time to time in the ordinary course of business. The Company, along with others in its industry, is routinely subject to legal actions based on the Fair Debt Collection Practices Act ("FDCPA"), comparable state statutes, the Telephone Consumer Protection Act ("TCPA"), state and federal unfair competition statutes and common law causes of action. The violations of law alleged in these actions often include claims that the Company lacks specified licenses to conduct its business, attempts to collect debts on which the statute of limitations has run, has made inaccurate assertions of fact in support of its collection actions and /or has acted improperly in connection with its efforts to contact consumers. These cases are frequently styled as supposed class actions. In addition, from time to time, the Company is subject to litigation and other actions by governmental bodies, including formal and informal investigations relating to its collection activities by the Federal Trade Commission, state attorneys general and other governmental bodies, with which the Company cooperates.

There has been no material development in any of the legal proceedings disclosed in the Company's Annual Report on Form 10-K for the year ended December 31, 2011.

In certain legal proceedings, the Company may have recourse to insurance or third party contractual indemnities to cover all or portions of its litigation expenses, judgments or settlements. In accordance with authoritative guidance, the Company records loss contingencies in its financial statements only for matters in which losses are probable and can be reasonably estimated. Where a range of loss can be reasonably estimated with no best estimate in the range, the Company records the minimum estimated liability. The Company continuously assesses the potential liability related to the Company's pending litigation and revises its estimates when additional information becomes available. The Company's legal costs are recorded to expense as incurred.

Purchase Commitments

In the normal course of business, the Company enters into forward flow purchase agreements and other purchase commitment agreements. As of March 31, 2012, the Company has entered into agreements to purchase receivable portfolios with a face value of approximately $3.3 billion for a purchase price of approximately $142.2 million. The Company has no purchase commitments extending past one year.

Note 13: Goodwill and Identifiable Intangible Assets

In accordance with authoritative guidance, goodwill is tested at the reporting unit level annually for impairment and in interim periods if certain events occur indicating the fair value of a reporting unit may be below its carrying value.

The Company has two reporting units that carry goodwill: portfolio purchasing and recovery and bankruptcy servicing. Annual testing is performed on October 1st for the portfolio purchasing and recovery reporting unit and on August 31st for the bankruptcy servicing reporting unit.

During the first quarter of 2012, the Company's subsidiary, Ascension (which is determined to be the bankruptcy servicing reporting unit for the purpose of goodwill impairment testing), experienced uncertainty surrounding a material client's contract renewal. The client agreed to renew the contract, provided that Ascension enters into an agreement with a specified third party to make or facilitate the technology improvements required by the client. On May 7, 2012, the Board approved a plan to sell Ascension. At this time, the Company has reached an agreement in principle to sell Ascension to the third party. As part of the sale, Ascension's new owner will invest in new technology and apply the bankruptcy servicing expertise necessary for Ascension to compete more effectively, and the Company has agreed to cover normal operating losses in the first year of ownership. If the business grows and becomes profitable, the Company will be paid an earn-out equal to 30 to 40% of Ascension's EBITDA for the first five years after closing. In connection with the preparation of its financial statements and based, in part, on these developments, the Company performed an interim goodwill impairment test for Ascension as of March 31, 2012. The goodwill impairment test is a two-step process. First, the Company estimated the fair value of Ascension by considering the proposed selling price to the potential buyer. The result of this analysis indicated that Ascension's carrying value exceeded its fair value. Therefore, the Company measured the amount of impairment charge by comparing the implied fair value of the goodwill with the carrying value of that goodwill. Based on the proposed selling price, the Company concluded that the entire goodwill balance of $9.9 million for Ascension was impaired as of March 31, 2012. Additionally, the Company wrote-off the remaining identifiable intangible assets of approximately $0.4 million at Ascension. Beginning in the second quarter of 2012, and regardless of whether the sale discussed above is completed, Ascension will be treated as a discontinued operation.

As a result, the Company recognized a pre-tax impairment charge for goodwill and identifiable intangible assets of $10.3 million, or $0.25 per diluted share, after the effect of income taxes during the three months ended March 31, 2012.

The Company's acquired intangible assets are summarized as follows *(in thousands)*:

	As of March 31, 2012			As of December 31, 2011		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Intangible assets subject to amortization:						
Customer relationships and other	$ —	$ —	$ —	$ 6,000	$ (5,538)	$ 462
Intangible assets not subject to amortization:						
Goodwill – portfolio purchasing and recovery			$ 6,047			$ 6,047
Goodwill – bankruptcy servicing			—			9,938
Total goodwill			$ 6,047			$ 15,985

Note 14: Subsequent Event

On May 8, 2012, the Company acquired all of the outstanding equity of Propel Financial Services, LLC, and certain of its affiliates ("Propel") for $186.8 million in cash. Propel provides property tax solutions to customers in the state of Texas by paying real estate taxes on behalf of owners of real property in Texas in exchange for notes collateralized by tax liens on the property. The Company financed the acquisition through a new $160.0 million syndicated loan facility (the "Propel Facility"), the Company's existing revolving credit facility and cash on hand. The Propel Facility will be used to fund a portion of the purchase price and to fund future growth at Propel. The Propel Facility has a three year term and includes the following key provisions:

- Interest at Propel's option, at either: (1) LIBOR, plus a spread that ranges from 300 to 375 basis points, depending on Propel's leverage; or (2) Prime, plus a spread that ranges from 0 to 75 basis points, depending on Propel's leverage;
- A borrowing base of 90% of the face value of the tax lien collateralized notes;
- Interest payable monthly; principal and interest due at maturity; and
- A $40.0 million accordion feature.

The Propel Facility is collateralized by the tax lien collateralized notes and requires Propel to maintain various financial covenants, including a minimum interest coverage ratio and a maximum cash flow leverage ratio.

Item 2—Management's Discussion and Analysis of Financial Condition and Results of Operations

This Quarterly Report on Form 10-Q contains "forward-looking statements" within the meaning of the securities laws. The words "believe," "expect," "anticipate," "estimate," "project," "intend," "plan," "will," "may" and similar expressions often characterize forward-looking statements. These statements may include, but are not limited to, projections of collections, revenues, income or loss, estimates of capital expenditures, plans for future operations, products or services and financing needs or plans, as well as assumptions relating to these matters. Although we believe that the expectations reflected in these forward-looking statements are reasonable, we caution that these expectations or predictions may not prove to be correct or we may not achieve the financial results, savings or other benefits anticipated in the forward-looking statements. These forward-looking statements are necessarily estimates reflecting the best judgment of our senior management and involve a number of risks and uncertainties, some of which may be beyond our control or cannot be predicted or quantified, that could cause actual results to differ materially from those suggested by the forward-looking statements. Many factors, including but not limited to those set forth in this Quarterly Report on Form 10-Q under "Part II, Item 1A. Risk Factors" and in our Annual Report on Form 10-K under "Part I, Item 1A. Risk Factors," could cause our actual results, performance, achievements or industry results to be very different from the results, performance, achievements or industry results expressed or implied by these forward-looking statements. Our business, financial condition or results of operations could also be materially and adversely affected by other factors besides those listed. Forward-looking statements speak only as of the date the statements were made. We do not undertake any obligation to update or revise any forward-looking statements to reflect new information or future events, or for any other reason, even if experience or future events make it clear that any expected results expressed or implied by these forward-looking statements will not be realized. In addition, it is generally our policy not to make any specific projections as to future earnings, and we do not endorse projections regarding future performance that may be made by third parties.

Introduction

We are a leader in consumer debt buying and recovery. We purchase portfolios of defaulted consumer receivables at deep discounts to face value based on robust, account-level valuation methods, and employ a suite of proprietary statistical and behavioral models when building account collection strategies. We use a variety of operational channels to maximize our collections from the portfolios that we purchase, including seeking to partner with individuals as they repay their obligations and work toward financial recovery. In addition, we provide bankruptcy support services to some of the largest companies in the financial services industry through our wholly owned subsidiary, Ascension. On May 7, 2012, our Board of Directors (the "Board") approved a plan to sell Ascension. At this time, we have reached an agreement in principle to sell Ascension to a third party. See Note 13 "Goodwill and Identifiable Intangible Assets" to our unaudited condensed consolidated financial statements for a further discussion.

While seasonality does not have a material impact on our business, collections are generally strongest in our first calendar quarter, slower in the second and third calendar quarters, and slowest in the fourth calendar quarter. Relatively higher collections in the first quarter could result in a lower cost-to-collect ratio compared to the other quarters, as our fixed costs would be constant and applied against a larger collection base. The seasonal impact on our business may be influenced by our purchasing levels, the types of portfolios we purchase, and our operating strategies.

Collection seasonality can also impact our revenue recognition rate. Generally, revenue for each pool group declines steadily over time, whereas collections can fluctuate from quarter to quarter based on seasonality, as described above. In quarters with lower collections (like the fourth calendar quarter), revenue as a percentage of collections can be higher than in quarters with higher collections (like the first calendar quarter).

In addition, seasonality could have an impact on the relative level of quarterly earnings. In quarters with stronger collections, total costs are higher, as a result of the additional efforts required to generate those collections. Since revenue for each pool group declines steadily over time, in quarters with stronger collections and higher costs (like the first calendar quarter), all else being equal, earnings could be lower than in quarters with slower collections and lower costs (like the fourth calendar quarter). Additionally, in quarters where a greater percentage of collections come from our legal and agency outsourcing channels, cost to collect will be higher than if there were more collections from our internal collection sites.

Market Overview

While there has been improvement in macroeconomic indicators during the last three months, a broad economic recovery has yet to fully materialize for the U.S. consumer. Slow job growth, uncertainty over state and federal taxes and limited credit availability continue to challenge U.S. consumers, as demonstrated by weak consumer spending and volatile but rising consumer confidence levels. Within the credit card space, delinquency levels have improved at a rate that may indicate a fundamental improvement in consumer financial strength. However, related measures, like personal bankruptcies and home foreclosures, remain elevated and indicate continued near-term pressure on the average consumer.

Despite this macroeconomic uncertainty through the first quarter of 2012, most of our internal collection metrics were consistent with, or better than, what we observed during the same periods in 2010 and 2011. To illustrate, payer rates and average payment size, adjusted for changes in the mix of settlements-in-full versus payment plans, remained consistent. As compared to prior years, more of our consumers continue to opt to settle their debt obligations through payment plans as opposed to one-time settlements. Settlements made through payment plans impact our recoveries in two ways. First, the delay in cash flows from payments received over extended time periods may result in a provision for portfolio allowance. When a long-term payment stream (as compared to a one-time payment of the same amount) is discounted using a pool group's internal rate of return, or IRR, the net present value is lower. In other words, despite the absolute value of total cash received being identical in both scenarios, accounting for the timing of cash flows in a payment plan yields a lower net present value, which, in turn, can result in a provision for portfolio allowance. Second, payment plans inherently contain the possibility of consumers failing to complete all scheduled payments, which we term a "broken payer."

The rate at which consumers are honoring their obligations and completing their payment plans has continued to increase over the last 12 months. We believe this is the result of two factors: our commitment to partner effectively with consumers during their recovery process and the strength of our analytic platform, which allows us to make accurate and timely decisions about how best to maximize our portfolio returns. Nevertheless, payment plans may still produce broken payers that fail to fulfill all scheduled payments. When this happens, we are often successful in getting the consumer back on plan, but this is not always the case, and in those instances where we are unable to do so, we may experience a shortfall in recoveries as compared to our initial forecasts. Please refer to "Management's Discussion and Analysis – Revenue" below for a more detailed explanation of the provision for portfolio allowances.

Purchases and Collections

Purchases by Type

The following table summarizes the types of charged-off consumer receivables portfolios we purchased for the periods presented *(in thousands)*:

	Three Months Ended March 31,	
	2012	2011
Credit card	$ 107,935	$ 87,991
Telecom	22,528	1,236
Consumer bankruptcy receivables[1]	—	1,448
	$ 130,463	$ 90,675

(1) Represents portfolio receivables subject to Chapter 13 and Chapter 7 bankruptcy proceedings acquired from issuers.

During the three months ended March 31, 2012, we invested $130.5 million to acquire charged-off credit card and telecom portfolios, with face values aggregating $2.9 billion, for an average purchase price of 4.5% of face value. This is a $39.8 million increase, or 43.9%, in the amount invested, compared with the $90.7 million invested during the three months ended March 31, 2011, to acquire charged-off credit card portfolios with a face value aggregating $2.9 billion, for an average purchase price of 3.1% of face value.

Average purchase price, as a percentage of face value, varies from period to period depending on, among other things, the quality of the accounts purchased and the length of time from charge off to the time we purchase the portfolios.

Collections by Channel

During the three months ended March 31, 2012 and 2011, we utilized numerous business channels for the collection of charged-off credit card receivables and other charged-off receivables. The following table summarizes gross collections by collection channel *(in thousands)*:

	Three Months Ended March 31,	
	2012	2011
Collection sites	$ 109,870	$ 88,541
Legal collections	109,572	88,488
Collection agencies	11,586	13,990
Other	—	54
	$ 231,028	$ 191,073

Gross collections increased $39.9 million, or 20.9%, to $231.0 million during the three months ended March 31, 2012, from $191.1 million during the three months ended March 31, 2011.

Results of Operations

Results of operations in dollars and as a percentage of total revenue were as follows *(in thousands, except per share amounts and percentages)*:

	Three Months Ended March 31,			
	2012		2011	
Revenues				
Revenue from receivable portfolios, net	$126,405	97.1%	$105,326	95.5%
Servicing fees and related revenue	3,817	2.9%	4,977	4.5%
Total revenues	130,222	100.0%	110,303	100.0%
Operating expenses				
Salaries and employee benefits (excluding stock-based compensation expense)	23,109	17.8%	19,040	17.3%
Stock-based compensation expense	2,266	1.7%	1,765	1.6%
Cost of legal collections	38,635	29.7%	36,509	33.1%
Other operating expenses	12,411	9.5%	10,096	9.1%
Collection agency commissions	3,959	3.0%	3,914	3.5%
General and administrative expenses	14,132	10.9%	10,169	9.2%
Depreciation and amortization	1,363	1.0%	1,053	1.0%
Impairment charge for goodwill and identifiable intangible assets	10,349	8.0%	—	0.0%
Total operating expenses	106,224	81.6%	82,546	74.8%
Income from operations	23,998	18.4%	27,757	25.2%
Other (expense) income				
Interest expense	(5,515)	(4.2)%	(5,593)	(5.1)%
Other income	267	0.2%	116	0.1%
Total other expense	(5,248)	(4.0)%	(5,477)	(5.0)%
Income before income taxes	18,750	14.4%	22,280	20.2%
Provision for income taxes	(7,344)	(5.6)%	(8,601)	(7.8)%
Net income	$ 11,406	8.8%	$ 13,679	12.4%
Earnings per diluted share	$ 0.44[1]		$ 0.54	

(1) Includes a $0.25 effect related to a one-time, non-cash charge of $10.3 million ($6.3 million after the effects of income taxes) associated with the impairment of Ascension's goodwill and identifiable intangible assets.

Comparison of Results of Operations

Revenue

Our revenue consists primarily of portfolio revenue and bankruptcy servicing revenue. Portfolio revenue consists of accretion revenue and zero basis revenue. Accretion revenue represents revenue derived from pools (quarterly groupings of purchased receivable portfolios) with a cost basis that has not been fully amortized. Revenue from pools with a remaining unamortized cost basis is accrued based on each pool's effective interest rate applied to each pool's remaining unamortized cost basis. The cost basis of each pool is increased by revenue earned and decreased by gross collections and portfolio allowances. The effective interest rate is the internal rate of return derived from the timing and amounts of actual cash received and anticipated future cash flow projections for each pool. All collections realized after the net book value of a portfolio has been fully recovered, or Zero Basis Portfolios, are recorded as revenue, or Zero Basis Revenue. We account for our investment in receivable portfolios utilizing the interest method in accordance with the authoritative guidance for loans and debt securities acquired with deteriorated credit quality. Servicing fee revenue is revenue primarily associated with bankruptcy servicing fees earned from Ascension, a provider of bankruptcy services to the finance industry.

The following tables summarize collections, revenue, end of period receivable balance and other related supplemental data, by year of purchase (*in thousands, except percentages*):

	Three Months Ended March 31, 2012					As of March 31, 2012	
	Collections[1]	Gross Revenue[2]	Revenue Recognition Rate[3]	Net (Portfolio Allowance) Reversal	Revenue % of Total Revenue	Unamortized Balances	Monthly IRR
ZBA[4]	$ 7,065	$ 6,032	85.4%	$ 1,033	4.8%	$ —	—
2005	3,431	1,319	38.4%	(78)	1.0%	6,114	5.7%
2006	3,769	2,505	66.5%	(1,119)	2.0%	15,010	5.1%
2007	5,050	2,737	54.2%	(209)	2.2%	15,960	5.1%
2008	17,313	9,045	52.2%	—	7.1%	49,979	5.4%
2009	32,578	20,738	63.7%	—	16.3%	76,589	8.0%
2010	63,996	37,098	58.0%	—	29.3%	164,036	6.7%
2011	85,220	41,924	49.2%	—	33.1%	291,099	4.9%
2012	12,586	5,380	42.7%	—	4.2%	122,793	3.5%
Total	$ 231,008	$126,778	54.9%	$ (373)	100.0%	$ 741,580	5.4%

	Three Months Ended March 31, 2011					As of March 31, 2011	
	Collections[1]	Gross Revenue[2]	Revenue Recognition Rate[3]	Net (Portfolio Allowance) Reversal	Revenue % of Total Revenue	Unamortized Balances	Monthly IRR
ZBA[4]	$ 3,617	$ 3,020	83.5%	$ 597	2.7%	$ —	—
2004	1,103	180	16.3%	—	0.2%	242	6.6%
2005	5,471	2,741	50.1%	(603)	2.5%	13,983	5.6%
2006	5,313	4,145	78.0%	(2,481)	3.7%	25,241	5.1%
2007	13,458	8,718	64.8%	(1,463)	7.9%	31,936	7.4%
2008	26,425	14,981	56.7%	(1,548)	13.5%	86,797	5.2%
2009	49,666	29,310	59.0%	—	26.4%	127,439	6.8%
2010	77,719	43,119	55.5%	—	38.9%	276,479	4.8%
2011	8,262	4,610	55.8%	—	4.2%	86,703	3.6%
Total	$ 191,034	$110,824	58.0%	$ (5,498)	100.0%	$ 648,820	5.2%

(1) Does not include amounts collected on behalf of others.
(2) Gross revenue excludes the effects of net portfolio allowances or net portfolio allowance reversals.
(3) Revenue recognition rate excludes the effects of net portfolio allowances or net portfolio allowance reversals.
(4) ZBA revenue typically has a 100% revenue recognition rate. However, collections on ZBA pool groups where a valuation allowance remains must first be recorded as an allowance reversal until the allowance for that pool group is zero. Once the valuation allowance is reversed, the revenue recognition rate will become 100%.

Total revenues were $130.2 million during the three months ended March 31, 2012, an increase of $19.9 million, or 18.1%, compared to total revenues of $110.3 million during the three months ended March 31, 2011. Portfolio revenue was $126.4 million during the three months ended March 31, 2012, an increase of $21.1 million, or 20.0%, compared to portfolio revenue of $105.3 million during the three months ended March 31, 2011. The increase in portfolio revenue during the three months ended March 31, 2012 was primarily the result of lower net portfolio allowance provision and additional accretion revenue associated with a higher portfolio balance during the three months ended March 31, 2012 compared to the three months ended March 31, 2011. During the three months ended March 31, 2012, we recorded a net portfolio allowance provision of $0.4 million, compared to a net portfolio allowance provision of $5.5 million in the same period of the prior year.

Revenue associated with bankruptcy servicing fees earned from Ascension was $3.8 million during the three months ended March 31, 2012, a decrease of $1.1 million, or 23.3%, compared to revenue of $4.9 million during the three months ended March 31, 2011.

Operating Expenses

Total operating expenses were $106.2 million during the three months ended March 31, 2012, an increase of $23.7 million, or 28.7%, compared to total operating expenses of $82.5 million during the three months ended March 31, 2011.

Operating expenses are explained in more detail as follows:

Salaries and employee benefits

Total salaries and employee benefits increased $4.1 million, or 21.4%, to $23.1 million during the three months ended March 31, 2012, from $19.0 million during the three months ended March 31, 2011. The increase was primarily the result of increases in headcount and related compensation expense to support our growth. Salaries and employee benefits related to our internal legal channel were approximately $1.3 million and $0.3 million for the three months ended March 31, 2012 and 2011, respectively.

Stock-based compensation expense

Stock-based compensation increased $0.5 million, or 28.4%, to $2.3 million during the three months ended March 31, 2012, from $1.8 million during the three months ended March 31, 2011. This increase was primarily attributable to higher fair value of equity awards granted in recent periods.

Cost of legal collections

The cost of legal collections increased $2.1 million, or 5.8%, to $38.6 million during the three months ended March 31, 2012, compared to $36.5 million during the three months ended March 31, 2011. These costs represent contingent fees paid to our nationwide network of attorneys and costs of litigation. The increase in the cost of legal collections was primarily the result of an increase of $21.1 million, or 23.8%, in gross collections through our legal channel. Gross legal collections were $109.6 million during the three months ended March 31, 2012, up from $88.5 million collected during the three months ended March 31, 2011. The cost of legal collections decreased as a percentage of gross collections through this channel to 35.3% during the three months ended March 31, 2012 from 41.3% during the same period in the prior year. This decrease was primarily due to an improvement in our court cost recovery rate and a decrease in the commission rate we pay our contracted attorneys.

The following table summarizes our legal collection channel performance and related direct costs *(in thousands, except percentages)*:

	Three Months Ended March 31,			
	2012		2011	
Collections[1]	$109,572	100.0%	$ 88,488	100.0%
Court costs advanced	$ 22,116	20.2%	$ 23,299	26.3%
Court costs deferred	(11,627)	(10.6)%	(11,591)	(13.1)%
Court cost expense[2]	10,489	9.6%	11,708	13.2%
Other[3]	579	0.5%	494	0.6%
Commissions	27,567	25.2%	24,307	27.5%
Total costs	$ 38,635	35.3%	$ 36,509	41.3%

(1) Collections include approximately $2.9 million and less than $0.1 million from our internal legal channel for the three months ended March 31, 2012 and 2011, respectively.

(2) In connection with our agreement with contracted attorneys, we advance certain out-of-pocket court costs. We capitalize these costs in our consolidated financial statements and provide a reserve and corresponding court cost expense for the costs that we believe will be ultimately uncollectible. This amount includes changes in our anticipated recovery rate of court costs expensed. This amount also includes court costs expensed through our internal legal channel of approximately $1.2 million and less than $0.1 million for the three months ended March 31, 2012 and 2011, respectively.

(3) Other costs consist of costs related to counter claims and legal network subscription fees.

Other operating expenses

Other operating expenses increased $2.3 million, or 22.9%, to $12.4 million during the three months ended March 31, 2012, from $10.1 million during the three months ended March 31, 2011. The increase was primarily the result of an increase of $1.5 million in direct mail campaign expenses, an increase of $0.5 million in media-related expenses, and a net increase in various other operating expenses of $0.3 million, all to support our growth.

Collection agency commissions

During the three months ended March 31, 2012, we incurred $4.0 million in commissions to third party collection agencies, or 34.2%, of the related gross collections of $11.6 million, compared to $3.9 million in commissions, or 28.0%, of the related gross collections of $14.0 million, during the three months ended March 31, 2011. The increase in the net commission rate as a percentage of the related gross collections was primarily due to the mix of accounts placed with the agencies. Commissions, as a percentage of collections through this channel, vary from period to period depending on, among other things, the time from charge-off of the accounts placed with an agency. Generally, freshly charged-off accounts and consumer bankruptcy receivable accounts have a lower commission rate than consumer credit card receivable accounts and accounts that have been charged off for a longer period of time.

General and administrative expenses

General and administrative expenses increased $3.9 million, or 39.0%, to $14.1 million during the three months ended March 31, 2012, from $10.2 million during the three months ended March 31, 2011. The increase was primarily the result of an increase of $1.6 million in costs related to legal settlements, an increase of $0.4 million in corporate legal expenses, an increase of $0.4 million in building rent and an increase in other general and administrative expenses of $1.5 million. During the three months ended March 31, 2012, we incurred approximately $0.5 million in acquisition related expenses.

Depreciation and amortization

Depreciation and amortization expense increased $0.3 million, or 29.4%, to $1.4 million during the three months ended March 31, 2012, from $1.1 million during the three months ended March 31, 2011. The increase was primarily related to increased depreciation expenses resulted from our acquisition of fixed assets in recent periods.

Impairment charge for goodwill and identifiable intangible assets

During the three months ended March 31, 2012, we recorded $10.3 million in impairment charges for goodwill and identifiable intangible assets related to our bankruptcy servicing reporting unit, Ascension. This impairment charge was a result of our interim impairment testing performed at Ascension as of March 31, 2012. During the first quarter of 2012, Ascension experienced uncertainty surrounding a material client's contract renewal. The client agreed to renew the contract, provided that Ascension enters into an agreement with a specified third party to make or facilitate the technology improvements required by the client. On May 7, 2012, our Board approved a plan to sell Ascension. At this time, we have reached an agreement in principle to sell Ascension to the third party. As part of the sale, Ascension's new owner will invest in new technology and apply the bankruptcy servicing expertise necessary for Ascension to compete more effectively, and we have agreed to cover normal operating losses in the first year of ownership. If the business grows and becomes profitable, we will be paid an earn-out equal to 30 to 40% of Ascension's EBITDA for the first five years after closing. In connection with the preparation of our financial statements and based, in part, on these developments, we performed an interim goodwill impairment test for Ascension and concluded that the entire goodwill balance of $9.9 million for Ascension was impaired as of March 31, 2012. Additionally, we wrote-off the remaining identifiable intangible assets of approximately $0.4 million. Beginning in the second quarter of 2012, and regardless of whether the sale discussed above is completed, Ascension will be treated as a discontinued operation.

As a result, we recognized a pre-tax impairment charge for goodwill and identifiable intangible assets of $10.3 million, or $0.25 per diluted share, after the effect of income taxes during the three months ended March 31, 2012. See footnote 13 "Goodwill and Identifiable Intangible Assets" in our unaudited condensed consolidated financial statements for further details. We did not record any goodwill impairment charges in the three months ended March 31, 2011.

Cost per Dollar Collected

The following table summarizes our cost per dollar collected *(in thousands, except percentages)*:

	Three Months Ended March 31,							
	2012				2011			
	Collections	Cost	Cost Per Channel Dollar Collected	Cost Per Total Dollar Collected	Collections	Cost	Cost Per Channel Dollar Collected	Cost Per Total Dollar Collected
Collection sites	$ 109,870	$ 6,476[1]	5.9%	2.8%	$ 88,541	$ 6,709[1]	7.6%	3.5%
Legal networks[2]	109,572	38,635	35.3%	16.7%	88,488	36,509	41.3%	19.1%
Collection agency outsourcing	11,586	3,959	34.2%	1.7%	13,990	3,914	28.0%	2.0%
Other collections	—	—	—	—	54	—	—	—
Other indirect costs[3]	—	39,569	—	17.2%	—	29,330	—	15.4%
Total	$ 231,028	$88,639[4]		38.4%	$ 191,073	$76,462[4]		40.0%

(1) Cost in collection sites represents only Account Managers and their supervisors' salaries, variable compensation, and employee benefits.

(2) Collections include approximately $2.9 million and less than $0.1 million from our internal legal channel for the three months ended March 31, 2012 and 2011, respectively. Court costs expensed through our internal legal channel were approximately $1.2 million and less than $0.1 million for the three months ended March 31, 2012 and 2011, respectively.

(3) Other indirect costs represent non-collection site salaries and employee benefits, general and administrative expenses, other operating expenses and depreciation and amortization. Included in other indirect costs were costs related to our internal legal channel of approximately $1.8 million and $0.4 million for the three months ended March 31, 2012 and 2011, respectively.

(4) Represents all operating expenses, excluding stock-based compensation expense, bankruptcy servicing operating expenses, and acquisition related expenses. We include this information in order to facilitate a comparison of approximate cash costs to cash collections for the debt purchasing business in the periods presented. Refer to the items for reconciliation of operating expenses, excluding stock-based compensation expense, bankruptcy servicing operating expenses, and acquisition related expenses to generally accepted accounting practices ("GAAP") total operating expenses in the table below.

The following table presents the items for reconciliation of operating expenses, excluding stock-based compensation expense, bankruptcy servicing expenses, and acquisition related expenses to GAAP total operating expenses (*in thousands*):

	Three Months Ended March 31,	
	2012	2011
GAAP total operating expenses, as reported	$ 106,224	$ 82,546
Stock-based compensation expense	(2,266)	(1,765)
Bankruptcy servicing expenses	(14,830)	(4,319)
Acquisition related expenses	(489)	—

During the three months ended March 31, 2012, cost per dollar collected decreased by 160 basis points to 38.4% of gross collections, from 40.0% of gross collections during the three months ended March 31, 2011. This decrease was primarily due to cost improvement across all of our channels as follows:

- The cost from our collection sites, which includes Account Manager salaries, variable compensation and employee benefits, as a percentage of total collections, decreased to 2.8% during the three months ended March 31, 2012, from 3.5% during the three months ended March 31, 2011 and, as a percentage of our site collections, decreased to 5.9% from 7.6%. The decreases were primarily due to the continued growth of our collection workforce in India and improvements in our consumer insights, where we can more effectively determine which consumers have the ability to pay and how to best engage with them.
- The cost of legal collections as a percentage of total collections decreased to 16.7% during the three months ended March 31, 2012, from 19.1% during the three months ended March 31, 2011 and, as a percentage of legal collections, decreased to 35.3% from 41.3%. The decreases were primarily due to an improvement in our court cost recovery rate and a decrease in the commission rate we pay our contracted attorneys.
- Collection agency commissions, as a percentage of total collections, decreased to 1.7% during the three months ended March 31, 2012, from 2.0% during the same period in the prior year. The decrease was due to our continued effort in shifting collections from third party agencies to our collection sites. Our collection agency commission rate increased to 34.2% during the three months ended March 31, 2012, from 28.0% during the same period in the prior year. The increase in our commission rate was a result of change in the mix of accounts placed into this channel. Generally, freshly charged-off accounts and consumer bankruptcy receivable accounts have a lower commission rate than consumer credit card receivable accounts and accounts that have been charged off for a longer period of time.

The decrease in cost per dollar collected was partially offset by an increase in other costs not directly attributable to specific channel collections (other indirect costs), as a percentage of total collections, from 15.4% for the three months ended March 31, 2012, to 17.2% for the three months ended March 31, 2011. These costs include non-collection site salaries and employee benefits, general and administrative expenses, other operating expenses and depreciation and amortization. The dollar increase and the increase in cost per dollar collected were due to several factors, including increases in corporate settlements and increases in headcount and general and administrative expenses, to support our growth.

Interest Expense

Interest expense remained consistent during the three months ended March 31, 2012 and 2011. The following table summarizes our interest expense (*in thousands, except percentages*):

	Three Months Ended March 31,			
	2012	2011	$ Change	% Change
Stated interest on debt obligations	$5,049	$5,153	$ (104)	(2.0%)
Amortization of loan fees and other loan costs	466	440	26	5.9%
Total interest expense	$5,515	$5,593	$ (78)	(1.4%)

Provision for Income Taxes

During the three months ended March 31, 2012, we recorded an income tax provision of $7.3 million, reflecting an effective rate of 39.2% of pretax income. The effective tax rate for the three months ended March 31, 2012 primarily consisted of a provision for federal income taxes of 32.7% (which is net of a benefit for state taxes of 2.3%) and provision for state taxes of 6.5%.

During the three months ended March 31, 2011, we recorded an income tax provision of $8.6 million, reflecting an effective rate of 38.6% of pretax income. The effective tax rate for the three months ended March 31, 2011 primarily consisted of a provision for federal income taxes of 32.7% (which is net of a benefit for state taxes of 2.3%), a provision for state taxes of 6.7%, and a net benefit of permanent book versus tax differences of 0.8%.

The increase in our overall effective tax rate from March 31, 2011 to March 31, 2012 was primarily attributable to an increase in the effective tax rate in India. Our operations in India benefited from a tax holiday, which expired on March 31, 2011. Our subsidiary in Costa Rica is operating under a 100% tax holiday for the next eight years and a 50% tax holiday for the following four years. The impact of the tax holiday in Costa Rica for the three months ended March 31, 2012 was immaterial.

Supplemental Performance Data

Cumulative Collections to Purchase Price Multiple

The following table summarizes our purchases and related gross collections by year of purchase (in thousands, except multiples):

Year of Purchase	Purchase Price[1]	Cumulative Collections through March 31, 2012									
		<2006	2006	2007	2008	2009	2010	2011	2012	Total[2]	CCM[3]
<2005	$ 385,471[4]	$ 974,411	$164,211	$ 85,333	$ 45,893	$ 27,708	$ 19,986	$ 15,180	$ 3,006	$1,335,728	3.5
2005	192,585	66,491	129,809	109,078	67,346	42,387	27,210	18,651	3,636	464,608	2.4
2006	141,027	—	42,354	92,265	70,743	44,553	26,201	18,306	3,771	298,193	2.1
2007	204,096	—	—	68,048	145,272	111,117	70,572	44,035	8,694	447,738	2.2
2008	227,862	—	—	—	69,049	165,164	127,799	87,850	17,456	467,318	2.1
2009	253,362	—	—	—	—	96,529	206,773	164,605	32,634	500,541	2.0
2010	358,786	—	—	—	—	—	125,853	288,788	64,005	478,646	1.3
2011	385,502	—	—	—	—	—	—	123,596	85,220	208,816	0.5
2012	129,998	—	—	—	—	—	—	—	12,586	12,586	0.1
Total	$2,278,689	$1,040,902	$336,374	$354,724	$398,303	$487,458	$604,394	$761,011	$231,008	$4,214,174	1.8

(1) Adjusted for put-backs, account recalls, and purchase price rescissions. Put-backs represent accounts that are returned to the seller in accordance with the respective purchase agreement ("Put-Backs"). Recalls represents accounts that are recalled by the seller in accordance with the respective purchase agreement ("Recalls").
(2) Cumulative collections from inception through March 31, 2012, excluding collections on behalf of others.
(3) Cumulative Collections Multiple ("CCM") through March 31, 2012 – collections as a multiple of purchase price.
(4) From inception through December 31, 2004.

Total Estimated Collections to Purchase Price Multiple

The following table summarizes our purchases, resulting historical gross collections, and estimated remaining gross collections by year of purchase *(in thousands, except multiples)*:

	Purchase Price[1]	Historical Collections[2]	Estimated Remaining Collections[4]	Total Estimated Gross Collections	Total Estimated Gross Collections to Purchase Price
<2005	$ 385,471[3]	$1,335,728	$ 3,233	$ 1,338,961	3.5
2005	192,585	464,608	15,407	480,015	2.5
2006	141,027	298,193	27,905	326,098	2.3
2007	204,096	447,738	54,889	502,627	2.5
2008	227,862	467,318	108,209	575,527	2.5
2009	253,362	500,541	219,133	719,674	2.8
2010	358,786	478,646	441,986	920,632	2.6
2011	385,502	208,816	615,386	824,202	2.1
2012	129,998	12,586	237,410	249,996	1.9
Total	$ 2,278,689	$4,214,174	$1,723,558	$ 5,937,732	2.6

(1) Adjusted for Put-Backs, Recalls, and purchase price rescissions.
(2) Cumulative collections from inception through March 31, 2012, excluding collections on behalf of others.
(3) From inception through December 31, 2004.
(4) Estimated remaining collections include anticipated collections beyond our 84 to 96 month collection forecast.

Estimated Remaining Gross Collections by Year of Purchase

The following table summarizes our estimated remaining gross collections by year of purchase *(in thousands)*:

	Estimated Remaining Gross Collections by Year of Purchase[1]											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
<2005	$ 1,355	$ 1,082	$ 565	$ 202	$ 29	$ —	$ —	$ —	$ —	$ —	$ —	$ 3,233
2005	6,848	4,530	3,008	1,021	—	—	—	—	—	—	—	15,407
2006	11,323	11,322	3,090	1,509	661	—	—	—	—	—	—	27,905
2007	20,039	17,262	8,495	4,290	3,107	1,304	275	117	—	—	—	54,889
2008	37,015	32,476	18,323	10,047	5,433	3,503	1,412	—	—	—	—	108,209
2009	70,226	62,601	37,273	19,169	15,613	7,678	4,686	1,887	—	—	—	219,133
2010	128,786	121,466	78,643	47,060	26,668	18,136	10,810	7,183	3,234	—	—	441,986
2011	174,284	175,493	100,611	62,780	40,116	25,751	17,119	9,630	6,847	2,755	—	615,386
2012	50,657	70,105	46,770	28,432	17,848	10,733	6,342	3,031	1,906	1,030	556	237,410
	$ 500,533	$ 496,337	$ 296,778	$ 174,510	$ 109,475	$ 67,105	$ 40,644	$ 21,848	$ 11,987	$ 3,785	$ 556	$ 1,723,558

(1) Estimated remaining collections include anticipated collections beyond our 84 to 96 month collection forecast.

Unamortized Balances of Portfolios

The following table summarizes the remaining unamortized balances of our purchased receivable portfolios by year of purchase *(in thousands, except percentages)*:

	Unamortized Balance as of March 31, 2012	Purchase Price[1]	Unamortized Balance as a Percentage of Purchase Price	Unamortized Balance as a Percentage of Total
2005	$ 6,114	$ 192,585	3.2%	0.8%
2006	15,010	141,027	10.6%	2.0%
2007	15,960	204,096	7.8%	2.2%
2008	49,979	227,862	21.9%	6.7%
2009	76,589	253,362	30.2%	10.3%
2010	164,036	358,786	45.7%	22.1%
2011	291,099	385,502	75.5%	39.3%
2012	122,793	129,998	94.5%	16.6%
Total	$ 741,580	$1,893,218	39.2%	100.0%

(1) Purchase price refers to the cash paid to a seller to acquire a portfolio less Put-Backs, plus an allocation of our forward flow asset (if applicable), and less the purchase price for accounts that were sold at the time of purchase to another debt purchaser.

Changes in the Investment in Receivable Portfolios

Revenue related to our investment in receivable portfolios comprises two groups. First, revenue from those portfolios that have a remaining book value and are accounted for on the accrual basis (“Accrual Basis Portfolios”), and second, revenue from those portfolios that have fully recovered their book value Zero Basis Portfolios and, therefore, every dollar of gross collections is recorded entirely as Zero Basis Revenue. If the amount and timing of future cash collections on a pool of receivables are not reasonably estimable, we account for such portfolios on the cost recovery method (“Cost Recovery Portfolios”). No revenue is recognized on Cost Recovery Portfolios until the cost basis has been fully recovered, at which time they become Zero Basis Portfolios.

The following tables summarize the changes in the balance of the investment in receivable portfolios and the proportion of revenue recognized as a percentage of collections *(in thousands, except percentages):*

	Three Months Ended March 31, 2012			
	Accrual Basis Portfolios	Cost Recovery Portfolios	Zero Basis Portfolios	Total
Balance, beginning of period	$ 716,454	$ —	$ —	$ 716,454
Purchases of receivable portfolios	130,463	—	—	130,463
Gross collections[1]	(223,943)	—	(7,065)	(231,008)
Put-backs and recalls	(734)	—	—	(734)
Revenue recognized	120,746	—	6,032	126,778
(Portfolio allowances) portfolio allowance reversals, net	(1,406)	—	1,033	(373)
Balance, end of period	$ 741,580	$ —	$ —	$ 741,580
Revenue as a percentage of collections [2]	53.9%	0.0%	85.4%	54.9%

	Three Months Ended March 31, 2011			
	Accrual Basis Portfolios	Cost Recovery Portfolios	Zero Basis Portfolios	Total
Balance, beginning of period	$ 644,753	$ —	$ —	$ 644,753
Purchases of receivable portfolios	90,675	—	—	90,675
Gross collections[1]	(187,417)	—	(3,617)	(191,034)
Put-backs and recalls	(900)	—	—	(900)
Revenue recognized	107,804	—	3,020	110,824
(Portfolio allowances) portfolio allowance reversals, net	(6,095)	—	597	(5,498)
Balance, end of period	$ 648,820	$ —	$ —	$ 648,820
Revenue as a percentage of collections [2]	57.5%	0.0%	83.5%	58.0%

(1) Does not include amounts collected on behalf of others.
(2) Revenue as a percentage of collections excludes the effects of net portfolio allowance or net portfolio allowance reversals.

As of March 31, 2012, we had $741.6 million in investment in receivable portfolios. This balance will be amortized based upon current projections of cash collections in excess of revenue applied to the principal balance. The estimated amortization of the investment in receivable portfolio balance is as follows *(in thousands):*

Year Ended December 31,	Amortization
2012[1]	$194,312
2013	224,522
2014	136,118
2015	84,668
2016	54,504
2017	32,805
2018	14,079
2019	572
Total	$741,580

(1) 2012 amount consists of nine months data from April 1, 2012 to December 31, 2012.

Collections by Channel

We utilize numerous business channels for the collection of charged-off credit cards and other receivables. The following table summarizes the gross collections by collection channel *(in thousands)*:

	Three Months Ended March 31,	
	2012	2011
Collection sites	$ 109,870	$ 88,541
Legal collections	109,572	88,488
Collection agencies	11,586	13,990
Other	—	54
	$ 231,028	$ 191,073

Legal Outsourcing Costs as a Percentage of Gross Collections by Year of Collection

The following table summarizes our legal outsourcing court cost expense and commissions as a percentage of gross collections by year of collection:

	Collection Year										
Placement Year	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Cumulative Average
2003	41.7%	39.2%	35.2%	33.4%	31.0%	32.0%	32.9%	33.2%	31.3%	32.4%	36.9%
2004	—	41.7%	39.8%	35.7%	32.4%	32.8%	33.2%	34.6%	32.2%	33.9%	38.1%
2005	—	—	46.1%	40.6%	32.6%	32.1%	32.3%	34.0%	32.5%	32.3%	38.6%
2006	—	—	—	54.9%	41.0%	32.8%	30.5%	33.5%	32.7%	31.9%	39.9%
2007	—	—	—	—	64.8%	43.5%	31.3%	32.2%	32.5%	31.6%	42.8%
2008	—	—	—	—	—	69.7%	43.0%	33.1%	31.4%	29.9%	43.0%
2009	—	—	—	—	—	—	69.7%	41.4%	31.1%	28.6%	43.4%
2010	—	—	—	—	—	—	—	72.5%	39.1%	29.5%	46.0%
2011	—	—	—	—	—	—	—	—	64.5%	41.7%	56.2%
2012	—	—	—	—	—	—	—	—	—	74.4%	74.4%

Headcount by Function by Site

The following table summarizes our headcount by function by site:

	Headcount as of March 31,			
	2012		2011	
	Domestic	International	Domestic	International
General & Administrative	473	367	394	265
Account Manager	213	1,165	230	958
Bankruptcy Specialist	94	83	102	100
	780	1,615	726	1,323

Gross Collections by Account Manager

The following table summarizes our collection performance by Account Manager *(in thousands, except headcount)*:

	Three Months Ended March 31,	
	2012	2011
Gross collections—collection sites	$ 109,870	$ 88,541
Average active Account Managers	1,239	1,142
Collections per average active Account Manager	$ 88.7	$ 77.5

Gross Collections per Hour Paid

The following table summarizes our gross collections per hour paid to Account Managers *(in thousands, except gross collections per hour paid)*:

	Three Months Ended March 31,	
	2012	2011
Gross collections—collection sites	$ 109,870	$ 88,541
Total hours paid	532	525
Collections per hour paid	$ 206.5	$ 168.6

Collection Sites Direct Cost per Dollar Collected

The following table summarizes our gross collections in collection sites and the related direct cost *(in thousands, except percentages)*:

	Three Months Ended March 31,	
	2012	2011
Gross collections—collection sites	$ 109,870	$ 88,541
Direct cost[1]	$ 6,476	$ 6,709
Cost per dollar collected	5.9%	7.6%

(1) Represent Account Managers and their supervisors' salaries, variable compensation, and employee benefits.

Salaries and Employee Benefits by Function

The following table summarizes our salaries and employee benefits by function (excluding stock-based compensation) *(in thousands)*:

	Three Months Ended March 31,	
	2012	2011
Portfolio purchasing and recovery activities		
Collection site salaries and employee benefits[1]	$ 6,476	$ 6,709
Non-collection site salaries and employee benefits	13,562	9,799
Subtotal	20,038	16,508
Bankruptcy services	3,071	2,532
	$ 23,109	$ 19,040

(1) Represent Account Managers and their supervisors' salaries, variable compensation, and employee benefits.

Purchases by Quarter

The following table summarizes the purchases we made by quarter, and the respective purchase prices (in thousands):

Quarter	# of Accounts	Face Value	Purchase Price	Forward Flow Allocation (1)
Q1 2009	505	$1,341,660	$ 55,913	$ —
Q2 2009	719	1,944,158	82,033	—
Q3 2009	1,515	2,173,562	77,734	10,302
Q4 2009	519	1,017,998	40,952	—
Q1 2010	839	2,112,332	81,632	—
Q2 2010	1,002	2,245,713	83,336	—
Q3 2010	1,101	2,616,678	77,889	—
Q4 2010	1,206	3,882,646	119,100	—
Q1 2011	1,243	2,895,805	90,675	—
Q2 2011	1,477	2,998,564	93,701	—
Q3 2011	1,633	2,025,024	65,731	—
Q4 2011	2,776	3,782,595	136,743	—
Q1 2012	2,132	2,902,409	130,463	—

(1) Allocation of the forward flow asset to the cost basis of receivable portfolio purchases. In July 2008, we ceased forward flow purchases from Jefferson Capital Systems, LLC (" Jefferson Capital") due to an alleged breach by Jefferson Capital and its parent, CompuCredit Corporation, of certain agreements. In September 2009, we settled our dispute with Jefferson Capital.

Liquidity and Capital Resources

Overview

Historically, we have met our cash requirements by utilizing our cash flows from operations, bank borrowings, and equity offerings. Our primary cash requirements have included the purchase of receivable portfolios, operating expenses, and the payment of interest and principal on bank borrowings and tax payments.

The following table summarizes our cash flows by category for the periods presented *(in thousands)*:

	Three Months Ended March 31,	
	2012	2011
Net cash provided by operating activities	$ 27,103	$ 25,074
Net cash used in investing activities	(27,054)	(10,194)
Net cash provided by (used in) financing activities	7,350	(3,410)

On April 10 and May 8, 2012, we entered into amendments to our revolving credit facility. The amendments added new lenders, appointed a new administrative agent, changed the borrowing base advance rate, increased the aggregate revolving loan commitment by $145.0 million, from $410.5 million to $555.5 million, and reset the accordion feature by an additional $100.0 million, resulting in a maximum of $655.5 million that can be borrowed under the facility.

Currently, all of our portfolio purchases are funded with cash from operations and borrowings under our revolving credit facility. See Note 9 “Debt” to our unaudited condensed consolidated financial statements for a further discussion of our debt.

Operating Cash Flows

Net cash provided by operating activities was $27.1 million and $25.1 million during the three months ended March 31, 2012 and 2011, respectively.

Cash provided by operating activities during the three months ended March 31, 2012, was primarily related to net income of $11.4 million and a $10.3 million non-cash add back related to impairment charges for goodwill and identifiable intangible assets related to Ascension, our bankruptcy servicing reporting unit. Cash provided by operating activities during the three months ended March 31, 2011, was primarily attributable to net income of $13.7 million and $5.5 million in a non-cash add back related to the net provision for allowance on our receivable portfolios.

Investing Cash Flows

Net cash used in investing activities was $27.1 million and $10.2 million during the three months ended March 31, 2012 and 2011, respectively.

The cash flows used in investing activities during the three months ended March 31, 2012, were primarily related to receivable portfolio purchases of $130.5 million, offset by gross collection proceeds applied to the principal of our receivable portfolios in the amount of $104.2 million. The cash flows used in investing activities during the three months ended March 31, 2011, were primarily related to receivable portfolio purchases of $90.7 million, offset by gross collection proceeds applied to the principal of our receivable portfolios in the amount of $80.2 million.

Capital expenditures for fixed assets acquired with internal cash flow were $1.6 million and $0.6 million for three months ended March 31, 2012 and 2011, respectively.

Financing Cash Flows

Net cash provided by financing activities was $7.4 million during the three months ended March 31, 2012, and net cash used in financing activities was $3.4 million during the three months ended March 31, 2011.

The cash provided by financing activities during the three months ended March 31, 2012, reflects $43.5 million in borrowings under our revolving credit facility, offset by $34.5 million in repayments of amounts outstanding under our revolving credit facility. The cash used in financing activities during the three months ended March 31, 2011, reflects $46.0 million in repayments of amounts outstanding under our revolving credit facility, offset by $19.0 million in borrowings under our revolving credit facility and $25.0 million in borrowings under our senior secured notes.

We are in compliance with all covenants under our financing arrangements. We believe that we have sufficient liquidity to fund our operations for at least the next twelve months, given our expectation of continued positive cash flows from operations, our cash and cash equivalents of $15.4 million as of March 31, 2012, our access to the capital markets and availability under our revolving credit facility, which expires in December 2013.

Off Balance Sheet Arrangements

We do not have any off balance sheet arrangements as defined by Item 303(a)(4) of Regulation S-K.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Foreign Currency. At March 31, 2012, there had not been a material change in any of the foreign currency risk information disclosed in Item 7A, "Quantitative and Qualitative Disclosures About Market Risk," of our Annual Report on Form 10-K for the fiscal year ended December 31, 2011.

Interest Rate. At March 31, 2012, there had not been a material change in the interest rate risk information disclosed in Item 7A, "Quantitative and Qualitative Disclosures About Market Risk," of our Annual Report on Form 10-K for the fiscal year ended December 31, 2011.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our periodic reports filed or submitted under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the Securities and Exchange Commission (the "SEC") and that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, our management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives and accordingly, management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Based on their most recent evaluation, as of the end of the period covered by this Quarterly Report on Form 10-Q, our Chief Executive Officer and Chief Financial Officer have concluded our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act are effective.

Changes in Internal Control over Financial Reporting

There was no change in our internal control over financial reporting during the most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II—OTHER INFORMATION

Item 1. Legal Proceedings

We are involved in disputes and legal actions from time to time in the ordinary course of business. We, along with others in our industry, are routinely subject to legal actions based on the FDCPA, comparable state statutes, the TCPA, state and federal unfair competition statutes, and common law causes of action. The violations of law alleged in these actions often include claims that we lack specified licenses to conduct our business, attempt to collect debts on which the statute of limitations has run, have made inaccurate assertions of fact in support of our collection actions and/or have acted improperly in connection with our efforts to contact consumers. These cases are frequently styled as supposed class actions. In addition, from time to time, we are subject to litigation and other actions by governmental bodies, including formal and informal investigations relating to our collection activities by the Federal Trade Commission, state attorneys general and other governmental bodies, with which we cooperate.

There has been no material development in any of the legal proceedings disclosed in our Annual Report on Form 10-K for the year ended December 31, 2011.

In certain legal proceedings, we may have recourse to insurance or third party contractual indemnities to cover all or portions of our litigation expenses, judgments, or settlements. In accordance with authoritative guidance, we record loss contingencies in our financial statements only for matters in which losses are probable and can be reasonably estimated. Where a range of loss can be reasonably estimated with no best estimate in the range, we record the minimum estimated liability. We continuously assess the potential liability related to our pending litigation and revise our estimates when additional information becomes available. Our legal costs are recorded to expense as incurred.

Item 1A—Risk Factors

There are certain risks and uncertainties in our business that could cause our actual results to differ materially from those anticipated. We urge you to carefully consider the specific risk factors listed under Part I, Item 1A of our 2011 Annual Report on Form 10-K filed on February 9, 2012 (incorporated by reference herein), together with all other information included or incorporated in our reports filed with the SEC. Any such risks may materialize, and additional risks not known to us, or that we now deem immaterial, may arise. In such event, our business, financial condition, results of operations or prospects could be materially adversely affected. If that occurs, the market price of our common stock could fall, and you could lose all or part of your investment.

Item 2—Unregistered Sales of Equity Securities and Use of Proceeds

Our revolving credit facility contains restrictions and covenants, which limit, among other things, the payment of dividends.

In addition, in connection with, and upon closing of, the transaction described in Note 14 “Subsequent Event” above, the Company entered into an agreement with Mr. John P. Nelson to issue and sell to him common stock of the Company for an aggregate purchase price of $350,000. These shares have not been registered and are being issued pursuant to an exemption under Section 4(2) of the Securities Act of 1933, as amended.

Item 5—Other Information

On May 8, 2012, the Company acquired all of the outstanding equity of Propel Financial Services, LLC, and certain of its affiliates (“Propel”) for $186.8 million in cash pursuant to a Securities Purchase Agreement by and among Propel Acquisition LLC (a wholly-owned subsidiary of the Company) and the sellers name therein (the “Agreement”). Propel provides property tax solutions to customers in the state of Texas by paying real estate taxes on behalf of owners of real property in Texas in exchange for notes collateralized by tax liens on the property. The Company financed the acquisition through (i) a new $160.0 million syndicated loan facility (the “Propel Facility”) dated May 8, 2012 by and among Propel, Texas Capital Bank, National Association as Administrative Agent, and the certain banks named therein, (ii) the Company’s existing revolving credit facility and (iii) cash on hand. The Propel Facility will be used to fund a portion of the purchase price and to fund future growth at Propel. The Propel Facility has a three year term and includes the following key provisions:

- Interest at Propel’s option, at either: (1) LIBOR, plus a spread that ranges from 300 to 375 basis points, depending on Propel’s leverage; or (2) Prime, plus a spread that ranges from 0 to 75 basis points, depending on Propel’s leverage;
- A borrowing base of 90% of the face value of the tax lien collateralized notes;
- Interest payable monthly;
- Principal and interest due at maturity; and
- A $40.0 million accordion feature.

The Propel Facility is collateralized by the tax lien collateralized notes and requires Propel to maintain various financial covenants, including a minimum interest coverage ratio and a maximum cash flow leverage ratio.

On May 8, 2012, the Company also agreed to sell to Mr. John P. Nelson 14,849 shares of its common stock in a private placement at a 5 day average of the market closing prices ending on May 7, 2012. The shares sold will not be registered under the Securities Act of 1933 (the “Act”) and will be issued and sold in reliance upon the exemption from registration contained in Section 4(2) of the Act and Rule 506 promulgated thereunder.

Table of Contents

Item 6. Exhibits

2.1	Securities Purchase Agreement, dated as of May 8, 2012, by and among Propel Acquisition LLC and McCombs Family Partners, Ltd., JHBC Holdings, LLC and Texas Tax Loans, LLC (filed herewith).
4.1	Amendment No. 1, dated as of May 8, 2012, to Amended and Restated Senior Secured Note Purchase Agreement, dated as of February 10, 2011, by and among the Company, The Prudential Insurance Company of America, Pruco Life Insurance Company, Prudential Retirement Insurance and Annuity Company and Prudential Annuities Life Assurance Corporation, and SunTrust Bank as collateral agent and administrative agent (filed herewith).
10.1	Amendment No. 4, dated as of April 10, 2012, to Credit Agreement, dated as of February 8, 2010, by and among the Company, the financial institutions listed on the signature pages thereto, and JPMorgan Chase Bank, N.A. as collateral agent and administrative agent (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on April 16, 2012).
10.2	Amendment No. 5, dated as of May 8, 2012, to Credit Agreement, dated as of February 8, 2010, by and among the Company, the financial institutions listed on the signature pages thereto, and SunTrust Bank as collateral agent and administrative agent (filed herewith).
10.3	Credit Facility Loan Agreement, dated as of May 8, 2012, by and among Texas Capital Bank, National Association, as administrative agent, certain banks and Propel Financial Services, LLC (filed herewith).
10.4	Guaranty Agreement dated as of May 8, 2012, with respect to the Credit Facility Loan Agreement, dated as of May 8, 2012 (filed herewith).
10.5	Form of Restricted Stock Award Grant Notice and Agreement (filed herewith).
31.1	Certification of the Principal Executive Officer pursuant to Rule 13a-14(a) or 15d-14(a) under the Securities Exchange Act of 1934 (filed herewith).
31.2	Certification of the Principal Financial Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934 (filed herewith).
32.1	Certifications of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).
101	The following financial information from the Encore Capital Group, Inc. Quarterly Report on Form 10-Q for the quarter ended March 31, 2012 formatted in eXtensible Business Reporting Language (XBRL): (i) Condensed Consolidated Statements of Financial Condition; (ii) Condensed Consolidated Statements of Comprehensive Income; (iii) Condensed Consolidated Statements of Stockholders' Equity; (iv) Condensed Consolidated Statements of Cash Flows; and (v) the Notes to Condensed Consolidated Financial Statements, tagged as blocks of text.*

* Pursuant to Rule 406T of Regulation S-T, the Interactive Data Files on Exhibit 101 hereto are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, are deemed not filed for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended, and otherwise are not subject to liability under those sections.

Table of Contents

SIGNATURES

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

ENCORE CAPITAL GROUP, INC.

By: /s/ Paul Grinberg
Paul Grinberg
Executive Vice President,
Chief Financial Officer and Treasurer

Date: May 9, 2012

Table of Contents

EXHIBIT INDEX

2.1	Securities Purchase Agreement, dated as of May 8, 2012, by and among Propel Acquisition LLC and McCombs Family Partners, Ltd., JHBC Holdings, LLC and Texas Tax Loans, LLC (filed herewith).
4.1	Amendment No. 1, dated as of May 8, 2012, to Amended and Restated Senior Secured Note Purchase Agreement, dated as of February 10, 2011, by and among the Company, The Prudential Insurance Company of America, Pruco Life Insurance Company, Prudential Retirement Insurance and Annuity Company and Prudential Annuities Life Assurance Corporation, and SunTrust Bank as collateral agent and administrative agent (filed herewith).
10.1	Amendment No. 4, dated as of April 10, 2012, to Credit Agreement, dated as of February 8, 2010, by and among the Company, the financial institutions listed on the signature pages thereto, and JPMorgan Chase Bank, N.A. as collateral agent and administrative agent (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on April 16, 2012).
10.2	Amendment No. 5, dated as of May 8, 2012, to Credit Agreement, dated as of February 8, 2010, by and among the Company, the financial institutions listed on the signature pages thereto, and SunTrust Bank as collateral agent and administrative agent (filed herewith).
10.3	Credit Facility Loan Agreement, dated as of May 8, 2012, by and among Texas Capital Bank, National Association, as administrative agent, certain banks and Propel Financial Services, LLC (filed herewith).
10.4	Guaranty Agreement dated as of May 8, 2012, with respect to the Credit Facility Loan Agreement, dated as of May 8, 2012 (filed herewith).
10.5	Form of Restricted Stock Award Grant Notice and Agreement (filed herewith).
31.1	Certification of the Principal Executive Officer pursuant to Rule 13a-14(a) or 15d-14(a) under the Securities Exchange Act of 1934 (filed herewith).
31.2	Certification of the Principal Financial Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934 (filed herewith).
32.1	Certifications of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).
101	The following financial information from the Encore Capital Group, Inc. Quarterly Report on Form 10-Q for the quarter ended March 31, 2012 formatted in eXtensible Business Reporting Language (XBRL): (i) Condensed Consolidated Statements of Financial Condition; (ii) Condensed Consolidated Statements of Comprehensive Income; (iii) Condensed Consolidated Statements of Stockholders' Equity; (iv) Condensed Consolidated Statements of Cash Flows; and (v) the Notes to Condensed Consolidated Financial Statements, tagged as blocks of text.*

* Pursuant to Rule 406T of Regulation S-T, the Interactive Data Files on Exhibit 101 hereto are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, are deemed not filed for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended, and otherwise are not subject to liability under those sections.
(Back To Top)

Section 2: EX-2.1 (SECURITIES PURCHASE AGREEMENT)

Exhibit 2.1

SECURITIES PURCHASE AGREEMENT

BY AND AMONG

PROPEL ACQUISITION LLC

("ENCORE")

AND

MCCOMBS FAMILY PARTNERS, LTD.,
JHBC HOLDINGS, LLC
AND
TEXAS TAX LOANS, LLC

(COLLECTIVELY, THE "SELLERS")

MAY 8, 2012

SECURITIES PURCHASE AGREEMENT

THIS SECURITIES PURCHASE AGREEMENT (this "Agreement") is made and entered into as of May 8, 2012, by and among Propel Acquisition LLC, a Delaware limited liability company ("Encore"), and McCombs Family Partners, Ltd., a Texas limited partnership ("McCombs"), JHBC Holdings, LLC, a Texas limited liability company ("JHBC"), and Texas Tax Loans, LLC, a Texas limited liability company doing business as Rio Tax Loans ("TTL"). McCombs, JHBC and TTL are sometimes referred to herein individually as a "Seller" and collectively as the "Sellers." Encore and the Sellers are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

McCombs and JHBC are the owners, beneficially and of record, of all of the existing and outstanding limited liability company interests of each of Propel Financial Services, LLC, a Texas limited liability company ("Propel"), and BNC Retax, LLC, a Texas limited liability company ("BNC"), as set forth in Section 3.7. TTL and Propel are the owners, beneficially and of record, of all of the existing and outstanding limited liability company interests of RioProp Ventures, LLC, a Texas limited liability company ("RPV"), and RioProp Holdings, LLC, a Texas limited liability company ("RPH"), as set forth in Section 3.7. Propel, BNC, RPV, and RPH are sometimes referred to herein individually as an "Acquired Company" and collectively as the "Acquired Companies." The limited liability company interests of the Acquired Companies that are held, beneficially or of record, by the Sellers are referred to herein as the "Purchased Securities."

The Acquired Companies are engaged in the business of (a) originating, purchasing, holding and/or servicing personal and commercial receivables that are secured by tax liens on real property, (b) purchasing, holding and/or servicing tax liens on real property and (c) providing related services, all in the States of Texas, Georgia, Ohio and Arizona (collectively, the "Business").

Encore desires to purchase, and the Sellers desire to sell, all of the Purchased Securities upon the terms and subject to the conditions set forth in this Agreement.

The Parties desire to make certain representations, warranties, covenants and agreements to one another in connection with the purchase and sale of the Purchased Securities contemplated in this Agreement (the "Purchase Transaction") and to prescribe certain conditions to the respective obligations of the Parties to consummate the Purchase Transaction and the other transactions contemplated by this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties, covenants and agreements hereinafter set forth, and for other consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

"Affiliate" means, with respect to any particular Person or entity, any Person controlling, controlled by or under common control with such Person or entity.

"Arizona Lien Price" means the aggregate purchase price paid by the Acquired Companies for the Arizona Tax Liens, if any, that are owned by one or more of the Acquired Companies at the Effective Time.

"Arizona Tax Lien" means a tax lien secured by real property in the State of Arizona that is owned by one or more of the Acquired Companies.

"Audited Receivables Balance" means the aggregate outstanding principal amount and accrued interest of the Receivables set forth on the audited balance sheets of the Acquired Companies as of December 31, 2011 (net of deferred revenue and the reserve for uncollectible debt, if any, with respect thereto set forth in such balance sheet). The Parties agree that deferred prepaid interest from customers will be included as part of deferred revenue (even if it is not so included in the audited balance sheets of the Acquired Companies).

"Basis" means any past or present fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act, or transaction that forms or could reasonably be expected to form the basis for any specified consequence.

"Business Day" means any day that is not a Saturday, Sunday or legal holiday in the State of California or the State of Texas.

"Business Permit" means each permit, license, certificate, accreditation or other authorization of foreign, federal, state and local government authorities required for the conduct of the Business, including those required by the Texas Office of Consumer Credit Commissioner.

"Cash" means cash and cash equivalents (including amounts held in depositary accounts with financial institutions, certificates of deposit, treasury bills and treasury notes).

"Closing Receivables Balance" means the aggregate outstanding principal amount and accrued interest of the Receivables as of the Closing Date (net of deferred revenue and a reserve for uncollectible debt with respect thereto calculated in the same manner as such reserve, if any, was calculated for purposes of the audited balance sheets of the Acquired Companies as of December 31, 2011). The Parties agree that deferred prepaid interest from customers will be included as part of deferred revenue (even if it is not so included in the audited balance sheets of the Acquired Companies).

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

"Company Contract" means any Contract to which any Acquired Company is a party or by which any Acquired Company is bound or to which any Properties or Assets are subject.

"Company Transaction Expenses" means all Liabilities of the Acquired Companies, as of the Effective Time, for (i) all costs and expenses incurred by or on behalf of the Acquired Companies or the Sellers in connection with the preparation, execution and performance of this Agreement and the other agreements contemplated hereby and the Purchase Transaction and the other transactions contemplated hereby, including all brokerage/investment banking fees and expenses and all fees and expenses of legal, accounting and other professional advisors and representatives and (ii) all payments or other distributions required to be made to any directors, managers, officers, employees or agents of an Acquired Company as a result of the Purchase Transaction or the other transactions contemplated by this Agreement, including all severance payments, termination payments or other amounts payable under the terms of any Contract.

"Contract" means any contract, agreement, indenture, evidence of Indebtedness, note, bond, loan, instrument, lease, sublease, mortgage, license, sublicense, franchise, obligation, commitment or other arrangement, agreement or understanding, whether express or implied and whether written, oral or otherwise.

"Employee Benefit Plans" means: (i) "employee benefit plans," as such term is defined in Section 3(3) of ERISA, whether or not funded and whether or not terminated, (ii) personnel policies and (iii) fringe or other benefit or compensation plans, policies, programs and arrangements, whether or

not subject to ERISA, whether or not funded and whether or not terminated, including stock bonus or other equity compensation, deferred compensation, pension, severance, retention, change of control, bonus, vacation, travel, incentive, and health, disability and welfare plans, policies, programs or arrangements.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and all rules and regulations promulgated thereunder.

"GAAP" means United States generally accepted accounting principles as in effect from time to time.

"Indebtedness" means, without duplication, (i) all indebtedness of one or more Acquired Companies for borrowed money, together with all prepayment premiums, penalties and accrued interest thereon and other costs, fees and expenses payable in connection therewith (including indebtedness evidenced by or incurred pursuant to promissory notes, term loans, revolving credit facilities and senior subordinated notes), (ii) all Liabilities of one or more Acquired Companies for any earnout, contingent payment, deferred payment or other amount payable in respect of an Acquired Company's acquisition of the assets, loans, securities or business of another Person prior to the Closing Date (including the ReTax Funding Obligation), (iii) all Liabilities of one or more Acquired Companies for accrued but unpaid dividends or other amounts payable to one or more Sellers (or their Affiliates), (iv) all indebtedness of one or more Acquired Companies under derivatives, swap or exchange agreements, together with all prepayment premiums, penalties and accrued interest thereon, and in each such case all breakage costs, unwind costs, fees, termination costs, redemption costs, expenses and other charges with respect to any of the foregoing, (v) all indebtedness of one or more Acquired Companies created or arising under any conditional sale or other title retention agreement with respect to property acquired by any Acquired Company (whether or not the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (vi) all indebtedness of any Person (whether or not an Acquired Company) secured by any Security Interest on any Properties or Assets (even if an Acquired Company has not assumed or become liable for the payment of such indebtedness), (vii) all obligations under leases that have been or must be, in accordance with GAAP, recorded as capital leases in respect of which one or more Acquired Companies is liable as lessee, (viii) all Liabilities of one or more Acquired Companies under securitization or receivables factoring arrangements or transactions, (ix) all Company Transaction Expenses, (x) all Taxes payable by an Acquired Company as of the Closing and (xi) all Liabilities of any third party of the types described above that are guaranteed, directly or indirectly, by one or more Acquired Companies.

"Intellectual Property" means all (i) patents, patent applications, patent disclosures, and improvements thereto, (ii) trademarks, service marks, trade dress, logos, trade names, company names and registrations, and applications for registration thereof, (iii) internet domain names (including www.propelfinancialservices.com) and internet websites and webpages (including those displayed on third party websites), including all data, content, graphics design, website layout, website architecture, software, code and other intellectual property relating thereto, (iv) copyrights and registrations and applications for registration thereof, (v) mask works and registrations and applications for registration thereof, (vi) computer software (including the object code and/or source code therefor), data and documentation, (vii) trade secrets and confidential business information (including ideas, formulas, compositions, inventions (whether patentable or unpatentable and whether or not reduced to practice), know-how, manufacturing and production processes and techniques, research and development information, software products in development, drawings, specifications, designs, plans, proposals, technical data, copyrightable works, financial, marketing, and business data, pricing and cost information, business and marketing plans, and customer and supplier lists and information) and (viii) copies and tangible embodiments thereof (in whatever form or medium).

"IRS" means the Internal Revenue Service.

"Knowledge of the Sellers" means the knowledge of any Seller or of any of John P. "Jack" Nelson, Fernando G. Peralta, Steve Johnson, Sam Feldman, James W. Wingate or Steven L. Cummings, after due inquiry of the employees of the Acquired Companies who are responsible for the matter in question and diligent investigation of any item disclosed by such person(s).

"Law" means any foreign, federal, state, local or other law or governmental requirement of any kind, and the rules, regulations, permits, licenses and Orders promulgated thereunder, or any notice or demand letter issued, entered, promulgated or approved thereunder applicable to the Acquired Companies or the operation of the Business.

"Liability" means any liability (whether known or unknown, whether absolute or contingent, whether direct or indirect, whether liquidated or unliquidated, and whether due or to become due), including any liability for Taxes.

"Loss" means any damage, obligation, payment, cost, expense, injury, judgment, settlement, penalty, fine, interest, Tax or other loss (whether known or unknown, whether absolute or contingent, whether direct or indirect, whether liquidated or unliquidated, and whether due or to become due), including the cost and expense of defending and prosecuting any and all Proceedings and complying with any and all Orders relating thereto, expenses of preparation and investigation thereof and reasonable attorneys', experts', consultants' and accountants' fees in connection therewith.

"LTV Ratio" means with respect to any Subject Property as of the date of determination, the fraction, expressed as a percentage, the numerator of which is the sum of all Receivables (including principal, interest, fees and all other amounts owing thereunder) related to such Subject Property and the denominator of which is the tax assessed value of the Subject Property as of the date of the most recently originated Receivable related to the Subject Property; provided that where a Receivable is secured by more than one Subject Property, the denominator shall be the aggregate tax assessed value of all of the Subject Properties securing such Receivable as of the date of the most recently originated Receivable related to any of such Subject Properties.

"Material Adverse Change" means any change, event or occurrence that individually or in the aggregate (taking into account all other such changes, events or occurrences) has had, or would be reasonably likely to have, a material adverse effect upon the assets, business, operations, financial condition or prospects of the Business or the Acquired Companies, taken as a whole, other than any such change, event or occurrence resulting from (i) changes in general economic conditions or the securities, credit or financial markets in general, in each case, generally affecting the industries in which the Business is conducted, (ii) changes affecting the industries in which the Business is conducted, (iii) any acts of terrorism or war (other than any of the foregoing that causes any damage or destruction to or renders unusable any facility or property of any Acquired Company) or (iv) changes in generally accepted accounting principles or the interpretation thereof, except, in the case of foregoing clause (i) or clause (ii), to the extent such changes or developments referred to therein would reasonably be expected to have a disproportionate impact on the Business or the Acquired Companies, taken as a whole.

"Net Debt" means an amount equal to (i) the aggregate amount of Indebtedness (without duplication of the amount of any item of Indebtedness taken into account in the calculation of Net Non-Cash Working Capital), minus (ii) the aggregate amount of Cash held by the Acquired Companies, in each case calculated as of the Effective Time in accordance with GAAP, applied consistently with the Acquired Companies' past accounting practices with respect to the Business (other than the minimum amount of cash required to maintained in the Acquired Companies' depositary accounts pursuant to Section 6.5).

"Net Non-Cash Working Capital" means an amount equal to the aggregate value of the current assets of the Acquired Companies (other than Cash, inter-Acquired Company receivables and accrued interest on the Receivables) minus the aggregate value of the current liabilities of the Acquired Companies (other than inter-Acquired Company payables and any current liabilities included in the

Specified Indebtedness), in each case calculated as of the Effective Time in accordance with GAAP, applied consistently with the Acquired Companies' past accounting practices with respect to the Business. Schedule II sets forth the accounts to be included in the calculation of Net Non-Cash Working Capital (and in the event of any conflict between Schedule II and the provisions of this Agreement, the provisions of this Agreement shall control). All calculations of Net Non-Cash Working Capital contemplated by Section 2.2 shall be made consistent with Schedule II. The Parties agree that the working capital accounts used in the determination of net Non-Cash Working Capital will be subject to the same type of audit adjustments which are customarily performed in conjunction with the annual audit of the Acquired Companies. For purposes of calculating "Net Non-Cash Working Capital," the current liabilities of the Acquired Companies will include (i) the aggregate dollar amount that would be payable to employees of the Acquired Companies in respect of their accrued paid time-off if such employees were terminated by the Acquired Companies effective as of the Effective Time and (ii) the amount of contributions made between January 1, 2012 and the Effective Time by employees of the Acquired Companies pursuant to the Acquired Companies' Christmas Savings Plan.

"Order" means (i) any order, judgment, decree, decision, ruling, writ, assessment, charge, stipulation, injunction or other determination of any foreign, federal, state, local or other court, regulatory agency, department or commission or other governmental body of any kind having competent jurisdiction to render such, (ii) any settlement agreement entered into in connection with the settlement, dismissal or other resolution of any Proceeding and (iii) any arbitration award entered by an arbitrator having competent jurisdiction to render such.

"Ordinary Course of Business" means the ordinary course of business of the Business, consistent with its past custom and practice since January 1, 2011 (including with respect to quantity and frequency), but excluding any action or omission that constitutes (or, with the passage of time, the giving of notice by any Person or the happening of any other event, would constitute) a breach of any Contract or warranty, a tort, an infringement of any right of any other Person, or a violation of Law.

"Percentage Interest" means, with respect to each Seller, the percentage set forth in Table 2 on Schedule I adjacent to such Seller's name in the column titled "Percentage Interest."

"Permitted Security Interests" means (i) Security Interests for current real or personal property Taxes that are not yet due and payable, (ii) workers', carriers' and mechanics' or other similar Security Interests incurred in the Ordinary Course of Business, none of which relate to any disputed matter, liability or obligation, and (iii) Security Interests that are immaterial in character, amount and extent and that do not materially detract from the value or materially interfere with the current or currently proposed use of the properties they affect.

"Person" means an individual, a partnership, a corporation, an association, a limited liability company, a joint stock company, a trust, a joint venture, an unincorporated organization, a governmental entity or any department, agency or political subdivision thereof or any other entity.

"Proceeding" means any charge, complaint, action, suit, litigation, proceeding, hearing, investigation, assessment, claim or demand, or any notice of any of the foregoing, of or in any court or quasi-judicial or administrative agency of any federal, state, local, or foreign jurisdiction, or before any arbitrator. "Proceeding" shall not include any charge, complaint, action, suit, litigation, proceeding, hearing, investigation, assessment, claim or demand, or any notice of any of the foregoing, (i) against Obligors which also name an Acquired Company solely due to its tax lien against or interest in Subject Property or (ii) filed by an Acquired Company in the Ordinary Course of Business to foreclose on Subject Property upon an Obligor's default pursuant the Loan Agreements or Security Documents or to assert a claim against an Obligor in a bankruptcy proceeding.

"Properties or Assets" means the Acquired Companies' properties or assets used for operations and shall not include the Subject Property or any REO Property.

"Receivables" means the property tax notes receivable held by the Acquired Companies that are secured by tax liens in favor of the Acquired Companies on real property. For the avoidance of doubt, "Receivables" does not include any Arizona Tax Lien.

"Related Party" means (i) any Seller, (ii) any Affiliate of any Seller (other than an Acquired Company), (iii) any director, manager, officer or employee of an Acquired Company, of any Seller or of any Affiliate of any Seller and (iv) any family member of any of the foregoing who is a natural person.

"REO Property" means "real estate owned" real property acquired by an Acquired Company in connection with foreclosure or similar Proceedings with respect to a tax lien held by an Acquired Company in the Ordinary Course of Business.

"ReTax Funding" means ReTax Funding, LP, a Texas limited partnership.

"ReTax Funding Obligation" means the payment obligation of BNC to ReTax Funding pursuant to Section 2.5(d) of that certain Asset Purchase Agreement, dated September 23, 2009, between BNC and ReTax Funding, arising from the consummation of the Purchase Transaction.

"Security Interest" means any mortgage, pledge, conditional sales contract, security agreement, security interest, encumbrance, charge or other lien.

"Specified Indebtedness" means the ReTax Funding Obligation and any other Indebtedness described on Schedule III.

"Target Net Non-Cash Working Capital" means negative $600,000 (i.e., $600,000 less than $0.00).

"Tax" or "Taxes" means (i) any and all federal, state, local and foreign taxes, assessments and other governmental charges, duties, impositions and liabilities, including taxes based upon or measured by gross receipts, income, profits, sales, use and occupation, and value added, ad valorem, transfer, franchise, withholding, payroll, recapture, employment, excise and property taxes or other tax of any kind whatsoever, whether disputed or not, together with all interest, penalties and additions imposed with respect thereto; (ii) any liability for the payment of any item described in clause (i) as a result of being a member of an affiliated, consolidated, combined or unitary group for any period, including pursuant to Treasury Regulations Section 1.1502-6 or any analogous or similar state, local or foreign Law; (iii) any liability for the payment of any item described in clause (i) or (ii) as a result of any express or implied obligation to indemnify any other Person or as a result of any obligations under any agreements or arrangements with any other Person with respect to such item; or (iv) any successor liability for the payment of any item described in clause (i), (ii) or (iii) of any other Person, including by reason of being a party to any merger, consolidation, conversion or otherwise.

"Tax Return" means any return, declaration, report, claim for refund, or information return or statement (including IRS Forms 1098 and 1099 relating to the Receivables and all other Forms 1099 and Forms W-2) relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"Taxing Authority" means, with respect to any Tax, the governmental authority or political subdivision thereof that imposes such Tax, and the agency (if any) charged with the collection of such Tax for such governmental authority or subdivision, including the IRS.

"Treasury Regulations" means the income Tax regulations, including temporary regulations, promulgated under the Code, as those regulations may be amended from time to time. Any reference herein to a specific section of the Treasury Regulations shall include any corresponding provisions of succeeding, similar, substitute, proposed or final Treasury Regulation.

"Unaudited Receivables Balance" means $120,769,815.

Index of Terms Defined in Other Sections

Term	Section Reference
Acquired Company / Acquired Companies	Recitals
Agreement	Preamble
Annual Financial Statements	3.8(a)(i)
BNC	Recitals
BNC Units	3.7(b)
Business	Recitals
Claim Certificate	7.7(a)
Claimant	7.7(a)
Closing	2.6(a)
Closing Date	2.6(a)
Company Employee Benefit Plans	3.15(a)
Confidential Information	6.2(a)
Contractor Agreement	2.6(b)(xii)
Contractor Confidentiality Agreement	2.6(b)(xii)
Current Financial Statements	3.8(a)(iii)
Databases	3.13(e)
Debt Repayment	2.3(b)
Disclosure Schedule	Article 3
Effective Time	2.6(a)
Employee Confidentiality Agreement	2.6(b)(xi)
Encore	Preamble
Encore Indemnitees	7.3
Escrow Agent	2.3(a)
Escrow Agreement	2.3(a)
Estimated Closing Purchase Price	2.3(c)
Estimated Purchase Price	2.4(a)
Estimated Statement	2.4(a)
Financial Statements	3.8(a)
Holdback	2.3(a)
Indemnified Party	7.5(a)
Indemnifying Party	7.5(a)
Independent Accounting Firm	2.4(d)(i)
Investment Letter	2.6(b)(viii)
JHBC	Preamble
Latest Balance Sheet	3.8(a)
Latest Balance Sheet Date	3.8(a)(iii)
Lease Amendment	2.6(b)(xvi)
Leased Real Property	3.11(b)

Loan Agreements	3.12(d)
Loan Documents	3.12(d)
McCombs	Preamble
Obligor	3.12(a)
Owned Personal Property	3.11(c)
Partnership	3.18(o)
Party / Parties	Preamble
Personally Identifiable Information	3.13(e)
Post-Closing Tax Period	8.2(a)
Pre-Closing Tax Period	8.2(a)
Propel	Recitals
Propel Units	3.7(a)
Purchase Price	2.2
Purchase Transaction	Recitals
Purchased Securities	Recitals
Real Property Leases	3.10(b)(ii)
Reconciled Purchase Price	2.4(b)
Reconciliation Statement	2.4(b)
Released Parties	6.3
Respondent	7.7(a)
RPH	Recitals
RPH Interests	3.7(d)
RPV	Recitals
RPV Interests	3.7(c)
Securities Act	5.7
Security Documents	3.12(e)
Seller / Sellers	Preamble
Seller Indemnitees	7.4
Seller Non-Competition Agreement	2.6(b)(x)
Seller Representative	9.1
Severance Letter	2.6(b)(xi)
Statement	8.2(a)
Straddle Period	8.2(a)
Subject Property	3.12(a)
Subject Receivables	3.12(b)
Tail Policy	7.9
Threshold Amount	7.6(a)(i)
Transition Services Agreement	2.6(b)(xiii)
TTL	Preamble

ARTICLE 2
PURCHASE AND SALE OF THE PURCHASED SECURITIES

2.1 Purchase and Sale of Purchased Securities. On the terms and subject to the conditions set forth in this Agreement, at the Closing, the Sellers will sell, transfer and deliver to Encore, and Encore will purchase, accept and receive from the Sellers, the Purchased Securities. Encore may acquire some or all of the Purchased Securities through one or more wholly owned subsidiary corporations or limited liability companies.

2.2 Purchase Price. The aggregate purchase price for all of the Purchased Securities (the "Purchase Price") shall be an amount equal to:

(a) $172,500,000;

minus (b) the amount of Net Debt;

plus (c) the amount, if any, by which the Audited Receivables Balance exceeds the Unaudited Receivables Balance;

minus (d) the amount, if any, by which the Audited Receivables Balance is less than the Unaudited Receivables Balance;

plus (e) the amount, if any, by which the Net Non-Cash Working Capital exceeds the Target Net Non-Cash Working Capital;

minus (f) the amount, if any, by which the Net Non-Cash Working Capital is less than the Target Net Non-Cash Working Capital;

plus (g) the amount, if any, by which the Closing Receivables Balance exceeds the Audited Receivables Balance;

minus (h) the amount, if any, by which the Closing Receivables Balance is less than the Audited Receivables Balance; and

plus (i) the amount, if any, of the Arizona Lien Price. For the avoidance of doubt and to avoid double counting, the Arizona Lien Price is not included in the Unaudited Receivables Balance, the Audited Receivables Balance or the Closing Receivables Balance.

2.3 Payments of Purchase Price at Closing.

(a) Holdback. At the Closing, Encore, the Seller Representative and Bank of America, N.A., as escrow agent (the "Escrow Agent"), shall execute and deliver an Escrow Agreement, in the form attached hereto as Exhibit A (the "Escrow Agreement"), and Encore shall deposit with the Escrow Agent an amount equal to $5,000,000 (the "Holdback") to be held pursuant to the terms of the Escrow Agreement. The Holdback shall be applied to pay to Encore the amount, if any, by which the Estimated Purchase Price exceeds the final Purchase Price, as further provided in Section 2.4(e), and shall be subject to the claims of Encore Indemnitees to the extent and in the manner provided in the applicable provisions of Article 7.

(b) Repayment of Specified Indebtedness. At the Closing, Encore shall deliver, for the payoff of the Specified Indebtedness, (i) an amount equal to the payoff amount specified in each of the payoff letters delivered pursuant to Section 2.6(b)(vi) by wire transfer of immediately available funds to the creditor's account specified therein and (ii) an amount equal to the aggregate of

the "ReTax Closing Payment" and the "Security Deposit" specified in the Acknowledgement and Release Agreement delivered pursuant to Section 2.6(b)(xv) by wire transfer of immediately available funds to ReTax Funding's account specified to Encore prior to the Closing (such amounts in clauses (i) and (ii), collectively, the "Debt Repayment"). In the event that such "ReTax Closing Payment" is less than the amount of the ReTax Funding Obligation that may ultimately be determined to be due and payable to ReTax Funding, McCombs and JHBC shall be solely responsible for any obligation to pay the difference to ReTax Funding (and in the event that such "ReTax Closing Payment" is greater than the amount of the ReTax Funding Obligation that may ultimately be determined to be due and payable to ReTax Funding, McCombs and JHBC shall be entitled to receive any and all refund or adjustment payments from ReTax Funding).

(c) Estimated Closing Purchase Price. At the Closing, Encore shall deliver an amount equal to the difference between the Estimated Purchase Price (as determined in accordance with Section 2.4(a)) and the Holdback (such difference, the "Estimated Closing Purchase Price"), by wire transfer of immediately available funds, to such account or accounts as the Seller Representative may designate for disbursement to the Sellers. Encore shall have no liability for the payment by the Seller Representative, or the allocation among the Sellers, of the Estimated Closing Purchase Price or any other element of Purchase Price that the Sellers may be entitled to receive.

2.4 Estimation and Reconciliation of the Purchase Price.

(a) Estimated Purchase Price. Prior to the Closing, the Seller Representative delivered to Encore a statement (the "Estimated Statement"), attached as Schedule V, setting forth the Seller Representative's good faith estimate of the Purchase Price (the "Estimated Purchase Price") and providing reasonable detail and documentary support for each amount calculated pursuant to clauses (b) through (h) of Section 2.2. The Estimated Purchase Price was determined by the Seller Representative in accordance with GAAP consistent with the Acquired Companies' past accounting practices. The amount of the Estimated Purchase Price set forth on the Estimated Statement, as reviewed and approved by Encore, shall be used to determine the Estimated Closing Purchase Price payable at the Closing pursuant to Section 2.3(c).

(b) Post-Closing Reconciliation. Within one hundred twenty (120) days after the Effective Time, Encore shall prepare and deliver to the Seller Representative a statement (the "Reconciliation Statement") setting forth Encore's determination of the actual amount of the Purchase Price (the "Reconciled Purchase Price") and providing reasonable detail and documentary support for each amount calculated pursuant to clauses (b) through (h) of Section 2.2. The Reconciled Purchase Price shall be determined in accordance with GAAP consistent with the Acquired Companies' past accounting practices. The Seller Representative may object to the Reconciliation Statement within thirty (30) days after its receipt thereof by delivering to Encore a response to the Reconciliation Statement setting forth each calculation (and element thereof) that is disputed by the Seller Representative, and the Seller Representative's good faith determination of the correct amount of each such calculation and element. The Seller Representative will provide reasonable detail with respect to the nature of its dispute with each disputed calculation and element and the manner of its determination of the amount(s) thereof.

(c) Final Determination of Purchase Price.

(i) If the Seller Representative does not deliver an objection to the Reconciliation Statement within the thirty-day period provided in Section 2.4(b) or if the Seller Representative delivers a written notice accepting

the Reconciliation Statement prior to the end of the thirty-day period, the Reconciled Purchase Price shown on the Reconciliation Statement shall be deemed to be the final amount of the Purchase Price for purposes of making any adjustment required pursuant to Section 2.4(e).

(ii) If the Seller Representative delivers an objection to the Reconciliation Statement within the thirty-day period provided in Section 2.4(b) and, following good faith negotiation of the disputed items, Encore and the Seller Representative reach agreement on the amount of the Reconciled Purchase Price (whether by resolving each disputed item to their mutual satisfaction or compromising any or all disputed items), then the amount of the Purchase Price so agreed by them will be deemed to be the final amount of the Purchase Price for purposes of making any adjustment required pursuant to Section 2.4(e).

(iii) If the Seller Representative delivers an objection to the Reconciliation Statement within the thirty-day period provided in Section 2.4(b) and, following good faith negotiation of the disputed items, the difference in the amount of the Purchase Price determined by Encore and the amount of the Purchase Price determined by the Seller Representative (after reflecting the resolution of any disputed items by the parties) is less than or equal to $100,000, then the arithmetic mean between such two amounts shall be deemed to be the final amount of the Purchase Price for purposes of making any adjustment required pursuant to Section 2.4(e).

(iv) If the Seller Representative delivers an objection to the Reconciliation Statement within the thirty-day period provided in Section 2.4(b) and, following good faith negotiation of the disputed items, the difference in the amount of Purchase Price determined by Encore and the amount of the Purchase Price determined by the Seller Representative (after reflecting the resolution of any disputed items by the parties) is greater than $100,000, then the final amount of the Purchase Price for purposes of making any adjustment required pursuant to Section 2.4(e) shall be determined in accordance with Section 2.4(d).

(d) Resolution of Disputes.

(i) In accordance with Section 2.4(c)(iv), Encore and the Seller Representative (on behalf of Sellers) shall promptly refer all remaining disputes concerning the Purchase Price to KPMG (or, if KPMG is not independent or otherwise refuses or is incapable of undertaking the resolution of such disputes, to such other nationally recognized independent accounting firm as may be reasonably acceptable to Encore and the Seller Representative) (as applicable, the "Independent Accounting Firm"), together with a statement of the Purchase Price asserted by the Seller Representative and by Encore. The Independent Accounting Firm will be instructed to resolve such disputes within sixty (60) days of the referral.

(ii) Encore and the Seller Representative will make available to the Independent Accounting Firm, at reasonable times and upon reasonable notice at any time during the pendency of any dispute under this Section 2.4(d), the work papers and back-up materials used in preparing the Reconciliation Statement and the Seller Representative's objections to the Reconciliation

Statement, and the books and records of the Sellers and the Acquired Companies relating to the Purchase Price. Encore and the Seller Representative shall have the right to meet jointly with the Independent Accounting Firm during this period to present their respective positions. The Independent Accounting Firm shall address only those matters in dispute and may not allow a value greater than the greatest value for such item claimed by either party or smaller than the smallest value for such item claimed by either party. The amount of the Purchase Price determined by the Independent Accounting Firm pursuant to this Section 2.4 (d) will be the final amount of the Purchase Price for purposes of making any adjustment required pursuant to Section 2.4(e). The resolution of disputes by the Independent Accounting Firm and its determination of the Purchase Price will be set forth in writing and will be conclusive and binding upon Encore, the Seller Representative, the Sellers and all other interested Persons. The determination of the Purchase Price by the Independent Accounting Firm will become final and binding upon the date of such determination.

(iii) Encore and the Seller Representative (on behalf of the Sellers) will each pay their own respective fees and expenses (including any fees and expenses of their accountants and other representatives) in connection with the resolution of disputes pursuant to this Section 2.4(d). Notwithstanding the foregoing, the fees and expenses of the Independent Accounting Firm incurred in connection with the resolution of disputes arising under this Section 2.4(d) will be paid by Encore and the Seller Representative in proportion to the difference between the Purchase Price determined by the Independent Accounting Firm and the respective amounts of the Purchase Price asserted by each such party at the time of the initial referral of the Purchase Price disputes to the Independent Accounting Firm.

(e) Post-Closing Adjustment Payments. The amount, if any, by which the final Purchase Price exceeds the Estimated Purchase Price shall be paid by Encore by wire transfer of immediately available funds to such account or accounts as the Seller Representative may designate for disbursement to the Sellers. The amount, if any, by which the Estimated Purchase Price exceeds the final Purchase Price shall be paid through a release to Encore of such amount from the Holdback pursuant to the Escrow Agreement. Any payment pursuant to this Section 2.4(e) will be due and payable five (5) Business Days following the determination of the final Purchase Price pursuant to Section 2.4(c) (and if necessary Section 2.4(d)).

(f) Availability of Records. Encore will make available to the Seller Representative and its accountants and other representatives, at reasonable times and upon reasonable notice (and copies thereof at the Seller Representative's sole cost and expense), at any time during (i) the review by the Seller Representative of the Reconciliation Statement and (ii) the pendency of any dispute resolution under Section 2.4(d), the books and records of the Acquired Companies relevant to the Purchase Price. The Seller Representative will make available to Encore and its accountants and other representatives, at reasonable times and upon reasonable notice (and copies thereof at Encore's sole cost and expense), at any time during (i) the preparation by Encore of the Reconciliation Statement and (ii) the pendency of any dispute resolution under Section 2.4(d), the books and records of the Sellers relevant to the Purchase Price.

2.5 Allocation of Purchase Price. Within sixty (60) days after the determination of the final Purchase Price pursuant to Section 2.4(c) (and if necessary Section 2.4(d)), Encore shall

determine and deliver to the Seller Representative an allocation of the consideration paid, or treated as paid, for federal income Tax purposes (including any assumed liabilities as determined for federal income Tax purposes) for the assets of the Acquired Companies among such assets in accordance with Section 1060 of the Code, along with the supporting documentation, such as appraisals. If Encore determines to engage an appraiser or appraisers in connection with such allocation, Encore will consult with Seller Representative on its selection of such appraiser(s) prior to engaging such appraiser(s). The Seller Representative will have thirty (30) days in which to review Encore's proposed allocation, along with supporting documentation, and provide to Encore any written objections thereto. For a period of thirty (30) days after Encore's receipt of any such written objections, Encore and the Seller Representative will negotiate reasonably and in good faith to resolve such objections. Encore's proposed allocation of the Purchase Price, as modified by any mutual agreements of Encore and the Seller Representative during such negotiation period, will be final and binding on all Parties and other Persons having an interest therein. Encore and the Sellers agree (a) to file, and to cause their respective Affiliates to file, all Tax Returns in a manner consistent with such allocation and not to take (and to cause their respective Affiliates not to take) any position inconsistent therewith in any Tax Return, audit, examination, claim, adjustment, litigation or other Proceeding with respect to Taxes, unless required to do so by applicable Law or with prior written consent of the other Parties and (b) that such allocation shall be further revised, as necessary and in a manner consistent with such allocation, to reflect any adjustment to the Purchase Price pursuant to Section 8.8 or otherwise that is not reflected in such allocation. In the event any Taxing Authority disputes such Purchase Price allocation, the Party receiving notice thereof shall promptly notify and consult with the other Parties concerning such dispute.

2.6 The Closing.

(a) Date and Location of Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place simultaneously with the execution and delivery of this Agreement and shall be deemed to have occurred at the offices of Fulbright & Jaworski L.L.P., 300 Convent Street, Suite 2100, San Antonio, Texas, and shall be effected by the exchange of executed transaction documents by facsimile, photo or other electronic means as contemplated by Section 10.20. The date on which the Closing occurs is referred to herein as the "Closing Date." Notwithstanding the date on which the Closing occurs, the Parties agree that the consummation of the transactions contemplated by this Agreement shall be deemed effective for all purposes as of 12:01 a.m. Central Time on the Closing Date (the "Effective Time").

(b) Closing Deliveries by the Sellers. At the Closing, the Sellers shall deliver, or cause to be delivered, to Encore each of the following:

(i) certificates of the Secretary of State of the State of Texas and the Texas Comptroller of Public Accounts as to the legal existence and good standing of each Acquired Company in the State of Texas;

(ii) certificates representing the Purchased Securities (to the extent certificated), each of which shall be either (A) duly endorsed in blank by the Seller named thereon or (B) accompanied by interest transfer powers duly executed in blank by the Seller named thereon;

(iii) an Assignment of Limited Liability Company Interests, in the form attached hereto as Exhibit B, with respect to the Purchased Securities held by each Seller (whether or not certificated), duly executed by such Seller;

(iv) a receipt for the Estimated Closing Purchase Price paid to the Seller Representative at the Closing, duly executed by the Seller Representative;

(v) the Escrow Agreement, duly executed by the Seller Representative;

(vi) a payoff letter from each holder of Specified Indebtedness, in form and substance reasonably satisfactory to Encore, providing for the release of all Security Interests, if any, relating to such Indebtedness immediately upon satisfaction of the terms contained in such payoff letters;

(vii) copies of all governmental and third-party filings, licenses, consents, authorizations, waivers and approvals that are required to be made or obtained for the consummation of the transactions contemplated by this Agreement or for the operation of the Business by Encore and its Affiliates after the Effective Time (including with, from or by the Texas Office of Consumer Credit Commissioner), none of which shall contain any conditions or requirements that are adverse to Encore;

(viii) a letter agreement between Encore Capital Group, Inc. and John P. "Jack" Nelson (the "Investment Letter") regarding the purchase by John P. "Jack" Nelson of 14,849 shares of the Common Stock, par value $0.01 per share, of Encore Capital Group, Inc. for an aggregate purchase price of $350,000, duly executed by John P. "Jack" Nelson;

(ix) pursuant to the Investment Letter, $350,000 in good funds paid to or for the account of Encore Capital Group, Inc. by John P. "Jack" Nelson (which funds may be withheld from the portion of the Estimated Closing Purchase Price payable to or for the account of JHBC pursuant to Section 2.3(c) and remitted to Encore Capital Group, Inc.);

(x) a Non-Competition Agreement, in the form attached hereto as Exhibit C (each, a "Seller Non-Competition Agreement"), duly executed by each of McCombs, Thomas P. Wingate, Thomas P. Wingate, Jr., James W. Wingate and John P. "Jack" Nelson;

(xi) a letter agreement regarding certain employee benefits in the form attached hereto as Exhibit D-1 (each, a "Severance Letter"), and an Employee Confidentiality and Non-Solicitation Agreement, in the form attached hereto as Exhibit D-2 (each, an "Employee Confidentiality Agreement"), each duly executed by each of Steve Johnson, John P. "Jack" Nelson and Fernando G. Peralta;

(xii) an Independent Contractor Agreement, in the form attached hereto as Exhibit E-1 (each, a "Contractor Agreement"), and a Confidentiality and Non-Solicitation Agreement, in the form attached hereto as Exhibit E-2 (each, a "Contractor Confidentiality Agreement"), each duly executed by each of James W. Wingate and Sam Feldman;

(xiii) a Transition Services Agreement, in the form attached hereto as Exhibit F (the "Transition Services Agreement"), duly executed by McCombs;

(xiv) an Acknowledgement and Release Agreement, in the form attached hereto as Exhibit G, duly executed by each Person who is a member of the board of managers or an officer of an Acquired Company;

(xv) an Acknowledgement and Release Agreement, in the form attached hereto as Exhibit H, duly executed by ReTax Funding;

(xvi) an Amendment to Lease Agreement, in the form attached hereto as Exhibit I (the "Lease Amendment"), duly executed by each of McCombs and Propel;

(xvii) (A) an engagement letter for legal and related services duly executed by Kohm & Associates, P.C., and (B) an engagement letter for legal and related services, duly executed by the Wingate Law Offices, PLLC, in each case with a current fee schedule attached thereto;

(xviii) evidence in form and substance satisfactory to Encore that each Company Contract (other than a Company Contract listed on Schedule IV) to which any Related Party is a party (or otherwise has any rights against or with respect to any Acquired Company) (including all employment and severance agreements, all Contracts listed in Section 3.21 of the Disclosure Schedule and all notes, bonds, promissory notes or other instruments or evidences of Indebtedness of any kind) has been terminated effective at or prior to the Closing, in each case without any payment being made, or any other obligation incurred, by any Acquired Company, notwithstanding any terms of such Contracts to the contrary;

(xix) bank signature authorization cards for each bank account of each Acquired Company authorizing up to four people designated by Encore to make deposits thereto and withdraw funds therefrom;

(xx) a statement, in a form reasonably satisfactory to Encore, executed by each Seller pursuant to section 1.1445-2(b)(2) of the Treasury Regulations certifying that such Seller is not a foreign person; and

(xxi) such other documents or instruments as Encore may reasonably request in order to effect the Purchase Transaction and the other transactions contemplated hereby.

(c) Closing Deliveries by Encore. At the Closing, Encore shall deliver, or cause to be delivered, each of the following:

(i) to the Escrow Agent and the Seller Representative, the Escrow Agreement, duly executed by Encore;

(ii) to the Escrow Agent, the Holdback (as provided in Section 2.3(a));

(iii) to each creditor of Specified Indebtedness, the portion of the Debt Repayment that such creditor is to receive (as provided in Section 2.3(b));

(iv) to the Seller Representative, the Estimated Closing Purchase Price (as provided in Section 2.3(c));

(v) to each counterparty thereto, a Seller Non-Competition Agreement, duly executed by Encore;

(vi) to each employee set forth in Section 2.6(b)(xi), a Severance Letter, duly executed by Encore Capital Group, Inc.;

(vii) to each of James W. Wingate and Sam Feldman, a Contractor Agreement, duly executed by Encore;

(viii) to McCombs, the Transition Services Agreement, duly executed by Encore;

(ix) to John P. "Jack" Nelson, the Investment Letter, duly executed by Encore Capital Group, Inc.;

(x) to the transfer agent of Encore Capital Group, Inc., a letter of direction instructing such transfer agent to issue to John P. "Jack" Nelson 14,849 shares of the Common Stock, par value $0.01 per share, of Encore Capital Group, Inc., duly executed by Encore Capital Group, Inc.; and

(xi) to the Sellers, such other documents or instruments as the Seller Representative may reasonably request in order to effect the Purchase Transaction and the other transactions contemplated hereby.

(d) Proceedings at Closing. All proceedings to be taken and all documents to be executed and delivered by all parties at the Closing will be deemed to have been taken, executed and delivered simultaneously, and no proceedings will be deemed taken nor any documents executed or delivered until all have been taken, executed and delivered.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES OF THE SELLERS WITH RESPECT TO THE ACQUIRED COMPANIES

As a material inducement to Encore to enter into this Agreement and to consummate the transactions contemplated hereby, each Seller hereby represents and warrants to Encore that the statements contained in this Article 3 are correct and complete as of the date of this Agreement except as set forth in the disclosure schedule of the Sellers attached hereto (the "Disclosure Schedule"), which will be arranged to correspond to the numbered and lettered sections and subsections contained in this Article 3. Notwithstanding the foregoing and irrespective that a section in this Article may use the terms "Sellers" and "Acquired Companies" collectively, all representations and warranties made herein by TTL, as a Seller, shall be limited to RPV and RPH and shall not include Propel or BNC. Nothing in the Disclosure Schedule shall be deemed adequate to disclose an exception to a representation or warranty made herein unless the Disclosure Schedule identifies the exception with reasonable particularity and describes the relevant facts in reasonable detail. Without limiting the generality of the foregoing, the mere listing (or inclusion of a copy) of a document or other item shall not be deemed adequate to disclose an exception to a representation or warranty made herein (unless the representation or warranty relates solely to the existence of the document or other items itself). The Parties recognize that the representations and warranties in this Article 3 which use the terms "enforceable," "realization" or words of similar meaning in the context of the Acquiring Companies' rights and remedies against a third party are limited by (a) applicable bankruptcy, insolvency, reorganization, moratorium, and other Laws of general application affecting or relating to the enforcement of creditors' rights generally and (b) Laws relating to the availability of specific performance and/or other equitable remedies.

3.1 Organization. Each Acquired Company is a limited liability company, duly organized, validly existing and in good standing under the Laws of the State of Texas.

3.2 Subsidiaries. The Acquired Companies do not own, beneficially or of record, directly or indirectly, any shares of capital stock or any equity interest in any corporation, limited liability company, partnership, joint venture or other enterprise or entity, other than the ownership by Propel of fifty percent (50%) of the outstanding membership interests of RPV and RPH (which membership interests represent all of the equity interests of RPV and RPH that are not Purchased Securities).

3.3 Qualification; Power and Authority. Each Acquired Company is qualified to conduct business and is in good standing under the Laws of each jurisdiction wherein the nature of its business or its ownership of property requires it to be so qualified. Each Acquired Company has full power and authority to own, lease and operate its properties and to conduct its business as currently conducted.

3.4 Company Records / Authority. The Certificate of Formation and the company agreement of each Acquired Company previously provided to Encore are correct and complete and reflect all amendments made thereto at any time prior to the date of this Agreement. To the extent such records exist, books containing the records of meetings of the members and board of managers of each Acquired Company and the unit or membership interest ledger and transfer books of each Acquired Company, all of which have been previously provided to Encore, are correct and complete in all material respects and accurately reflect the record holders of all outstanding units, membership interests and other equity securities issued by such Acquired Company. All material actions taken by each Acquired Company since the date of its formation have been duly authorized to the extent so required by applicable Laws and the charter documents of such Acquired Company.

3.5 Non-contravention. Neither the execution and delivery by the Sellers of this Agreement and the other agreements contemplated hereby to which any Seller is to be a party, nor the consummation by the Sellers of the transactions contemplated hereby or thereby, will (a) violate any Law, Order or other restriction to which any Acquired Company is subject, (b) violate or conflict with any provision of the Certificate of Formation or the company agreement of any Acquired Company or (c) violate or conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel, or require any authorization, consent, approval, execution or other action by or notice to any third party under any Company Contract or any Security Interest to which any Acquired Company is a party, by which it is bound or to which any of its assets are subject, or result in any loss of any license, permit or governmental authority.

3.6 Governmental Consent. None of the Acquired Companies are required to make any declaration to or registration or filing with, or to obtain any permit, license, consent, accreditation, exemption, approval or authorization from, any governmental or regulatory authority in connection with the execution and delivery by the Sellers of this Agreement and the other agreements contemplated hereby to which any Seller is to be a party or the consummation by the Sellers of the transactions contemplated hereby or thereby.

3.7 Capitalization.

(a) Propel. The outstanding equity securities of Propel consist solely of 10,000 units of limited liability company interest ("Propel Units"), all of which Propel Units have been duly authorized, are validly issued and are fully paid and non-assessable. The Propel Units

are not certificated. Other than the Propel Units, Propel does not have any equity securities or other equity interests authorized, existing, issued or outstanding.

(b) BNC. The outstanding equity securities of BNC consist solely of 10,000 units of limited liability company interest ("BNC Units"), all of which BNC Units have been duly authorized, are validly issued and are fully paid and non-assessable. The BNC Units are not certificated. Other than the BNC Units, BNC does not have any equity securities or other equity interests authorized, existing, issued or outstanding.

(c) RPV. The outstanding equity securities of RPV consist solely of membership interests ("RPV Interests"), all of which RPV Interests have been duly authorized, are validly issued and are fully paid and non-assessable. The RPV Interests are not certificated. Other than the RPV Interests, RPV does not have any equity securities or other equity interests authorized, existing, issued or outstanding.

(d) RPH. The outstanding equity securities of RPH consist solely of membership interests ("RPH Interests"), all of which RPH Interests have been duly authorized, are validly issued and are fully paid and non-assessable. The RPH Interests are not certificated. Other than the RPH Interests, RPH does not have any equity securities or other equity interests authorized, existing, issued or outstanding.

(e) Absence of Purchase and Other Rights. There are no (i) outstanding or authorized options, warrants, rights, contracts, rights of first refusal or first offer, calls, puts, rights to subscribe, conversion rights or other agreements or commitments to which any Acquired Company is a party, or that are binding upon any Acquired Company, providing for the issuance, disposition or acquisition of any Acquired Company's equity securities, (ii) outstanding or authorized stock appreciation, phantom stock or similar rights with respect to any Acquired Company, (iii) contractual or statutory preemptive rights or similar restrictions with respect to the issuance or transfer of any limited liability company interests or other equity securities of any Acquired Company, (iv) voting trusts, proxies or any other agreements, restrictions or understandings with respect to the voting of the limited liability company interests or other equity securities of any Acquired Company, other than as set forth in such Acquired Company's limited liability company agreement or operating agreement as previously provided to Encore, (v) registration rights granted by any Acquired Company or (vi) management rights regarding any Acquired Company granted to any Person. The Parties except from this representation and warranty the restrictions against the transfer of the Purchased Securities and the rights of the Sellers and the Acquired Companies to purchase the Purchased Securities upon the occurrence of certain events, all of which are expressly stated in the Acquired Companies' respective company agreements previously provided to Encore.

(f) Acquisition of Entire Equity Interest. No Person, other than a Seller or an Acquired Company, owns, beneficially or of record, any equity securities of or any other equity interest in any Acquired Company. By acquiring the Purchased Securities at the Closing pursuant to this Agreement, Encore will acquire ownership, directly or indirectly, of all of the equity securities of, and all of the equity interests in, each of the Acquired Companies.

3.8 Financial Statements.

(a) Annual and Current Financial Statements. The Sellers have previously provided Encore with the following financial statements (collectively, the "Financial Statements"): (i) the audited balance sheets of each of Propel and BNC as of December 31, 2009,

December 31, 2010, and December 31, 2011, and the audited balance sheet of RPV as of December 31, 2011, and the related statements of income, cash flows and changes in owners' equity for each of the fiscal years then ended (collectively, the "Annual Financial Statements"), (ii) the unaudited balance sheets of each of RPH and RPV as of December 31, 2009, December 31, 2010, and the unaudited balance sheet of RPH as of December 31, 2011, and the related statements of income, cash flows and changes in owners' equity for the fiscal year then ended and (iii) the unaudited balance sheet of each of the Acquired Companies as of March 31, 2012 (the "Latest Balance Sheet Date") and the related statements of income and cash flows for the three-month period then ended (collectively, the "Current Financial Statements"). The balance sheets described in Section 3.8(a)(iii) are referred to herein as the "Latest Balance Sheet."

(b) Accuracy of Financial Statements. The Financial Statements (including in all cases any notes thereto) are accurate and complete in all material respects, have been prepared from the books and records of the Acquired Companies (which books and records are accurate and complete in all material respects), have been prepared in accordance with GAAP, consistently applied throughout the periods indicated, and fairly present the financial condition and results of operations, cash flows and changes in owners' equity as at the dates of, and for the periods covered by, such Financial Statements, except that the Current Financial Statements do not include footnotes (which, if presented, would not differ materially from those included in the December 31, 2011 Annual Financial Statements) and are subject to customary year-end adjustments (the effect of which adjustments will not, individually or in the aggregate, be materially adverse).

(c) Internal Controls. The Company maintains such internal accounting controls and procedures as are necessary to provide reasonable assurance regarding the reliability of the financial statements of the Acquired Companies (including the Financial Statements).

(d) Bank Accounts. Section 3.8(d) of the Disclosure Schedule sets forth each bank or other depositary account held in the name of each Acquired Company (including the financial institution, the account number and other relevant identifying information) and the names of each individual authorized to make withdrawals therefrom immediately prior to the Effective Time.

(e) Powers of Attorney. There are no outstanding powers of attorney executed by or on behalf of any Acquired Company or, except as set forth in Article 9, any Seller with respect to the Business or any Acquired Company.

(f) No Undisclosed Liabilities. No Acquired Company has any Liability (nor is there any Basis for any Liability of an Acquired Company), except for (i) Liabilities set forth on the face of the Latest Balance Sheet (rather than in any notes thereto), (ii) current Liabilities that have arisen after the Latest Balance Sheet Date in the Ordinary Course of Business (none of which arose out of any Proceeding), (iii) Liabilities arising in the Ordinary Course of Business under Company Contracts and (iv) Liabilities arising out of matters reflected in Section 3.17 of the Disclosure Schedule.

3.9 Recent Events. No Material Adverse Change has occurred since December 31, 2011. Without limiting the generality of the foregoing, since December 31, 2011, no Acquired Company has:

(a) operated outside of the Ordinary Course of Business or engaged in any transaction outside of the Ordinary Course of Business;

(b) sold, leased, transferred or assigned any of its Properties or Assets, tangible or intangible, outside of the Ordinary Course of Business;

(c) amended, accelerated, terminated or canceled any Company Contract (or series of related Company Contracts) involving more than $25,000 annually (and no third party has accelerated, terminated or canceled any such Company Contract(s));

(d) canceled, compromised, waived or released any right or claim (or series of related rights and claims) either involving more than $25,000 or outside the Ordinary Course of Business;

(e) experienced any damage, destruction or loss (whether or not covered by insurance) to its Properties or Assets (other than ordinary wear and tear not caused by neglect) in excess of $25,000 in the aggregate;

(f) issued, sold or otherwise disposed of any of its limited liability company interests, or granted any options, warrants or other rights to purchase or obtain (including upon conversion or exercise) any of its limited liability company interests;

(g) changed any method or principle of accounting;

(h) entered into any transaction, arrangement or contract with, or distributed or transferred any property or other assets to, any Related Party (other than salaries and employee benefits and other transactions pursuant to any Company Employee Benefit Plan in the Ordinary Course of Business);

(i) amended or modified any Company Employee Benefit Plan in any respect, other than amendments and modifications required to comply with Law and reflected in true and complete copies of such Company Employee Benefit Plans previously provided to Encore;

(j) increased the salary of any of its officers or employees by an amount greater than the lesser of $5,000 per year or five percent (5%) of such salary as of December 31, 2011, or paid any bonus to any of its officers or employees in an amount greater than the lesser of $5,000 per year or five percent (5%) of such person's salary as of December 31, 2011; or

(k) committed to any of the foregoing.

3.10 Contracts.

(a) Status of Company Contracts. Each Company Contract is (i) a valid and legally binding agreement of each Acquired Company that is party thereto and each other party to such Contract, (ii) in full force and effect and (iii) enforceable against each party thereto in accordance with its terms. There has been no breach or default by any Acquired Company or, to the Knowledge of the Sellers, by any other party (or event that with the passage of time, the giving of notice or both would constitute a breach or default) under any Company Contract that has not been cured or waived. Each Acquired Company has performed the material obligations required to be performed by it under each Company Contract and is not in receipt of any notice of termination or written claim of default under any such Company Contract. No party to any Company Contract has notified any Acquired Company or any Seller of any threat or intention to terminate or materially alter its relationship with any Acquired Company or the Business. The

Sellers have previously provided to Encore a true and complete copy of all written Company Contracts, together with all amendments, waivers or other changes thereto, and a summary of the terms of all non-written Company Contracts, in each case as in effect on the date of this Agreement.

(b) Material Contracts. Section 3.10(b) of the Disclosure Schedule sets forth each Company Contract that is described in any subsection below:

(i) a Contract for capital expenditures or the purchase of materials, supplies, merchandise, equipment or other goods or services by the Acquired Companies requiring annual or aggregate payments by the Acquired Companies in excess of $25,000;

(ii) a Contract pursuant to which any Acquired Company leases real property or any interest therein (the "Real Property Leases");

(iii) a Contract pursuant to which any Acquired Company leases personal property (whether capital leases, operating leases or conditional sales agreements);

(iv) a Contract that relates to Intellectual Property, including all royalty agreements and licenses (other than licenses for commercially available "off-the-shelf" software where an Acquired Company is licensee); or

(v) a Contract for employment or consulting services or relating to the termination or severance of employment or consulting services (including any Company Contract in which any Acquired Company is the beneficiary of a non-competition or similar covenant or agreement), other than unwritten Company Contracts for at-will employment.

(c) Certain Scheduled Contracts. Section 3.10(c) of the Disclosure Schedule sets forth each Company Contract that is described in any subsection below (and identifies each subsection that is applicable to such Company Contract):

(i) a Contract entered into other than in the Ordinary Course of Business;

(ii) a Contract with any Related Party (other than Company Contracts for employment or consulting services listed in Section 3.10(b)(v) of the Disclosure Schedule);

(iii) a Contract pursuant to which any Acquired Company is obligated to provide indemnification to any Person;

(iv) a Contract involving hedges or swaps (interest rate or currency), futures, derivatives or similar instruments, regardless of value;

(v) a Contract that imposes (or could by its terms impose) any material restriction on any Acquired Company with respect to its geographical area of operations or scope or type of business;

(vi) a Contract that imposes (or could by its terms impose) any exclusivity obligation in connection with any Acquired Company's sale or purchase of goods or services;

(vii) a Contract relating to a joint venture, partnership (including a partnership solely for Tax purposes) or similar entity (other than an Acquired Company's company agreement), or otherwise involving a sharing of profits or losses;

(viii) a Contract providing for the payment by any Acquired Company of any earnout, contingent payment, deferred payment or other amount in respect of an Acquired Company's acquisition of the assets, loans, securities or business of another Person;

(ix) any loan or credit agreement, note, bond, mortgage, indenture, letter of credit or other similar agreement or instrument;

(x) a Contract pursuant to which any Properties or Assets or any REO Properties are subject to any Security Interests;

(xi) a Contract relating to the direct or indirect guarantee or assumption of the obligations of any other Person, including any arrangement that has the economic effect, although not the legal form, of a guarantee; or

(xii) a Contract with a labor union or labor association, including collective bargaining agreements.

3.11 Title to and Condition of Assets and Properties.

(a) Owned Real Property. Section 3.11(a) of the Disclosure Schedule sets forth the address and most recent assessed value (and, if available, the most recent appraised value) of each REO Property. None of the Acquired Companies own any real property or any interest in real property (other than the REO Properties set forth on Section 3.11(a) of the Disclosure Schedule and rights pursuant to the Real Property Leases). None of the REO Properties are used by the Acquired Companies in the operation or conduct of the Business.

(b) Leased Real Property. The Real Property Leases cover all of the real property leased by any Acquired Company from a third party (collectively, the "Leased Real Property"). The Leased Real Property constitutes all of the land, buildings, structures, improvements, fixtures or other interests and rights in real property that are used or occupied by the Acquired Companies in connection with the Business. The Acquired Company named as lessee under each Real Property Lease holds a valid, subsisting and enforceable leasehold interest under such Real Property Lease, with such exceptions as do not interfere in any material respect with the use made of such property in the Business. No Acquired Company has assigned, transferred, conveyed or encumbered any interest in any Real Property Leases or any of the Leased Real Property. No Acquired Company is a lessor, sublessor or grantor under any lease, sublease, consent, license or other instrument granting to another person or entity any right to the possession, use, occupancy or enjoyment of the Leased Real Property. All of the Leased Real Property has access to public roads and to all utilities necessary for the operation of the Business.

(c) Title to Personal Property Assets. The Acquired Companies own good and valid title to all of the Owned Personal Property, free and clear of all Security Interests other than Security Interests set forth in Section 3.11(c) of the Disclosure Schedule (all of which will be released at the Closing) and Permitted Security Interests. "Owned Personal Property" means all of the tangible personal property and assets of the Acquired Companies shown on the Latest Balance Sheet or acquired after the Latest Balance Sheet Date and all of the intangible personal property and assets of the Acquired Companies, in each case other than (i) tangible personal property and assets sold or otherwise disposed of for fair value to non-affiliated third parties in the Ordinary Course of Business since the Latest Balance Sheet Date and (ii) obsolete assets discarded in the Ordinary Course of Business since the Latest Balance Sheet Date.

(d) Condition and Sufficiency of Assets. All of the Acquired Companies' buildings, improvements, fixtures, physical plant, machinery, equipment and other tangible assets are in good condition and repair, except for ordinary wear and tear not caused by neglect, have been maintained in accordance with the manufacturer specifications therefor and are useable in the Ordinary Course of Business. The Leased Real Property, the Owned Personal Property, the equipment that is leased by the Acquired Companies from third parties pursuant to Company Contracts set forth in Section 3.10(b)(iii) of the Disclosure Schedule and the Intellectual Property that is licensed by the Acquired Companies from third parties pursuant to Company Contracts set forth in Section 3.10(b)(iv) of the Disclosure Schedule include all of the assets, properties and rights necessary for the conduct of the Business, consistent with the past customs and practices of the Acquired Companies, and all assets, properties and rights that were used to conduct the Business since the Latest Balance Sheet Date.

3.12 Receivables.

(a) Schedule of Receivables. Section 3.12(a) of the Disclosure Schedule sets forth a complete and accurate list of each Receivable that has an outstanding balance (whether or not including a principal balance) as of the date that is five (5) Business Days prior to the Closing Date, including (i) the Person(s) obligated thereon (each, an "Obligor"), (ii) the outstanding balance thereof as of such date (and the allocation of such balance among principal, interest, fees and other amounts), (iii) the origination date and maturity date thereof, (iv) the per annum interest rate payable thereunder, (v) the address, tax block and lot identification number and parcel identification number of the real property that secures such Receivable (the "Subject Property") and (vi) the LTV Ratio. The Sellers have provided Encore with a true and correct electronic copy of Section 3.12(a) of the Disclosure Schedule formatted in accordance with the reasonable requirements of Encore.

(b) Title to Subject Receivables. An Acquired Company owns good and valid title to, and is the sole owner of record and holder of, each Receivable that has an outstanding balance (whether or not including a principal balance) as of Effective Time (the "Subject Receivables") and the indebtedness evidenced thereby, and the liens securing same, free and clear of all Security Interests other than Security Interests set forth in Section 3.11(c) of the Disclosure Schedule (all of which will be released at the Closing).

(c) Enforceability of Subject Receivables. Each of the Subject Receivables (i) is a valid and enforceable receivable for the amount thereof (and is not subject to any counterclaim, rescission, deduction, credit, refund, set-off or other offset) and (ii) was incurred in the Ordinary Course of Business.

(d) Loan Documents. To the extent required by applicable Laws or the internal underwriting standards of the Acquired Companies, the Acquired Companies possess true and correct copies (or originals to the extent required by applicable Law) of (i) all loan agreements, credit agreements, promissory notes, property tax payment agreements, documents authorizing transfer of tax lien, certified statements of transfer of tax lien, mortgages, deeds of trust, tax lien contracts, security deeds, security agreements, guarantees and other Contracts executed by any Obligor or otherwise relating to each Subject Receivable, including all amendments, restatements, waivers, consents and assignments thereof or relating thereto (collectively, the "Loan Agreements") and (ii) all loan applications, file maintenance information, payment histories, receipts, transfer affidavits, correspondence, notices (including notices of right to cancel documents), acknowledgments, disclosure documents and any other information, documents, instruments or records (in each case, whether in written, electronic or other form) relating to each Subject Receivable (collectively, and together with the Loan Agreements, the "Loan Documents"). Each Loan Agreement is genuine and constitutes the valid and legally binding obligations of each Obligor specified therein, enforceable against each such Obligor in accordance with its terms. No Loan Agreement has been satisfied, cancelled, subordinated or rescinded, in whole or in part, and no instrument has been executed that would affect any such cancellation, subordination or rescission, except that the Acquired Companies file partial releases in the Ordinary Course of Business as certain Loan Agreements are satisfied although the Subject Property may remain subject to an Acquired Company's lien for subsequent loans which remain outstanding. The Loan Documents contain the entire agreement and understanding between the Obligor(s) and the Acquired Companies with respect to each Subject Receivable and no Acquired Company has entered into any Contract with any Person other than an Obligor that affects or relates to any Subject Receivable. To the Knowledge of the Sellers, the Loan Documents do not contain any untrue statement of a material fact by any Obligor or omit to state any material fact necessary in order to make the statements of the Obligors contained therein, in the light of the circumstances under which made, not misleading.

(e) Security Documents. The mortgages, deeds of trust, tax lien contracts, security agreements and/or other Loan Agreements evidencing the assignment of a lien or security interest on the Subject Property securing each Subject Receivable (the "Security Documents") establish a valid, subsisting, enforceable and perfected superior lien on such Subject Property. Except for certain recent loans originated in the Ordinary Course of Business wherein a governmental entity has not yet returned an executed tax lien transfer affidavit, with respect to each Subject Receivable, the Obligor and all governmental entities who collect taxes on the Subject Property have executed the tax lien transfer affidavits required by the Texas Property Tax Code or other applicable Law. Each Security Document and tax lien transfer document is in recordable form and has been properly recorded (or, with respect to certain recent new loans originated in the Ordinary Course of Business wherein a governmental entity has not yet returned an executed tax lien transfer affidavit, will be timely and properly recorded in the Ordinary Course of Business) under applicable Law in the county where the Subject Property is located. Notice of the liens created by the Security Documents have been sent to all Persons in the form, and within the deadlines required by, the Texas Property Tax Code or other applicable Law. Except in the Ordinary Course of Business, no Subject Property has been released from the lien of the Security Documents, in whole or in part, and no instrument has been executed that would affect any such release (except that the Acquired Companies file partial releases in the Ordinary Course of Business as certain Loan Agreements are satisfied although the Subject Property may remain subject to an Acquired Company's lien for subsequent loans which remain outstanding).

(f) Adequate Rights of Sale or Foreclosure. With respect to each Security Document that is a deed of trust or tax lien contract, a trustee, authorized and duly qualified under applicable Law to serve as such, has been properly designated and currently so serves and is named in such deed of trust or tax lien contract, and no fees or expenses are or will become payable by an Acquired Company to any such trustee except in connection with a trustee's sale after default by the applicable Obligor and non-material amounts due to a taxing authorities'

collection agent. The Security Documents contain customary and enforceable provisions sufficient to render the rights and remedies of the holder thereof adequate for the realization against the Subject Property of the benefits of the security provided thereby, including by trustee's sale (in the case of a deed of trust or tax lien contract) or otherwise by judicial foreclosure. Upon default by an Obligor on a Subject Receivable and foreclosure on, or trustee's sale of, the Subject Property, the holder of such Subject Receivable will be able to deliver good and merchantable title to the Subject Property. Except for the Servicemembers Civil Relief Act, formerly the Soldiers' and Sailors' Civil Relief Act of 1940, there is no homestead or other exemption available to any Obligor that would interfere with the right to sell the Subject Property at a trustee's sale or the right to foreclose on the Subject Property pursuant to the Security Documents, subject to applicable federal and state Laws and judicial precedent with respect to bankruptcy and right of redemption.

(g) Subject Property. The lien of the applicable Security Documents in each Subject Property covers all buildings on the Subject Property and all installations and mechanical, electrical, plumbing, heating and air conditioning systems located in or annexed to such buildings, and all additions, alterations and replacements made at any time with respect to the foregoing to the extent such property is not removable and has legally become attached to the Subject Property. To the Knowledge of the Sellers, there is no circumstance or condition relating to any Subject Property that could reasonably be expected to adversely affect the value or the marketability of any Subject Receivable or such Subject Property (including any condemnation proceeding, casualty loss or violation of environmental Law). The LTV Ratios set forth in Section 3.12(a) of the Disclosure Schedule are true and correct in all material respects.

(h) Certain Terms of the Loan Agreements. The Loan Agreements provide for the acceleration of the payment of the unpaid principal balance of the applicable Subject Receivable after any required notice to the Obligor is provided, at the option of the holder of such Subject Receivable to the extent permitted by applicable Law, in the event that the relevant Subject Property is sold or transferred without the prior written consent of such holder. The Loan Agreements do not contain any provisions pursuant to which monthly payments are paid or partially paid with funds deposited in any separate account established by the Acquired Companies, the Obligor or anyone on behalf of the Obligor, or paid by any source other than the Obligor, nor do the Loan Agreements contain any other similar provisions that may constitute a "buydown" provision. No Subject Receivable (i) is a graduated payment mortgage loan, (ii) contains a shared appreciation or other contingent interest feature or (iii) is subject to, or potentially subject to, negative amortization. Section 3.12 (h) of the Disclosure Schedule sets forth each Subject Receivable for which any broker or other third party is entitled to receive a fee upon the collection of such Subject Receivable, and the amount (or manner of calculation) of such fee.

(i) Full Funding of Lending Obligations. Each lending obligation of the Acquired Companies has been closed and fully funded and disbursed (and the underlying tax obligation, interest, fees and costs of the borrower paid in full) and there is no requirement for future advances thereunder; provided, however, payment of expenses posted after transfer may be due to a taxing authorities' collection agent for collection of certain Subject Receivables. All costs, fees and expenses incurred by the Acquired Companies in making or closing each such loan have been paid in full. No Subject Receivable is subject to a right of rescission or cancellation in favor of any Obligor that has not expired. No Obligor is entitled to any refund of any amounts paid or due under any Loan Agreement.

(j) No Obligor Default. Section 3.12(a) of the Disclosure Schedule sets forth an aging report of the Subject Receivables as of the date that is five (5) Business Days prior

to the Closing Date. Other than such delinquencies disclosed in Section 3.12(a) of the Disclosure Schedule and non-monetary defaults, there is no default, breach, violation or event of acceleration existing under any Loan Agreements and, to the Knowledge of the Sellers, no event has occurred that, with the passage of time or the giving of notice and the expiration of any applicable grace or cure period, would constitute any such default, breach, violation or event of acceleration. No waiver or forbearance of any prior default, breach, violation or event of acceleration under any Loan Agreement has been given to any Obligor by any Acquired Company (or any of their respective predecessors in interest). No Obligor has been released, in whole or in part, from its obligations with respect to any Subject Receivable or the applicable Loan Agreements. No Obligor has notified any Acquired Company in writing of any relief requested or allowed to such Obligor under the Servicemembers Civil Relief Act, formerly the Soldiers' and Sailors' Civil Relief Act of 1940.

Each representation and warranty in this Section 3.12 regarding the enforceability of the Receivables or the availability of certain remedies when collecting the Receivables is subject to the limitations imposed by the Servicemembers Civil Relief Act, formerly the Soldiers' and Sailor's Civil Relief Act of 1940, Texas Tax Code Section 33.06 (allowing persons over the age of 65 years or disabled to defer collection of taxes, to abate a suit to collect taxes or to abate a sale to foreclose a tax lien on such person's homestead) and other similar state or federal laws which may prevent immediate enforceability of remedies, including foreclosure.

3.13 Intellectual Property.

(a) Title. The Acquired Companies own or have the right to use all Intellectual Property necessary for the operation of the Business as currently conducted. No current or former employee, agent, consultant or contractor has asserted any claims, in writing or orally, to any such Intellectual Property. All employees, agents, consultants or contractors who have contributed to or participated in the creation or development of any Intellectual Property on behalf of any Acquired Company (of any predecessor in interest thereto): (i) created such materials in the scope of his or her employment; (ii) is a party to a "work-for-hire" agreement under which such Acquired Company is deemed to be the original owner/author of all rights, title and interest therein; or (iii) has executed an assignment or an agreement to assign in favor of such Acquired Company (or such predecessor in interest, as applicable) of all right, title and interest in such material. Each item of Intellectual Property owned or used by or licensed to the Acquired Companies immediately prior to the Effective Time will be owned or available for use by the Acquired Companies on identical terms and conditions immediately after the Effective Time. The Acquired Companies have taken all necessary action to protect in the United States each item of Intellectual Property that they own.

(b) No Infringement. The Acquired Companies have not interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of third parties, and neither the Acquired Companies nor any of their respective directors, managers, officers and employees with responsibility for Intellectual Property matters has ever received any charge, complaint, claim, or notice alleging any such interference, infringement, misappropriation, or violation. To the Knowledge of the Sellers, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of the Acquired Companies.

(c) Owned Intellectual Property. Section 3.13(c) of the Disclosure Schedule identifies (i) each patent, trademark registration or copyright registration that has been issued to any Acquired Company, (ii) each pending patent application or application for trademark or copyright registration that any Acquired Company has made and (iii) each license, agreement or other permission that any Acquired Company has granted to any third party with respect to Intellectual Property (together with any exceptions). The Sellers have previously provided to Encore correct and complete copies of all such patents, registrations, applications, licenses, agreements, and permissions (as amended to date) and all other written documentation evidencing ownership and prosecution (if applicable) of each such item. With respect to each item of Intellectual Property that any Acquired Company owns, (A) an Acquired Company possesses all right, title, and interest in and to the item, (B) the item is not subject to any Order and (C) no

Proceeding is pending or, to the Knowledge of the Sellers, threatened that challenges the legality, validity, enforceability, use, or ownership of the item.

(d) Licensed Intellectual Property. Section 3.13(d) of the Disclosure Schedule identifies each item of Intellectual Property that any third party owns and that any Acquired Company uses pursuant to any license, sublicense, agreement or permission (except that "off-the-shelf" software purchased for use in the day-to-day operations of the Business need not be so identified). The Sellers have previously provided to Encore correct and complete copies of all such licenses, sublicenses, agreements and permissions (as amended to date). With respect to each such item of third party Intellectual Property (including any such "off-the-shelf" software), (i) the license, sublicense, agreement or permission covering the item is (and will continue to be on substantially identical terms immediately following the Effective Time) legal, valid, binding, enforceable and in full force and effect, (ii) the license, sublicense, agreement or permission covering the item (and to the Knowledge of the Sellers, the underlying item of Intellectual Property) is not subject to any outstanding Order and (iii) no Proceeding is pending or, to the Knowledge of the Sellers, threatened that challenges the legality, validity, or enforceability of the license, sublicense, agreement or permission covering the item (and to the Knowledge of the Sellers, the underlying item of Intellectual Property).

(e) Databases; Personally Identifiable Information. Section 3.13(e) of the Disclosure Schedule describes in reasonable detail all databases of Obligors' Personally Identifiable Information owned or used by the Acquired Companies in connection with the operation of or otherwise relating to the Business (the "Databases"), and the nature and quantity of data contained therein. Following the Closing, the Databases will have at least the same functionality as exists immediately prior to the Closing. None of the Acquired Companies have sold, assigned, leased, transferred, permitted the use of or otherwise disclosed to any Person any information contained in any of the Databases, including any Personally Identifiable Information, and all information contained in the Databases has been collected, used and maintained in accordance with all applicable privacy Laws. The consummation of the Purchase Transaction will not violate any privacy policy applicable to any Personally Identifiable Information contained in the Databases at the time such Personally Identifiable Information was collected. For purposes hereof, "Personally Identifiable Information" means information that can be used to identify or contact a Person, which may include their first and last name, physical address, e-mail address and telephone number.

3.14 Employees. Section 3.14-A of the Disclosure Schedule lists the name and address of each officer and employee of an Acquired Company as of three (3) business days prior to the Effective Time, together with their date of hire, current job title or relationship to such Acquired Company, the annual salary or hourly wage paid by the Acquired Companies to such person as of the Effective Time (and the date and amount of their last increase in salary or wages) and the amount of bonus, if any, paid to such person during the most recently completed fiscal year of the Acquired Companies. The Acquired Companies are, and have always been, in compliance in all material respects with all applicable Laws respecting terms and conditions of employment, including applicant and employee background checking, immigration Laws, discrimination Laws, verification of employment eligibility, employee leave Laws, classification of workers as employees and independent contractors, wage and hour Laws, and occupational safety and health Laws. Section 3.14-B of the Disclosure Schedule lists the name and business address of each independent contractor engaged by an Acquired Company in the conduct of the Business as of the Effective Time, together with their date of engagement, nature of services provided by them to the Acquired Companies and the periodic compensation payable to them by the Acquired Companies (or if such compensation is not payable in respect of any period of time, the aggregate compensation actually paid to them by the Acquired Companies during the most recently

completed fiscal year of the Acquired Companies and during the current fiscal year through April 30, 2012. There are no Proceedings pending or, to the Knowledge of the Sellers, reasonably expected or threatened, between any Acquired Company, on the one hand, and any or all of its current or former employees, on the other hand (including any claims for actual or alleged harassment or discrimination based on race, national origin, age, sex, sexual orientation, religion, disability, or similar tortious conduct, breach of contract, wrongful termination, defamation, intentional or negligent infliction of emotional distress, interference with contract or interference with actual or prospective economic advantage). There are no claims pending (or, to the Knowledge of the Sellers, reasonably expected or threatened) against any Acquired Company under any workers' compensation or long-term disability plan or policy. No Acquired Company is party to any collective bargaining agreement or other labor union contract nor, to the Knowledge of the Sellers, are there any activities or proceedings of any labor union to organize any employees of the Acquired Companies. Neither the Business nor any Acquired Company is, or has ever been, subject to any labor strike, work slowdown or stoppage, lockout or similar action by its employees. The Acquired Companies have provided or paid all employees with all wages, benefits, relocation benefits, stock options, bonuses and incentives and all other compensation that became due and payable through the date of this Agreement. No Acquired Company has instituted any "freeze" of, or delayed or deferred the grant of, any cost-of-living or other salary adjustments for any of its employees.

3.15 Employee Benefits.

(a) Section 3.15(a) of the Disclosure Schedule contains an accurate and complete list of all Employee Benefit Plans (i) maintained or sponsored by any Acquired Company, (ii) contributed to by any Acquired Company or to which any Acquired Company is obligated to contribute or (iii) with respect to which any Acquired Company has any liability or potential liability (whether direct or indirect, including all Employee Benefit Plans contributed to, maintained or sponsored by each member of the controlled group of companies, within the meaning of Sections 414(b), (c) and (m) of the Code, of which any Acquired Company is a member to the extent such Acquired Company has any liability or potential liability with respect to such Employee Benefit Plans). The Employee Benefit Plans disclosed or required to be disclosed in Section 3.15(a) of the Disclosure Schedule are referred to collectively herein as the "Company Employee Benefit Plans."

(b) There are no plans or agreements that would prevent any Acquired Company from withdrawing from any "employee pension benefit plan" (within the meaning set forth in ERISA Sec. 3(2)) that is contributed to by an Acquired Company without any further obligation or liability. Except for the continuation coverage requirements of Section 4980B of the Code or Part 6 of Subtitle B of Title I of ERISA or applicable state continuation coverage Law, no Acquired Company has obligations or potential liability for benefits to employees, former employees or their respective dependents following termination of employment or retirement under any Company Employee Benefit Plan, whether or not terminated, that provides health, life insurance, accident or other "welfare-type" benefits to current or future retirees, current or future former employees, or current or future former independent contractors, their spouses, dependents, or other beneficiaries.

(c) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (either alone or in conjunction with any other event such as termination of employment or other service) (i) result in or cause any payment (whether of separation, severance or termination pay or otherwise), acceleration, forgiveness of indebtedness, vesting, distribution or increase in benefits with respect to any Company Employee Benefit Plan or any current or former director, manager, officer, employee or other service provider of any Acquired Company, or give rise to any obligation to fund any such

payment or benefit, (ii) limit the ability of the Acquired Companies to amend or terminate any Company Employee Benefit Plan or (iii) result in any payment or benefit that will or may be made that will be characterized as an "excess parachute payment," within the meaning of Section 280G of the Code. None of the Company Employee Benefit Plans obligates any Acquired Company to pay separation, severance, termination or similar benefits (whether or not resulting from the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby).

(d) With respect to each Company Employee Benefit Plan, all required payments, premiums, contributions, reimbursements or accruals for all periods ending prior to or as of the Effective Time shall have been made or properly accrued for on the Financial Statements. No Company Employee Benefit Plan has any unfunded liabilities.

(e) Each Company Employee Benefit Plan and all related trusts, insurance contracts and funds have been maintained, funded and administered in compliance in all material respects with its terms and all applicable Laws, including ERISA and the Code. No Acquired Company and no trustee or administrator of any Company Employee Benefit Plan, or other person has engaged in any transaction with respect to any Company Employee Benefit Plan that could subject any Acquired Company or any trustee or administrator of such Company Employee Benefit Plan, or any party dealing with such Company Employee Benefit Plan, to any Tax or penalty (whether civil or otherwise) imposed by ERISA or the Code. No Proceedings with respect to the Company Employee Benefit Plans (other than routine claims for benefits) or any fiduciary or other person dealing with such Company Employee Benefit Plans are pending or, to the Knowledge of the Sellers, threatened and there are no facts that could reasonably give rise to or reasonably be expected to give rise to any such Proceedings.

(f) No underfunded "defined benefit plan," as such term is defined in Section 3(35) of ERISA, has been, during the six (6) years preceding the Effective Time, transferred out of the controlled group of companies (within the meaning of Sections 414(b), (c) and (m) of the Code) of which any Acquired Company is a member or was a member during such six-year period.

(g) No Seller, no Acquired Company and no officer, director, manager, employee or agent of any Acquired Company has made any statements, whether oral or written, regarding the Company Employee Benefit Plans or other compensation or benefit arrangements to be maintained (or not to be maintained) by the Acquired Companies after the Effective Time that will result in additional liability to the Acquired Companies or Encore, whether direct or indirect, in excess of any existing liability of the Acquired Companies as of the Effective Time.

(h) Each Company Employee Benefit Plan that is intended to be qualified under Section 401(a) of the Code, and each trust (if any) forming a part thereof, has either received a favorable determination letter from the IRS as to the qualification under the Code of such Company Employee Benefit Plan and the tax-exempt status of such related trust, or the applicable remedial amendment period for seeking such a determination has not expired. The Sellers have delivered to Encore a copy of the most recent such determination letter and nothing has occurred since the date of such determination letter that could reasonably be expected to adversely affect the qualification of such Company Employee Benefit Plan or the tax-exempt status of such related trust.

(i) With respect to each Company Employee Benefit Plan, the Sellers have provided Encore with true, complete and correct copies, to the extent applicable, of (i) all

documents pursuant to which the Company Employee Benefit Plans as currently in effect are maintained, funded and administered, (ii) the two most recent annual reports (Form 5500 series) filed with the IRS (with attachments), (iii) the two most recent financial statements, and (iv) all governmental rulings, determinations, and opinions (and pending requests for rulings, determinations or opinions).

(j) No Acquired Company has any Liabilities of the kind required to be disclosed pursuant to SFAS No. 106 or SFAS No. 112.

(k) No Company Employee Benefit Plan is, or provides benefits that are, subject to Section 409A of the Code.

(l) Except as specifically provided in the Transition Services Agreement, as of the Effective Time, the Acquired Companies will cease participation in all Company Employee Benefit Plans sponsored, maintained or administered by McCombs.

3.16 Legal Compliance; Permits.

(a) Generally. The Acquired Companies are, and have been at all times since January 1, 2009, in compliance in all material respects with all applicable Laws that affect the Business, the Properties or Assets (including zoning, building code or subdivision ordinances and occupational health and safety Laws) and, to the Knowledge of the Sellers, the REO Properties and the Subject Property. No Proceeding has been filed, commenced or, to the Knowledge of the Sellers, threatened against any Acquired Company alleging any such violation. Neither any Acquired Company nor any predecessor entity has ever been charged with (or, to the Knowledge of the Sellers, has been or is now under investigation with respect to) any possible violation of any Law relating to its business, its business practices, its employment practices or the safety of working conditions in its facilities, or its employee pension or welfare benefit plans. The Acquired Companies have timely filed all material reports, data and other information required to be filed with governmental authorities under applicable Laws.

(b) Lending. Each of the Subject Receivables was originated, underwritten and documented, and has been serviced, in compliance with all applicable Laws. Each Person who originated or has had an interest in the Subject Receivables (whether as mortgagee, assignee, pledgee or otherwise) is (or, during the period in which they held and disposed of such interest, was) appropriately licensed and qualified in compliance with all applicable Laws. No fraud or unfair or deceptive trade practices were committed in connection with the origination of any of the Subject Receivables.

(c) Permits. Section 3.16(c) of the Disclosure Schedule sets forth a complete and correct list of each Business Permit, including the identity of the governmental authority issuing the Business Permit and the expiration date, if any, thereof. The Acquired Companies possess all Business Permits and all Business Permits are valid, in full force and effect and will continue to be in full force and effect immediately after the Closing; provided that all consents required to assign, transfer or issue the Business Permits to Encore are obtained prior to Closing. The Acquired Companies are in material compliance with the terms and conditions of all Business Permits and there has been no material violation by any Acquired Company (or event that with the passage of time, the giving of notice or both would constitute a violation) of any Business Permit that has not been cured or waived. No Acquired Company has received any notice of non-compliance, revocation or termination of any Business Permit or notice of any

allegation, dispute or other event that would reasonably be expected to adversely affect the rights of the Acquired Companies under any such Business Permit.

(d) Environmental. The Acquired Companies are, and have always been, in compliance in all material respects with all applicable environmental Laws that affect the Business or the Properties or Assets, and no Proceeding has been filed, commenced or, to the Knowledge of the Sellers, threatened against any Acquired Company alleging any such violation. Neither any Acquired Company nor any predecessor entity has ever been charged with (or, to the Knowledge of the Sellers, has been or is now under investigation with respect to) any possible violation of any environmental Law. No Acquired Company has received any notice from any Person (including any governmental authority or the current or prior owner or operator of any property owned or leased by an Acquired Company) with respect to (i) any violation or failure to comply with any environmental Law, (ii) any obligation for any Acquired Company to undertake or bear the cost of any environmental remediation or (iii) any harm to the environment at any property owned or leased by an Acquired Company or otherwise used by an Acquired Company in connection with the Business, including off-site disposal sites. The Acquired Companies have timely filed all material reports, data and other information required to be filed with governmental authorities under applicable environmental Laws. Neither the Acquired Companies nor their respective Properties or Assets (nor, to the Knowledge of the Sellers, any Subject Property or any of the REO Properties) are subject to any Order pursuant to any environmental Law or in connection with hazardous materials or substances. No Acquired Company has disposed of, released (meaning any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, without giving effect to any thresholds on quantity or time in any environmental Law) or placed any hazardous materials or substances on, under or at any property owned or leased by an Acquired Company or otherwise used by an Acquired Company in connection with the Business. The Acquired Companies do not have any environmental Liabilities and none of the properties and assets of the Acquired Companies are subject to any lien arising under or pursuant to any environmental Laws.

(e) Employee Disclosures. To the Knowledge of the Sellers, no employee of any Acquired Company has provided or is providing information to any law enforcement agency regarding the commission or possible commission of any crime or the violation or possible violation of any applicable Law involving any Acquired Company or the Business. Neither any Acquired Company nor any officer or employee of any Acquired Company, nor any contractor, subcontractor or agent of any Acquired Company for which any Acquired Company may be legally responsible has discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against an employee of any Acquired Company in the terms and conditions of employment because of any act of such employee described in 18 U.S.C. Section 1514A(a).

3.17 Litigation. Section 3.17 of the Disclosure Schedule sets forth each instance in which any Acquired Company (a) is subject to any unsatisfied Order, (b) is a party to any Proceeding, (c) has been threatened to be made a party to any Proceeding or (d) has been a party to any other Proceeding at any time since its formation in which (i) the amount in controversy exceeded $25,000 or (ii) equitable relief was sought against an Acquired Company. None of the Proceedings set forth in Section 3.17 of the Disclosure Schedule could reasonably be expected to result in a Material Adverse Change. To the Knowledge of the Sellers, there is no Basis on which any other Proceeding may be brought or threatened against the Business or any Acquired Company.

3.18 Taxes.

(a) All Tax Returns that are required to be filed on or before the date hereof for, by, on behalf of or with respect to each Acquired Company have been timely filed in accordance with applicable Law with the appropriate Taxing Authority on or before the date hereof, and any recipient, payer, borrower or other third party copies of any such Tax Returns required to be delivered to any third party on or before the date hereof have been timely delivered in accordance with applicable Law to the appropriate third parties on or before the date hereof. All such Tax Returns and the information and data contained therein have been properly and accurately compiled and completed under applicable Laws and properly reflect, under applicable Laws, Liabilities for Taxes for the periods covered by such Tax Returns. All Taxes due and owing under applicable Laws by each Acquired Company (whether or not shown to be due and payable on any Tax Return) have been paid in full. No Acquired Company and no Person on behalf of any Acquired Company has requested any extension of time within which to file any Tax Return, which Tax Return has not been filed.

(b) No Acquired Company is under audit or examination by any Taxing Authority with respect to any Tax, no notice of such an audit or examination has been received by any Acquired Company, there are no matters under discussion with any Taxing Authority with respect to Taxes and, to the Knowledge of the Sellers, no audits, investigations or claims for or relating to Taxes are threatened against any Acquired Company. No issues relating to Taxes of any Acquired Company were raised by the relevant Taxing Authority in any completed audit or examination that can reasonably be expected to recur in a later taxable period. The Sellers have delivered to Encore copies of all examiners' or auditors' reports, notices of proposed adjustments or similar correspondence received by any Acquired Company or any Seller from any Taxing Authority. There exists no proposed assessment of Taxes against any Acquired Company.

(c) All Tax Returns filed by each Acquired Company with respect to Tax years through the Tax year ended December 31, 2007, have been examined and closed by the appropriate Taxing Authority (and no deficiencies were asserted as a result of any such examinations that have not been resolved and fully paid) or are Tax Returns with respect to which the applicable period for assessment and collection under applicable Laws, after giving effect to extensions or waivers, has expired, and, with respect to all other Tax Returns, no Acquired Company has agreed to any extension or waiver of the statute of limitations applicable to any Tax, or agreed to any extension of time with respect to a Tax assessment or deficiency, which period (after giving effect to such extension or waiver) has not yet expired.

(d) Section 3.18(d) of the Disclosure Schedule lists all federal, state, local, and foreign Tax Returns filed with respect to each Acquired Company for taxable periods ended on or after December 31, 2007, and indicates those Tax Returns that have been audited. Copies of all federal, state, local and foreign Tax Returns of each Acquired Company for all taxable periods ending on or after December 31, 2007, have been provided to Encore. No power of attorney granted by any Acquired Company with respect to any Taxes is currently in force.

(e) No Acquired Company is a party to, bound by nor has any obligation under any Tax allocation agreement, Tax sharing agreement, Tax indemnity obligation or similar written or unwritten agreement, arrangement, understanding or practice with respect to Taxes, including any advance pricing agreement, closing agreement, compromise, ruling or other agreement with any Taxing Authority that relates to the assessment or collection of Taxes.

(f) Except for liens for property Taxes not yet due and payable, there are no Security Interests for unpaid Taxes on the assets of any Acquired Company and no claim for unpaid Taxes has been made by any Taxing Authority that could give rise to any such Security Interest.

(g) No Acquired Company (i) is, or ever has been, a member of an "affiliated group" of corporations within the meaning of Section 1504 of the Code and (ii) has any liability for Taxes of any Person under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), or as a transferee or successor, by contract or otherwise.

(h) The aggregate liability of the Acquired Companies for unpaid Taxes for all periods ending on or before the Latest Balance Sheet Date does not exceed the amount of the current liability accrual for Taxes (excluding reserves for deferred Taxes established to reflect timing differences between book and Tax income) reflected on the Latest Balance Sheet. Since the Latest Balance Sheet Date, no Acquired Company has incurred Taxes other than Taxes incurred in the Ordinary Course of Business.

(i) Each Acquired Company has withheld or collected and paid over to the appropriate Taxing Authority all Taxes required by applicable Law to be withheld or collected, including withholding of Taxes pursuant to Sections 1441 through 1464, 3401 through 3406, 6041 and 6049 of the Code and similar provisions under any state, local or foreign Law, and each Acquired Company has properly received and maintained any and all certificates, forms and other documents required by applicable Law for any exemption from withholding and remitting any Taxes.

(j) No Acquired Company is a party to any agreement, contract, arrangement or plan, individually or in the aggregate, that has resulted, or could result, upon the consummation of the transactions contemplated by this Agreement, in (i) the payment of "excess parachute payments" within the meaning of Section 280G of the Code, or (ii) an obligation to indemnify, gross-up or otherwise compensate any Person, in whole or in part, for any excise Tax under Section 4999 of the Code that is imposed on such Person or any other Person.

(k) No Acquired Company has distributed securities of another Person, or has had its securities distributed by another Person, in a transaction that was purported or intended to be governed by Section 355 of the Code.

(l) Each Acquired Company has disclosed on applicable Tax Returns all positions taken therein that could give rise to a "substantial understatement of income tax" within the meaning of Section 6662 of the Code. No Acquired Company has engaged in any transaction described as a "reportable transaction" in Treasury Regulations Section 1.6011-4(b), including any transaction that is the same or substantially similar to a transaction that the IRS has determined to be a Tax avoidance transaction or that the IRS has identified through a notice, Treasury Regulation or other form of published guidance as a "listed transaction," as such term is defined in Treasury Regulations Section 1.6011-4(b)(2).

(m) No Acquired Company owns a direct interest in real estate that as a result of the consummation of the transactions contemplated by this Agreement would result in the imposition of any realty transfer Tax or similar Tax.

(n) The Sellers have provided to Encore true, accurate and complete copies of all written memoranda or opinions of advisors relating or pertaining to any Tax of the Acquired Companies.

(o) Each of Propel and BNC is, and at all times since January 1, 2010, and prior to and at the Effective Time has been and will be, classified as a partnership for U.S. federal Tax purposes under Treasury Regulations §§ 301.7701-2 and 301.7701-3 (and state, local, and foreign Tax purposes where applicable) (a "Partnership"), and no election has been or will be filed, no action has been or will be taken and no failure to act has occurred or will occur, in each case prior to the Effective Time, that would result in any Acquired Company being classified at the Effective Time as an entity that is not a Partnership for U.S. federal Tax purposes (and state, local, and foreign Tax purposes where applicable). Each of Propel and BNC was, at all times since its formation or organization through December 31, 2009, disregarded as an entity for U.S. federal Tax purposes under Treasury Regulations §§ 301.7701-2 and 301.7701-3 (and state, local, and foreign Tax purposes where applicable).

(p) Each of RPV and RPH is, and at all times since its formation or organization and prior to and at the Effective Time has been, classified as a Partnership for U.S. federal Tax purposes (and state, local, and foreign Tax purposes where applicable), and no election has been or will be filed, no action has been or will be taken and no failure to act has occurred or will occur, in each case prior to the Effective Time, that would result in RPV or RPH being classified at the Effective Time as an entity that is not a Partnership for U.S. federal Tax purposes (and state, local, and foreign Tax purposes where applicable).

(q) No Acquired Company will be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Effective Time as a result of any:

(i) change in the method of accounting for a taxable period ending on or prior to the Effective Time;

(ii) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign income Tax Law) executed on or prior to the Effective Time;

(iii) intercompany transaction or excess loss account described in the Treasury Regulations promulgated pursuant to Section 1502 of the Code (or any corresponding or similar provision of state, local or foreign income Tax Law);

(iv) installment sale or open transaction disposition made on or prior to the Effective Time; or

(v) prepaid amount received on or prior to the Effective Time.

(r) No claim has ever been made by any governmental authority in a jurisdiction where any of the Acquired Companies does not file Tax Returns that any of the Acquired Companies is or may be subject to taxation by that jurisdiction and there is no basis for any such claim to be made.

(s) None of the Acquired Companies has ever acquired or owned any interest in any entity classified as a corporation for U.S. federal Tax purposes under Treasury Regulations Sections 301.7701-2 and 301.7701-3 (and state, local, and foreign Tax purposes where applicable).

3.19 Insurance. Section 3.19 of the Disclosure Schedule lists each insurance policy and self-insurance program maintained by each Acquired Company (excluding Company Employee Benefit Plans). The policies of insurance maintained by each Acquired Company cover such risks, and are in such amounts and with such deductibles and exclusions, as are reasonable for the business transacted by such Acquired Company and for its respective properties and assets. All such insurance policies are in full force and effect, and no Acquired Company is in default with respect to its obligations under any of such insurance policies (including with respect to the payment of premiums), and no event has occurred that, with notice or the lapse of time or both, would constitute such a default or permit termination, modification or acceleration under such policy. No Acquired Company and no Seller has received any written notice from or on behalf of any insurance carrier issuing policies relating to or covering any Acquired Company, the Business or their respective Properties or Assets that there has been or will be a cancellation or non-renewal of, or any material premium increase with respect to, any existing policies. There is no material claim by any Acquired Company pending under any such insurance policy as to which coverage has been questioned, denied or disputed by the underwriters of such policy. To the extent that any Acquired Company self-insures any of its properties or risks, such self-insurance protects against such casualties and contingencies and at such levels as are in accordance with reasonable business practices.

3.20 Illegal or Improper Payments. Neither the Acquired Companies, nor any of their respective predecessor entities (if any), nor any of their respective owners, Affiliates, managers, officers, employees, nor any other Person acting on the behalf of an Acquired Company, has ever:

(a) made any illegal political contributions;

(b) been involved in the disbursement or receipt of company funds outside of the Acquired Companies' normal internal control systems of accountability;

(c) made or received payments, whether direct or indirect, to or from foreign or domestic governments, officials, employees or agents for purposes other than the satisfaction of lawful obligations, or been involved in any transaction that has or had as its intended effect the transfer of funds or assets in the manner described; or

(d) been involved in the improper or inaccurate recording of payments and receipts on the accounting books of the Acquired Companies or any other matters of a similar nature involving disbursements of any Acquired Company's funds or assets.

3.21 Related Party Transactions. No Related Party (a) is a party to any Company Contract or any other Contract that pertains to the Business or (b) has any interest in any property used in

or pertaining to the Business, other than (i) Contracts for employment set forth in Section 3.10(b)(v) of the Disclosure Schedule, (ii) Contracts listed in Section 3.21 of the Disclosure Schedule and (iii) salaries, expense reimbursement and Company Employee Benefit Plans in respect of employment in the Ordinary Course of Business. Section 3.21 of the Disclosure Schedule sets forth a complete and correct list of each asset or property (including Intellectual Property licenses) and service provided or made available by McCombs to one or more of the Acquired Companies at any time during the twelve (12) month period immediately preceding the Effective Time, whether or not pursuant to a Contract.

3.22 Arizona Tax Liens. Section 3.22 of the Disclosure Schedule sets forth a complete and accurate list of each Arizona Tax Lien as of the date that is five (5) Business Days prior to the Closing Date, including (i) the purchase price paid by the Acquired Companies for such Arizona Tax Lien, (ii) the dollar amount secured by such Arizona Tax Lien and (iii) the address, tax block and lot identification number and parcel identification number of the real property that secures such Arizona Tax Lien. Each of the Arizona Tax Liens was purchased or otherwise acquired by the Acquired Companies on or after January 1, 2012. The Sellers have provided Encore with a true and correct electronic copy of Section 3.22 of the Disclosure Schedule formatted in accordance with the reasonable requirements of Encore.

3.23 Brokers' Fees. No Seller and no Acquired Company has any Liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement.

3.24 Disclosure. The representations and warranties made by the Sellers in this Agreement and in the schedules to this Agreement (including the Disclosure Schedule), when read together, do not contain any untrue statement of a material fact, and do not omit to state any material fact necessary in order to make the statements contained herein or therein, in the light of the circumstances under which made, not misleading.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF THE SELLERS WITH RESPECT TO THEMSELVES

As a material inducement to Encore to enter into this Agreement and to consummate the transactions contemplated hereby, each Seller hereby represents and warrants to Encore that the statements contained in this Article 4 are correct and complete as to such Seller as of the date of this Agreement.

4.1 Organization; Power and Authority. Such Seller is a limited liability company or limited partnership, duly organized, validly existing and in good standing under the Laws of the State of Texas. Such Seller has full power and authority to own, lease and operate its properties and to conduct its business as currently conducted.

4.2 Authorization of Transaction. Such Seller has full power and authority to execute and deliver this Agreement and the other agreements contemplated hereby to which such Seller is to be a party, to perform its obligations under this Agreement and such other agreements and to consummate the transactions contemplated by this Agreement. The execution and delivery by such Seller of this Agreement and the other agreements contemplated hereby to which such Seller is to be a party, the performance by such Seller of its obligations under this Agreement and such other agreements and the consummation by such Seller of the transactions contemplated by this Agreement have been duly authorized on behalf of such Seller by all necessary limited liability company or partnership action, as applicable.

4.3 Due Execution; Enforceability. This Agreement and the other agreements contemplated hereby to which such Seller is to be a party has been duly and validly executed and delivered by such Seller. This Agreement and the other agreements contemplated hereby to which such Seller is to be a party constitute the valid and legally binding obligations of such Seller, enforceable against such Seller in accordance with their respective terms, except as enforceability may be limited by (a) applicable bankruptcy, insolvency, reorganization, moratorium, and other Laws of general application affecting or relating to the enforcement of creditors' rights generally and (b) Laws relating to the availability of specific performance and/or other equitable remedies.

4.4 Non-contravention. Neither the execution and delivery by such Seller of this Agreement and the other agreements contemplated hereby to which such Seller is to be a party, nor the consummation by such Seller of the transactions contemplated hereby or thereby, will (a) violate any Law, Order or other restriction to which such Seller is subject or (b) violate or conflict with in any material respect, result in a material breach of, constitute a material default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any authorization, consent, approval, execution or other action by or notice to any third party under any Contract or any Security Interest to which such Seller is a party, by which such Seller is bound or to which such Seller's assets are subject.

4.5 Governmental Consent. Such Seller is not required to make any declaration to or registration or filing with, or to obtain any permit, license, consent, accreditation, exemption, approval or authorization from, any governmental or regulatory authority in connection with the execution and delivery by such Seller of this Agreement and the other agreements contemplated hereby to which such Seller is to be a party or the consummation by such Seller of the transactions contemplated hereby or thereby.

4.6 Litigation. No Order is in effect, and no Proceeding is pending (or, to the knowledge of such Seller, threatened) by or before any governmental entity (foreign or domestic), against such Seller that, individually or in the aggregate, could reasonably be expected to prevent, enjoin, or materially alter or delay any of the transactions contemplated by this Agreement.

4.7 Title to Securities. Such Seller (a) is the sole record and beneficial owner of the Purchased Securities set forth adjacent to its name in Table 1 on Schedule I attached hereto, (b) owns such Purchased Securities free and clear of all Security Interests and (c) has the sole power to vote and dispose of such securities. There are no outstanding or authorized options, warrants, rights, contracts, rights of first refusal or first offer, calls, puts, rights to subscribe, conversion rights or other agreements or commitments to which such Seller is a party, or that are binding upon such Seller, providing for the issuance, disposition or acquisition of any Acquired Company's equity securities. There are no voting trusts, proxies or any other agreements, restrictions or understandings with respect to the voting of the limited liability company interests or other equity securities of any Acquired Company to which such Seller is a party, or that are binding upon such Seller, other than as set forth in such Acquired Company's limited liability company agreement or operating agreement as previously provided to Encore. The Parties except from this representation and warranty the restrictions against the transfer of the Purchased Securities and the rights of the Sellers and the Acquired Companies to purchase the Purchased Securities upon the occurrence of certain events, all of which are expressly stated in the Acquired Companies' respective company agreements previously provided to Encore.

4.8 Interest in Purchase Price. Section 4.8 of the Disclosure Schedule sets forth the name of each record holder of equity securities of such Seller. Such Seller has no Liability or current intention to pay or otherwise share any portion of the Purchase Price to be received by such Seller with any employee of the Acquired Companies.

4.9 Brokers' Fees. Such Seller does not have any Liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Encore, any Acquired Company or any other Person (other than a Seller) could become liable or otherwise obligated.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES OF ENCORE

As a material inducement to the Sellers to execute this Agreement and consummate the transactions contemplated hereby, Encore hereby represents and warrants to the Sellers that the statements contained in this Article 5 are correct and complete as of the date of this Agreement.

5.1 Organization; Power and Authority. Encore is a limited liability company, duly organized, validly existing and in good standing under the Laws of the State of Delaware. Encore has full power and authority to own, lease and operate its properties and to conduct its business as currently conducted.

5.2 Authorization of Transaction. Encore has full power and authority to execute and deliver this Agreement and the other agreements contemplated hereby to which Encore is to be a party, to perform its obligations under this Agreement and such other agreements and to consummate the transactions contemplated by this Agreement. The execution and delivery by Encore of this Agreement and the other agreements contemplated hereby to which Encore is to be a party, the performance by Encore of its obligations under this Agreement and such other agreements and the consummation by Encore of the transactions contemplated by this Agreement have been duly authorized on behalf of Encore by all necessary limited liability company action.

5.3 Due Execution; Enforceability. This Agreement and the other agreements contemplated hereby to which Encore is to be a party have been duly and validly executed and delivered by Encore. This Agreement and the other agreements contemplated hereby to which Encore is to be a party constitute the valid and legally binding obligations of Encore, enforceable against Encore in accordance with their respective terms, except as enforceability may be limited by (a) applicable bankruptcy, insolvency, reorganization, moratorium, and other Laws of general application affecting or relating to the enforcement of creditors' rights generally and (b) Laws relating to the availability of specific performance and/or other equitable remedies.

5.4 Non-contravention. Neither the execution and delivery by Encore of this Agreement and the other agreements contemplated hereby to which Encore is to be a party, nor the consummation by Encore of the transactions contemplated hereby or thereby, will (a) violate any Law, Order or other restriction to which Encore is subject, (b) violate or conflict with any provision of the Certificate of Formation or limited liability company agreement of Encore or (c) violate or conflict with in any material respect, result in a material breach of, constitute a material default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any authorization, consent, approval, execution or other action by or notice to any third party under any Contract or any Security Interest to which Encore is a party or by which it is bound or to which any of its assets are subject.

5.5 Governmental Consent. Encore is not required to make any declaration to or registration or filing with, or to obtain any permit, license, consent, accreditation, exemption, approval or authorization from, any governmental or regulatory authority in connection with the execution and delivery by Encore of this Agreement and the other agreements contemplated hereby to which Encore is to be a party or the consummation by Encore of the transactions contemplated hereby or thereby.

5.6 Brokers' Fees. Encore has no Liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which any Seller could become liable or obligated.

5.7 Industry Experience. Encore's Affiliates, on behalf of Encore, are experienced in purchasing and collecting defaulted consumer receivables throughout the United States. Encore's Affiliates, on behalf of Encore, by reason of their managements' business or financial experience, have the capacity to protect Encore's own interests in connection with the transactions contemplated hereby. Encore's Affiliates, on behalf of Encore, have substantial experience in evaluating and investing in private placement transactions of securities so that they are capable of evaluating the merits and risks of Encore's purchase of the Purchased Securities and have the capacity to protect Encore's own interests. Encore is acquiring the Purchased Securities for its own account for investment only, and not with a view towards distribution. Encore understands that the Purchased Securities have not been and will not be registered under the Securities Act of 1933, as amended (the "*Securities Act*"), the Securities Exchange Act of 1934, as amended, or any state securities Law, and (ii) the Purchased Securities are being sold to Encore pursuant to an exemption from registration contained in the Securities Act based in part upon such Encore's representations contained in this Agreement.

ARTICLE 6
COVENANTS

6.1 Further Assurances. After the Closing, and without further consideration, each Seller covenants and agrees that it will execute and deliver to Encore such further instruments of transfer and assignment as Encore may reasonably request in order to more effectively convey and transfer the Purchased Securities to Encore (or its permitted assignee). Each Party covenants and agrees to execute any and all documents and to perform such other acts as may be necessary or expedient to further the purposes of this Agreement and the transactions contemplated hereby.

6.2 Confidential Information.

(a) Definition. "Confidential Information" means (i) the terms and conditions of this Agreement (including the consideration to be paid hereunder) and the course of dealing between the Parties hereunder (including any dispute between the Parties), and (ii) any trade secrets, know-how, technical data or proprietary information of any Acquired Company, including information relating to products, properties, services, processes, designs, formulas, developmental or experimental work, improvements, discoveries, plans for research or products, databases, computer programs, other original works of authorship, marketing and sales plans, business plans, proprietary lending strategies, budgets and financial information, prices and costs, customer lists, supplier lists, information regarding the skills and compensation of the employees and contractors of any Acquired Company and other non-public business information. The term "Confidential Information" includes all of the foregoing information, rights and materials, whether tangible or intangible, whether oral or in written, electronic or other form, in all stages of research and development, and whether now existing, or previously developed or created. "Confidential Information" does not include any information that is or becomes generally available to the public other than as a result, directly or indirectly, of a breach of this Section 6.2, or other legal or fiduciary obligation of confidentiality owing to Encore or any Acquired Company, by any Person that is subject to this Section 6.2.

(b) Covenant. Each Seller covenants and agrees that it will (and that it will cause each of its Affiliates, employees, agents and representatives to), at all times after the Effective Time, maintain the confidentiality of the Confidential Information, using procedures no

less rigorous than those used to protect and preserve the confidentiality of its own proprietary information and not, directly or indirectly: (i) use, disclose or permit any other Person to have access to any Confidential Information (except in the good faith performance of any employment or contractual obligations owed to any Acquired Company or, subject to Section 6.2(c), as required by applicable Law or legal process), (ii) sell, license or otherwise exploit any products or services that embody, in whole or in part, any Confidential Information or (iii) take any other action with respect to the Confidential Information that is inconsistent with the confidential and proprietary nature thereof.

(c) Compulsory Disclosure. If any Person that is subject to this Section 6.2 is requested or required to disclose any Confidential Information pursuant to a subpoena, court order or other similar process, such Person must provide notice to Encore of such request or requirement so that Encore may seek an appropriate protective order. In the event that no such protective order is issued and such Person is, in the opinion of its counsel, compelled to disclose such Confidential Information under pain of liability for contempt of court or other censure or penalty, such Person may disclose such Confidential Information in accordance with and for the limited purpose of compliance with such subpoena, court order or process, without liability under this Section 6.2.

(d) Termination of Prior Letter Agreement. Effective as of the Effective Time, that certain Amended and Restated Mutual Non-Disclosure Agreement, dated as of January 10, 2012, by and between Encore and Propel, shall terminate and be of no further force and effect.

6.3 Releases. Effective as of the Effective Time, and in consideration of the payment of the portion of the Purchase Price payable to each Seller at the Closing, each Seller (on behalf of itself and its respective Related Parties) hereby forever waives, releases and discharges each of the Acquired Companies and their respective directors, managers, officers, members, owners, present and former affiliated entities, principals, employees, licensees, predecessors, successors, assigns, agents, attorneys and affiliates (the "Released Parties") of and from any and all causes of actions, suits, debts, obligations, liabilities, proceedings, orders, damages, judgments, claims, rights, demands and remedies of any nature, whether known or unknown, foreseeable or unforeseeable, liquidated or unliquidated, or insured or uninsured that such Seller has, has ever had or may hereafter have against any of the Released Parties arising out of or relating to events occurring or circumstances existing on or before the Effective Time, including (a) the investment by such Seller in one or more of the Acquired Companies, (b) any actions or omissions to act by the Released Parties in connection with the ownership or operation of each Acquired Company's business, (c) the allocation of the Purchase Price among the Sellers and (d) pursuant to the terms of any Contract described in Section 2.6(b)(xviii); provided, however, that the foregoing shall not waive, release or discharge (i) any Released Party from any obligations set forth in this Agreement, or in any other Contract to be executed and delivered at the Closing pursuant to Section 2.6, to the extent such obligations are to be paid or performed after the Effective Time or (ii) any Acquired Company from any obligations of such Acquired Company to pay or provide to any Related Party of a Seller who is employed by an Acquired Company as of the Effective Time (A) the ordinary salary, wages and bonuses earned by such person during the Acquired Companies' current payroll period through and including the Effective Time and (B) benefits to which such person is entitled under the Company Employee Benefit Plans in which such person participates (to the extent relating to the period prior to the Effective Time), in each case excluding any change of control, severance, retention or transaction payments or any other one-time transaction bonuses or fees. No Seller shall be entitled to contribution from, subrogation to or recovery against any Acquired Company with respect to any liability of any Seller that may arise under or pursuant to this Agreement or any other agreements and documents executed in connection with or to be executed in connection with the transactions contemplated by this Agreement.

6.4 Employee Benefit Plans. Encore shall cause Encore Capital Group, Inc. to permit the employees of the Acquired Companies as of the Effective Time to participate in the Encore Capital Group, Inc. 401(k) Retirement Savings Plan, with service with the Acquired Companies deemed service with Encore Capital Group, Inc. for purposes of any length of service requirements, waiting periods and vesting periods. In addition, Encore shall cause Encore Capital Group, Inc. to permit John P. "Jack" Nelson and Fernando G. Peralta (employees of one or more of the Sellers immediately prior to the Effective Time who were substantially engaged in the conduct of the Business and who will be employed by Encore as of the Effective Time) to participate in the Encore Capital Group, Inc. 401(k) Retirement Savings Plan, with service with the Sellers in connection with the Business deemed service with Encore Capital Group, Inc. for purposes of any length of service requirements, waiting periods and vesting periods.

6.5 Cash Balance. As of the Closing, the Sellers shall cause the Acquired Companies to maintain a minimum amount of cash in each of their respective depositary accounts sufficient to cover all checks or other drafts issued prior to the Closing but that have not cleared as of the Closing.

ARTICLE 7
INDEMNIFICATION

7.1 Risk Allocation. The representations, warranties, covenants and agreements made herein are intended, among other things, to allocate among the Parties the risks inherent in the transactions contemplated by this Agreement. Accordingly, an Indemnified Party shall be entitled to the remedies prescribed in this Agreement by reason of any breach of any such representation, warranty, covenant or agreement regardless of whether such Indemnified Party (or any employee, representative or agent of such Indemnified Party) knew or had reason to know of such breach. The right to indemnification, reimbursement or other remedy based on such representations, warranties, covenants and agreements will not be affected by any investigation conducted with respect to, or any knowledge acquired (or capable of being acquired) about, the accuracy or inaccuracy of, or compliance with, any such representation, warranty, covenant or agreement. With respect to any claim for indemnification under this Article 7 relating to a breach of a representation or warranty that contains a materiality qualifier (including "in all material respects" and "Material Adverse Change"), such materiality qualifier will be disregarded for purposes of determining whether a breach of such representation and warranty has occurred and for purposes of determining the amount of the Losses arising out of such breach (other than the use of "Material Adverse Change" in the first sentence of Section 3.9 and "material" in Section 3.8(b), which shall not be disregarded).

7.2 Survival.

(a) Representations and Warranties. The representations and warranties of the Sellers and Encore set forth in this Agreement, and in any certificate or instrument delivered at the Closing, shall survive the execution and delivery of this Agreement and the Closing and continue in full force and effect thereafter until the two-year anniversary of the Effective Time, except that (i) the representations and warranties set forth in Section 3.12 (Receivables) and Section 3.16 (Legal Compliance; Permits) will survive until the three-year anniversary of the Effective Time, (ii) the representations and warranties set forth in Section 3.15 (Employee Benefits) and Section 3.18 (Taxes) will survive until thirty (30) days after the expiration of the statute of limitations applicable thereto and (iii) the representations and warranties set forth in Section 3.7 (Capitalization), Section 4.1 (Organization; Power and Authority), Section 4.2 (Authorization of Transaction), Section 4.3 (Due Execution; Enforceability) and Section 4.7 (Title to Securities) will survive indefinitely. No claim for indemnification pursuant to Section 7.3 or Section 7.4 based on the breach of a representation or warranty may be asserted after the date on which such representation or warranty expires, except to the extent that such claim is based on fraud in which case it may be asserted at any time prior to the expiration of the statute of limitations applicable thereto. A claim for indemnification pursuant to Section 7.3 or Section 7.4 based on the breach of a representation or warranty that is asserted prior to the date on which such representation or warranty expires may be maintained until such claim is finally resolved in accordance with this Article 7.

(b) Covenants. All covenants and agreements made by the Parties in this Agreement shall survive the execution and delivery of this Agreement and the Closing and continue in full force and effect thereafter for so long as such covenants remain executory in nature.

7.3 Indemnification by the Sellers. Subject to the limitations set forth in Section 7.6, from and after the Effective Time, the Sellers shall be obligated to indemnify, defend and hold harmless (including by reimbursement for Losses) Encore and its Affiliates (including the Acquired Companies) and their respective directors, managers, officers, employees and agents (collectively, the "Encore

Indemnitees") from and against the entirety of any Loss that any Encore Indemnitee may suffer that results from, arises out of, relates to, is in the nature of, or is caused by, any one or more of the following:

(a) any breach or inaccuracy of any representation or warranty contained in Article 3 or in any certificate or instrument delivered at the Closing by or on behalf of the Sellers (or any allegation by a third party that, if true, would constitute such a breach or inaccuracy);

(b) any breach or inaccuracy of any representation or warranty contained in Article 4 (or any allegation by a third party that, if true, would constitute such a breach or inaccuracy);

(c) any breach or non-performance by any Seller of any covenant, agreement or undertaking contained in this Agreement;

(d) any claim by or through any member, owner, manager, officer or employee (or former member, owner, officer or employee) of any Acquired Company or any predecessor entity (including Sam Feldman) for any payment (or alleged payment) arising out of, relating to or resulting from this Agreement, the consummation of the Purchase Transaction or the other transactions contemplated by this Agreement, including any claim for any change in control, transaction bonus, severance payment or any entitlement to the Purchase Price (or any portion thereof or interest therein), based on any obligation or liability arising or existing prior to the Effective Time;

(e) the existence, ownership, operation, dissolution, business, assets or liabilities of Tax Lien Processing, LLC, a Texas limited liability company, Propel Insurance, LLC, a Texas limited liability company or Mineral Financial Services, LLC;

(f) the Arizona Tax Liens, including the amount, if any, by which the aggregate amount realized upon the redemption, foreclosure, liquidation or other disposition of any Arizona Tax Lien that is owned by an Acquired Company at the Effective Time, if any, is less than the portion of the Arizona Lien Price attributable to such Arizona Tax Lien (after giving effect to all Losses incurred in connection with the exercise of remedies in respect thereof, including foreclosure Proceedings, and other costs and expenses of such redemption, foreclosure, liquidation or other disposition);

(g) any violation of Section 351.151 or Section 351.162 of the Texas Finance Code with respect to the Acquired Companies' place of business located in Cameron County, Texas;

(h) any liability or obligation of BNC to pay any amount in respect of the ReTax Funding Obligation, after giving effect to the "ReTax Closing Payment" paid by Encore pursuant to Section 2.3(b)(ii);

(i) that certain Servicing Agreement, dated June 11, 2010, by and between Propel and Hayman Capital Master Fund, L.P. or that certain Tax Lien Purchase Agreement, dated May 4, 2012, by and between Propel and Hayman Capital Master Fund, L.P., or the transactions contemplated by either of such Contracts;

(j) any Proceeding disclosed or required to be disclosed in Section 3.17 of the Disclosure Schedule;

(k) any Tax audit disclosed or required to be disclosed in Section 3.18(b) of the Disclosure Schedule; and

(l) any and all Taxes imposed on, or pertaining or attributable to any of the Acquired Companies with respect to any Pre-Closing Tax Period and any and all Taxes allocated

to a Pre-Closing Tax Period pursuant to the terms of Section 8.2 and Section 8.3 that have not been paid prior to the Effective Time; provided that the amount of any payment due under this Section 7.3(k) shall be reduced by the specific amount of any such Tax set forth as a current liability on the Reconciliation Statement that has become final and binding pursuant to Section 2.4.

With respect to Section 7.3(f), after the Effective Time, Encore will cause Propel to exercise commercially reasonable efforts to collect the amounts due to Propel pursuant to the Arizona Tax Liens. At the request of the Seller Representative (which may not be made more frequently than once during each period of three (3) consecutive months), Encore will inform the Seller Representative of outstanding balances due on the collections of the Arizona Tax Liens. To the extent that the Sellers indemnify the Encore Indemnitees for any Losses pursuant to Section 7.3(f) in connection with the redemption, foreclosure, liquidation or other disposition of any Arizona Tax Lien, Encore will cause Propel to assign to the Seller Representative all of Propel's rights in respect of such Arizona Tax Lien, without recourse.

With respect to Section 7.3(j), Encore will grant a designee of the Seller Representative a power of attorney on IRS Form 2848 for purposes of resolving such disclosed Tax audit; provided, Sellers shall be liable for paying any amounts that may be due to the IRS at the conclusion of the audit and Sellers will be entitled to any refunds owing to the taxpayer affected by such Tax audit.

7.4 Indemnification by Encore. From and after the Effective Time, Encore shall be obligated to indemnify, defend and hold harmless (including by reimbursement for Losses) each Seller and its Affiliates and their respective directors, officers, employees and agents (collectively, the "Seller Indemnitees") from and against the entirety of any Loss that any Seller Indemnitee may suffer that results from, arises out of, relates to, is in the nature of, or is caused by, any one or more of the following:

(a) any breach or inaccuracy of any representation or warranty contained in Article 5 or in any certificate or instrument delivered at the Closing by or on behalf of Encore (or any allegation by a third party that, if true, would constitute such a breach or inaccuracy);

(b) any breach or non-performance by Encore of any covenant, agreement or undertaking contained in this Agreement; and

(c) any matter arising out of the operation of the Business after the Effective Time.

7.5 Matters Involving Third Parties.

(a) Notice. If any third party (including any Taxing Authority) shall make or assert a claim against any party entitled to indemnification hereunder (the "Indemnified Party") with respect to any matter that may give rise to a claim for indemnification against a party required to provide indemnification under this Article 7 (the "Indemnifying Party"), then the Indemnified Party shall notify each Indemnifying Party thereof promptly; provided, however, that no delay on the part of the Indemnified Party in notifying any Indemnifying Party shall relieve the Indemnifying Party from any liability or obligation under this Agreement unless (and then solely to the extent) the Indemnifying Party is damaged or prejudiced thereby.

(b) Defense and Settlement of Claims. In the case of any such claim pursuant to which only the recovery of a sum of money is being sought and the Indemnifying Party enters into an agreement with the Indemnified Party (in form and substance reasonably satisfactory to the Indemnified Party) pursuant to which the Indemnifying Party agrees to be fully responsible (with no reservation of any rights other than the right to be subrogated to the rights of the Indemnified Party) for all Losses relating to such claim, the Indemnifying Party may, by

giving written notice to the Indemnified Party, assume the defense thereof. In such case, (i) the Indemnifying Party will defend the Indemnified Party against such matter with counsel of its choice reasonably satisfactory to the Indemnified Party, subject to approval of an insurance company providing coverage for the Losses, if any, and (ii) the Indemnified Party may retain separate co-counsel at its sole cost and expense (except that the Indemnifying Party will be responsible for the fees and expenses of any separate counsel to the Indemnified Party incurred prior to the date upon which the Indemnifying Party effectively assumes control of such defense). In the event that the Indemnifying Party is not entitled to, or does not, assume control of the defense of a claim pursuant to the terms of this Section 7.5(b), the Indemnifying Party may retain separate co-counsel at its sole cost and expense to participate in such defense and, in any event, the Indemnified Party shall (A) provide the Indemnifying Party with all material information requested by such party relating to the defense of such claim, (B) confer with the Indemnifying Party as to the most cost-effective manner in which to defend such claim and (C) use its reasonable efforts to minimize the cost of defending such claim. The Indemnified Party will not consent to the entry of any judgment or enter into any settlement with respect to such matter without the written consent of the Indemnifying Party (not to be withheld unreasonably), and the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to such matter without the written consent of the Indemnified Party (not to be withheld unreasonably). Notwithstanding the foregoing, if an Indemnified Party determines in good faith that there is a reasonable probability that a claim may adversely affect it or its Affiliates other than as a result of monetary damages for which it would be entitled to indemnification under this Agreement, the Indemnified Party may, by notice to the Indemnifying Party, assume the exclusive right to defend, compromise or settle such claim, but the Indemnifying Party will not be bound by any determination of any claim so defended for the purposes of this Agreement or any compromise or settlement effected without its consent (which may not be unreasonably withheld).

7.6 Limitations on Liability.

(a) Basket.

(i) The Encore Indemnitees shall not be entitled to indemnification under Section 7.3(a) or Section 7.3(b) unless the aggregate amount of all Losses for which indemnification under Section 7.3(a) and Section 7.3(b) is sought by the Encore Indemnitees, collectively, exceeds $500,000 (the "Threshold Amount"), at which time the Encore Indemnitees shall be entitled to indemnification for all such Losses to the first dollar without reduction by the Threshold Amount; provided, however, that the limitation set forth in this Section 7.6(a)(i) shall not be applicable to any Losses resulting from either (A) fraud or (B) any breach or inaccuracy (or any allegation by a third party that, if true, would constitute a breach or inaccuracy) of the representations and warranties set forth in Section 3.7 (Capitalization), Section 3.12 (Receivables), Section 3.15 (Employee Benefits), Section 3.16 (Legal Compliance; Permits), Section 3.18 (Taxes) or Section 4.7 (Title to Securities).

(ii) The Seller Indemnitees shall not be entitled to indemnification under Section 7.4(a) unless the aggregate amount of all Losses for which indemnification under Section 7.4(a) is sought by the Seller Indemnitees, collectively, exceeds the Threshold Amount, at which time the Seller Indemnitees shall be entitled to indemnification for all such Losses to the first dollar without reduction by the Threshold Amount; provided, however, that

the limitation set forth in this Section 7.6(a)(ii) shall not be applicable to any Losses resulting from fraud.

(b) Cap. The aggregate liability of the Sellers to the Encore Indemnitees pursuant to Section 7.3(a) and Section 7.3(b) shall not exceed $10,000,000 (and the liability of each Seller to the Encore Indemnitees pursuant to Section 7.3(a) and Section 7.3(b) shall not exceed an amount equal to $10,000,000 multiplied by such Seller's Percentage Interest) and the aggregate liability of Encore to the Seller Indemnitees pursuant to Section 7.4(a) shall not exceed $10,000,000; provided, however, that the limitations set forth in this Section 7.6 (b) shall not be applicable to any Losses resulting from either (i) fraud or (ii) any breach or inaccuracy (or any allegation by a third party that, if true, would constitute a breach or inaccuracy) of the representations and warranties set forth in Section 3.7 (Capitalization), Section 3.12 (Receivables), Section 3.15 (Employee Benefits), Section 3.16 (Legal Compliance; Permits), Section 3.18 (Taxes) or Section 4.7 (Title to Securities).

(c) Limited Liability of the Sellers. Notwithstanding anything to the contrary in this Agreement, a Seller shall not be liable to the Encore Indemnitees for:

(i) any Losses that any Encore Indemnitee may suffer as a result of any matter described in Section 7.3(b) or Section 7.3(c) to the extent that such matter relates to (A) the breach or inaccuracy of the representations and warranties made by or on behalf of any Seller other than such Seller or (B) the breach or non-performance by any Seller other than such Seller of any covenant, agreement or undertaking contained in this Agreement; or

(ii) the portion of any Losses that any Encore Indemnitee may suffer as a result of any matter described in Section 7.3(a), Section 7.3(d), Section 7.3(e), Section 7.3(f), Section 7.3(g), Section 7.3(h), Section 7.3(i), Section 7.3(j) or Section 7.3(k) that are in excess of the amount of such Losses multiplied by (A) with respect to any such Losses (or any portion thereof) that are clearly attributable solely to Propel and/or BNC, on the one hand, or solely to RPV and/or RPH, on the other hand, such Seller's ownership beneficial interest in such Acquired Companies as provided in Table 7.6(c)(ii)(A) below, or (B) with respect to all other such Losses (or any portion thereof), such Seller's Percentage Interest.

Table 7.6(c)(ii)(A)

	Acquired Companies	
Sellers	Propel and/or BNC	RPV or RPH
McCombs	90.01%	45%
JHBC	9.99%	5%
TTL	0%	50%

(d) Disclaimer of Special Damages. Each Party waives any rights to assert or receive any indirect, consequential, special, exemplary or punitive damages suffered or incurred by such Party as a result of the breach by another Party of any of its representations, warranties or obligations hereunder. For purposes of the foregoing, actual damages may, however, include indirect, consequential, special, exemplary or punitive damages to the extent that (a) the injuries or losses resulting in or giving rise to such damages are incurred or suffered

by a third party that is not an Indemnified Party or an Affiliate of any Indemnified Party and (b) such damages are required to be paid by an Indemnified Party to a third party.

7.7 Procedures for Assertion of Claims.

(a) Claim Certificate. In connection with any claim (including any Tax claim) for reimbursement of Losses subject to indemnification under this Article 7, including any Losses attributable to matters subject to Section 7.5 that are not paid by an Indemnifying Party directly to third parties, the Party seeking reimbursement (the "Claimant") shall prepare, and deliver to the party from which reimbursement is sought (the "Respondent"), a certificate (a "Claim Certificate"): (i) stating that the Claimant has paid or sustained Losses subject to indemnification pursuant to this Article 7 and (ii) specifying in reasonable detail the Loss included in the amount so stated.

(b) Resolution of Claims. As soon as practicable following the delivery of a Claim Certificate, the Seller Representative and Encore shall attempt to agree upon the rights of the respective parties with respect to each claim set forth therein. If the Seller Representative and Encore should so agree, a written memorandum setting forth such agreement shall be prepared and signed by the Seller Representative and Encore, and a copy of such memorandum shall be delivered to the Claimant and the Respondent. Such memorandum and the agreements contained therein shall be final and binding on the Seller Representative, Encore, the Claimant, the Respondent and all other Persons having any interest therein.

(c) Failure to Resolve Objections. If the Seller Representative and Encore cannot agree upon the rights of the respective parties with respect to each of the claims in a Claim Certificate within thirty (30) days after delivery of the Claim Certificate (as such period may be extended only by mutual written agreement of the Seller Representative and Encore, by giving notice thereof to the Claimant and the Respondent), the Claimant may pursue any and all legal remedies that may be available to it.

(d) Entitlement to Indemnity. The Claimant shall be entitled to receive payment for all amounts that the Respondent (i) has agreed in writing to pay, (ii) is obligated to pay pursuant to a written memorandum between the Seller Representative and Encore pursuant to Section 7.7(b) or (iii) has been found liable to pay pursuant to a final order of a court of competent jurisdiction.

(e) Payment of Claims. The Respondent shall pay all amounts to which a Claimant is entitled promptly upon demand of the Claimant by certified check or wire transfer of immediately available funds, as the Claimant may specify.

7.8 Recourse to Holdback. For so long as the Escrow Agreement is in full force and effect and to the extent that sufficient funds are held in the escrow account governed by the Escrow Agreement, an Encore Indemnitee shall make a claim first against the Holdback in accordance with the Escrow Agreement for reimbursement of any amount that an Encore Indemnitee is entitled to receive pursuant to Section 7.7(d), and only to the extent that such entitlement is not satisfied from the Holdback will such Encore Indemnitee be entitled to a direct payment pursuant to Section 7.7 (e).

7.9 Insurance. Effective as of the Effective Time, Encore will obtain an errors and omissions tail insurance policy with respect to the conduct of the Business by the Acquired Companies prior to the Effective Time (the "Tail Policy"). The Seller Representative (on behalf of the Sellers), within ten (10) Business Days after receiving from an Encore Indemnitee a notice of third party claim

given pursuant to Section 7.5(a) or a Claim Certificate given pursuant to Section 7.7(a), shall have the right to require Encore to make a claim under the Tail Policy with respect to the claim described in such notice of third party claim or Claim Certificate by providing to Encore (a) a notice of claim election under this Section 7.9 and (b) reimbursement of Encore, by wire transfer of immediately available funds, by the Seller Representative or the Sellers of the amount of the premium paid by Encore for the Tail Policy (the amount of which shall be disclosed by Encore to the Seller Representative at or prior to the Closing), unless such premium shall have been previously reimbursed to Encore in connection with a prior claim. Upon Encore's receipt of such notice of claim election and reimbursement, Encore shall make a claim under the Tail Policy with respect to the claim described in such notice of third party claim or Claim Certificate on a prompt basis in the manner required by the insurance carrier. Encore shall diligently pursue each claim so made under the Tail Policy and the Sellers and Encore shall each use all commercially reasonable efforts to cooperate with one another and the insurance carrier in the prosecution of each such claim. In the event that Encore receives insurance proceeds under the Tail Policy with respect to Losses for which an Encore Indemnitee has made an indemnification claim prior to the date on which the Sellers are required pursuant to this Article 7 to pay such indemnification claim, the indemnification claim shall be reduced by an amount equal to such insurance proceeds actually received by Encore (after giving effect to any applicable deductibles), less all reasonable out-of-pocket costs incurred by Encore in obtaining such insurance proceeds. If such insurance proceeds are received by Encore after the date on which the Sellers paid the Encore Indemnitee for an indemnification claim, Encore shall, no later than ten (10) days after the receipt of such insurance proceeds, reimburse the Sellers in an amount equal to such insurance proceeds actually received by Encore (after giving effect to any applicable deductibles), less all reasonable out-of-pocket costs incurred by Encore in obtaining such insurance proceeds, but in no event in an amount greater than the Losses paid to the Encore Indemnitee by the Sellers.

7.10 Exclusive Remedy. Except for claims for specific performance of the terms of this Agreement or claims based upon fraud, the indemnification provisions set forth in this Article 7 will be the sole and exclusive remedy of the Indemnified Parties with respect to any and all claims from and after the Effective Time relating to the subject matter of this Agreement.

ARTICLE 8
TAX MATTERS

8.1 Income Tax Treatment of the Purchase Transaction. In accordance with Situation 2 of Rev. Rul. 99-6, 1999-1 C.B. 432, the Parties agree to treat the purchase of the Purchased Securities from the Sellers by Encore for U.S. federal income Tax purposes (and for all applicable foreign, state and local income Tax purposes to the extent permitted thereunder) in the following manner: (a) with respect to the Sellers, as if the Sellers sold their respective partnership interests in each of Propel, BNC, RPV and RPH to Encore and (b) with respect to Encore, as if each Acquired Company distributed all of its assets (subject to its liabilities) to the Sellers in liquidation of their respective partnership interests in the Acquired Companies, immediately followed by the purchase by Encore from each Seller of the undivided interests in the assets of each Acquired Company deemed distributed to such Seller (subject to such Seller's share of each such Acquired Company's liabilities).

8.2 Preparation of Tax Returns.

(a) In General. Except as otherwise provided in Section 8.2(b), and with respect to each Tax Return covering either (i) a Tax period or year commencing at or before and ending after the Effective Time (each, a "Straddle Period") or (ii) a Tax period ending at or before the Effective Time or a portion of any Straddle Period that ends at and includes the Effective Time (each, a "Pre-Closing Tax Period") that, in any such case, is required to be filed for, by, on behalf of or with respect to any Acquired Company after the Effective Time, Encore (A) shall

prepare or cause to be prepared each such Tax Return and (B) shall determine the portion of the Taxes shown as due on such Tax Return that is allocable to a Pre-Closing Tax Period and the portion of the Taxes shown as due on such Tax Return that is allocable to the Tax period (or portion thereof) beginning after the Effective Time (each, a "Post-Closing Tax Period"), which determination shall be set forth in a statement ("Statement") prepared by Encore. Encore shall deliver a copy of such Tax Return and the Statement related thereto (including related work papers) to the Seller Representative for its review and approval (such approval not to be unreasonably withheld, conditioned or delayed) sufficiently in advance of the due date (including any extensions thereof) for filing such Tax Return to provide the Seller Representative with a meaningful opportunity to analyze and comment on such Tax Return and have such Tax Return modified before the filing of such Tax Return. Notwithstanding the foregoing, the form and substance of such Tax Return will be determined in the sole discretion of Encore. With respect to each Tax Return described in this Section 8.2(a) and in Section 8.2(b), Encore and each Seller, as applicable, will join in the execution and filing of such Tax Return and other documentation as required by applicable Law.

(b) Pre-Closing Income Tax Returns. Notwithstanding the foregoing provisions of Section 8.2(a), the Seller Representative shall cause to be timely prepared in a manner consistent with past practice, applicable Law and this Agreement all Tax Returns for income Taxes with respect to the Acquired Companies for all taxable periods ending at or before the Effective Time that are due after the Effective Time, including for those jurisdictions and Taxing Authorities that permit or require a short period Tax Return for income Taxes for the period ending at and including the Effective Time (including an IRS Form 1065, U.S. Return of Partnership Income, for each of Propel, BNC, RPV and RPH covering the taxable period beginning on January 1, 2012, and ending at and including the Effective Time. The Sellers shall bear the costs of the preparation of all such Tax Returns. The Seller Representative shall provide Encore with copies of completed drafts of each such Tax Return at least forty-five (45) days prior to the due date (including extensions) for filing thereof, along with supporting workpapers, for Encore's review and approval. Within twenty-five (25) days of such delivery, Encore shall deliver to the Seller Representative a written statement describing any objections to such Tax Return. If the Seller Representative and Encore are unable to resolve any such objection within the twenty (20) day period after the delivery of such objections, such Tax Return shall be filed as prepared by the Seller Representative, as adjusted to the extent necessary to reflect the resolution of any such objections mutually agreed to by the Seller Representative and Encore, and any remaining objections shall be submitted to the Independent Accounting Firm for resolution in accordance with the procedures set forth in Section 2.4(d) and, if necessary to reflect such resolution, the Parties shall cause such Tax Return to be amended and filed with the appropriate Taxing Authority.

8.3 Straddle Period Allocation. Except as otherwise provided in the next sentence, in the case of any Straddle Period, the amount of any Taxes allocable to the Pre-Closing Tax Period portion of such Straddle Period shall be determined based on an interim closing of the books as of the close of business at the Effective Time. In the case of any liability for any real or personal property Taxes attributable to a Straddle Period, the total amount of such Taxes allocable to the Pre-Closing Tax Period of such Straddle Period shall be the product of (a) such Tax for the entirety of such Straddle Period, multiplied by (b) a fraction, the numerator of which is the number of days for such Straddle Period included in the Pre-Closing Tax Period and the denominator of which is the total number of days in such Straddle Period, and the balance of such Taxes shall be allocable to the Post-Closing Tax Period.

8.4 Transfer Taxes. All documentary, sales, use, registration and other transfer Taxes (including all applicable real estate transfer or securities transfer Taxes) and fees incurred in connection with the Purchase Transaction or this Agreement shall be paid by the Sellers.

8.5 Cooperation on Tax Matters. The Parties shall cooperate fully, as and to the extent reasonably requested by any other Party, in connection with the filing of Tax Returns, and in connection with any audit or Proceeding, including making employees available on a mutually convenient basis in connection therewith. Upon request by Encore, the Sellers shall deliver to Encore originals or copies of all books and records within the Sellers' control with respect to Tax matters pertinent to the Acquired Companies relating to any Pre-Closing Tax Period. The Parties agree to use their reasonable best efforts to obtain any certificate or other document from any Taxing Authority or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed on any Party as a result of the consummation of the transactions contemplated by this Agreement.

8.6 Conflict. In the event of a conflict between the provisions of this Article 8 and any other provision of this Agreement, the provisions of this Article 8 shall control.

8.7 Survival; Exclusivity. Notwithstanding any provision of this Agreement to the contrary, each Party's representations, warranties, covenants, agreements, rights and obligations with respect to any Tax or Tax matter covered by this Agreement shall survive the Closing and shall not terminate until thirty (30) days after the expiration of all statutes of limitations (including any and all extensions thereof) applicable to such Tax (or the assessment thereof) or Tax matter.

8.8 Tax Treatment of Indemnity Payments. The Parties agree to treat any indemnity payment made pursuant to this Agreement as an adjustment to the Purchase Price for federal, state, local and foreign income Tax purposes.

8.9 Termination of Tax Sharing Agreements. The Sellers shall cause any and all Tax sharing or allocation agreements, intercompany agreements or other agreements or arrangements between or among one or more of the Acquired Companies and any one or more other Persons relating to any Tax matters to be terminated with respect to each of the Acquired Companies as of the Effective Time, and from and after the Effective Time, the Acquired Companies shall not be bound thereby or have any liability thereunder for any taxable period (whether past, current or future taxable periods).

ARTICLE 9
SELLER REPRESENTATIVE

9.1 Appointment and Powers. Each of the Sellers hereby appoints Steven L. Cummings as such Seller's attorney-in-fact (in such capacity, the "Seller Representative"), with full power and authority, including power of substitution, acting in the name of and for and on behalf of such Seller to:

(a) calculate the Estimated Purchase Price, verify the Reconciled Purchase Price and resolve any disputes with Encore pursuant to Section 2.4(d) with respect thereto;

(b) pursue, defend and settle any indemnification claims, whether made by or against the Sellers, pursuant to Article 7, and to do all other things and to take all other actions after the Closing that the Seller Representative may consider necessary or appropriate to resolve any such indemnification claims;

(c) authorize the Escrow Agent to release all or any portion of the Holdback to Encore Indemnitees in satisfaction of (i) any post-Closing adjustment to the Purchase Price pursuant to Section 2.4(e) or (ii) any indemnification claims made by such Encore Indemnitees;

(d) establish a bank account in the name of the Seller Representative (as representative of the Sellers), at such bank as may be designated by the Seller Representative, and to receive and disburse from such account any payments of Purchase Price to which the Sellers may be entitled pursuant to this Agreement, including (i) the Estimated Closing Purchase Price and (ii) any release of Holdback (or any portion thereof) to the Seller Representative (for the benefit of the Sellers) pursuant to the Escrow Agreement;

(e) resolve any other dispute with Encore over any aspect of this Agreement, including demanding and/or participating in arbitration proceedings with respect to such disputes and complying with any Orders issued in connection therewith;

(f) give and receive notices and communications that are required to be given, or that may be given, pursuant to this Agreement;

(g) negotiate, agree to and enter into any agreement (including settlements and releases), on behalf of the Sellers, to effectuate any of the foregoing, which agreements shall have the effect of binding such Sellers as if such Sellers had personally entered into such agreements; and

(h) do all other things and take all other actions under or related to this Agreement that the Seller Representative may consider necessary or appropriate in the judgment of the Seller Representative to accomplish the foregoing or for the accomplishment of any other action required by the terms of this Agreement (including actions related to Taxes and Tax matters provided for in Section 2.5 and Article 8) and to otherwise effectuate the transactions contemplated by this Agreement.

This appointment and power of attorney shall be deemed coupled with an interest and all authority conferred hereby shall be irrevocable and shall not be subject to termination by operation of law, whether by the death or incapacity or liquidation or dissolution of any Seller or the occurrence of any other event or events, and the Seller Representative may not terminate this power of attorney with respect to any Seller or such Seller's successors or assigns without the consent of Encore. No bond shall be required of the Seller Representative, and the Seller Representative shall receive no compensation for its services pursuant to this Agreement. Notices or communications to or from the Seller Representative shall constitute notice to or from each Seller.

9.2 Reliance. The Seller Representative may rely on and shall be protected in relying on or refraining from acting on any instrument reasonably believed to be genuine and to have been signed or presented by the proper party or parties. The Seller Representative shall not be liable for other parties' forgeries, fraud or false representations.

9.3 Professionals; Limitation of Liability. The Seller Representative shall be authorized to engage, and to rely upon the advice and opinions of, legal counsel, accountants or other administrative or professional advisors as the Seller Representative may deem advisable to carry out its duties under this Agreement. The Seller Representative shall not be liable for any act done or omitted hereunder as the Seller Representative while acting in good faith and in the exercise of reasonable judgment, and any act done or omitted pursuant to the advice of legal counsel, accountants or other administrative or professional advisors shall be conclusive evidence of such good faith. Each Seller

agrees to hold the Seller Representative harmless from any loss, damage, liability or expense (including fees and disbursements of legal counsel, accountants and other professional advisors) that such Seller may sustain as a result of any action taken in good faith by the Seller Representative in connection with the administration of its duties under this Agreement or in connection with any dispute arising between the Sellers and Encore under this Agreement.

9.4 Reimbursement of Expenses; Indemnity for Losses. Each Seller hereby agrees to reimburse the Seller Representative for such Seller's pro-rata share (based on the Sellers' relative Percentage Interests) of any out-of-pocket administrative fees, costs and expenses (including fees and disbursements of legal counsel, accountants and other professional advisors) reasonably incurred by the Seller Representative in connection with the administration of its duties under this Agreement. Each Seller also hereby agrees to indemnify and hold harmless the Seller Representative from and against such Seller's pro-rata share (based on the Sellers' relative Percentage Interests) of any other loss, damage, liability or expense (including fees and disbursements of legal counsel, accountants and other professional advisors) that the Seller Representative may sustain as a result of any action taken by the Seller Representative without gross negligence, willful misconduct or bad faith in connection with the administration of its duties under this Agreement or in connection with any dispute arising between the Sellers and Encore under this Agreement.

ARTICLE 10
MISCELLANEOUS

10.1 Public Disclosure. Encore shall have editorial and timing control over the issuance of any press release or other public statement (including any announcement to employees of the Acquired Companies) regarding the terms of this Agreement and the Purchase Transaction, provided that Encore will provide the Seller Representative with a copy of any proposed disclosure of the material terms of this Agreement, and a reasonable opportunity to comment on such disclosure, prior to the issuance of such disclosure to the public.

10.2 No Third-Party Beneficiaries. This Agreement (other than Article 7 to the extent it confers rights upon the Encore Indemnitees and Seller Indemnitees) shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

10.3 Entire Agreement. This Agreement (including the documents referred to herein) constitutes the entire agreement among the Parties and supersedes any prior understandings, agreements, or representations by or among the Parties, written or oral (including that certain letter agreement, dated February 28, 2012, by and among Encore Capital Group, Inc., Propel, BNC and RPV), that may have related in any way to the subject matter hereof.

10.4 Succession and Assignment. This Agreement and all of the provisions hereof shall be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations of any Party under this Agreement may be assigned or delegated, in whole or in part, by operation of law or otherwise, by any Party without the prior written consent of each other Party, and any such assignment without such prior written consent shall be null and void; provided, however, that Encore may, without the consent of any other Party, assign this Agreement to any wholly owned subsidiary of Encore, provided that such assignee assumes the obligations of Encore hereunder and that Encore remains liable for its obligations hereunder.

10.5 Notices. All notices, requests, demands, claims, and other communications hereunder will be in writing. Any notice, request, demand, claim, or other communication hereunder

shall be deemed duly given (a) when delivered, if personally delivered, (b) when receipt is confirmed by non-electronic means, if faxed (with hard copy to follow via first class mail, postage prepaid, or overnight courier), or (c) on the next Business Day after deposit with a reputable overnight courier, in each case addressed to the intended recipient as set forth below:

If to Encore:

Propel Acquisition LLC
c/o Encore Capital Group, Inc.
3111 Camino Del Rio North, Suite 1300
San Diego, California 92108
Attention: Chief Financial Officer
Telephone: (858) 309-6904
Facsimile: (858) 309-6977

With a copy to (which shall not constitute notice):

Encore Capital Group, Inc.
3111 Camino Del Rio North, Suite 1300
San Diego, California 92108
Attention: Director, Legal Affairs and Contracts
Telephone: (858) 560-3586
Facsimile: (858) 309-6998

and

Fulbright & Jaworski L.L.P.
300 Convent Street, Suite 2100
San Antonio, Texas 78205-3792
Attention: Daryl L. Lansdale, Jr.
Telephone: (210) 224-5575
Facsimile: (210) 270-7205

If to any Seller:

Steven L. Cummings, as Seller Representative
755 E. Mulberry, Suite 600
San Antonio, Texas 78212
Telephone: (210) 821-6523
Facsimile: (210) 821-5860

With a copy to (which shall not constitute notice):

Kreager Law Firm
7373 Broadway, Suite 500
San Antonio, Texas 78209
Attention: Mike Kreager
Telephone: (210) 829-7722
Facsimile: (210) 821-6672

10.6 Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

10.7 Governing Law. This Agreement shall be governed by and construed in accordance with the domestic Laws of the State of New York, without giving effect to any choice of law

or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of New York.

10.8 **WAIVER OF JURY TRIAL.**

(a) **WAIVER. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

(b) **CERTIFICATION. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (III) IT MAKES SUCH WAIVER VOLUNTARILY AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION.**

10.9 Amendments and Waivers. No amendment or waiver of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each Party. No waiver by any Party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

10.10 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If the final judgment of a court of competent jurisdiction declares that any term or provision hereof is invalid or unenforceable, the Parties agree that the court making the determination of invalidity or unenforceability shall have the power to reduce the scope, duration or area of the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified after the expiration of the time within which the judgment may be appealed.

10.11 Expenses. Each Party will bear its own expenses (including fees and disbursements of legal counsel, accountants, financial advisors and other professional advisors) incurred in connection with the preparation, negotiation, execution, delivery and performance of this Agreement (and each of the other agreements and instruments contemplated by or executed in connection with this Agreement) and the consummation of the transactions contemplated by this Agreement.

10.12 Construction. The Parties have jointly participated in the negotiation and drafting of this Agreement. In the event of an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumptions or burdens of proof shall arise favoring any Party by virtue of the authorship of any of the provisions of this Agreement.

The Parties intend that each representation, warranty, and covenant contained herein shall have independent significance. If any Party has breached any representation, warranty or covenant contained herein in any respect, the fact that there exists another representation, warranty or covenant relating to the same subject matter (regardless of the relative levels of specificity) that the Party has not breached shall not detract from or mitigate the fact that the Party is in breach of the first representation, warranty or covenant.

10.13 Incorporation of Exhibits and Schedules. The exhibits and schedules identified in this Agreement are incorporated herein by reference and made a part hereof.

10.14 Number and Gender. Each defined term used in this Agreement has a comparable meaning when used in its plural or singular form. Each gender-specific term used herein has a comparable meaning whether used in a masculine, feminine or gender-neutral form.

10.15 Remedies. Each of the Parties acknowledges and agrees that each other Party would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each of the Parties agrees that each other Party shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in any action instituted in any court of the United States or any state thereof having jurisdiction over the Parties and the matter, in addition to any other remedy to which it may be entitled, at law or in equity.

10.16 Offset Permitted. Encore shall have the right to set off against any of its obligations (or the obligations of any of its Affiliates) to make payment to any Seller, under this Agreement or otherwise, any amount owed to Encore (or to any of its Affiliates) by such Seller (or by any of its Affiliates) under this Agreement or otherwise.

10.17 Directly or Indirectly. Where any provision in this Agreement refers to action to be taken by any person or entity, or that such person or entity is prohibited from taking, such provision shall be applicable whether the action in question is taken directly or indirectly by such person or entity.

10.18 Including. As used in this Agreement, the word “including” shall be deemed to mean “including, without limitation” and, unless otherwise expressly provided, shall not limit the words or terms preceding such word.

10.19 Non-Business Days. If any time period for giving notice or taking action hereunder expires on a day that is not a Business Day, the time period shall automatically be extended to the Business Day immediately following such day. Any reference in this Agreement to a number of days other than Business Days shall be deemed to be reference to such number of calendar days.

10.20 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. This Agreement may be executed by facsimile, photo or electronic signature and such facsimile, photo or electronic signature shall constitute an original for all purposes.

* * * * *

{Remainder of Page Intentionally Left Blank;
Signature Pages to Follow}

IN WITNESS WHEREOF, the Parties hereto have executed this Securities Purchase Agreement as of the date first above written.

ENCORE:

PROPEL ACQUISITION LLC, a Delaware limited liability company

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President and Chief Executive Officer

THE SELLERS:

MCCOMBS FAMILY PARTNERS, LTD., a Texas limited partnership

By: McCombs Family Partners GP, L.L.C., its general partner

By: /s/ Steven L. Cummings
Name: Steven L. Cummings
Title: Secretary

JHBC HOLDINGS, LLC, a Texas limited liability company

By: /s/ John P. "Jack" Nelson
Name: John P. "Jack" Nelson
Title: Sole Member

TEXAS TAX LOANS, LLC, a Texas limited liability company d/b/a Rio Tax Loans

By: /s/ James W. Wingate
Name: James W. Wingate
Title: Manager

PARENT GUARANTEE

Encore Capital Group, Inc., a Delaware corporation (the "Guarantor"), hereby irrevocably and unconditionally guarantees to each of McCombs Family Partners, Ltd., a Texas limited partnership, JHBC Holdings, LLC, a Texas limited liability company, and Texas Tax Loans, LLC, a Texas limited liability company doing business as Rio Tax Loans (collectively, the "Beneficiaries"), the full payment and the punctual and faithful performance and observance of the representations, warranties, covenants, liabilities and obligations of Propel Acquisition LLC, a Delaware limited liability company and wholly owned subsidiary of the Guarantor ("Encore"), set forth in or arising under that certain Securities Purchase Agreement, dated as of May 8, 2012 (the "Purchase Agreement"), by and among Encore and the Beneficiaries (such representations, warranties, covenants, liabilities and obligations of Encore, collectively, the "Guaranteed Obligations"). **This Parent Guarantee is expressly limited to the Guaranteed Obligations.**

This Parent Guarantee shall become effective upon the execution hereof by the Guarantor and shall continue in full force and effect until the Guaranteed Obligations have been completely and indefeasibly paid and performed. This Parent Guarantee is a primary obligation of the Guarantor and is an absolute and unconditional guarantee of payment and performance that shall remain in full force and effect without respect to future changes in conditions. Each of the Beneficiaries shall have direct recourse against the Guarantor with respect to the Guaranteed Obligations. The obligations of the Guarantor hereunder are independent of the obligations of Encore, and the Guarantor agrees that a separate action may be brought against the Guarantor in respect of the Guaranteed Obligations. The Guarantor's liability hereunder shall be immediate and shall not be contingent upon the exercise or enforcement by any of the Beneficiaries of whatever remedies they may have against Encore under the Purchase Agreement. The Guarantor waives any defense arising by reason of any insolvency, dissolution or lack of power and authority of Encore.

This Parent Guarantee will be governed by and construed in accordance with the domestic laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New York. This Parent Guarantee constitutes the entire agreement among the Guarantor and the Beneficiaries and supersedes any prior understandings, agreements, or representations by or among the Guarantor and the Beneficiaries, written or oral (including that certain letter agreement, dated February 28, 2012, by and among the Guarantor, Propel Financial Services, LLC, BNC Retax, LLC and RioProp Ventures, LLC), that may have related in any way to the subject matter hereof. No amendment or waiver of any provision of this Parent Guarantee will be valid unless it is in writing and signed by the Guarantor and each Beneficiary.

GUARANTOR:

ENCORE CAPITAL GROUP, INC., a Delaware corporation

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President and Chief Executive Officer

{Guarantor's Signature Page to Securities Purchase Agreement}

SCHEDULE I

OWNERSHIP OF PURCHASED SECURITIES;
PERCENTAGE INTEREST

Table 1: Ownership of Purchased Securities

Seller	Propel Units	BNC Units	RPV Interest	RPH Interest
McCombs Family Partners, Ltd.	9,001	9,001	n/a	n/a
JHBC Holdings, LLC	999	999	n/a	n/a
Texas Tax Loans, LLC	0	0	50%	50%
TOTAL FOR ALL SELLERS	10,000	10,000	50%	50%

Table 2: Percentage Interest

Seller	Percentage Interest
McCombs Family Partners, Ltd.	76.98%
JHBC Holdings, LLC	8.54%
Texas Tax Loans, LLC	14.47%
TOTAL FOR ALL SELLERS	100.0%

{Schedule to Securities Purchase Agreement}

SCHEDULE II

NET NON-CASH WORKING CAPITAL

{Schedule to Securities Purchase Agreement}

SCHEDULE III

SPECIFIED INDEBTEDNESS

{Schedule to Securities Purchase Agreement}

SCHEDULE IV

RELATED PARTY COMPANY CONTRACTS
NOT TERMINATED AT CLOSING

{Schedule to Securities Purchase Agreement}

SCHEDULE V

ESTIMATED STATEMENT

{Schedule to Securities Purchase Agreement}

Exhibit A

Form of Escrow Agreement

{Exhibit Cover Page to Securities Purchase Agreement}

Exhibit B

Form of Assignment of Limited Liability Company Interests

{Exhibit Cover Page to Securities Purchase Agreement}

Exhibit C

Form of Seller Non-Competition Agreement

{Exhibit Cover Page to Securities Purchase Agreement}

Exhibit D-1

Form of Severance Letter

{Exhibit Cover Page to Securities Purchase Agreement}

Exhibit D-2

Form of Employee Confidentiality Agreement

{Exhibit Cover Page to Securities Purchase Agreement}

Exhibit E-1

Form of Contractor Agreement

{Exhibit Cover Page to Securities Purchase Agreement}

Exhibit E-2

Form of Contractor Confidentiality Agreement

{Exhibit Cover Page to Securities Purchase Agreement}

Exhibit F

Form of Transition Services Agreement

{Exhibit Cover Page to Securities Purchase Agreement}

Exhibit G

Form of Release
(Managers and Officers)

{Exhibit Cover Page to Securities Purchase Agreement}

Exhibit H

Form of Release
(ReTax Funding, LP)

{Exhibit Cover Page to Securities Purchase Agreement}

Exhibit I

Form of Lease Amendment

{Exhibit Cover Page to Securities Purchase Agreement}

(Back To Top)

Section 3: EX-4.1 (AMENDMENT NO. 1 TO AMENDED AND RESTATED SENIOR SECURED NOTE PURCHASE AGREEMENT)

Exhibit 4.1

EXECUTION VERSION

AMENDMENT NO. 1

Dated as of May 8, 2012

to

AMENDED AND RESTATED SENIOR SECURED NOTE PURCHASE AGREEMENT

Dated as of February 10, 2011

THIS AMENDMENT NO. 1 ("Amendment") is made as of May 8, 2012 by and among Encore Capital Group, Inc. (the "Company"), the undersigned holders of Notes (the "Noteholders") and, solely for purpose of Section 1 of this Amendment, SunTrust Bank ("SunTrust"), as, on and after the Amendment No. 1 Effective Date, collateral agent (the "Collateral Agent") under that certain Intercreditor Agreement, dated as of September 20, 2010, by and among the Noteholders and JPMorgan Chase Bank, N.A. ("JPMorgan"), as, prior to the Amendment No. 1 Effective Date, collateral agent and administrative agent thereunder and, for purpose of certain provisions thereof, the Company and the other Credit Parties (as amended, supplemented or otherwise modified from time to time, the "Intercreditor Agreement"). Reference is made to that certain Amended and Restated Senior Secured Note Purchase Agreement, dated as of February 10, 2011, between the Company, on the one hand, and the Purchasers named therein, on the other hand (as amended, supplemented or otherwise modified from time to time, the "Note Agreement"). Capitalized terms used herein and not otherwise defined herein shall have the respective meanings given to them in the Note Agreement.

WHEREAS, the Company has requested that the Noteholders agree to certain amendments with respect to the Note Agreement as provided in this Amendment, and SunTrust has requested that the Credit Parties, the Noteholders, and Sun Trust, as Collateral Agent, enter into Section 1 of this Amendment;

WHEREAS, the Noteholders party hereto have agreed to such amendments and to the terms of Section 1 of this Amendment on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company, the Noteholders party hereto, and SunTrust, in its capacity as Collateral Agent, have agreed to enter into this Amendment.

1. Appointment of Successor Collateral Agent.

(a) The Noteholders and Credit Parties having received the notice of resignation (as required in Section 18 of the Intercreditor Agreement, other than the requirement that such notice be made at least 30 days in advance of the resignation, which requirement is hereby waived by the Noteholders and the Credit Parties in this instance only) of JPMorgan as collateral agent (in such capacity, the "Former Agent") under the Intercreditor Agreement and other Transaction Documents, the Noteholders agree that, effective as of the date hereof, (a) JPMorgan has resigned as Collateral Agent

under the Intercreditor Agreement and other Transaction Documents, and (b) SunTrust hereby is appointed (and SunTrust accepts such appointment) as successor Collateral Agent under the Intercreditor Agreement and other Transaction Documents. In accordance with Section 18 of the Intercreditor Agreement, JPMorgan is discharged from its duties and obligations under the Intercreditor Agreement and the other Transaction Documents as Collateral Agent, provided that notwithstanding the effectiveness of such resignation, the provisions of the Intercreditor Agreement and similar provisions in the other Transaction Documents shall continue in effect for the benefit of JPMorgan in respect of any actions taken or omitted to be taken by it while it was acting as the Collateral Agent under the Intercreditor Agreement or the other Transaction Documents, as applicable. The Credit Parties hereby notify the Noteholders, and the Noteholders and Credit Parties acknowledge, for purposes of the Intercreditor Agreement, that JPMorgan has resigned as "Agent" (as defined in the Intercreditor Agreement) and SunTrust has accepted the appointment of successor "Agent" (as defined in the Intercreditor Agreement), effective as of the Effective Date (as defined below).

(b) (i) the Collateral Agent shall bear no responsibility for any actions taken or omitted to be taken by the Former Agent while JPMorgan served as Collateral Agent under the Intercreditor Agreement and the other Transaction Documents and (ii) each of the parties hereto authorizes (including without limitation to the extent contemplated under Section 9-509 of the Uniform Commercial Code of the State of New York (or any corollary provision of the uniform commercial code of any other state)) SunTrust, as Collateral Agent, to file any UCC assignments or amendments with respect to the UCC Financing Statements, mortgages, and other filings in respect of the Collateral as SunTrust deems necessary or desirable to evidence the Collateral Agent's succession as Collateral Agent under the Intercreditor Agreement and the other Transaction Documents and each party hereto agrees to execute any documentation reasonably necessary to evidence such succession.

(c) Without limiting the provisions of clause (b)(i) immediately above or any indemnification provisions set forth in the Intercreditor Agreement and the other Transaction Documents, each of the Noteholders and the Credit Parties agrees that SunTrust, in its capacity as Collateral Agent (and not in its capacity as Lender under the Credit Agreement), shall bear no responsibility or liability for any event, circumstance or condition existing on or prior to the date this Amendment becomes effective in accordance with Section 3 below (the "Effective Date"), including, without limitation, with respect to any of the Collateral, the Transaction Documents or the transactions contemplated thereby (the "Indemnified Events"). Furthermore, each Credit Party hereby agrees to indemnify and hold harmless SunTrust and each of its officers, directors, employees, agents, advisors and other representatives (each an "Indemnified Party") from and against (and will reimburse each Indemnified Party as the same are incurred for) any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever (including, without limitation, the reasonable fees, disbursements and other charges of counsel) that may at any time be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or by reason of (including, without limitation, in connection with any investigation, litigation or proceeding or preparation of a defense in connection therewith) any Indemnified Events except to the extent that they are determined in a final non-appealable judgment by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the party seeking indemnification. The agreements contained in this clause (c) shall survive the payment of the Secured Obligations and termination of the Transaction Documents.

(d) On and after the Effective Date, all items of collateral, including possessory collateral, held by the Former Agent for the benefit of the Secured Parties shall be deemed to be held by the Former Agent as agent and bailee for the benefit and on behalf of SunTrust, as Collateral Agent for the benefit of the Secured Parties, until such time as such possessory collateral has been delivered to SunTrust, as Collateral Agent. Notwithstanding anything herein to the contrary, the Company and each

other Credit Party which is a party hereto agrees that all of such Liens granted by any Credit Party pursuant to any Transaction Document shall in all respects be continuing and in effect and are hereby ratified and reaffirmed. Without limiting the generality of the foregoing, any reference to the Former Agent on any publicly filed document, to the extent such filing relates to the Liens in the Collateral assigned hereby and until such filing is modified to reflect the interests of SunTrust, as Collateral Agent, shall, with respect to such Liens and security interests, constitute a reference to the Former Agent as collateral representative of SunTrust, as Collateral Agent.

(e) It is acknowledged and agreed by each of the parties hereto that SunTrust, solely in succeeding to the position of Collateral Agent (exclusive of its capacity as a Lender under the Credit Agreement), (i) has undertaken no analysis of the Collateral Documents or the Collateral and (ii) has made no determination as to (x) the validity, enforceability, effectiveness or priority of any Liens granted or purported to be granted pursuant to the Collateral Documents or (y) the accuracy or sufficiency of the documents, filings, recordings and other actions taken to create, perfect or maintain the existence, perfection or priority of the Liens granted or purported to be granted pursuant to the Collateral Documents. SunTrust shall be entitled to assume that, as of the date hereof, all Liens purported to be granted pursuant to the Collateral Documents are valid and perfected Liens having the priority intended by the Secured Parties. In addition, the Noteholders hereby agree that SunTrust shall have no liability for failing to have any of the Collateral Documents or other Transaction Documents assigned to the Collateral Agent.

(f) Following the Effective Date, all notices required to be delivered to the Agent or Collateral Agent under the Intercreditor Agreement or any other Transaction Document shall be delivered to SunTrust at the following address:

SunTrust Bank
3333 Peachtree Road
Atlanta, Georgia 30326
Attn: Peter Wesemeier
Facsimile: (404) 439-7390

With a copy to:

Sun Trust Bank
Agency Services
303 Peachtree Street, 25th floor
Atlanta, Georgia 30308
Attn: Doug Weltz
Facsimile: (404) 495-2170

2. Amendments to Note Agreement. Effective as of the Effective Date, the Note Agreement and, in the case of clause (a) below, each other Transaction Document, is amended as follows:

(a) The Note Agreement and each other Transaction Document are amended to remove all reference to JPMorgan Chase Bank N.A. as "Collateral Agent" and replace each such reference with a reference to SunTrust Bank.

(b) Section 9.2 of the Note Agreement is hereby amended and restated in its entirety as follows:

"The Company will, and will cause each Subsidiary to, carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is conducted on the Amendment No. 1 Effective Date (and after giving effect to the Propel Acquisition) and do all things necessary to remain duly incorporated or organized, validly existing and (to the extent such concept applies to such entity) in good standing as a domestic corporation, partnership or limited liability company in its jurisdiction of incorporation or organization, as the case may be, as in effect on the Closing Date, and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted, except (i) as permitted by Section 10.2, and (ii) except to the extent that the failure to maintain any of the foregoing could not reasonably be expected to have a Material Adverse Effect."

(c) Section 9.7 of the Note Agreement is hereby amended to amend and restate the first sentence thereof in its entirety as follows:

"The Company shall cause each of its Subsidiaries (other than the Excluded Subsidiaries and (so long as any Propel Indebtedness is outstanding, or commitments therefor are in effect) each member of the Propel Group) to guarantee pursuant to the Multiparty Guaranty or supplement or counterpart thereto (or, in the case of a Foreign Subsidiary, any other guarantee agreement requested by the Required Holders) the obligations of the Company evidenced by the Notes and under the other Transaction Documents."

(d) Section 10.4 of the Note Agreement is hereby amended to add the following proviso immediately prior to the semi-colon in clause 10.4.5:

"provided further that in the case of any investments in any member of the Propel Group, such investment shall be permitted only to the extent that, after giving effect to such investment, (i) no Default shall exist and be continuing and (ii) the Company shall be in compliance with Sections 10.12 and 10.13 on a pro-forma basis as if the investment occurred on the first day of the applicable period being tested pursuant to such Sections"

(e) Section 10.4 of the Note Agreement is hereby further amended to delete the "and" immediately following the semicolon in clause 10.4.8, to delete the period in clause 10.4.9 and replace such period with "; and", and to add the following new clause 10.4.10 immediately following clause 10.4.9 thereof:

"the Propel Acquisition, provided that the acquisition consideration therefor does not in the aggregate exceed $195,000,000."

(f) Section 10.5 of the Note Agreement is hereby amended by amending and restating clause 10.5.5 thereof in its entirety, as follows:

"Indebtedness arising from intercompany loans and advances (i) made by any Subsidiary to any Credit Party; provided that the Company agrees that all such Indebtedness owed to any member of the Propel Group by any Credit Party shall be expressly subordinated to the Secured Obligations pursuant to subordination provisions reasonably acceptable to the Required Holders, (ii) made by the Company to any other Credit Party; provided that the Company agrees that all such Indebtedness shall be expressly subordinated to the Secured Obligations pursuant to subordination provisions reasonably acceptable to the Required

Holders, (iii) made by the Company or any Subsidiary to any Subsidiary solely for the purpose of facilitating, in the ordinary course of business consistent with past practice as of the Closing Date (and excluding, for the avoidance of doubt, any business relating to the acquisition of receivables owed by a Person subject to bankruptcy or similar proceedings), the payment of fees and expenses in connection with collection actions or proceedings or (iv) made by the Company or any other Credit Party to any member of the Propel Group to the extent such loan would be permitted as an investment in compliance with the final proviso of Section 10.4.5;"

(g) Section 10.5 of the Note Agreement is hereby further amended to delete the "and" immediately following the semicolon in clause 10.5.14, to delete the period in clause 10.5.15 and replace such period with "; and", and to add the following new clause 10.5.16 immediately following clause 10.5.15 thereof:

"the Propel Indebtedness, provided that the aggregate principal amount thereof does not exceed $190,000,000, and the unsecured guaranty obligations of the Company of such Propel Indebtedness."

(h) Section 10.6 of the Note Agreement is hereby amended to delete the "and" immediately following the semicolon in clause 10.6.13, to delete the period in clause 10.6.14 and replace such period with "; and", and to add the following clause 10.6.15 immediately following clause 10.6.14 thereof:

"Liens on the assets of any member of the Propel Group securing the Propel Indebtedness."

(i) Section 10.9 of the Note Agreement is hereby amended and restated in its entirety as follows:

"The Company will not, nor will it permit any Credit Party or any member of the Propel Group to, create or otherwise cause to become effective any consensual encumbrance or restriction of any kind on the ability of any Credit Party or member of the Propel Group (i) to pay dividends or make any other distribution on its stock, (ii) to pay any Indebtedness or other obligation owed to the Company or any other Subsidiary, (iii) to make loans or advances or other Investments in the Company or any other Subsidiary, or (iv) to sell, transfer or otherwise convey any of its property to the Company or any other Subsidiary, other than (A) customary restrictions on transfers, business changes or similar matters relating to earn out obligations in connection with Permitted Acquisitions, and (B) as provided in this Agreement, the Credit Agreement and as required pursuant to the documents governing the Propel Indebtedness, but only to the extent relating to the collateral owned by any member of the Propel Group securing the Propel Indebtedness."

(j) Schedule B of the Note Agreement is amended to add the following definitions in their appropriate alphabetical order therein:

" "Amendment No. 1" means Amendment No. 1 dated as of May 8, 2012, to Amended and Restated Senior Secured Note Agreement dated as of February 10, 2011 by and among the Company, the Noteholders named therein, JPMorgan and SunTrust, as Collateral Agent and as Administrative Agent.

" "Amendment No. 1 Effective Date" means May 8, 2012."

" "Propel" means Propel Financial Services, LLC, a Texas limited liability company."

" "Propel Acquisition" means the acquisition by Propel Acquisition Co. of the Propel Group."

" "Propel Acquisition Co." means a Subsidiary of the Company that is a Delaware limited liability company formed for the purpose of acquiring the Propel Group."

" "Propel Group" means Propel and its Subsidiaries and each other entity acquired by Propel Acquisition Co. as part of the same transaction as the acquisition of Propel."

" "Propel Indebtedness" means the Indebtedness incurred by any member of the Propel Group in connection with the Propel Acquisition and the on-going financing of the operations and business of the Propel Group."

" "Propel Principal Collections" means the aggregate amount of collections of the Propel Group (but not constituting Amortized Collections) which are not included in the revenues of any member of the Propel Group by reason of the application of such collections to the principal of such receivables."

" "SunTrust" means SunTrust Bank, a Georgia banking corporation, in its individual capacity, and its successors."

(k) Schedule B of the Note Agreement is further amended to amend the definition of "Consolidated EBITDA" by restating clause (1) thereof to read as follows:

"to the extent not included in such revenue, Amortized Collections and Propel Principal Collections,".

(l) Schedule 10.4.1 of the Note Agreement is amended to amend and restate clause 2(a) thereof in its entirety as follows:

"All investments will be held in US Dollars (other than investments in currencies of countries wherein the Company or any of its Subsidiaries carries on business, in an aggregate US Dollar equivalent amount not to exceed $20,000,000 at any time)."

3. Conditions of Effectiveness. The effectiveness of this Amendment is subject to the conditions precedent that (a) the Noteholders shall have received (i) counterparts of this Amendment duly executed by the Company, the Required Holders and the Collateral Agent and the Consent and Reaffirmation attached hereto duly executed by the Guarantors, (ii) a fully executed copy of the credit agreement to be entered into by Propel on or about the date hereof, which shall be in form and substance reasonably satisfactory to the Required Holders, (iii) a fully executed copy of a corresponding amendment to the Credit Agreement together with a fully executed copy of the accompanying side letter signed by JPMorgan Chase Bank, N.A. and acknowledged by each of SunTrust Bank and the Company, and (iv) such other opinions, instruments and documents as are reasonably requested by the Noteholders and (b) the Company shall have paid, to the extent invoiced, all fees and expenses of the Noteholder (including attorneys' fees and expenses) in connection with this Amendment and the other Transaction Documents.

4. Representations and Warranties of the Company. The Company hereby represents and warrants as follows:

(a) This Amendment and the Note Agreement as amended hereby constitute legal, valid and binding obligations of the Company and are enforceable against the Company in accordance with their terms.

(b) As of the date hereof and giving effect to the terms of this Amendment, (i) there exists no Default or Event of Default and (ii) the representations and warranties contained in Section 5 of the Note Agreement, as amended hereby, are true and correct, except for representations and warranties made with reference solely to an earlier date, which are true and correct as of such earlier date.

5. Reference to and Effect on the Note Agreement.

(a) Upon the effectiveness hereof, each reference to the Note Agreement in the Note Agreement or any other Transaction Document shall mean and be a reference to the Note Agreement as amended hereby.

(b) Except as specifically amended above, the Note Agreement and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect and are hereby ratified and confirmed.

(c) Other than as expressly set forth herein, the execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Noteholders, nor constitute a waiver of any provision of the Note Agreement or any other documents, instruments and agreements executed and/or delivered in connection therewith.

6. Governing Law. This Amendment shall be governed by and construed in accordance with the internal laws of the State of New York, excluding choice-of-law principles of the law of such state that would permit the application of the laws of a jurisdiction other than such state.

7. Headings. Section headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose.

8. Counterparts. This Amendment may be executed by one or more of the parties hereto on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Signatures delivered by facsimile or PDF shall have the same force and effect as manual signatures delivered in person.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Amendment has been duly executed as of the day and year first above written.

ENCORE CAPITAL GROUP, INC.

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President & Chief Executive Officer

SUNTRUST BANK,
as Collateral Agent, solely for purpose of Section 1 of this Amendment

By: /s/ Peter Wesemeier
Name: Peter Wesemeier
Title: Vice President

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

By: /s/ Mitchell W. Reed
Title: Vice President

PRUCO LIFE INSURANCE COMPANY

By: /s/ Mitchell W. Reed
Title: Vice President

PRUDENTIAL RETIREMENT INSURANCE AND ANNUITY COMPANY

By: Prudential Investment Management, Inc.,
investment manager

By: /s/ Mitchell W. Reed
Title: Vice President

PRUDENTIAL ANNUITIES LIFE ASSURANCE CORPORATION

By: Prudential Investment Management, Inc.,
investment manager

By: /s/ Mitchell W. Reed
Title: Vice President

CONSENT AND REAFFIRMATION

Each of the undersigned hereby acknowledges receipt of a copy of the foregoing Amendment No. 1 to the Amended and Restated Senior Secured Note Agreement dated as of February 10, 2011 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Note Agreement") by and between Encore Capital Group, Inc. (the "Company") and the holders of Notes party thereto (the "Noteholders"), which Amendment No. 1 is dated as of May 8, 2012 (the "Amendment"). Capitalized terms used in this Consent and Reaffirmation and not defined herein shall have the meanings given to them in the Note Agreement. Without in any way establishing a course of dealing by any Noteholder, each of the undersigned agrees to be bound by its obligations under Section 1 of the Amendment and consents to the Amendment and reaffirms the terms and conditions of the Multiparty Guaranty, the Pledge and Security Agreement and any other Transaction Document executed by it and acknowledges and agrees that such agreement and each and every such Transaction Document executed by the undersigned in connection with the Note Agreement remains in full force and effect and is hereby reaffirmed, ratified and confirmed.

All references to the Note Agreement contained in the above-referenced documents shall be a reference to the Note Agreement as modified by the Amendment and as each of the same may from time to time hereafter be amended, modified or restated.

Dated: May 8, 2012

[Signature Page Follows]

MIDLAND CREDIT MANAGEMENT, INC.

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President & Chief Executive Officer

ASCENSION CAPITAL GROUP, INC.

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

MIDLAND PORTFOLIO SERVICES, INC.

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

MIDLAND FUNDING LLC

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

MIDLAND INDIA LLC

By: /s/ Glen Freter
Name: Glen Freter
Title: Treasurer

MIDLAND INTERNATIONAL LLC

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

MIDLAND FUNDING NCC-2 CORPORATION

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

MRC RECEIVABLES CORPORATION

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

Signature Page to Consent and Reaffirmation
Amendment No. 1
Encore Capital Group, Inc.
Amended and Restated Senior Secured Note Purchase Agreement dated as of February 10, 2011

(Back To Top)

Section 4: EX-10.2 (AMENDMENT NO. 5 TO CREDIT AGREEMENT)

Exhibit 10.2

EXECUTION COPY

AMENDMENT NO. 5

Dated as of May 8, 2012

to

CREDIT AGREEMENT

Dated as of February 8, 2010

THIS AMENDMENT NO. 5 ("Amendment") is made as of May 8, 2012 by and among Encore Capital Group, Inc. (the "Borrower"), the financial institutions listed on the signature pages hereof (the "Lenders") and SunTrust Bank ("SunTrust"), as, on and after the Amendment No. 5 Effective Date, collateral agent (the "Collateral Agent") and as administrative agent (the "Administrative Agent" and, together with the Collateral Agent, the "Agents") under that certain Credit Agreement dated as of February 8, 2010 by and among the Borrower, the Lenders and JPMorgan Chase Bank, N.A. ("JPMorgan"), as, prior to the Amendment No. 5 Effective Date, collateral agent and administrative agent (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"). Capitalized terms used herein and not otherwise defined herein shall have the respective meanings given to them in the Credit Agreement.

WHEREAS, the Borrower has requested that the Lenders and the Agents agree to certain amendments with respect to the Credit Agreement;

WHEREAS, the Lenders party hereto and the Agents have agreed to such amendments on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower, the Lenders party hereto and the Agents have agreed to enter into this Amendment.

1. Appointment of Successor Agents.

(a) The Lenders and Borrower having received the notice of resignation of JPMorgan as administrative agent and collateral agent (in each such capacity, a "Former Agent" and, together, the "Former Agents") under the Credit Agreement and other Loan Documents, the Lenders and the Borrower agree that, effective as of the date hereof, (a) JPMorgan has resigned as Administrative Agent and as Collateral Agent under the

Credit Agreement and other Loan Documents, and (b) SunTrust hereby is hereby appointed (and SunTrust accepts such appointment) as successor Administrative Agent and Collateral Agent under the Credit Agreement and other Loan Documents. In accordance with Section 10.12 of the Credit Agreement and Section 18 of the Intercreditor Agreement, JPMorgan is discharged from its duties and obligations under the Credit Agreement and under the other Loan Documents as Administrative Agent and Collateral Agent, provided that notwithstanding the effectiveness of such resignation, the provisions of the Intercreditor Agreement, of Article X of the Credit Agreement and similar provisions in the other Loan Documents shall continue in effect for the benefit of JPMorgan in

respect of any actions taken or omitted to be taken by it while it was acting as the Administrative Agent or Collateral Agent under the Intercreditor Agreement, the Collateral Agreement and under the other Loan Documents, as applicable.

(b) (i) the Agents shall bear no responsibility for any actions taken or omitted to be taken by the Former Agents while JPMorgan served as Administrative Agent and Collateral Agent under the Credit Agreement and the other Loan Documents and (ii) each of the parties hereto authorizes (including without limitation to the extent contemplated under Section 9-509 of the Uniform Commercial Code of the State of New York (or any corollary provision of the uniform commercial code of any other state)) SunTrust, as Collateral Agent, to file any UCC assignments or amendments with respect to the UCC Financing Statements, mortgages, and other filings in respect of the Collateral as SunTrust deems necessary or desirable to evidence the Agents' succession as Administrative Agent and Collateral Agent under the Credit Agreement and the other Loan Documents and each party hereto agrees to execute any documentation reasonably necessary to evidence such succession.

(c) Without limiting the provisions of clause (b)(i) immediately above or any indemnification provisions set forth in the Credit Agreement and the other Loan Documents, each of the Lenders and the Credit Parties agrees that SunTrust, in its capacity as Administrative Agent and Collateral Agent (and not in its capacity as Lender under the Credit Agreement), shall bear no responsibility or liability for any event, circumstance or condition existing on or prior to the date this Amendment becomes effective in accordance with Section 4 below (the "Effective Date"), including, without limitation, with respect to any of the Collateral, the Loan Documents or the transactions contemplated thereby (the "Indemnified Events"). Furthermore, each Credit Party hereby agrees to indemnify and hold harmless SunTrust and each of its officers, directors, employees, agents, advisors and other representatives (each an "Indemnified Party") from and against (and will reimburse each Indemnified Party as the same are incurred for) any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever (including, without limitation, the reasonable fees, disbursements and other charges of counsel) that may at any time be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or by reason of (including, without limitation, in connection with any investigation, litigation or proceeding or preparation of a defense in connection therewith) any Indemnified Events except to the extent that they are determined in a final non-appealable judgment by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the party seeking indemnification. The agreements contained in this clause (c) shall survive the payment of the Obligations and termination of the Loan Documents.

(d) On and after the Effective Date, all items of collateral, including possessory collateral held by either of the Former Agents for the benefit of the Secured Parties shall be deemed to be held by the Former Agents as agent and bailee for SunTrust, as Collateral Agent for the benefit of the Secured Parties, until such time as such possessory collateral has been delivered to SunTrust, as Collateral Agent. Notwithstanding anything herein to the contrary, the Borrower and each other Credit Party who is a party hereto agrees that all of such Liens granted by any Credit Party pursuant to any Loan Document shall in all respects be continuing and in effect and are hereby ratified and reaffirmed. Without limiting the generality of the foregoing, any reference to the Former Agents on any publicly filed document, to the extent such filing relates to the Liens in the Collateral assigned hereby and until such filing is modified to reflect the interests of SunTrust, as Collateral Agent, shall, with respect to such Liens and security interests, constitute a reference to the Former Agents as collateral representative of SunTrust, as Collateral Agent.

(e) It is acknowledged and agreed by each of the parties hereto that SunTrust, solely in succeeding to the positions of Administrative Agent and Collateral Agent (exclusive of its capacity as a

Lender under the Credit Agreement), (i) has undertaken no analysis of the Collateral Documents or the Collateral and (ii) has made no determination as to (x) the validity, enforceability, effectiveness or priority of any Liens granted or purported to be granted pursuant to the Collateral Documents or (y) the accuracy or sufficiency of the documents, filings, recordings and other actions taken to create, perfect or maintain the existence, perfection or priority of the Liens granted or purported to be granted pursuant to the Collateral Documents. SunTrust shall be entitled to assume that, as of the date hereof, all Liens purported to be granted pursuant to the Collateral Documents are valid and perfected Liens having the priority intended by the Secured Parties. In addition, the Lenders hereby agree that SunTrust shall have no liability for failing to have any of the Collateral Documents or other Loan Documents assigned to the Agents.

(f) Following the Effective Date, all notices required to be delivered to the Administrative Agent or the Collateral Agent under the Credit Agreement, the Intercreditor Agreement or any other Loan Document shall be delivered to SunTrust at the following address:

SunTrust Bank
3333 Peachtree Road
Atlanta, Georgia 30326
Attention: Peter Wesemeier
Facsimile: (404) 439-7390

With a copy to:

SunTrust Bank
Agency Services
303 Peachtree Street, 25th Floor
Atlanta, Georgia 30308
Attention: Doug Weltz
Facsimile: (404) 495-2170

2. Amendments to Credit Agreement. Effective as of the Effective Date, the Credit Agreement, and in the case of clause (a) below, each other Loan Document, is amended as follows:

(a) The Credit Agreement and each other Loan Document is amended to remove all reference to JPMorgan Chase Bank N.A. as "Administrative Agent", "Collateral Agent", "Agent" and Agents" and replace each such reference with a reference to SunTrust Bank. Additionally, all references to JPMorgan in the following definitions and Sections of the Credit Agreement shall be replaced with references to SunTrust: "Eurodollar Base Rate"; "LC Issuer"; "Prime Rate"; "Swing Line Lender"; Section 2.12; Section 2.20.11; and Section 9.6.

(b) Section 1.1 of the Credit Agreement is amended to add the following definitions in its appropriate alphabetical order therein:

" "Advance Rate" means, for the period commencing on the Amendment No. 5 Effective Date to the first Advance Rate Measurement Date thereafter, 33%, and, thereafter, for the period from (but not including) each Advance Rate Measurement Date to the immediately succeeding Advance Rate Measurement Date, the percentage obtained by subtracting from the Advance Rate in effect immediately prior to the first day of such period the difference (the "Cost Differential", and which may be a positive or negative number) between:

(a) the average "Cost Per Total Dollar Collected" percentage as shown on the Borrower's consolidated financial statements for the most recent four consecutive fiscal quarters (for which financial statements have been delivered in accordance with section 6.1.1 or 6.1.2) ending on or before such Advance Rate Measurement Date and

(b) the average "Cost Per Total Dollar Collected" percentage as shown on the Borrower's consolidated financial statements for the most recent four consecutive fiscal quarters (for which financial statements have been delivered in accordance with section 6.1.1 or 6.1.2) ending on or before the Advance Rate Measurement Date immediately preceding such Advance Rate Measurement Date,

provided that if the resulting Cost Differential includes a fractional amount, the fractional portion thereof (the "Carryover Fraction") shall be ignored when determining the Cost Differential on the applicable Advance Rate Measurement Date but shall be added (or subtracted, as applicable) to the Cost Differential obtained on the following Advance Rate Measurement Date (with any resulting fractional portion again being ignored and added (or subtracted, as applicable) subsequently); provided further that in no event shall the Advance Rate ever be lower than 30% or higher than 35%. The Borrower shall set forth in reasonable detail the calculations of the Advance Rate on the Borrowing Base Certificate when delivered in accordance with the terms of this Agreement."

" "Advance Rate Measurement Date" means each date on which the Borrower's financial statements required to be delivered pursuant to Section 6.1.1 and 6.1.2 have been delivered."

" "Amendment No. 5" means Amendment No. 5 dated as of May 8, 2012, to Credit Agreement dated as of February 8, 2010 by and among the Borrower, certain of the Lenders, and SunTrust, as Collateral Agent and as Administrative Agent.

" "Amendment No. 5 Effective Date" means May 8, 2012."

" "Propel" means Propel Financial Services, LLC, a Texas limited liability company."

" "Propel Acquisition" means the acquisition by Propel Acquisition Co. of the Propel Group."

" "Propel Acquisition Co." means a Subsidiary of the Borrower that is a Delaware limited liability company formed for the purpose of acquiring the Propel Group."

" "Propel Group" means Propel and its Subsidiaries and each other entity acquired by Propel Acquisition Co. as part of the same transaction as the acquisition of Propel."

" "Propel Indebtedness" means the Indebtedness incurred by any member of the Propel Group in connection with the Propel Acquisition and the on-going financing of the operations and business of the Propel Group."

" "Propel Principal Collections" means the aggregate amount of collections of the Propel Group (but not constituting Amortized Collections) which are not included in the revenues of any member of the Propel Group by reason of the application of such collections to the principal of such receivables."

" "SunTrust" means SunTrust Bank, a Georgia banking corporation, in its individual capacity, and its successors."

(c) Section 1.1 of the Credit Agreement is further amended to amend and restate the definitions of "Aggregate Revolving Loan Commitment" and "Borrowing Base" set forth therein in their entirety as follows:

" "Aggregate Revolving Loan Commitment" means the aggregate of the Revolving Loan Commitments of all the Lenders, as may be increased or reduced from time to time pursuant to the terms hereof. The Aggregate Revolving Loan Commitment as of the Amendment No. 5 Effective Date is Five Hundred Fifty-Five Million Five Hundred Thousand and 00/100 Dollars ($555,500,000)."

" "Borrowing Base" means, as of any date of calculation, an amount, as set forth on the most current Borrowing Base Certificate delivered to the Administrative Agent on or prior to such date, equal to (i) the lesser of (1) the Advance Rate of Estimated Remaining Collections (exclusive of any Receivables in any Receivables Portfolio that are not Eligible Receivables) as of the last day of the month for which such Borrowing Base Certificate was provided and (2) the product of the net book value of all Receivables Portfolios acquired by any Credit Party on or after January 1, 2005 multiplied by 95%, minus (ii) the aggregate principal amount outstanding in respect of the Prudential Senior Secured Notes."

(d) Section 1.1 of the Credit Agreement is further amended to amend the definition of "Consolidated EBITDA" by restating clause (1) thereof to read as follows:

"to the extent not included in such revenue, Amortized Collections and Propel Principal Collections,".

(e) Section 2.5.3 of the Credit Agreement is hereby amended to amend and restate the first sentence thereof in its entirety as follows:

"At any time, but not more than two (2) times during the period commencing on the Amendment No. 5 Effective Date and ending on the three-year anniversary of the Closing Date and not more than three (3) times during each successive one-year anniversary of the Closing Date, the Borrower may request that the Aggregate Revolving Loan Commitment be increased; *provided* that (A) the Aggregate Revolving Loan Commitment shall at no time exceed $655,500,000 *minus* the aggregate amount of all reductions in the Aggregate Revolving Loan Commitment previously made pursuant to Section 2.5.2; (B) such request shall be in an amount not less than $5,000,000; and (C) the aggregate amount of all such increases effected on or after the Amendment No. 5 Effective Date shall not exceed $100,000,000."

(f) Section 6.4 of the Credit Agreement is hereby amended and restated in its entirety as follows:

"The Borrower will, and will cause each Subsidiary to, carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is conducted on the Amendment No. 5 Effective Date (and after giving effect to the Propel Acquisition); provided that in no event shall any member of the Propel Group engage in any business such that it would acquire any material amount of Receivables to the extent such Receivables could be Eligible Receivables if held by a Credit Party) and do all things necessary to remain duly incorporated or organized, validly existing and (to the extent such concept applies to

such entity) in good standing as a domestic corporation, partnership or limited liability company in its jurisdiction of incorporation or organization, as the case may be, as in effect on the Closing Date, and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted, except (i) as permitted by Section 6.11 and (ii) except to the extent that the failure to maintain any of the foregoing could not reasonably be expected to have a Material Adverse Effect."

(g) Section 6.13 of the Credit Agreement is hereby amended by amending and restating clause 6.13.5 thereof in its entirety as follows:

"Creation of, or investment in, a Subsidiary and in respect of which the Borrower has otherwise complied with Sections 6.25 and 6.26; provided that the foregoing shall not permit investments the purpose of which is the acquisition of receivables owed by a Person subject to bankruptcy or similar proceedings; provided further that in the case of any investments in any member of the Propel Group, such investment shall be permitted only to the extent that after giving effect to such investment, no Default shall exist and continue and that the Borrower shall be in compliance with Sections 6.21 and 6.22 on a pro forma basis as if the investment occurred on the first day of the applicable period being tested pursuant to such Sections."

(h) Section 6.13 of the Credit Agreement is hereby amended to add the following clause 6.13.10 immediately following clause 6.13.9 thereof:

"The Propel Acquisition, *provided* that the acquisition consideration therefore does not in the aggregate exceed $195,000,000."

(i) Section 6.14 of the Credit Agreement is hereby amended by amending and restating clause 6.14.5 thereof in its entirety as follows:

"Indebtedness arising from intercompany loans and advances (i) made by any Subsidiary to any Credit Party; provided that the Borrower agrees that all such Indebtedness owed to any member of the Propel Group by any Credit Party shall be expressly subordinated to the Secured Obligations pursuant to subordination provisions reasonably acceptable to the Administrative Agent, (ii) made by the Borrower to any Credit Party; provided that the Borrower agrees that all such Indebtedness shall be expressly subordinated to the Secured Obligations pursuant to subordination provisions reasonably acceptable to the Administrative Agent, (iii) made by the Borrower or any Subsidiary to any other Subsidiary solely for the purpose of facilitating, in the ordinary course of business consistent with past practice, the payment of fees and expenses in connection with collection actions or proceedings or (iv) made by the Borrower or any other Credit Party to any member of the Propel Group to the extent such loan would be permitted as an investment in compliance with the final proviso of Section 6.13.5."

(j) Section 6.14 of the Credit Agreement is hereby further amended to add the following clause 6.14.16 immediately following clause 6.14.15 thereof:

"The Propel Indebtedness, provided that the aggregate principal amount thereof does not exceed $190,000,000 (exclusive of intercompany loans), and the unsecured guaranty obligations of the Borrower of such Propel Indebtedness."

(k) Section 6.15 of the Credit Agreement is hereby amended to add the following clause 6.15.15 immediately following clause 6.15.14 thereof:

"Liens on the assets of any member of the Propel Group securing the Propel Indebtedness."

(l) Section 6.18 of the Credit Agreement is hereby amended and restated in its entirety as follows:

"The Borrower will not, and will not permit any Credit Party or any member of the Propel Group to, create or otherwise cause to become effective any consensual encumbrance or restriction of any kind on the ability of any Credit Party or member of the Propel Group (i) to pay dividends or make any other distribution on its stock, (ii) to pay any Indebtedness or other obligation owed to the Borrower or any other Subsidiary, (iii) to make loans or advances or other Investments in the Borrower or any other Subsidiary, or (iv) to sell, transfer or otherwise convey any of its property to the Borrower or any other Subsidiary, other than (A) customary restrictions on transfers, business changes or similar matters relating to earn out obligations in connection with Permitted Acquisitions, (B) pursuant to the Existing Unsecured Notes and (C) as provided in this Agreement, the Prudential Senior Secured Note Agreement and as required pursuant to the documents governing the Propel Indebtedness, but only to the extent relating to the collateral owned by any member of the Propel Group securing the Propel Indebtedness."

(m) Section 6.25 of the Credit Agreement is hereby amended to amend and restate the first sentence thereof in its entirety as follows:

"The Borrower shall cause each of its Subsidiaries (other than the Excluded Subsidiaries and (so long as any Propel Indebtedness is outstanding, or commitments therefor are in effect) each member of the Propel Group) to guarantee pursuant to the Guaranty Agreement or supplement thereto (or, in the case of a Foreign Subsidiary, any other guarantee agreement requested by the Administrative Agent) the Secured Obligations."

(n) Section 10.12 of the Credit Agreement is hereby amended to amend and restate the first sentence thereof in its entirety as follows:

"The Administrative Agent (i) may resign at any time by giving written notice thereof to the Lenders and the Borrower and (ii), if the Administrative Agent, together with its Affiliates, holds less than 7.5% of the Aggregate Revolving Loan Commitment (or, if the Revolving Loan Commitments have been terminated, less than 7.5% of the Aggregate Outstanding Revolving Credit Exposure), the Required Lenders may require the Administrative Agent to resign, such resignation to be effective upon the appointment of a successor Administrative Agent or, if no successor Administrative Agent has been appointed, forty-five (45) days after the retiring Administrative Agent gives notice of its intention to resign or the Required Lenders have requested such resignation."

(o) Schedule 6.13.1 of the Credit Agreement is amended to amend and restate clause 2(a) thereof in its entirety as follows:

"All investments will be held in US Dollars (other than investments in currencies of countries wherein the Borrower or any of its Subsidiaries carries on business, in an aggregate amount not to exceed $20,000,000 at any time)."

(p) The Revolving Loan Commitments of certain of the Lenders (the "Increasing Lenders") are hereby increased as set forth in the Commitment Schedule on Annex A attached hereto. Certain financial institutions not party to the Credit Agreement prior to the date hereof are identified as

New Lenders on Annex A attached hereto (the "New Lenders"). Upon the effectiveness hereof and the execution hereof by each New Lender, such New Lender shall constitute a "Lender" for all purposes under the Loan Documents. Accordingly, the Commitment Schedule attached to the Credit Agreement is hereby amended and restated in its entirety in the form attached hereto as Annex A. The Borrower hereby agrees to compensate each Lender for any and all losses, costs and expenses incurred by such Lender in connection with the sale and assignment of any Eurodollar Loans and the reallocation described in Section 3 below (unless such compensation is waived by such Lender in its sole discretion), in each case on the terms and in the manner set forth in Section 3.4 of the Credit Agreement.

3. Reallocations. The Administrative Agent shall (and the Lenders party hereto authorize the Administrative Agent to) make such reallocations of the Aggregate Outstanding Revolving Credit Exposure under the Credit Agreement as are necessary in order that the Revolving Credit Exposure with respect to such Lender reflects such Lender's Revolving Loan Pro Rata Share of the Aggregate Outstanding Revolving Credit Exposure under the Credit Agreement as amended hereby.

4. Conditions of Effectiveness. The effectiveness of this Amendment is subject to the conditions precedent that (a) the Administrative Agent shall have received (i) counterparts of this Amendment duly executed by the Borrower, each Increasing Lender, each New Lender, the Required Lenders and the Agents and the Consent and Reaffirmation attached hereto duly executed by the Guarantors and (ii) such other opinions, instruments and documents as are reasonably requested by the Administrative Agent and the Collateral Agent and (b) the Borrower shall have paid, to the extent invoiced, all fees and expenses of the Administrative Agent and its affiliates (including attorneys' fees and expenses) in connection with this Amendment and the other Loan Documents.

5. Representations and Warranties of the Borrower. The Borrower hereby represents and warrants as follows:

(a) This Amendment and the Credit Agreement as amended hereby constitute legal, valid and binding obligations of the Borrower and are enforceable against the Borrower in accordance with their terms.

(b) As of the date hereof and giving effect to the terms of this Amendment, (i) there exists no Default or Unmatured Default and (ii) the representations and warranties contained in Article V of the Credit Agreement, as amended hereby, are true and correct, except for representations and warranties made with reference solely to an earlier date.

6. Reference to and Effect on the Credit Agreement.

(a) Upon the effectiveness hereof, each reference to the Credit Agreement in the Credit Agreement or any other Loan Document shall mean and be a reference to the Credit Agreement as amended hereby.

(b) Except as specifically amended above, the Credit Agreement and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect and are hereby ratified and confirmed.

(c) Other than as expressly set forth herein, the execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Administrative Agent or the Lenders, nor constitute a waiver of any provision of the Credit Agreement or any other documents, instruments and agreements executed and/or delivered in connection therewith.

7. Governing Law. This Amendment shall be governed by and construed in accordance with the internal laws of the State of New York, but giving effect to federal laws applicable to national banks.

8. Headings. Section headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose.

9. Counterparts. This Amendment may be executed by one or more of the parties hereto on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Signatures delivered by facsimile or PDF shall have the same force and effect as manual signatures delivered in person.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Amendment has been duly executed as of the day and year first above written.

ENCORE CAPITAL GROUP, INC.,
as the Borrower

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President & Chief Executive Officer

SUNTRUST BANK,
as Administrative Agent and as a Lender

By: /s/ Peter Wesemeier
Name: Peter Wesemeier
Title: Vice President

SUNTRUST BANK,
as Collateral Agent

By: /s/ Peter Wesemeier
Name: Peter Wesemeier
Title: Vice President

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

BANK OF AMERICA, N.A., as a Lender

By: /s/ Angel Sutoyo
Name: Angel Sutoyo
Title: Vice President

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

DEUTSCHE BANK TRUST COMPANY AMERICAS, as a Lender

By: /s/ Nir Vidra
Name: Nir Vidra
Title: Managing Director

By: /s/ Jay Steiner
Name: Jay Steiner
Title: Managing Director

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

ING CAPITAL LLC, as a Lender

By: /s/ Mary Forstner
Name: Mary Forstner
Title: Director

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

CALIFORNIA BANK & TRUST, as a Lender

By: /s/ Michael Powell
Name: Michael Powell
Title: Senior Vice President

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

FIFTH THIRD BANK, as a Lender

By: /s/ Gregory J. Vollmer
Name: Gregory J. Vollmer
Title: Vice President

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

MORGAN STANLEY BANK, N.A., as a Lender

By: /s/ Harry Comninellis
Name: Harry Comninellis
Title: Authorized Signatory

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

CITIBANK, N.A., as a Lender

By: /s/ Rita Raychaudhuri
Name: Rita Raychaudhuri
Title: Senior Vice President

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

ISRAEL DISCOUNT BANK OF NEW YORK, as a Lender

By: /s/ Kenneth Lipke
Name: Kenneth Lipke
Title: First Vice President

By: /s/ Roy Grossman
Name: Roy Grossman
Title: Senior Vice President

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

BANK LEUMI, USA, as a Lender

By: /s/ Anthony Verderame
Name: Anthony Verderame
Title: Vice President

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

COMPASS BANK, as a Lender

By: /s/ Mark Sunderland
Name: Mark Sunderland
Title: Senior Vice President

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

AMALGAMATED BANK, as a Lender

By: /s/ Jackson Eng
Name: Jackson Eng
Title: First Vice President, Credit Officer

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

BANK HAPOALIM B.M. as a Lender

By: /s/ Lee Stenner
Name: Lee Stenner
Title: Senior Vice President

By: /s/ Gustas Ziozis
Name: Gustas Ziozis
Title: Senior Vice President

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

FIRST BANK, as a Lender

By: /s/ Susan J. Pepping
Name: Susan J. Pepping
Title: Vice President

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

CATHAY BANK, CALIFORNIA BANKING CORPORATION, as a Lender

By: /s/ Shahid Kathrada
Name: Shahid Kathrada
Title: Vice President

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

UNION BANK, N.A., as a Lender

By: /s/ Edmund Ozorio
Name: Edmund Ozorio
Title: Vice President, Senior Credit Executive

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

MANUFACTURERS BANK, as a Lender

By: /s/ Sandy Lee
Name: Sandy Lee
Title: Vice President

Signature Page to Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

ANNEX A

COMMITMENT SCHEDULE

Lender	Amount of Revolving Loan Commitment
SunTrust Bank	$ 60,000,000
JPMorgan Chase Bank, N.A.	$ 55,000,000
Bank of America, N.A.	$ 55,000,000
Deutsche Bank Trust Company Americas	$ 50,000,000
ING Capital LLC	$ 45,000,000
California Bank & Trust	$ 40,000,000
Fifth Third Bank	$ 40,000,000
Morgan Stanley Bank, N.A.	$ 40,000,000
Citibank, N.A.	$ 33,000,000
Israel Discount Bank of New York	$ 25,000,000
Bank Leumi USA	$ 20,000,000
Compass Bank, successor in interest to Guaranty Bank	$ 20,000,000
Amalgamated Bank	$ 15,000,000
Bank Hapoalim[1]	$ 15,000,000
First Bank	$ 15,000,000
Cathay Bank, California Banking Corporation	$ 10,000,000
Union Bank, N.A.	$ 10,000,000
Manufacturers Bank	$ 7,500,000
TOTAL	**$555,500,000**

[1] New Lender

CONSENT AND REAFFIRMATION

Each of the undersigned hereby acknowledges receipt of a copy of the foregoing Amendment No. 5 to the Credit Agreement dated as of February 8, 2010 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement") by and among Encore Capital Group, Inc. (the "Borrower"), the financial institutions from time to time party thereto (the "Lenders") and SunTrust Bank., in its individual capacity as a Lender and in its capacities as contractual representative (the "Administrative Agent") and as collateral agent (the "Collateral Agent"), which Amendment No. 5 is dated as of May 8, 2012 (the "Amendment"). Capitalized terms used in this Consent and Reaffirmation and not defined herein shall have the meanings given to them in the Credit Agreement. Without in any way establishing a course of dealing by the Administrative Agent, the Collateral Agent or any Lender, each of the undersigned consents to the Amendment and reaffirms the terms and conditions of the Guaranty Agreement, the Pledge and Security Agreement and any other Loan Document executed by it and acknowledges and agrees that such agreement and each and every such Loan Document executed by the undersigned in connection with the Credit Agreement remains in full force and effect and is hereby reaffirmed, ratified and confirmed.

All references to the Credit Agreement contained in the above-referenced documents shall be a reference to the Credit Agreement as so modified by the Amendment and as each of the same may from time to time hereafter be amended, modified or restated.

Dated: May 8, 2012

[Signature Page Follows]

MIDLAND CREDIT MANAGEMENT, INC.

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President & Chief Executive Officer

ASCENSION CAPITAL GROUP, INC.

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

MIDLAND PORTFOLIO SERVICES, INC.

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

MIDLAND FUNDING LLC

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

MIDLAND INDIA LLC

By: /s/ Glen Freter
Name: Glen Freter
Title: Treasurer

MIDLAND INTERNATIONAL LLC

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

MIDLAND FUNDING NCC-2 CORPORATION

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

MRC RECEIVABLES CORPORATION

By: /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

Signature Page to Consent and Reaffirmation
Amendment No. 5
Encore Capital Group, Inc.
Credit Agreement dated as of February 8, 2010

(Back To Top)

Section 5: EX-10.3 (CREDIT FACILITY LOAN AGREEMENT)

Exhibit 10.3

CREDIT FACILITY LOAN AGREEMENT

among

TEXAS CAPITAL BANK, NATIONAL ASSOCIATION,
AS ADMINISTRATIVE AGENT,

CERTAIN BANKS

and

PROPEL FINANCIAL SERVICES, LLC

$160,000,000.00 REVOLVING LOAN

dated

May 8, 2012

TABLE OF CONTENTS

LIST OF SCHEDULES AND EXHIBITS

CREDIT FACILITY LOAN AGREEMENT

This Credit Facility Loan Agreement ("Agreement") is executed, made and entered into as of May 8, 2012, by and among PROPEL FINANCIAL SERVICES, LLC, a Texas limited liability company ("Borrower"), and TEXAS CAPITAL BANK, NATIONAL ASSOCIATION, a national banking association ("TCB"), AMEGY BANK NATIONAL ASSOCIATION, a national banking association ("Amegy"), BOKF, NATIONAL ASSOCIATION, a national banking association ("BOT"), CITY BANK, a Texas banking association ("City Bank"), LONE STAR NATIONAL BANK, a national banking association ("Lone Star"), and GREEN BANK, N.A., a national banking association ("Green Bank") (TCB, Amegy, BOT, City Bank, Lone Star and Green Bank each individually, a "Bank" and collectively, the "Banks"); and TEXAS CAPITAL BANK, NATIONAL ASSOCIATION, a national banking association, as Administrative Agent (in such capacity, "Agent").

RECITALS:

A. Borrower has requested that Banks extend credit to Borrower as described in this Agreement. Banks are willing to make such credit available to Borrower upon and subject to the provisions, terms and conditions hereinafter set forth.

B. Subject to and upon the terms and conditions of this Agreement, Banks have agreed to lend to Borrower the amounts herein described for the purposes set forth below.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises, the covenants, representations, warranties and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree as follows:

Article One

Certain Definitions

1.1 *Definitions*. As used in this Agreement, all exhibits and schedules hereto and in any note, certificate, report or other Loan Documents made or delivered pursuant to this Agreement, the following terms will have the meanings given such terms in Article One.

"Adjusted EBIDTA" means, for any Person and for any applicable period of determination thereof, an amount equal to (a) EBITDA minus (b) cash income taxes minus (c) the sum of distributions and dividends.

"Advance" means any disbursement of an amount or amounts to be loaned by a Bank to Borrower hereunder or the reborrowing of amounts previously loaned hereunder.

"Affiliate" means, as to any Person, any other Person (a) that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such Person, (b) that directly or indirectly beneficially owns or holds ten percent

(10%) or more of any class of voting stock of such Person, or (c) ten percent (10%) or more of the voting stock of which is directly or indirectly beneficially owned or held by the Person in question. The term "control" means the possession, directly or indirectly, of the power to direct or cause direction of the management and policies of a Person, whether through the ownership of voting securities, by control, or otherwise; provided, however, in no event shall Agent or Banks be deemed an Affiliate of Borrower.

"Agent" means Texas Capital Bank, National Association, a national banking association, in its capacity as Agent hereunder, or any successor Agent appointed pursuant to Section 11.9 hereof.

"Agent Letter Agreement" means that certain letter agreement executed by and between Borrower and Agent of even date herewith.

"Aggregate Advance" means, collectively, each set of Advances made by Banks to Borrower on the same date, bearing interest at the same rate, and having the same Interest Period.

"Agreement" means this Credit Facility Loan Agreement, as the same may, from time to time, be amended, supplemented, or replaced.

"Approved Purposes" means the costs to finance the purchase and/or origination of Notes Receivable and sums used to refinance existing debt made for such purpose.

"Article" and "Articles" have the meanings set forth in Section 1.5.

"Bank" or "Banks" means individually and collectively the financial institutions identified as such in the introductory paragraph hereof, and their successors and assigns.

"Borrower" means the Person identified as such in the introductory paragraph hereof, and its successors and assigns.

"Borrowing Base" means, at any time, ninety percent (90%) of the aggregate outstanding principal balance of the Notes Receivable.

"Borrowing Base Certificate" means, as of any date of preparation, a certificate setting forth the Borrowing Base (in substantially the form of Exhibit A attached hereto) prepared by and certified by the chief financial officer (or other representative acceptable to Agent) of Borrower.

"Borrowing Limit" means the lesser of the Borrowing Base or the Committed Sum.

"Business Day" means a day other than a Saturday, Sunday or a day on which commercial banks in Dallas, Texas, are authorized to be closed. Unless otherwise provided, the term "days" means calendar days.

"Capital Lease Obligation" means the amount of Debt under a lease of property by a Person that would be shown as a liability on a balance sheet of such Person prepared for financial reporting purposes in accordance with GAAP.

"Cash Flow Leverage Ratio" will be tested quarterly for pricing purposes and annually for compliance purposes.

(a) For pricing purposes, "Cash Flow Leverage Ratio" means, in respect of a Person and as of any date of computation (i) at the Closing Date, the ratio, calculated on an annualized quarter basis, of all Senior Funded Debt to the sum of Consolidated Adjusted EBITDA plus, to the extent not otherwise included in net income, collections on Note Receivables for principal repayment, as of March 31, 2012, (ii) for the quarter ending June 30, 2012, the ratio, calculated on an annualized quarter basis, of all Senior Funded Debt to the sum of Consolidated Adjusted EBITDA plus, to the extent not otherwise included in net income, collections on Note Receivables for principal repayment, for the two (2) previous quarters, (iii) for the quarter ending September 30, 2012, the ratio, calculated on an annualized quarter basis, of all Senior Funded Debt to the sum or Consolidated Adjusted EBITDA plus, to the extent not otherwise included in net income, collections on Note Receivables for principal repayment, for the previous three (3) quarters and (iv) for the quarter ending December 31, 2012, and thereafter, the ratio, calculated on a rolling four (4) quarter basis, of all Senior Funded Debt to the sum of Consolidated Adjusted EBITDA plus, to the extent not otherwise included in net income, collections on Note Receivables for principal repayment.

(b) For compliance purposes, "Cash Flow Leverage Ratio" means, in respect of a Person and as of any date of computation, the ratio, calculated annually, of all Senior Funded Debt to the sum of Consolidated Adjusted EBITDA plus, to the extent not otherwise included in net income, collections on Note Receivables for principal repayment,.

"Closing Date" means May 8, 2012.

"Code" means the Uniform Commercial Code of the State of Texas or other applicable jurisdiction as it may be amended from time to time.

"Collateral" means all property (regardless of owner) which secures, either directly or indirectly, the Indebtedness and the Obligations, including all of those assets and properties of Borrower and the other Credit Parties listed below, whether now owned or hereafter acquired, wherever located, howsoever arising or created, and whether now existing or hereafter arising, existing or created:

(i) All Notes Receivable in the actual or constructive possession of Agent or in the actual or constructive possession of a Credit Party in trust for Agent or in transit to or from Agent as collateral for the Indebtedness or designated by a Credit Party as collateral for the Indebtedness (whether or not delivered to Agent);

(ii) All present and future Accounts, Instruments, Documents, Chattel Paper, and General Intangibles, and other personal property now owned or hereafter acquired by a Credit Party arising from or by virtue of any transaction related to its business;

(iii) All books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records related thereto; and

(iv) All proceeds and products thereof, of whatever kind or nature from any of such collateral described in paragraphs (a)(i), (ii) and (iii) above.

As used herein, Accounts, Chattel Paper, Instruments, Documents, and General Intangibles shall have the respective meanings assigned to them in the Code.

"Commitment" means the obligation of a Bank to make Loans in an amount not to exceed its Specified Percentage of the aggregate Borrowing Limit in effect from time to time.

"Committed Sum" means, in the aggregate, the sum of $160,000,000.00, as the same may be increased or reduced in accordance with the terms of this Agreement.

"Compliance Certificate" means a certificate, substantially in the form of Exhibit B attached hereto, prepared by and executed by the chief financial officer (or other authorized representative acceptable to Agent) of Borrower.

"Consolidated" means in reference to any financial term herein or the determination thereof, such term determined on a consolidated basis for Borrower and the other Credit Parties in accordance with GAAP; provided, if at any time any of the Credit Parties (other than Borrower) is not a Subsidiary of Borrower, "Consolidated" shall mean, in respect of such non-Subsidiary Credit Party, such term determined on a combined basis in relation to the other Credit Parties.

"Credit Party" means Borrower and each Guarantor (other than Parent Guarantor).

"Current Financial Statements" means the financial statements of Borrower most recently submitted to Agent and dated March 31, 2012.

"Debt" means as to any Person at any time (without duplication), (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, notes, debentures, or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable of such Person arising in the ordinary course of business that are not past due by more than ninety (90) days, (d) all Capital Lease Obligations of such Person, (e) all debt or other obligations of others guaranteed by such Person; (f) all obligations secured by a Lien existing on property owned by such Person, whether or not the obligations secured thereby have been assumed by such Person or are non-recourse to the credit of such Person; (g) any other obligation for borrowed money or other financial accommodations which in accordance with GAAP would be shown as a liability on the balance sheet of such Person, (h) any repurchase obligation or liability of a Person with respect to accounts, chattel paper or notes receivable sold by such Person; (i) any liability under a sale and leaseback transaction that is not a Capital Lease Obligation, (j) any obligation arising with respect to any other transaction that is the functional equivalent of borrowing but which does not constitute a liability on the balance sheets of a Person, and (k) all reimbursement

obligations of such Person (whether contingent or otherwise) in respect of letters of credit, bankers' acceptances, surety or other bonds and similar instruments.

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

"EBITDA" means, for any Person for any period, an amount equal to (a) net income determined in accordance with GAAP, plus (b) the sum of the following to the extent deducted in the calculation of net income: (i) interest expense; (ii) income taxes; (iii) depreciation; (iv) amortization; (v) extraordinary losses determined in accordance with GAAP; and (vi) other non-recurring expenses of such Person reducing such net income which do not represent a cash item in such period or any future period, minus (c) the sum of the following to the extent included in the calculation of net income: (i) income tax credits of such Person; (ii) extraordinary gains determined in accordance with GAAP; and (iii) all non-recurring, non-cash items increasing net income.

"Environmental Laws" means any and all federal, state, and local laws, regulations, judicial decisions, orders, decrees, plans, rules, permits, licenses, and other governmental restrictions and requirements pertaining to health, safety, or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601, *et seq*., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq*., the Occupational Safety and Health Act, 29 U.S.C. § 651, *et seq*., the Clean Air Act, 42 U.S.C. § 7401 *et seq*., the Clean Water Act, 33 U.S.C. § 1251, *et seq*., and the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq*., as the same may be amended or supplemented from time to time.

"Environmental Liabilities" means, as to any Person, all liabilities, obligations, responsibilities, Remedial Actions, losses, damages, punitive damages, consequential damages, treble damages, costs, and expenses (including, without limitation, all reasonable fees, disbursements and expenses of counsel, expert and consulting fees and costs of investigation and feasibility studies), fines, penalties, sanctions, and interest incurred as a result of any claim or demand, by any Person, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute, including any Environmental Law, permit, order or agreement with any Governmental Authority or other Person, arising from environmental, health or safety conditions or the Release or threatened Release of a Hazardous Material into the environment, resulting from the past, present, or future operations of such Person or its Affiliates.

"Event of Default" has the meaning set forth in Article Nine and in any other provision hereof using the term.

"Existing Environmental Matters" has the meaning set forth in Section 5.13.

"Existing Litigation" has the meaning set forth in Section 5.5.

"Facility Fee" has the meaning set forth in Section 2.7.

"Facility Increase" has the meaning set forth in Section 2.16.

"Federal Funds Rate" means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such date on such transactions received by Agent from three federal funds brokers of recognized standing selected by it.

"Funding Indemnification" means the amount (which shall be payable on a Bank's written demand notwithstanding any contrary provision in this Agreement or in a Note) necessary to promptly compensate a Bank for, and hold it harmless from, any loss, cost or expense incurred by it as a result of:

(a) any payment or prepayment of any Advance bearing interest based upon LIBOR on a day other than the last day of the relevant LIBOR Interest Period (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise); or

(b) any failure by Borrower to prepay, borrow, continue or convert an Advance bearing or selected to bear interest based upon LIBOR on the date or in the amount selected by Borrower, 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 portion or from fees payable to terminate the deposits from which such funds were obtained. Borrower also shall pay any customary administrative fees charged by a Bank in connection with the foregoing. For purposes of calculation amounts payable by Borrower to a Bank hereunder, a Bank shall be deemed to have funded the Advance based upon LIBOR by a matching deposit or other borrowing in the London interbank market for a comparable amount and for a comparable period, whether or not such Advance was in fact so funded.

"GAAP" means generally accepted accounting principles, applied on a consistent basis, set forth in Opinions of the Accounting Principles Board of the American Institute of Certified Public Accountants and/or in statements of the Financial Accounting Standards Board which are applicable in the circumstances as of the date in question; and the requisite that such principles be applied on a consistent basis means that the accounting principles observed in a current period are comparable in all material respects to those applied in a preceding period, except to the extent that a deviation therefrom is expressly permitted by this Agreement.

"Guarantor" means each of (a) Parent Guarantor and (b) the entities listed on Annex A hereto, and each of their respective successors and assigns.

"Guaranty" means written guaranties of each of the Guarantors in favor of Agent, in form and substance satisfactory to Agent, as the same may be amended, modified, restated, renewed, replaced, extended, supplemented or otherwise changed from time to time.

"Hazardous Material" means any substance, product, waste, pollutant, material, chemical, contaminant, constituent, or other material which is or becomes listed, regulated, or

addressed under any Environmental Law, including, without limitation, asbestos, petroleum, and polychlorinated biphenyls.

"Inchoate Lien" means any Tax Lien for Taxes not yet due and payable and any mechanic's Lien and materialman's Lien for services or materials for which payment is not yet due.

"Increased Cost" shall have the meaning set forth in Section 2.11(b).

"Indebtedness" means all present and future indebtedness, obligations, and liabilities, including all direct and contingent obligations arising under letters of credit, banker's acceptances, bank guaranties and similar instruments, net obligations under any swap contract, overdrafts, Automated Clearing House obligations, and all other financial accommodations which could be considered a liability under GAAP, and all renewals, extensions, and modifications thereof, or any part thereof, now or hereafter owed to a Bank by Borrower, and all interest accruing thereon and costs, expenses, and reasonable attorneys' fees incurred in the enforcement or collection thereof, regardless of whether such indebtedness, obligation, and liabilities are direct, indirect, fixed, contingent, liquidated, unliquidated, joint, several, or joint and several, including, but not limited to, the indebtedness, obligations, and liabilities evidenced, secured, or arising pursuant to any of the Loan Documents and all renewals and extensions thereof, or any part thereof, and all present and future amendments thereto.

"Interest Coverage Ratio" means, in respect of a Person and as of the last day of any calendar quarter (a) for calendar quarter ending June 30, 2012, and September 30, 2012, the ratio, computed on a cumulative quarter year-to-date basis, of (i) Consolidated Adjusted EBITDA for the period commencing on January 1, 2012 and ending on such dates to (y) Consolidated interest expense for the period commencing on January 1, 2012 and ending on such dates or (b) for calendar quarter ending December 31, 2012, and thereafter, the ratio, computed on a rolling four (4) quarter basis, of (x) Consolidated Adjusted EBITDA for the preceding four (4) quarters to (y) Consolidated interest expense for the preceding four (4) quarters.

"Interest Period" means (a) with respect to any LIBOR Advance, the period beginning on the date the Advance is made or continued as a LIBOR Advance, and ending one, two, or three months thereafter for any such Advance and (b) with respect to any Prime Rate Advance, the period beginning on the date the Advance is made or continued as a Prime Rate Advance, and continuing daily thereafter.

"Investments" has the meaning set forth in Section 7.6.

"Laws" means all statutes, laws, ordinances, regulations, orders, writs, injunctions, or decrees of the United States, any city or municipality, state, commonwealth, nation, country, territory, possession, or any Tribunal.

"Liabilities" means, at any particular time, all amounts which in conformity with GAAP, would be included as liabilities on a balance sheet of a Person.

"LIBOR Advance" means an Advance bearing interest at the LIBOR Rate.

"LIBOR Interest Payment Date" means, for any LIBOR Advance, the last day of its Interest Period and, if such Advance has an Interest Period longer than three months, the day that occurs three months after the first day of its Interest Period.

"LIBOR Margin" means the rate, determined on a quarterly basis, of (i) three and three-quarters percent (3.75%) if the Cash Flow Leverage Ratio is greater than or equal to 3.25, (ii) three and one-half percent (3.50%) if the Cash Flow Leverage Ratio is greater than or equal to 2.75 but less than 3.25, (iii) three and one-quarter percent (3.25%) if the Cash Flow Leverage Ratio is greater than or equal to 2.25 but less than 2.75 and (iv) three percent (3.00%) if the Cash Flow Leverage Ratio is less than 2.25 (in each case the Cash Flow Leverage Ratio shall be calculated as of the last day of the most recently ended quarter for which the Compliance Certificate has been delivered).

"LIBOR Rate" means a per annum rate equal to the LIBOR Margin plus the rate determined pursuant to the following formula:

$$\frac{\text{London Interbank Rate}}{100\% - \text{LIBOR Reserve Percentage}}$$

The amount of interest on a LIBOR Rate basis will be computed on the basis of a 360-day year (calculated on the basis of actual days elapsed).

"LIBOR Reserve Percentage" means the reserve requirement, if any, including any supplemental and emergency reserves (expressed as a percentage), applicable to member banks of the Federal Reserve System in respect of "eurocurrency liabilities" under Regulation D of the Board of Governors of the Federal Reserve System, or any substituted or amended reserve requirement hereafter applicable to member banks of the Federal Reserve System.

"Lien" means any lien, security interest, Tax lien, mechanic's lien, materialman's lien, or other encumbrance, whether arising by contract or under Law.

"Litigation" means any proceeding, claim, lawsuit, and/or investigation conducted or threatened by or before any Tribunal, including, but not limited to, proceedings, claims, lawsuits, and/or investigations under or pursuant to any environmental, occupational safety and health, antitrust, unfair competition, securities, Tax, or other Law, or under or pursuant to any agreement, document, or instrument.

"Loan Documents" mean this Agreement, the Notes, the Guaranty, the Security Agreement, and any and all other agreements, documents, and instruments executed and delivered pursuant to the terms of this Agreement, and any future amendments hereto, or restatements hereof, or pursuant to the terms of any of the other loan documents, together with any and all renewals, extensions, and restatements of, and amendments and modifications to, any such agreements, documents, and instruments.

"Loan Rate" means (a) in the case of a Prime Rate Advance, the Prime Rate, as it may vary from day to day and (b) in the case of a LIBOR Advance, the LIBOR Rate.

"Loan" and "Loans" mean the Revolving Loan made pursuant to this Agreement.

"London Interbank Market" means the buying and selling of dollar deposits payable by financial institutions located in London between Agent and other financial institutions in the ordinary course of Agent's business.

"London Interbank Rate" means, for a LIBOR Rate borrowing and for the relevant Interest Period, the annual interest rate (rounded upward, if necessary, to the nearest 1/16th of one percent) equal to the quotient obtained by *dividing (a)* the rate that deposits in United States dollars are offered to Agent in the London interbank market at approximately 11:00 a.m. London, England time two (2) Business Days before the first day of that Interest Period as shown on the display designated as "British Bankers Assoc. Interest Settlement Rates" on the Telerate System ("Telerate"), page 3750 or Page 3740, or such other page or pages as may replace such pages on Telerate for the purpose of displaying such rate (provided that if such rate is not available on Telerate then such offered rate shall be otherwise independently determined by Agent from an alternate, substantially similar independent service available to Agent or shall be calculated by Agent by a substantially similar methodology as that theretofore used to determine such offered rate in Telerate) in an amount comparable to that LIBOR Rate borrowing and having a maturity approximately equal to that Interest Period by (b) one *minus* the LIBOR Reserve Percentage (expressed as a decimal) applicable to the relevant Interest Period.

"Majority Banks" means the Banks in the aggregate having greater than fifty percent (50%) of the Specified Percentage.

"Material Adverse Effect" means any set of circumstances or event which (a) could reasonably be expected to have any adverse effect whatsoever upon the validity, performance, or enforceability of any Loan Document, (b) is or could reasonably be expected to become material and adverse to the financial condition, properties, or business operations of the Person in question, (c) could reasonably be expected to impair the ability of the Person in question to fulfill its obligations under the terms and conditions of the Loan Documents, or (d) could reasonably be expected to cause an Event of Default.

"Maturity Date" means May 8, 2015.

"Maximum Lawful Rate" means the maximum non-usurious rate of interest (or, if the context so requires, an amount calculated at such rate) which Banks are allowed to contract for, charge, take, reserve, or receive in this transaction under applicable federal or state (whichever is higher) Law from time to time in effect after taking into account, to the extent required by applicable federal or state (whichever is higher) Law from time to time in effect, any and all relevant payments or charges under the Loan Documents.

"Net Income" of any Person means that Person's profit or loss determined in accordance with GAAP.

"New Bank" has the meaning set forth in Section 2.16.

"Note" means each promissory note of Borrower evidencing Advances hereunder, and "Notes" means collectively any outstanding Note of Borrower evidencing Advances hereunder.

"Notes Receivable" means the promissory notes, negotiable instruments and other writings that (a) evidence a right to the payment of a monetary obligation payable to a Credit Party, whether now owned or hereafter made, originated or acquired by a Credit Party and (b) (i) are secured by an interest in real property located in the State of Texas or (ii) were acquired prior to the date hereof and are listed and described on Schedule Three hereof.

"Obligated Party" means any Guarantor or any other Person who is or becomes party to any agreement that guarantees or secures payment and performance of the Indebtedness and/or Obligations or any part thereof.

"Obligations" means (i) any indebtedness or liabilities created or evidenced pursuant to this Agreement, including, but not limited to the Notes, and all of the covenants, conditions, warranties, representations and other obligations (other than to repay the Indebtedness) made or undertaken by Borrower or any Obligated Party as set forth in the Loan Documents and (ii) any and all obligations, contingent or otherwise, whether now existing or hereafter arising in connection with any Swap Agreements between Borrower and any Bank.

"Organizational Documents" means (a) in the case of a corporation, its articles or certificate of incorporation and bylaws, (b) in the case of a general partnership, its partnership agreement, (c) in the case of a limited partnership, its certificate of limited partnership and partnership agreement, (d) in the case of a limited liability company, its articles of organization and operating agreement or regulations, and (e) in the case of any other entity, its organizational and governance documents and agreements.

"Origination Fee" has the meaning set forth in Section 2.6.

"Origination Fee Letter Agreement" means that certain letter agreement executed by and between Borrower and Agent of even date herewith describing and defining the Origination Fee.

"Parent Guarantor" means Encore Capital Group, Inc., a Delaware corporation, and its successors and assigns.

"Parent Guarantor's Compliance Certificate" means a certificate, substantially in the form of Exhibit C attached hereto, prepared by and executed by the chief financial officer (or other authorized representative acceptable to Agent) of Parent Guarantor.

"Parent Guarantor's Existing Credit Agreement" means that certain Credit Agreement under that certain Credit Agreement dated as of February 8, 2010 by and among Encore Capital Group, Inc, the financial institutions listed on the signature pages thereof and SunTrust Bank, as successor-in-interest to JPMorgan Chase Bank, N.A., as collateral agent and as administrative agent thereunder (as amended, restated, supplemented or otherwise modified from time to time). Parent Guarantor's Existing Credit Agreement shall include any future credit agreements or arrangements between Parent Guarantor and other lenders, the proceeds of which are used to pay off Parent Guarantor's Existing Credit Agreement.

"Parent Guarantor's Lender" means SunTrust Bank and its successor and assigns under Parent Guarantor's Existing Credit Agreement.

"Permitted Businesses" mean those businesses in which the Credit Parties were engaged as of the Closing Date.

"Permitted Liens" means all (a) Inchoate Liens, (b) Liens created by or pursuant to the Loan Documents in favor of a Bank, (c) all Liens described in Schedule Two, and all renewals and extensions of the foregoing.

"Person" means any individual, firm, corporation, association, partnership, joint venture, trust, other entity, or a Tribunal.

"Prime Rate" means the rate of interest per annum equal to the sum of (a) the interest rate quoted in the "Money Rates" section of *The Wall Street Journal* from time to time and designated as the "Prime Rate" ***plus*** (b) the Prime Rate Margin. If such prime rate, as so quoted, is split between two or more different interest rates, then the "Prime Rate" used in the above calculation shall be the highest of such interest rates. If such prime rate shall cease to be published or is published infrequently or sporadically, then the "Prime Rate" used in the above calculation shall be the rate of interest per annum established from time to time by Agent and designated as its base or prime rate, which may not necessarily be the lowest interest rate charged by Agent and is set by Agent in its sole discretion.

"Prime Rate Advance" means an Advance bearing interest at the Prime Rate.

"Prime Rate Margin" means the rate, determined on a quarterly basis, of (i) three-quarters percent (0.75%) if the Cash Flow Leverage Ratio is greater than or equal to 3.25, (ii) one-half percent (0.50%) if the Cash Flow Leverage Ratio is greater than or equal to 2.75 but less than 3.25, (iii) one-quarter percent (0.25%) if the Cash Flow Leverage Ratio is greater than or equal to 2.25 but less than 2.75 and (iv) zero percent (0.00%) if the Cash Flow Leverage Ratio is less than 2.25 (in each case the Cash Flow Leverage Ratio shall be calculated as of the last day of the most recently ended quarter for which the Compliance Certificate has been delivered).

"Principal Balance" means the aggregate unpaid principal balance of the Notes at the time in question.

"Pro Rata" means, as to any Bank, in accordance with its percentage of the aggregate amount of outstanding Advances; provided however, that if no Advances are outstanding, such term means, for any Bank, in accordance with its Specified Percentage.

"Ratable" means, as to any Bank, in accordance with its Specified Percentage.

"Regulatory Change" means any change after the date hereof in federal, state or foreign Law (including the introductions of any new Law) or the adoption or making after such date of any interpretations, directives, or requests of or under any federal, state or foreign Law (whether or not having the force of Law) *by any* Tribunal charged with the interpretation or administration thereof, applying to a class of banks including any Bank in any Advances, excluding, however, any such change which results in an adjustment of the LIBOR Reserve Percentage and the effect of which is reflected in a change in the LIBOR Rate as provided in the definition of such term.

"Release" means, as to any Person, any release, spill, emissions, leaking, pumping, injection, deposit, disposal, disbursement, leaching, or migration of Hazardous Materials into the indoor or outdoor environment or into or out of property owned by such Person, including, without limitation, the movement of Hazardous Materials through or in the air, soil, surface water, ground water, or property.

"Remedial Action" means all actions required to (a) clean up, remove, treat, or otherwise address Hazardous Materials in the indoor or outdoor environment, (b) prevent the Release or threat of Release or minimize the further Release of Hazardous Materials so that they do not migrate or endanger or threaten to endanger public health or welfare or the indoor or outdoor environment, or (c) perform pre-remedial studies and investigations and post-remedial monitoring and care.

"Revolving Loan" means the $160,000,000.00 revolving line of credit loan made pursuant to this Agreement.

"Revolving Note" means, individually and collectively, the following:

(a) the Revolving Promissory Note dated as of the Closing Date, in the original principal amount of $35,000,000.00, executed by Borrower and payable to the order of TCB, and all amendments, extensions, renewals, replacements, increases, and modifications thereof;

(b) the Revolving Promissory Note dated as of the Closing Date, in the original principal amount of $30,000,000.00, executed by Borrower and payable to the order of Amegy, and all amendments, extensions, renewals, replacements, increases, and modifications thereof;

(c) the Revolving Promissory Note dated as of the Closing Date, in the original principal amount of $30,000,000.00, executed by Borrower and payable to the order of BOT, and all amendments, extensions, renewals, replacements, increases, and modifications thereof;

(d) the Revolving Promissory Note dated as of the Closing Date, in the original principal amount of $27,500,000.00, executed by Borrower and payable to the order of City Bank, and all amendments, extensions, renewals, replacements, increases, and modifications thereof;

(e) the Revolving Promissory Note dated as of the Closing Date, in the original principal amount of $22,500,000.00, executed by Borrower and payable to the order of Lone Star, and all amendments, extensions, renewals, replacements, increases, and modifications thereof; and

(f) the Revolving Promissory Note dated as of the Closing Date, in the original principal amount of $15,000,000.00, executed by Borrower and payable to the order of Green Bank, and all amendments, extensions, renewals, replacements, increases, and modifications thereof.

"Rights" mean any remedies, powers, and privileges exercisable by Agent or a Bank under the Loan Documents, at Law, equity, or otherwise.

"Section" and "Sections" have the meanings set forth in Section 1.5.

"Security Agreement" means the Security Agreement dated as of the Closing Date, executed by Borrower in favor of Agent, in form and substance satisfactory to Agent, as the same may be amended, restated, supplemented or modified from time to time.

"Specified Percentage" means, as to any Bank, for Advances made to Borrower out of the Committed Sum and the definition of "Majority Banks", the percentage as agreed among the Agent and the Banks, initially as follows:

Bank	Specified Percentage
TCB	21.875%
Amegy	18.75%
BOT	18.75%
City Bank	17.1875%
Lone Star	14.0625%
Green Bank	9.375%

"Subordinated Debt" means all Debt of Borrower whether now existing or hereafter incurred which is subordinate in right of payment to the Indebtedness, pursuant to a written agreement in form and content satisfactory to Agent.

"Subsection" and "Subsections" have the meanings set forth in Section 1.5.

"Subsidiary(ies)" means any entity more than fifty percent (50%) of whose ownership interest now or hereafter is owned directly or indirectly by Borrower or any Subsidiary or may be voted by Borrower or any Subsidiary.

"Super-Majority Banks" means the Banks in the aggregate having greater than seventy-five percent (75%) of the Specified Percentage.

"Swap Agreement" means any agreement between the Borrower and any Person with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or combination of these transactions.

"Taxes" means all taxes (including withholding), assessments, fees, levies, imposts, duties, deductions, withholdings, or other charges of any nature whatsoever from time to time or at any time imposed by any Laws or by any Tribunal, excluding state and local sales and use taxes.

"Tribunal" means any state, commonwealth, federal, foreign, territorial or other court or government body, subdivision, agency, department, commission, board, bureau or instrumentality of a governmental body.

"Tribunal Proceedings" has the meaning set forth in Section 5.4.

"Unpaid Judgments" has the meaning set forth in Section 5.5.

"Unused Commitment" means the Committed Sum minus outstanding Advances made to Borrower.

1.2 *Accounting Matters*. Any accounting term used in this Agreement or the other Loan Documents shall have, unless otherwise specifically provided therein, the meaning customarily given such term in accordance with GAAP, and all financial computations thereunder shall be computed, unless otherwise specifically provided therein, in accordance with GAAP consistently applied. That certain items or computations are explicitly modified by the phrase "in accordance with GAAP" shall in no way be construed to limit the foregoing.

1.3 *Headings*. The headings, captions, and arrangements used in any of the Loan Documents are, unless specified otherwise, for convenience only and shall not be deemed to limit, amplify, or modify the terms of the Loan Documents no to affect the meaning thereof.

1.4 *Number and Gender of Words*. Whenever herein the singular number is used, the same shall include the plural where appropriate, and words of any gender shall include each other gender where appropriate. Reference herein of Borrower shall mean, jointly and severally, each Person comprising same.

1.5 *Articles, Sections, Subsections and Exhibits*. All references herein to "Article", "Articles", "Section", "Sections", "Subsection", and "Subsections" contained herein are, unless specified otherwise, references to articles, sections and subsections of this Agreement. All references herein to an "Exhibit" or "Schedule" are references to exhibits or schedules attached hereto, all of which are made a part hereof for all purposes, the same as if set forth herein verbatim, it being understood that if any exhibit or schedule attached hereto, which is to be executed and delivered, contains blanks, the same shall be completed correctly and in accordance with the terms and provisions contained and as contemplated herein prior to or at the time of the execution and delivery thereof. The words "herein," "hereof," "hereunder" and other similar compounds of the word "here" when used in this Agreement shall refer to the entire Agreement and not to any particular provision or section.

Article Two

Commitment to Lend, Terms of Payment

2.1 *Advances*.

(a) *Revolving Loan*. Subject to and upon the terms, covenants, and conditions of this Agreement, each Bank severally agrees to make one or more Advances of the Revolving Loan to Borrower for Approved Purposes until the Maturity Date in an aggregate outstanding amount at

any one time not to exceed the product of such Bank's Specified Percentage times the Borrowing Limit. The initial Advance of the Revolving Loan shall be made and used by Borrower to refinance existing indebtedness of Borrower incurred by Borrower for Approved Purposes. Within the limit of the Borrowing Limit, Borrower may borrow, repay, and reborrow at any time and from time to time from the Closing Date to the earlier of (a) the Maturity Date, or (b) the termination of a Bank's Commitment hereunder. If, by virtue of payments made on a Note, the principal amount owed on the Note during its term reaches zero at any point, Borrower agrees that all of the Collateral and all of the Loan Documents shall remain in full force and effect to secure any Advances made thereafter, and such Bank shall be fully entitled to rely on all of the Collateral and all of the Loan Documents unless an appropriate release of all or any part of the Collateral or all or any part of the Loan Documents has been executed by such Bank. The Principal Balance of the Revolving Loan may not exceed the Borrowing Limit at any time.

(b) *Loan Rate*. Each Advance shall be at the Loan Rate as specified in the related notice of borrowing, conversion or continuation and subject to the provisions below. The Loan Rate is subject to change, but Borrower may select, subject to the terms and conditions set forth below, a Loan Rate based upon either a LIBOR Rate or the Prime Rate for the entire principal amount of the Advance then outstanding or a portion thereof. The Loan Rate applicable to each advance may change due to the quarterly determination of the LIBOR Margin and Prime Margin, in accordance with the definitions thereof and based on the Cash Flow Leverage Ratio as reflected in the then most recent Compliance Certificate. Adjustments, if any, to the LIBOR Margin and/or Prime Margin shall be effective on the earlier of (i) the date the Compliance Certificate is due pursuant to Section 6.1(e) below or (ii) the day after Agent receives the Compliance Certificate. Prime Rate Advances and LIBOR Advances may be outstanding at the same time, but no more than eight (8) Aggregate Advances bearing interest at the LIBOR Rate may be outstanding at any time. Each Aggregate Advance shall be not less than the amount of $1,000,000.00.

2.2 *Borrowing Procedure*.

(a) Borrower shall give Agent notice of each Advance by means of a written request containing the information required by Agent and delivered (by hand or by mechanically confirmed facsimile) to Agent no later than 11:00 a.m. (San Antonio, Texas time) three (3) Business Days before any proposed LIBOR Advance and on the Business Day for any proposed Prime Rate Advance. Agent, at its option, may accept telephonic requests for such Advances, provided that such acceptance shall not constitute a waiver of Agent's right to require delivery of a written request in connection with subsequent Loans. Any telephonic request for an Advance by the Borrowers shall be made to Tammy Wilford at (210) 390-3824 or to Diana Vogel at (210) 390-3811 or by facsimile at (210) 390-3777, or such other person as Agent may from time to time specify and shall be promptly confirmed by submission of a properly completed written request to Agent, but failure to deliver a written request shall not be a defense to payment of an Advance. Agent shall have no liability to Borrower for any loss or damage suffered by Borrower as a result of Agent's honoring of any requests, execution of any instructions, authorizations or agreements or reliance on any reports communicated to it telephonically, by facsimile or electronically, and purporting to have been sent to Agent by Borrower and Agent shall have no duty to verify the origin of any such communication or the identity or authority of the Person sending it. Agent shall promptly notify Banks of each such notice. Each Bank shall, before

11:00 a.m. (San Antonio, Texas time) on the date of such Advance, make available to Agent, at its office at 745 East Mulberry, Suite 350, San Antonio, Texas, 78212, such Bank's Specified Percentages of the Aggregate Advance in immediately available funds. Agent shall promptly make available to the Borrower the funds so received.

(b) If an Event of Default has occurred and is continuing, the option to select a LIBOR Advance shall be suspended until no Event of Default has occurred and is continuing. No Interest Period may extend beyond the Maturity Date. Any Interest Period for which a LIBOR Advance is not selected shall bear interest at a Loan Rate based upon the Prime Rate. The determination by Agent of the Loan Rate shall, in the absence of manifest error, be conclusive and binding in all respects.

(c) Each date of borrowing must be a Business Day. No Aggregate Advance bearing interest at the LIBOR Rate shall be made if the last day of its Interest Period would extend beyond any principal payment date that requires payment thereof. If any notice to Agent requesting a LIBOR Advance fails to specify an Interest Period, the Interest Period shall be one month. If any notice does not specifically request a LIBOR Advance, the Borrower shall be deemed to have requested a Prime Rate Advance.

(d) Unless a Bank shall have notified Agent prior to the date of any Advance that it will not make available its Specified Percentage of the Aggregate Advance, Agent may assume that such Bank has made the appropriate amount available in accordance with subsection (a) above, and Agent may, in reliance upon such assumption, make available to the Borrower a corresponding amount. If and to the extent any Bank shall not have made such amount available to Agent, such Bank and Borrower severally agree to repay to Agent forthwith on demand such corresponding amount together with interest thereon, from the date such amount is made available to Borrower until the date such amount is repaid to Agent, at (i) in the case of Borrower, the interest rate applicable at the time to such Aggregate Advance, and (ii) in the case of such Bank, the Federal Funds Rate.

(e) The failure by any Bank to make available its Specified Percentage of any Aggregate Advance hereunder shall not relieve any other Bank of its obligation, if any, to make available its Specified Percentage of any Aggregate Advance; provided, however, that no Bank shall be responsible for the failure of any other Bank to make available any portion of any Aggregate Advance.

2.3 *Payments*. Interest only on the advance and unpaid principal balance of each of the Revolving Notes shall be due and payable monthly, beginning June 8, 2012, and continuing regularly on the same day of each month thereafter. On the Maturity Date, the accrued unpaid interest and unpaid principal balance of each of the Revolving Notes shall be due and payable in full.

2.4 *Purpose of Loans*. Borrower represents that the proceeds of the Loans will be used only for Approved Purposes.

2.5 *Order of Application*. Except as otherwise provided in the Loan Documents or otherwise agreed by Agent, all payments and prepayments of the Indebtedness, including

proceeds from the exercise of any Rights under the Loan Documents or proceeds of any of the Collateral, shall be applied to the Indebtedness in the following order, any instructions from Borrower to the contrary notwithstanding: (a) the payment or reimbursement of any Funding Indemnification, expenses, costs or obligations (other than the outstanding principal balance hereof and interest hereon) for which Borrower shall be obligated or Agent or Banks shall be entitled pursuant to the provisions of this Note or the other Loan Documents; (b) to the expenses for which Agent or a Bank shall not have been reimbursed under the Loan Documents, and then to all indemnified amounts due under the Loan Documents; (c) to fees then owed Agent hereunder; (d) to accrued interest on the portion of the Indebtedness being paid or prepaid; (d) to the portion of the principal being paid or prepaid; (f) to the remaining accrued interest on the Indebtedness; (g) to the remaining principal; and (h) to the remaining Indebtedness. All amounts remaining after the foregoing application of funds shall be paid to Borrower. If an Event of Default exists under a Note, then Agent may, at the sole option of Agent and upon request from Majority Banks, apply any such payments, at any time and from time to time, to any of the items specified in clauses (a), (f) or (g) above without regard to the order of priority otherwise specified in this Section 2.5 and any application to the outstanding principal balance hereof may be made in either direct or inverse order of maturity.

2.6 *Origination Fee*. Borrower agrees to pay to Agent, for the Ratable account of the Banks, an origination fee (the "Origination Fee"), payable upon the execution of this Agreement, in the amount set forth in the Origination Fee Letter Agreement.

2.7 *Facility Fee*. Borrower agrees to pay to Agent, for the Ratable account of the Banks, an unused facility fee (the "Facility Fee"), payable quarterly in arrears beginning June 30, 2012, and continuing regularly on the last day of each calendar quarter thereafter through and including the Maturity Date, in an amount equal to (i) 0.40% [40bps] if the Cash Flow Leverage Ratio is greater than or equal to 3.25 as of the date of payment, (ii) 0.35% [35bps] if the Cash Flow Leverage Ratio is greater than or equal to 2.75 but less than 3.25 as of the date of payment, (iii) 0.30% [30bps] if the Cash Flow Leverage Ratio is greater than or equal to 2.25 but less than 2.75 as of the date of payment and (iv) 0.25% [25bps] if the Cash Flow Leverage Ratio is less than or equal to 2.25 as of the date of payment, all on a per annum basis (based on a 360 day year and the actual number of days elapsed) on the daily average unused amount of the Committed Sum. The Facility Fee shall be determined in accordance with the provisions of the preceding sentence and based on the Cash Flow Leverage Ratio as reflected in the then most recent Compliance Certificate. Adjustments, if any, to the Facility Fee shall be effective on the earlier of (i) the date the Compliance Certificate is due pursuant to Section 6.1(e) below or (ii) the day after Agent receives the Compliance Certificate. For the purpose of calculating the Facility Fee, the Committed Sum shall be deemed utilized by the average daily amount of all Advances outstanding during such period. The Facility Fee shall be allocated to the holders of the Notes in accordance with their respective Specified Percentages.

2.8 *Interest Rate; Swap Agreements*.

(a) Borrower shall pay interest on the principal amount of each Prime Rate Advance at the Prime Rate (but in no event higher than the Maximum Lawful Rate), payable in arrears on the last Business Day of each calendar month. Borrower shall pay interest on the principal amount of each LIBOR Advance at the applicable LIBOR Rate (but in no event higher than the

Maximum Lawful Rate), payable in arrears on each LIBOR Interest Payment Date. During the continuance of an Event of Default, each Advance and all other amounts due and owing under the Loan Documents shall bear interest at a per annum rate equal to two percent (2.00%) per annum plus the Loan Rate (the "Default Rate") (but in no event higher than the Maximum Lawful Rate), payable on demand.

(b) Borrower shall have the right to enter into a Swap Agreement (in the form of the ISDA® 2002 Master Agreement [or any subsequent revised or successor form thereto]) in order to minimize the impact of interest rate fluctuations over the term of such Advances; provided, however, that (i) any such Swap Agreements shall be based upon a LIBOR Rate; (ii) any such Swap Agreements must be exercisable by either Borrower or a Bank on the Maturity Date of such Advances and (iii) nothing contained in this Agreement shall be construed to require Borrower to enter into Swap Agreement with a Bank.

2.9 *Repayment*.

(a) Borrower may prepay Aggregate Advances in part or in full without penalty before final maturity (but subject to Section 2.11 hereof), upon notice to Agent (if telephonic, to be confirmed by telecopy or in writing before the date of prepayment), not later than 10:00 a.m. (San Antonio, Texas time) one (1) Business Day before the date of prepayment, which notice shall specify the Aggregate Advance being prepaid, and the amount and date of prepayment, whether by cash, a new loan, renewal or otherwise. Prepayment in full shall consist of payment of the remaining unpaid principal balance together with all accrued and unpaid interest and all other amounts, costs and expenses for which Borrower is responsible under a Note (including Funding Indemnification) or any other agreement with a Bank pertaining to a Loan, and in no event will Borrower ever be required to pay any unearned interest.

(b) Unless Borrower shall otherwise notify Agent (if telephonic, to be confirmed by telecopy or in writing before the applicable date), not later than 11:00 a.m. (San Antonio, Texas time) one (1) Business Day before any Advance is required to be repaid on the last day of its Interest Period pursuant to this sub-section, an Aggregate Advance bearing interest at the Prime Rate shall be made by Banks to Borrower on such date in the amount of all Advances to Borrower then maturing, and the proceeds of such Aggregate Advance shall be used to repay all such maturing Advances.

(c) In no event shall the amount of outstanding Advances made to Borrower exceed the Borrowing Base. Borrower shall immediately repay the principal amount of such Advances equal to any such excess (subject to Section 2.11 hereof).

(d) Each prepayment hereunder shall be accompanied by all interest accrued on the principal amount being prepaid, together with any amounts set forth under Section 2.11(c) hereof incurred in connection with such prepayment. Unless otherwise specified by Borrower, each prepayment shall be applied first to outstanding Prime Rate Advances. All telephonic notices under this Section shall be made to Craig A. Dixon at (210) 390-3808 by facsimile at (210) 390-3777, or such other person as Agent may from time to time specify.

2.10 *Payments and Computations*.

(a) Borrower shall make each payment hereunder and under the other Loan Documents not later than 11:00 a.m. (San Antonio, Texas time) on the day when due in same day funds to Agent, for the Ratable account of Banks unless otherwise specifically provided herein, at Agent's office at San Antonio, Texas, ABA# 111017979, Account Number GL# 160020, Attention: Claudia Watkins/Craig A. Dixon, Reference: Propel Financial Services, LLC (or to the attention of such other person as Agent may from time to time specify). No later than the end of each day when each payment hereunder is made, Borrower shall notify Craig A. Dixon, or such other person or persons as Agent may from time to time specify.

(b) Borrower hereby authorizes each Bank, if and to the extent payment is not made when due hereunder, to charge the amount so due against Borrower's accounts with such Bank. Acceptance by Bank of any payment in an amount less than the full amount then due shall be deemed an acceptance on account only, and the failure to pay the entire amount then due may become an Event of Default. Borrower agrees that all payments of any obligation due hereunder shall be final, and if any such payment is recovered in any bankruptcy, insolvency or similar proceedings instituted by or against Borrower, all obligations due hereunder shall be automatically reinstated in respect of the obligation as to which payment is so recovered.

(c) All computations of interest and fees hereunder shall be made on the following basis: (i) for Prime Rate Advances, other than those based on the Federal Funds Rate, on the basis of a 365/366 day year, (ii) for Prime Rate Advances on a Federal Funds Effective Rate on a 360 day year, and (iii) for LIBOR Rate Advances on a 360 day year, for the actual number of days (including the first day but excluding the last day) occurring in the period for which such fees or interest is payable. All payments under the Loan Documents shall be made in United States dollars, and without setoff, counterclaim, or other defense.

(d) Whenever any payment to be made hereunder or under any other Loan Documents shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall be included in the computation of interest or fees, if applicable. Notwithstanding the foregoing, if any payment relating to a LIBOR Advance falls due on a day that is not a Business Day and no further Business Day occurs in that calendar month, then the due date thereof shall be the preceding Business Day.

(e) Unless Agent shall have received notice from the Borrower prior to the date on which any payment is due hereunder that Borrower will not make payment in full, Agent may assume that such payment is so made on such date and may, in reliance upon such assumption, make distributions to Banks. If and to the extent Borrower shall not have made such payment in full, each Bank shall repay to Agent forthwith on demand the applicable amount distributed, together with interest thereon at the Federal Funds Rate, from the date of distribution until the date of repayment.

2.11 *Yield Protection; Taxes*.

(a) Notwithstanding anything in this Agreement or any other Loan Document to the contrary, if any Bank shall determine (which determination shall be conclusive in the absence of manifest error) that by reason of any applicable law or regulation or any change therein or the interpretation or application thereof or compliance therewith by Agent or Banks or any other changes affecting the London Interbank Market, (i) adequate and fair means do not exist for ascertaining the London Interbank Rate or (ii) the continuation of LIBOR Advances has been made impracticable by the occurrence of a contingency which materially and adversely effects the London Interbank Market, or (iii) any Regulatory Change shall make it unlawful for any Bank to make or maintain any LIBOR Advances or to match eurodollar liabilities thereto, or (iv) deposits in United States Dollars in the relevant amounts and of the relevant maturity are not available to a Bank in the London interbank market, then such Bank shall forthwith give notice thereof to Borrower. After said notice and until such time as such Bank shall determine that said adverse conditions no longer exist, (A) no additional LIBOR Advances shall be made by such Bank, and all requests for LIBOR Advances shall be deemed to request a Prime Rate Advance from such Bank, and (B) each outstanding LIBOR Advance made by such Bank shall be converted into a Prime Rate Advance on the last day of its Interest Period.

(b) If, as a result of any Regulatory Change,

(i) the basis of taxation of payments to any Bank of the principal of or interest on any LIBOR Advance or any other amounts payable hereunder in respect thereof (other than Taxes imposed on the overall Net Income of the Bank) is changed;

(ii) any reserve, special deposit, or similar requirements relating to any extensions of credit, letters of credit, or other assets of, or any deposits with or other liabilities of, any Bank are imposed, modified, or deemed applicable; or

(iii) any other condition affecting this Agreement or LIBOR Advances is imposed on any Bank;

and such Bank reasonably determines that, by reason thereof, the cost to it of making, issuing, or maintaining any LIBOR Advance is increased by an amount deemed by it to be material, or any amount receivable by such Bank in respect of any LIBOR Advance is reduced by an amount deemed by it to be material (such increases in cost and reductions in amounts receivable being "Increased Cost"), then Borrower shall pay promptly upon demand to such Bank such additional amounts as such Bank reasonably determines will compensate it for such Increased Cost attributable to the Borrower's Advances; provided, however, that notwithstanding any provision herein to the contrary, Borrower shall have the right to convert outstanding LIBOR Advances made by such Bank into Prime Rate Advances following such demand, so long as it pays such Bank all Increased Cost associated therewith and any other amounts accruing as a result of such conversion under subsection (c) hereof,

(c) Without prejudice to any provision of this Section, Borrower hereby agrees to indemnify each Bank against any loss or expense that it may incur as a result of (i) any principal payment, prepayment, conversion of a LIBOR Advance owing by Borrower on a day other than the last day of its Interest Period, (ii) any failure by the Borrower to borrow, convert or continue on a date specified therefor pursuant to Section 2.2(a) hereof, or (iii) any failure by the Borrower to comply with Section 2.9 hereof, including failure to prepay on the applicable date following notice of prepayment under Section 2.9(a) hereof.

(d) If any Bank determines that compliance with any Regulatory Change, or any change in any guideline or request from any central bank or other Tribunal (whether or not having the force of Law) affects or would affect the amount of capital required or expected to be maintained by such Bank or any of its Affiliates, and that the amount of such capital is increased by or based upon the existence of any Advance or Commitment, then, upon demand by such Bank, Borrower shall immediately pay to such Bank, from time to time as specified, additional amounts sufficient to compensate such Bank or any of its Affiliates in the light of such circumstances, to the extent that such Bank or Affiliate reasonably determines such increase in capital to be allocable to the existence or maintenance of or any participation in any Advance or Commitment relating to Borrower.

(e) A certificate given to Borrower by a Bank setting forth amounts owing under this Section shall, absent manifest error, be conclusive and binding for all purposes.

2.12 *Sharing of Payments, Etc.* If any Bank shall obtain any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) on account of its Advances to Borrower in excess of its Pro Rata share of payments made by Borrower, such Bank shall forthwith purchase participations in the Advance made by the other Banks to Borrower as shall be necessary to share the excess payment Pro Rata with each of them; provided, however, that if any of such excess payment is thereafter recovered from the purchasing Bank, its purchase from each Bank shall be rescinded and each Bank shall repay the purchase price to the extent of such recovery together with a Pro Rata share of any interest or other amount paid or payable by the purchasing Bank in respect of the total amount so recovered. Borrower agrees that any Bank so purchasing a participation from another Bank pursuant to this Section may, to the fullest extent permitted by Law, exercise all its rights of payment (including the right of set-off) with respect to such participation as fully as if such Bank were the direct creditor of Borrower in the amount of such participation.

2.13 *Calculation of LIBOR Rate*. The provisions of this Agreement relating to calculation of the LIBOR Rate are included only for the purpose of determining the rate of interest or other amounts to be paid hereunder that are based upon such rate. It is acknowledged that each Bank shall be entitled to fund and maintain any LIBOR Advance as it sees fit. All determinations hereunder, however, shall be made as if each Bank had actually funded and maintained each LIBOR Advance through the purchase in the London Interbank Market of one or more eurodollar deposits in an amount equal to the principal amount of such Advance and having a maturity corresponding to its Interest Period.

2.14 *Quotation of Rates*. It is hereby acknowledged that Borrower may call Agent on or before the date on which notice of an elective interest rate is to be given by Borrower in order

to receive an indication of the LIBOR Rate then in effect, but that such indication shall not be binding upon Agent and Banks, nor affect the rate of interest which is thereafter actually in effect when the election is made.

2.15 *Booking Loans*. Each Bank may make, carry, or transfer Advances at, to, or for the account of any of its branch offices or the office of any Affiliate. If any circumstance described in Section 2.11 occurs which would require additional costs to be paid by the Borrower to any Bank, such Bank, to the extent reasonably practicable, shall use commercially reasonable efforts to transfer the Advances and other obligations hereunder to another branch or Affiliate to the extent the same would reduce such additional costs.

2.16 *Increases in the Committed Sum*.

(a) *Request for Increase*. Provided that no Event of Default has occurred and is continuing, Borrower may, at any time and from time to time, request, by notice to Agent, Agent's approval of an increase of the Committed Sum (a "Facility Increase") within the limitations hereafter described, which request shall set forth the amount of each such requested Facility Increase. Within thirty (30) days of such request, Agent shall advise Borrower of its approval or disapproval of such request, and failure to so advise Borrower shall constitute disapproval. If Agent approves any such Facility Increase, then the Committed Sum may be so increased (up to the amount of such approved Facility Increase) either by having additional lenders that are approved by Borrower and Agent become Banks and/or by having any one or more of the then existing Banks (at each such Bank's election in its sole discretion) that have been approved by Borrower and Agent, increase the amount of its Commitment (any such lender that becomes a Bank or that increases the amount of its Commitment being herein referred to as a "New Bank"), all subject to and in accordance with the provisions of this Section.

(b) *Requirements*. Any Facility Increase shall be subject to the following requirements, limitations and conditions: (a) any increase in the Committed Sum shall not be less than $10,000,000 (and shall be in integral multiples of $1,000,000 if in excess thereof); (b) after giving effect to the Facility Increase and all prior Facility Increases, the Committed Sum shall not exceed $200,000,000; (c) Borrower and each New Bank shall have executed and delivered a commitment and acceptance and Agent shall have accepted and executed the same; (d) Borrower shall have executed and delivered to Agent such Note or Notes as Agent shall require to reflect such Facility Increase; (e) Borrower shall have delivered to Agent appropriate opinions of counsel as to such matters as Agent may reasonably request; (f) each Guarantor shall have consented in writing to such Facility Increase and shall have agreed that its obligations under the Loan Documents continue in full force and effect; and (g) Borrower and each New Bank shall otherwise have executed and delivered such other instruments and documents as Agent shall have reasonably requested in connection with such Facility Increase. The form and substance of the documents required under clauses (c) through (g) above shall be reasonably acceptable to Agent. Agent shall provide written notice to all of the Banks hereunder of any Facility Increase. Borrower shall pay to Agent, for the ratable account of the New Banks, an additional Origination Fee in an amount equal to 0.25% [25 bps] of the Facility Increase.

(c) *Loans by New Banks*. Upon the effective date of any increase in the Committed Sum pursuant to the provisions hereof, which effective date shall be mutually agreed upon by

Borrower, each New Bank and Agent, each New Bank shall make a payment to Agent in an amount sufficient, upon the application of such payments by all New Banks to the reduction of the outstanding Loans held by each Bank, to cause the principal amount outstanding under the Loans made by such Bank (including any New Bank) to be in the amount of its Specified Percentage (upon the effective date of such Facility Increase, after giving effect to such Facility Increase) of all outstanding Loans. Borrower hereby irrevocably authorizes each New Bank to fund to Agent the payment required to be made pursuant to the immediately preceding sentence for application to the reduction of the outstanding Loans held by the other Banks and each such payment shall constitute a Loan hereunder. On the date on which such additional Loans are to be made by such New Banks, which date shall be mutually agreed upon by Borrower, each New Bank and Agent, each New Bank shall make its additional Loans subject to and in accordance with the provisions of this Agreement relating to the making of Advances after the effective date.

Article Three

Collateral

3.1 *Security Interests*. In order to secure payment and performance of the Indebtedness and Obligations, each Credit Party has granted to Agent a security interest in the Collateral by each executing and delivering to Agent a Security Agreement.

3.2 *Other Documents*. Borrower further agrees that it shall, and shall cause each other Credit Party to, execute and deliver to Agent from time to time such other assignments, transfers, security agreements and similar documents covering the Collateral and further authorizes Agent to prepare and file such financing statements as Agent may reasonably require to perfect and maintain its perfected interest in the Collateral.

Article Four

Conditions Precedent to Lending

4.1 *Extension of Credit*. The obligation of each Bank to make each Advance under any Note is subject to the condition precedent that Agent shall have received on or before the day of such Advance all of the following, each dated (unless otherwise indicated) the Closing Date, in form and substance satisfactory to Agent:

(a) *Representations*. The representations and warranties with respect to the Credit Parties and Parent Guarantor contained in the Loan Documents are true and correct as of the time the Advance is to be made, and the request for an Advance shall constitute the representation and warranty by each of the Credit Parties and Parent Guarantor that such representations and warranties are true and correct at such time;

(b) *No Event of Default*. On the date of, and upon receipt of, the Advance, no Event of Default, and no event which, with the lapse of time or notice or both, could reasonably be expected to become an Event of Default, shall have occurred and be continuing;

(c) *Advance Request*. Agent has received a request for an Advance in the form required by Agent, as well as, in the case of the initial Advance hereunder, such other

documents, opinions, certificates, agreements, instruments and evidences as Agent may reasonably request;

(d) *Resolutions*. Resolutions and consents of each Credit Party and Parent Guarantor certified by the custodian of records of such Person which authorize the execution, delivery, and performance by such of this Agreement and the other Loan Documents to which such Person is or is to be a party;

(e) *Incumbency Certificate*. A certificate of incumbency certified by an authorized officer or representative certifying the names of the individuals or other Persons authorized to sign this Agreement and the other Loan Documents to which each Credit Party and Parent Guarantor is or is to be a party together with specimen signatures of such Persons;

(f) *Organizational Documents*. The Organizational Documents for each Credit Party and Parent Guarantor as of a date acceptable to Agent;

(g) *Governmental Certificates*. Certificates of the appropriate government officials of the state of incorporation or organization as to the existence and good standing of each Credit Party and Parent Guarantor, each dated within ten (10) days prior to the date of the Advance;

(h) *Notes*. Borrower shall have delivered Notes payable to the order of each Bank in the maximum principal amount of each such Bank's Specified Percentage of the Committed Sum, which Notes shall be duly executed, with all blanks appropriately completed.

(i) *Security Documents*. The Loan Documents which create a Lien in and on the Collateral in favor of Agent executed by the owner of the Collateral;

(j) *Intentionally Deleted*.

(k) *Fees*. Borrower has paid the Origination Fee and any other closing or other fees to Agent then due and payable;

(l) *Guaranty*. The Guaranty executed by each of the Guarantors;

(m) *Agent Letter Agreement*. The Agent Letter Agreement executed by and between Borrower and Agent;

(n) *Origination Fee Letter Agreement*. The Origination Fee Letter Agreement executed by and between Borrower and Agent;

(o) *Opinion Letter*. In the case of the initial Advance hereunder, Agent shall have received an opinion of counsel to the Credit Parties and Parent Guarantor in form and content acceptable to Agent; and

(p) *Additional Items*. In the case of the initial Advance hereunder, Agent, on behalf of itself and the Banks, shall have received such other approvals, documents, opinions and certificates as it may reasonably request, including without limitation, the additional items set forth on Schedule One.

Article Five

Representations and Warranties

Borrower, except as set forth on Schedule Two, represents and warrants to Agent as follows:

5.1 *Existence*. Borrower is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Texas, and is duly qualified to transact business in each jurisdiction where the nature and extent of its business and property requires the same. Parent Guarantor is a corporation duly formed and validly existing under the laws of the State of Delaware, and is duly qualified to transact business in each jurisdiction where the nature and extent of its business and property requires the same. Each Guarantor other than Parent Guarantor is an entity of the type specified on Annex A duly formed and validly existing under the laws of the jurisdiction specified on Annex A, and is duly qualified to transact business in each jurisdiction where the nature and extent of its business and property requires the same.

5.2 *Authorization*. Each Credit Party possesses all requisite authority, power, licenses, permits, and franchises to conduct its business and execute, deliver, and comply with the terms of the Loan Documents. The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and compliance with the terms and provisions hereof, the making of the Loans, and the execution, issuance, and delivery of the Loan Documents have been duly authorized and approved by all necessary entity action on the part of each Credit Party. No consent or approval of any Tribunal is required in order for each Credit Party to legally execute, deliver, and comply with the terms of the Loan Documents.

5.3 *Properties; Permitted Liens*. Each Credit Party has good and marketable title to the Collateral, subject to no Liens except the Permitted Liens. All material leases under which any Credit Party is lessee are in full force and effect, and such Credit Party is not in default thereunder.

5.4 *Compliance with Laws and Documents*. No Credit Party is, nor will the execution, delivery, and performance of and compliance with the terms of the Loan Documents cause any Credit Party to be, in violation of any Laws or in default (nor has any event occurred which, with notice or lapse of time or both, could constitute such a default) under any contract in any respect which could have a Material Adverse Effect on the Credit Parties taken as a whole. During the past five (5) years, there have been no proceedings, claims, or (to Borrower's knowledge) investigations against or involving any Credit Party by any Tribunal under or pursuant to any environmental, occupational safety and health, antitrust, unfair competition, securities, or other Laws which could have a Material Adverse Effect on the Credit Parties taken as a whole, except those described on Schedule Two attached hereto (the "Tribunal Proceedings").

5.5 *Litigation*. Except for Litigation in which a Credit Party is exclusively a plaintiff without a counterclaim, crossclaim, or similar action asserted against Borrower and except as set forth on Schedule Two attached hereto (the "Existing Litigation"), Borrower is not involved in,

nor is any Credit Party aware of the threat of, any Litigation which could have a Material Adverse Effect on the Credit Parties taken as a whole, and there are no outstanding or unpaid judgments against any Credit Party except as described on Schedule Two attached hereto (the "Unpaid Judgments").

5.6 *Taxes*. All federal, state, foreign, and other Tax returns of each Credit Party required to be filed have been filed, all federal, state, foreign, and other Taxes imposed upon Borrower which are due and payable have been paid, and no material amounts of Taxes not reflected on such returns are payable by such Credit Party, other than Taxes being contested in good faith by appropriate legal proceedings.

5.7 *Enforceability of Loan Documents*. All Loan Documents when duly executed and delivered by each Credit Party will constitute legal, valid, and binding obligations of such Credit Party enforceable in accordance with their terms subject to Debtor Relief Laws and except that the availability of equitable remedies may be limited.

5.8 *Financial Statements*. All financial statements of the Credit Parties heretofore and hereafter to be delivered to Agent have been and shall continue to be prepared in accordance with GAAP (subject to the absence of notes for interim financial statements), and do and shall fairly represent the financial condition of the applicable Credit Party as of the date of each such financial statement (subject to reasonable year end adjustments for interim financial statements). There are and shall be no material liabilities, direct or indirect, fixed or contingent, as of the date of each such financial statement which are not reflected therein or in the notes thereto. Except for transactions directly related to, or specifically contemplated by, this Agreement and transactions heretofore disclosed in writing to Agent, there has been no material adverse change in the financial condition of the Credit Parties as shown by the Current Financial Statements for the applicable Credit Party between the date of such Current Financial Statements and the date hereof, nor has the applicable Credit Party incurred any material liability, direct or indirect, fixed, or contingent, except as otherwise disclosed to and approved in writing by Agent.

5.9 *Regulation U*. The proceeds of the Advances are not and will not be used directly or indirectly for the purpose of purchasing or carrying, or for the purpose of extending credit to others for the purpose of purchasing or carrying, any "margin stock" as that term is defined in Regulation U of the Board of Governors of the Federal Reserve System.

5.10 *Subsidiaries*. The Credit Parties have no Subsidiaries as of the date of this Agreement except those described on Schedule Two.

5.11 *Other Debt*. Except as previously disclosed to Agent in writing, no Credit Party is directly, indirectly, or contingently obligated with respect to any Debt as of the Closing Date. To the best of Borrower's knowledge and belief, no Credit Party is in default in the payment of the principal of or interest on any Debt.

5.12 *Regulatory Acts*. None of the Credit Parties are an "investment company" within the meaning of the Investment Company Act of 1940, as amended, or is subject to regulation under the Public Utility Holding Act of 1935, the Federal Power Act, the Interstate Commerce Act, or any other Law (other than Regulation X of the Board of Governors of the Federal

Reserve System) which regulates the incurring by Borrower or any other Credit Party of debt, including, but not limited to, Laws regulating common or contract carriers or the sale of electricity, gas, steam, water, or other public utility serves.

5.13 *Environmental Matters*. Except as fully described and set forth in Schedule Two attached hereto (the "Existing Environmental Matters"), to the best knowledge of Borrower after due inquiry:

(a) Each Credit Party and all of its respective properties, assets, and operations are in full compliance with all Environmental Laws. Borrower is not aware of nor has Borrower received notice of any past, present, or future conditions, events, activities, practices or incidents which may interfere with or prevent the compliance or continued compliance of each Credit Party and their respective Subsidiaries with all Environmental Laws;

(b) Each Credit Party has obtained all permits, licenses, and authorizations that are required under applicable Environmental Laws, and all such permits are in good standing and each Credit Party is in compliance with all of the terms and conditions of such permits;

(c) No Hazardous Materials (except in nominal amount) exist on, about, or within or have been used, generated, stored, transported, disposed of on, or Released from any of the properties or assets of any Credit Party. The use which each Credit Party makes and intends to make of its properties and assets will not result in the use, generation, storage, transportation, accumulation, disposal, or Release of any Hazardous Material on, in, or from any of their properties or assets;

(d) Neither Borrower nor any other Credit Party nor any of their currently or previously owned or leased properties or operations is subject to any outstanding or threatened order from or agreement with any Tribunal or other Person or subject to any judicial or docketed administrative proceeding with respect to (i) failure to comply with Environmental Laws, (ii) Remedial Action, or (iii) any Environmental Liabilities arising from a Release or threatened Release;

(e) There are no conditions or circumstances associated with the currently or previously owned or leased properties or operations of any Credit Party that could reasonably be expected to give rise to any Environmental Liabilities;

(f) No Credit Party has filed or failed to file any notice required under applicable Environmental Law reporting a Release; and

(g) No Lien arising under any Environmental Law has attached to any property or revenues of any Credit Party.

5.14 *General*. There is no significant material fact or condition relating to the financial condition and business of the Credit Parties taken as a whole, or the Collateral which has not been related in writing to Agent, and all writings heretofore or hereafter exhibited, made, or delivered to Agent by or on behalf of Borrower are and will be genuine and in all respects what they purport and appear to be.

Article Six

Certain Affirmative Covenants

So long as a Bank is committed to make Advances hereunder, and thereafter until payment and performance in full of the Indebtedness and Obligations, Borrower covenants and agrees that:

6.1 *Reporting Requirements*. Borrower shall provide to Agent and/or cause each of the Guarantors to provide to Agent:

(a) *Annual Financial Statements*. Within one hundred twenty (120) days after the last day of each fiscal year of Borrower, beginning with the fiscal year that ends December 31, 2012, audited consolidated financial statements showing the financial position and results of operations of the Credit Parties as of, and for the year ended on, such last day, together with (i) the unqualified opinion of such certified public accountant that such financial statements present fairly, in all material respects, the financial position of the Credit Parties as of the last day of such fiscal year and the results of operations and the cash flow of the Credit Parties for the fiscal year then ended in conformity with GAAP and with no exceptions, inconsistencies, or uncertainties described or disclosed therein; and (ii) the certificate of the chief financial officer of the Credit Parties that all of such financial statements present fairly the financial position of the Credit Parties as of the last day of such fiscal year and the results of the operations and the cash flow of the Credit Parties for the fiscal year then ended in conformity with GAAP. Each such financial statement shall contain at least a balance sheet of the Credit Parties as at the end of such fiscal year and statements of income, cash flow, retained earnings, and contingent liabilities.

(b) *Monthly Financial Statements of Borrower*. Within forty-five (45) days after the last day of each calendar month, internally prepared consolidated financial statements (including, but not necessarily limited to, balance sheets and a related statement of income), showing the financial position and results of operations of the Credit Parties as of and for such calendar month and for the period from the beginning of the current fiscal year to the last day of such calendar month, which present fairly the financial position of the Credit Parties as of the last day of such periods in conformity with GAAP (except as to reasonable year end adjustments and the absence of notes with respect to interim financial statements) and otherwise in form and content and containing such detail and description as Agent may reasonably require.

(c) *Annual Financial Statements of Parent Guarantor*. Within one hundred twenty (120) days after the last day of each fiscal year of Parent Guarantor, beginning with the fiscal year that ends December 31, 2012, audited financial statements showing the financial position and results of operations of Parent Guarantor as of, and for the year ended on, such last day, together with (i) the unqualified opinion of such certified public accountant that such financial statements present fairly, in all material respects, the financial position of Parent Guarantor as of the last day of such fiscal year and the results of operations and the cash flow of Parent Guarantor for the fiscal year then ended in conformity with GAAP and with no exceptions, inconsistencies, or uncertainties described or disclosed therein; and (ii) the certificate of the chief financial officer of Parent Guarantor that all of such financial statements present fairly the financial position of Parent Guarantor as of the last day of such fiscal year and the results of the

operations and the cash flow of Parent Guarantor for the fiscal year then ended in conformity with GAAP. Each such financial statement shall contain at least a balance sheet of Parent Guarantor as at the end of such fiscal year and statements of income, cash flow, retained earnings, and contingent liabilities.

(d) *Quarterly Financial Statements of Parent Guarantor*. Within forty-five (45) days after the last day of each calendar quarter, internally prepared financial statements (including, but not necessarily limited to, balance sheets and a related statement of income), showing the financial position and results of operations of Parent Guarantor as of and for such calendar month and for the period from the beginning of the current fiscal year to the last day of such calendar month, which present fairly the financial position of Parent Guarantor as of the last day of such periods in conformity with GAAP (except as to reasonable year end adjustments and the absence of notes with respect to interim financial statements) and otherwise in form and content and containing such detail and description as Agent may reasonably require.

(e) *Borrowing Base Certificate*. Within thirty (30) days after the last day of each calendar month a Borrowing Base Certificate as of the end of such month. The Borrowing Base Certificate shall be in the form of Exhibit A attached hereto or in such other form as Agent may reasonably require.

(f) *Borrower Quarterly Compliance Certificate*. Within forty-five (45) days after the last day of each fiscal quarter, commencing with the quarter ending June 30, 2012, a certificate of the chief financial officer of Borrower (i) stating that to the best of such Person's knowledge, no Event of Default has occurred and is continuing, or if an Event of Default has occurred and is continuing, a statement as to the nature thereof and the action which is proposed to be taken with respect thereto, and (ii) showing in reasonable detail the calculations demonstrating compliance with Article Eight. The Compliance Certificate shall be in the form of Exhibit B attached hereto or in such other form as Agent may reasonably require.

(g) *Parent Guarantor Quarterly Compliance Certificate*. Within forty-five (45) days after the last day of each fiscal quarter, commencing with the quarter ending June 30, 2012, a certificate of the chief financial officer of Parent Guarantor (i) stating that to the best of such Person's knowledge, no event of default under Parent Guarantor's Existing Credit Agreement has occurred and is continuing, or if an event of default has occurred and is continuing, a statement as to the nature thereof and the action which is proposed to be taken with respect thereto, and (ii) attaching the compliance certificate Parent Guarantor is required to deliver to Parent Guarantor's Lender pursuant to the requirements of Parent Guarantor's Existing Credit Agreement. The Parent Guarantor's Compliance Certificate shall be in the form of Exhibit C attached hereto or in such other form as Agent may reasonably require.

(h) *Notes Receivable Aging*. Within thirty (30) days after the last day of each calendar month, a notes receivable aging in such form and detail as Agent shall require, certified by the chief financial officer of Borrower.

6.2 *Insurance*. Borrower will, and will cause each Credit Party to, maintain insurance with financially sound and reputable insurance companies in such amounts and covering such risks as is usually carried by corporations engaged in similar businesses and owning similar

properties in the same general areas in which the Credit Parties and their respective Subsidiaries operate, provided that in any event the Credit Parties will maintain workmen's compensation insurance, property insurance, comprehensive general liability insurance, products liability insurance, and business interruption insurance reasonably satisfactory to Agent. Each insurance policy covering Collateral shall name Agent as loss payee and shall provide that such policy will not be canceled or reduced without thirty (30) days prior written notice to Agent.

6.3 *Payment of Debts*. Borrower will, and will cause each Credit Party to, pay or cause to be paid all of its Debt prior to the date on which penalties attach thereto (except to the extent and so long as the payment thereof is being properly contested in good faith by appropriate proceedings and adequate reserves have been established therefor).

6.4 *Taxes*. Borrower will, and will cause each Credit Party to, promptly pay or cause to be paid when due (for the account of Agent, where appropriate) any and all Taxes due by each of the Credit Parties, including, without limitation, all taxes, duties, fees, levies and other charges of whatsoever nature which have been or may be imposed by any government or by any department, agency, state, other political subdivision or taxing authority thereof or therein; provided that a Credit Party shall not be required to pay and discharge any such Taxes or charges so long as the validity thereof shall be contested in good faith by appropriate proceedings and the applicable Credit Party shall set aside on its books adequate reserves with respect thereto and shall pay any such Taxes or charge before the property subject thereto shall be sold to satisfy any lien which has attached as security therefor.

6.5 *Expenses of Agent*. Borrower will, and will cause each Credit Party to, reimburse Agent for all reasonable out-of-pocket costs, fees, and expenses incident to the Loan Documents or any transactions contemplated thereby, including, without limitation, all recording fees, all recording taxes, and the reasonable fees and disbursements of special counsel for Agent for negotiation and preparation of the Loan Documents, preparation and review of other documents, and providing of other legal services, from time to time, in connection herewith up through the Closing Date, and thereafter for services (a) in connection with any subsequent Advance, (b) in connection with or in anticipation of an Event of Default or otherwise in the enforcement of the Loan Documents, (c) in connection with any amendment or waiver to any of the Loan Documents, or (d) in connection with any request or action initiated by any Credit Party, all of which shall be and become a part of the Indebtedness.

6.6 *Maintenance of Entity Existence, Assets and Business; Continuance of Present Business*. Borrower, and will cause each Credit Party to, will preserve and maintain its existence and all of its leases, licenses, permits, franchises, qualifications, and rights that are necessary or desirable in the ordinary conduct of its business. Borrower will, and will cause each Credit Party to, conduct its business in an orderly and efficient manner in accordance with good business practices. Borrower will, and will cause each Credit Party to, keep or cause to be kept all of its assets which are useful and necessary in their respective businesses in good repair, working order and condition, and will make or cause to be made all necessary repairs, renewals and replacements as may be reasonably required. Borrower will, and will cause each Credit Party to, carry on and conduct its business in substantially the same fields as such business is now and has heretofore been carried on. Notwithstanding the foregoing, nothing herein shall limit the ability

of any Credit Party to cease operation or merge into another Credit Party, so long as in both cases any material assets of such Credit Party are transferred to another Credit Party.

6.7 *Books and Records*. Borrower will, and will cause each Credit Party to, maintain proper books of record and account in which full, true, and correct entries in conformity with GAAP shall be made of all dealings and transactions in relation to its business and activities.

6.8 *Compliance with Applicable Laws and with Contracts*. Borrower will, and will cause each Credit Party to, comply with the requirements of all applicable material Laws, rules, regulations and orders of any governmental authority, except where contested in good faith and by proper proceedings or where the failure to so comply would not have a Material Adverse Effect on the Borrower and the other Credit Parties taken as a whole. Borrower will, and will cause each Credit Party to, comply in all material respects with all agreements, contracts, and instruments binding on it or affecting its properties or business, except to the extent the same would not have a Material Adverse Effect on the Borrower and the other Credit Parties taken as a whole.

6.9 *Comply with Agreement*. Borrower will, and will cause each Credit Party to, fully comply with the terms, provisions and conditions of this Agreement and of all documents executed pursuant hereto.

6.10 *Notice of Event of Default, Suits, and Material Adverse Effect*. Upon discovery, Borrower will promptly notify Agent of any breach of any of the covenants contained in Article Six, Article Seven and Article Eight, and of the occurrence of any Event of Default hereunder, or of the filing of any claim, action, suit or proceeding before any Tribunal agency against Borrower in which an adverse decision could have a Material Adverse Effect upon Borrower and advise Agent from time to time of the status thereof.

6.11 *Information and Inspection*. To the extent applicable, Borrower will furnish to Agent as soon as available copies of all (a) materials filed pursuant to the Securities Act of 1933, or 1934, as amended, by any of the Credit Parties with the Securities and Exchange Commission, (b) reports to stockholders, and (c) press releases, and at any reasonable time any other information pertinent to any provision of this Agreement or to any of the Credit Parties' business which Agent may reasonably request. Borrower shall, and shall cause each Credit Party to, permit an authorized representative of Agent to visit and inspect at reasonable times any of the properties of the Credit Parties and to discuss the affairs, finances, and accounts of the Credit Parties with the officers and employees of the Credit Parties.

6.12 *Additional Information*. Borrower will promptly furnish, or cause to be furnished, to Agent such other information, not otherwise required herein, respecting the business affairs, assets and liabilities the Credit Parties, Parent Guarantor, the Subsidiaries and the Collateral as Agent shall from time to time reasonably request.

6.13 *Asset Audit*. Within sixty (60) days after the Closing Date, within one hundred twenty (120) days after the last day of each calendar year, and at such other times as Agent may request in writing, Borrower shall, and shall cause each of the Credit Parties to, permit

representatives of Agent, at the expense of Borrower, to inspect and conduct an audit of all of the Credit Parties' assets, properties, books and records (including the Notes Receivable).

6.14 *Depository Relationship*. Borrower shall, and shall cause each of the Credit Parties and their respective Subsidiaries to, use Agent as its principal depository bank and Borrower shall, and shall cause each of its Subsidiaries to, maintain Agent as its principal depository bank, including for the maintenance of business, cash management, operating and administrative deposit accounts.

Article Seven

Certain Negative Covenants

So long as a Bank is committed to make Advances hereunder, and thereafter until payment and performance in full of the Indebtedness and Obligations, Borrower covenants and agrees that, without the prior written consent of Agent:

7.1 *Debt*. Borrower will not, and will not permit any other Credit Parties to, incur, create, assume, or permit to exist, any Debt, except:

(a) Debt to Banks as permitted hereunder;

(b) Debt which exists on the Closing Date which has been disclosed to Agent in writing prior to the Closing Date;

(c) Trade Debt incurred in the ordinary course of business;

(d) Other unsecured debt in an amount not to exceed $1,500,000.00 each fiscal year, in the aggregate for all Credit Parties taken as a whole; and

(e) Subordinated Debt; and

(f) Intercompany Debt among the Credit Parties.

For purposes of this Section 7.1, any change in accounting rules that would cause any operating lease existing as of the Closing Date to be reclassified as a Capital Lease Obligation shall not be deemed the incurrence of Debt, and any such newly designated Capital Lease Obligation shall not constitute Debt for purposes of this Agreement.

7.2 *Contingent Liabilities*. Borrower will not, and will not permit any other Credit Parties to, assume, guarantee, endorse, contingently agree to purchase or otherwise become liable upon the obligation of any Person (other than Borrower and the other Credit Parties) except (a) by the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business and (b) guaranties by a Credit Party of Indebtedness owned by another Credit Party to the extent permitted under this Agreement.

7.3 *Limitation on Liens*. Borrower will not, and will not permit any other Credit Parties to, incur, create, assume, or permit to exist any Lien upon any of its property, assets, or revenues, whether now owned or hereafter acquired, except:

(a) The Permitted Liens;

(b) Liens for taxes, assessments, or other governmental charges which are being contested in good faith and for which adequate reserves have been established; and

(c) Liens resulting from good faith deposits to secure payments of workmen's compensation or other social security programs or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, or contracts (other than for payment of Debt), or leases made in the ordinary course of business.

7.4 *Mergers, Etc*. Borrower will not, and will not permit any other Credit Party to, become a party to a merger or consolidation, or purchase or otherwise acquire all or any part of the assets of any Person (other than portfolios of Notes Receivable) or any shares, or other evidence of beneficial ownership of any Person, or wind-up, dissolve, or liquidate other than (i) mergers with another Credit Party so long as, if the Borrower is one of the parties to such merger, the Borrower is the surviving party and (ii) as a result of investments permitted under Section 7.6.

7.5 *Restricted Payments*. Borrower shall not, and shall not permit any other Credit Party to, directly or indirectly, declare or pay any dividends or make any other payment or distribution (in cash, Property, or obligations) on account of its equity interests, or redeem, purchase, retire, call, or otherwise acquire any of its equity interests, or permit any of its Subsidiaries to purchase or otherwise acquire any equity interest of such Credit Party or another Subsidiary of such Credit Party, or set apart any money for a sinking or other analogous fund for any dividend or other distribution on its equity interests or for any redemption, purchase, retirement, or other acquisition of any of its equity interests, or incur any obligation (contingent or otherwise) to do any of the foregoing if such dividend, payment, distribution or other payment will cause such Credit Party to breach any of the financial covenants contained in Article Eight hereof.

7.6 *Loans and Investments*. Borrower will not, and will not permit any other Credit Party to, make any advance, loan, extension of credit, or capital contribution to or investment in, or purchase, any stock, bonds, notes, debentures, or other securities of, any Person (collectively, "Investments"), except:

(a) The Notes Receivable and portfolios of Notes Receivable;

(b) readily marketable direct obligations of the United States of America or any agency thereof with maturities of one year or less from the date of acquisition;

(c) depository accounts maintained at a commercial bank operating in the United States of America having capital and surplus in excess of $50,000,000.00; and

(d) Investments in Subsidiaries.

provided, however, the preceding is not intended to prohibit nominal loans by the Credit Parties, taken as a whole, to one or more of their employees as long as the aggregate principal amount of such loans does not exceed $20,000.00 at any one time

7.7 *Limitation on Issuance of Equity*. Borrower will not, and will not permit any other Credit Party to, at any time issue, sell, assign, or otherwise dispose of (a) any of its equity interests, (b) any securities exchangeable for or convertible into or carrying any rights to acquire any of its equity interests, or (c) any option, warrant, or other right to acquire any of its equity interests, that would cause more than ten percent (10%) of the record or beneficial ownership of a Credit Party to be transferred, assigned or hypothecated to any Person, when compared to such ownership as of the Closing Date.

7.8 *Transactions With Affiliates*. Borrower will not, and will not permit any other Credit Party to, enter into any transaction, including, without limitation, the purchase, sale, or exchange of property or the rendering of any service, with any Affiliate of Borrower, except in the ordinary course of and pursuant to the reasonable requirements of its business and upon fair and reasonable terms no less favorable than would be obtained in a comparable arm's-length transaction with a Person not an Affiliate.

7.9 *Disposition of Assets*. Borrower will not, and will not permit any other Credit Party to, sell, lease, assign, transfer, or otherwise dispose of any of its assets, except (a) dispositions, for fair value, of worn-out and obsolete equipment not necessary to the conduct of its business, or (b) sale of Notes Receivable provided that (i) (A) the Notes Receivable are sold for at least 90% of par value (or at less than 90% of par value with the prior written consent of Agent) or (B) Notes Receivable sold at less than 90% of par value shall not, without the prior written consent of Agent, exceed in the aggregate $5,000,000 (par value) in any year, (ii) the proceeds of the sale of the Notes Receivable are applied to the principal balance of the Loan, and (iii) prior to or concurrently with the sale, Borrower has provided to Agent written notice of the sale and copies of the assignment and transfer documents listing and describing the Notes Receivable and the sales price of the Notes Receivable being sold. No sale of Notes Receivable shall, after the proceeds of such sale are applied to the principal balance of the Loan, cause the resulting principal balance of the Loan to exceed the resulting Borrowing Base.

7.10 *Nature of Business*. Borrower will not, and will not permit any other Credit Party to, engage in any business other than the businesses in which each such Credit Party is engaged as of the Closing Date.

7.11 *Environmental Protection*. Borrower will not, and will not permit any other Credit Party to, (a) use (or permit any tenant to use) any of its respective properties or assets for the handling, processing, storage, transportation, or disposal of any Hazardous Material, (b) generate any Hazardous Material, (c) conduct any activity that is likely to cause a Release or threatened Release of any Hazardous Material, or (d) otherwise conduct any activity or use any of its respective properties or assets in any manner that is likely to violate any Environmental Law or is likely to create any material Environmental Liabilities for which any Credit Party would be responsible.

7.12 *No Negative Pledge*. Borrower has not and will not, and will not permit any other Credit Party to, enter into or permit to exist any arrangement or agreement, other than pursuant to this Agreement or any Loan Document, which directly or indirectly prohibits Borrower from creating or incurring a Lien on any of its assets.

7.13 *Judgments*. Borrower will not, and will not permit any other Credit Party to, allow any judgment for the payment of money in excess of $50,000.00 rendered against it to remain undischarged or unsuperseded for a period of thirty (30) days during which execution shall not be effectively stayed.

Article Eight

Financial Covenants

Borrower covenants and agrees that, as long as the Indebtedness or any part thereof is outstanding or a Bank is under any obligation to make Advances under this Agreement, Borrower will, at all times, observe and perform the following financial covenants:

8.1 *Interest Coverage Ratio*. Borrower will maintain an Interest Coverage Ratio of not less than 1.25 to 1.0.

8.2 *Cash Flow Leverage Ratio*. Borrower will maintain an Cash Flow Leverage Ratio of not more than (a) 3.25 to 1.0 as of December 31, 2012, (b) 3.0 to 1.0 as of December 31, 2013, and December 31, 2014, and (c) 2.75 to 1.0 as of each December 31 thereafter.

Article Nine

Events of Default

The term "Event of Default" as used herein shall mean the occurrence of any one or more of the following events (subject to all applicable grace and cure periods):

9.1 *Payment of Indebtedness*. The failure of Borrower to punctually pay the Indebtedness, or any part thereof, as the same become due in accordance with the terms of the Loan Documents, including, without limitation, the failure or refusal of Borrower to punctually pay the principal of or the interest on any Loan, and, in the case of interest on the Advances or fees specified herein or in the Agent Letter Agreement, five (5) Business Days, and in the case of any payments other than such principal, interest or fees, ten (10) days after Agent has given Borrower written notice thereof.

9.2 *Misrepresentation*. Any statement, representation, or warranty heretofore or hereafter made by Borrower or any Obligated Party in the Loan Documents or in any writing, or any statement or representation made in any certificate, report, or opinion delivered to Agent pursuant to the Loan Documents, is false, calculated to mislead, misleading, or erroneous in any material respect at the time made.

9.3 *Covenants*. The failure or refusal of Borrower or any Obligated Party to properly perform, observe, and comply with any covenant or agreement contained in any of the Loan

Documents (other than covenants to pay the Indebtedness and covenants contained in Article Seven of this Agreement), and such failure or refusal continues for a period of ten (10) days after Agent has given Borrower written notice thereof.

9.4 *Voluntary Debtor Relief*. Borrower or any Obligated Party shall (a) execute an assignment for the benefit of creditors, or (b) become or be adjudicated as bankrupt or insolvent, or (c) admit in writing its inability to pay its debts generally as they become due, or (d) apply for or consent to the appointment of a conservator, receiver, trustee, or liquidator of it or all or a substantial part of its assets, or (e) file a voluntary petition seeking reorganization or an arrangement with creditors or to take advantage or seek any other relief under any Debtor Relief Law now or hereafter existing, or (f) file an answer admitting the material allegations of or consenting to, or default in, a petition filed against it in any liquidation, conservatorship, bankruptcy, reorganization, rearrangement, debtor's relief, or other insolvency proceedings, or (g) institute or voluntarily be or become a party to any other judicial proceedings intended to effect a discharge of its debts, in whole or in part, or a postponement of the maturity or the collection thereof, or a suspension of any of the Rights or powers of Agent granted in any of the Loan Documents.

9.5 *Involuntary Proceedings*. Borrower or any Obligated Party shall involuntarily (a) have an order, judgment, or decree entered against it by any Tribunal pursuant to any Debtor Relief Law that could suspend or otherwise affect any of the Rights granted to Agent in any of the Loan Documents, and such order, judgment, or decree is not permanently stayed, vacated, or reversed within sixty (60) days after the entry thereof, or (b) have a petition filed against it or any of its property seeking the benefit or benefits provided for by any Debtor Relief Law that would suspend or otherwise affect any of the Rights granted to Agent in any of the Loan Documents, and such petition is not discharged within sixty (60) days after the filing thereof.

9.6 *Attachment*. The failure to have discharged within a period of thirty (30) days after the commencement thereof any attachment, sequestration, or similar proceedings against any of the material assets of Borrower or any Obligated Party.

9.7 *Dissolution*. The winding up of Borrower or any Obligated Party for any reason whatsoever, other than as expressly permitted pursuant to Section 7.4 above.

9.8 *Intentionally Deleted*.

9.9 *Change in Ownership*. More than ten percent (10%) of the record or beneficial ownership of Borrower shall have been transferred, assigned or hypothecated to any Person, when compared to such ownership as of the Closing Date.

9.10 *Other Agreements*. A default or event of default shall occur and be continuing after the expiration of any applicable grace, notice, and cure periods under any other written agreement (which is not a Loan Document) between Agent, Banks and any Credit Party.

9.11 *Defaults on Other Debt or Agreements*. Borrower or any Obligated Party fails to pay, perform or comply with any debt, covenant, agreement or other obligation to be paid, performed, observed or complied with by Borrower or other Obligated Party for the benefit of a Person other than Agent, subject to any grace and/or cure periods provided therein, which failure

could reasonably be expected to have a material adverse effect on the business, operations, condition (financial or otherwise), or assets of the Credit Parties, the ability of the Credit Parties to perform their respective Obligations under any Loan Document to which it is a party or by which it is bound or the enforceability of any Loan Document.

9.12 Default under Parent Guarantor's Existing Credit Agreement. A default or event of default shall occur and be continuing after the expiration of any applicable grace, notice, and cure periods under any written agreement between Parent Guarantor's Lender and Parent Guarantor.

Article Ten

Certain Rights and Remedies of Agent

10.1 *Rights Upon Event of Default*. If any Event of Default shall occur and be continuing, Agent may at its election, and shall upon the request of Majority Banks, without notice terminate the Commitment and declare the Indebtedness or any part thereof to be immediately due and payable, and the same shall thereupon become immediately due and payable, without notice, demand, presentment, notice of dishonor, notice of acceleration, notice of intent to accelerate, notice of intent to demand, protest, or other formalities of any kind, all of which are hereby expressly waived by Borrower; provided, however, that upon the occurrence of an Event of Default under Section 9.4 or Section 9.5, the Commitment shall automatically terminate, and the Indebtedness shall become immediately due and payable without notice, demand, presentment, notice of dishonor, notice of acceleration, notice of intent to accelerate, notice of intent to demand, protest, or other formalities of any kind, all of which are hereby expressly waived by the Borrower. If any Event of Default shall occur and be continuing, Agent may, at its election, and shall upon the request of Majority Banks, exercise all rights and remedies available to it in law or in equity, under the Loan Documents, or otherwise.

10.2 *Offset*. At any time an Event of Default exists, Agent shall be entitled to exercise the Rights of offset and/or banker's lien against the interest of Borrower in and to each and every account and other property of Borrower which are in the possession of Agent to the extent of the full amount of the Indebtedness.

10.3 *Performance by Agent*. Should any covenant, duty, or agreement of Borrower fail to be performed in accordance with the terms of the Loan Documents, Agent may, at its election, and shall upon the request of Majority Banks, perform or attempt to perform, such covenant, duty, or agreement on behalf of Borrower. In such event, or if Agent expends any sum pursuant to the exercise of any Right provided herein, Borrower shall, at the request of Agent, promptly pay to Agent any amount expended by Agent in such performance or attempted performance, together with interest thereon at the Maximum Rate from the date of such expenditure by Agent until paid. Notwithstanding the foregoing, it is expressly understood that Agent and Banks do not assume any liability or responsibility for the performance of any duties of the Credit Parties or Parent Guarantor hereunder or in connection with all or any part of the Collateral.

10.4 *Diminution in Collateral Value*. Agent and Banks do not assume, and shall never have, any liability or responsibility for any loss or diminution in the value of all or any part of the Collateral.

10.5 *Agent Not In Control*. None of the covenants or other provisions contained in this Agreement shall, or shall be deemed to, give Agent the Right to exercise control over the affairs and/or management of Borrower, the power of Agent being limited to the Right to exercise the remedies provided in the other Sections of this Article; provided that, if Agent becomes the owner of any ownership interest of any Person, whether through foreclosure or otherwise, Agent shall be entitled to exercise such legal Rights as it may have by virtue of being an owner of such Person.

10.6 *Waivers*. The acceptance of Agent or any Bank at any time and from time to time of part payment on the Indebtedness shall not be deemed to be a waiver of any Event of Default then existing. No waiver by Agent or any Bank of any Event of Default shall be deemed to be a waiver of any other then-existing or subsequent Event of Default. No waiver by Agent or any Bank of any of its Rights hereunder, in the other Loan Documents, or otherwise shall be considered a waiver of any other or subsequent Right of Agent or Banks. No delay or omission by Agent or any Bank in exercising any Right under the Loan Documents shall impair such Right or be construed as a waiver thereof or any acquiescence therein, nor shall any single or partial exercise of any such Right preclude other or further exercise thereof, or the exercise of any other Right under the Loan Documents or otherwise.

10.7 *Cumulative Rights*. All Rights available to Agent and Banks under the Loan Documents shall be cumulative of and in addition to all other Rights granted to Agent and Banks at Law or in equity, whether or not the Obligations be due and payable and whether or not Agent or any Bank shall have instituted any suit for collection, foreclosure, or other action under or in connection with the Loan Documents.

10.8 *INDEMNIFICATION OF AGENT AND BANKS*. BORROWER SHALL INDEMNIFY AGENT, BANKS AND EACH AFFILIATE THEREOF AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, AND AGENTS FROM, AND HOLD EACH OF THEM HARMLESS AGAINST, ANY AND ALL LOSSES, LIABILITIES, CLAIMS, DAMAGES, PENALTIES, JUDGMENTS, DISBURSEMENTS, COSTS, AND EXPENSES (INCLUDING ATTORNEYS' FEES) TO WHICH ANY OF THEM MAY BECOME SUBJECT WHICH DIRECTLY OR INDIRECTLY ARISE FROM OR RELATE TO (A) THE NEGOTIATION, EXECUTION, DELIVERY, PERFORMANCE, ADMINISTRATION, OR ENFORCEMENT OF ANY OF THE LOAN DOCUMENTS, (B) ANY OF THE TRANSACTIONS CONTEMPLATED BY THE LOAN DOCUMENTS, (C) ANY BREACH BY BORROWER OF ANY REPRESENTATION, WARRANTY, COVENANT, OR OTHER AGREEMENT CONTAINED IN ANY OF THE LOAN DOCUMENTS, (D) THE PRESENCE, RELEASE, THREATENED RELEASE, DISPOSAL, REMOVAL, OR CLEANUP OF ANY HAZARDOUS MATERIAL LOCATED ON, ABOUT, WITHIN OR AFFECTING ANY OF THE PROPERTIES OR ASSETS OF THE BORROWER OR ANY SUBSIDIARY, (E) THE USE OR PROPOSED USE OF ANY ADVANCE, OR (F) ANY INVESTIGATION, LITIGATION, OR OTHER PROCEEDING, INCLUDING, WITHOUT LIMITATION, ANY THREATENED INVESTIGATION, LITIGATION, OR

OTHER PROCEEDING, RELATING TO ANY OF THE FOREGOING. WITHOUT LIMITING ANY PROVISION OF THIS AGREEMENT OR OF ANY OTHER LOAN DOCUMENT, IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT EACH PERSON TO BE INDEMNIFIED UNDER THIS SECTION SHALL BE INDEMNIFIED FROM AND HELD HARMLESS AGAINST ANY AND ALL LOSSES, LIABILITIES, CLAIMS, DAMAGES, PENALTIES, JUDGMENTS, DISBURSEMENTS, COSTS, AND EXPENSES (INCLUDING ATTORNEYS' FEES) ARISING OUT OF OR RESULTING FROM THE SOLE CONTRIBUTORY OR ORDINARY NEGLIGENCE OF SUCH PERSON; PROVIDED, HOWEVER, THE INDEMNITIES PROVIDED IN THIS SECTION 10.8 DO NOT EXTEND TO LOSSES, LIABILITIES, CLAIMS, OR DAMAGES CAUSED BY AGENT OR ANY BANK'S GROSS NEGLIGENCE OR MISCONDUCT.

10.9 *Limitation of Liability*. Neither Agent, Banks nor any Affiliate, officer, director, employee, attorney, or agent of Agent or Banks shall have any liability with respect to, and Borrower hereby waives, releases, and agrees not to sue any of them upon, any claim for any special, indirect, incidental, or consequential damages suffered or incurred by the Borrower in connection with, arising out of, or in any way related to, this Agreement or any of the other Loan Documents, or any of the transactions contemplated by this Agreement or any of the other Loan Documents. Borrower hereby waives, releases, and agrees not to sue Agent or Banks or any of their Affiliates, officers, directors, employees, attorneys, or agents for punitive damages in respect of any claim in connection with, arising out of, or in any way related to, this Agreement or any of the other Loan Documents, or any of the transactions contemplated by this Agreement or any of the other Loan Documents.

Article Eleven

The Agent

11.1 *Authorization and Action*. Each Bank hereby appoints and authorizes Agent to take such action as agent on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to Agent by the terms hereof, together with such powers as are reasonably incidental thereto. As to any matters not expressly provided for by this Agreement and the other Loan Documents (including, without limitation, enforcement or collection of the Notes), Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting and shall be fully protected in so acting or refraining from acting upon the instructions of Majority Banks, and such instructions shall be binding upon all Banks; provided, however, that Agent shall not be required to take any action which exposes Agent to personal liability or which is contrary to any Loan Documents or applicable Law. Agent agrees to give to each Bank prompt notice of each notice given to it by Borrower pursuant to the terms of this Agreement.

11.2 *Agent's Reliance, Etc*. NONE OF AGENT OR ITS DIRECTORS, OFFICERS, AGENTS, EMPLOYEES OR REPRESENTATIVES SHALL BE LIABLE FOR ANY ACTION TAKEN OR OMITTED TO BE TAKEN BY IT OR THEM (INCLUDING ANY NEGLIGENT ACTION OR FAILURE TO ACT) UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENTS, EXCEPT FOR ITS OR THEIR OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. Without limitation of the generality of

the foregoing, Agent (a) may treat the payee of any Note as the holder thereof until Agent receives written notice of the assignment or transfer thereof signed by such payee and in form satisfactory to Agent; (b) may consult with legal counsel (including counsel for Borrower), independent public accountants and other experts selected by it, and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (c) makes no warranty or representation to any Bank and shall not be responsible to any Bank for any statements, warranties or representations made in or in connection with this Agreement or any other Loan Documents; (d) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement or any other Loan Documents on the part of Borrower or to inspect the Property (including the books and records) of Borrower; (e) shall not be responsible to any Bank for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Loan Documents or any other instrument or document furnished pursuant hereto; and (f) shall incur no liability under or in respect of this Agreement or any other Loan Documents by acting upon any notice, consent, certificate or other instrument or writing (which may be by telegram, cable or telex) believed by it to be genuine and signed or sent by the proper party or parties.

11.3 *Texas Capital Bank and Affiliates*. With respect to its Commitment, Advances made by it and any Loan Documents, TCB shall have the same rights and powers under this Agreement as any other Bank and may exercise the same as though it were not Agent. TCB and its Affiliates may accept deposits from, lend money to, act as trustee under indentures of, and generally engage in any kind of business with, Borrower, Affiliate thereof and Person who may do business therewith, all as if TCB were not Agent and without any duty to account therefor to Banks.

11.4 *Bank Credit Decisions*. Each Bank acknowledges that it has, independently and without reliance upon Agent or any other Bank, and based on the financial statements referred to in Section 5.8 hereof and such other documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Bank also acknowledges that it will, independently and without reliance upon Agent or any other Bank 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 this Agreement and the other Loan Documents.

11.5 *Indemnification by Banks*. EACH BANK AGREES TO INDEMNIFY, REIMBURSE AND HOLD HARMLESS AGENT, AND ANY OF ITS EMPLOYEES, OFFICERS, DIRECTORS OR OTHER REPRESENTATIVES (EACH AN "AGENT INDEMNITEE") (TO THE EXTENT NOT INDEMNIFIED AND REIMBURSED, ON DEMAND, BY BORROWER), RATABLY ACCORDING TO ITS RATABLE SHARE, FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, OBLIGATIONS, CLAIMS, LOSSES, DAMAGES, PENALTIES, ACTIONS, SUITS, JUDGMENTS, DEMANDS, SETTLEMENTS, COSTS, DISBURSEMENTS OR EXPENSES (INCLUDING REASONABLE FEES AND EXPENSES OF ATTORNEYS, ACCOUNTANTS, EXPERTS AND ADVISORS) OF ANY KIND OR NATURE WHATSOEVER (IN THIS SECTION 11.5, THE FOREGOING IS COLLECTIVELY REFERRED TO AS THE "LIABILITIES AND COSTS"), WHICH TO ANY EXTENT (IN WHOLE OR PART) MAY BE IMPOSED ON,

INCURRED BY, OR ASSERTED AGAINST, SUCH AGENT INDEMNITEE IN ANY WAY RELATING TO, OR ARISING OUT OF, THE LOAN DOCUMENTS AND THE TRANSACTION AND EVENTS (INCLUDING THE ENFORCEMENT THEREOF) AT ANY TIME ASSOCIATED THEREWITH OR CONTEMPLATED THEREIN (INCLUDING ANY VIOLATION OR NONCOMPLIANCE WITH ANY ENVIRONMENTAL LAW BY ANY PERSON OR ANY LIABILITIES OR DUTIES OF ANY PERSON WITH RESPECT TO HAZARDOUS MATERIALS FOUND IN OR RELEASED INTO THE ENVIRONMENT) OR AS A RESULT OF ANY ACTION TAKEN OR OMITTED TO BE TAKEN BY SUCH AGENT INDEMNITEE, INCLUDING ITS NEGLIGENCE OF ANY KIND, OTHER, THAN AS PROVIDED IN THE FOLLOWING PROVISO, THE GROSS NEGLIGENCE OF AN AGENT INDEMNITEE; PROVIDED, THAT NO BANK SHALL BE LIABLE FOR ANY PORTION, IF ANY, OF ANY LIABILITIES AND COSTS WHICH ARE PROXIMATELY CAUSED BY THE AGENT'S OWN INDIVIDUAL GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AS DETERMINED IN A FINAL JUDGMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH BANK AGREES, IN PROPORTION WITH ITS RATABLE SHARE, TO REIMBURSE THE AGENT PROMPTLY UPON ITS DEMAND FOR ANY REASONABLE COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES AND OTHER CHARGES) INCURRED BY THE AGENT IN CONNECTION WITH THE PREPARATION, EXECUTION, DELIVERY, ADMINISTRATION, MODIFICATION, AMENDMENT OR ENFORCEMENT (WHETHER THROUGH NEGOTIATIONS, LEGAL PROCEEDINGS, OR OTHERWISE) OF, OR LEGAL ADVICE IN RESPECT OF THEIR RIGHTS OR RESPONSIBILITIES UNDER, THE LOAN DOCUMENTS, OR ANY OF THEM, OR ANY OTHER DOCUMENTS CONTEMPLATED BY THE LOAN DOCUMENTS, TO THE EXTENT THAT THE AGENT IS NOT REIMBURSED, ON DEMAND, FOR SUCH AMOUNTS BY BORROWER. EACH BANK'S OBLIGATIONS UNDER THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT AND THE DISCHARGE OF BORROWER'S OBLIGATIONS HEREUNDER.

11.6 *Defaults*. The Agent shall not be deemed to have knowledge of the occurrence of a Event of Default (other than the non-payment of principal of or interest on Obligations or of commitment or other fees) unless the Agent has received written notice from a Bank or Borrower specifying the occurrence of such Event of Default and stating that such notice is a "Notice of Default." In the event that the Agent receives a Notice of Default, it shall give prompt notice thereof to the Banks (and shall give each Bank prompt notice of each such non-payment). Subject to Article 9, the Agent shall take such action with respect to such Event of Default as shall be directed by the Majority Banks; provided that, unless and until the Agent shall have received such directions, the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default as it shall in its sole and absolute discretion deem advisable in the best interest of the Banks.

11.7 *Deferral of Distributions; Investments*. Whenever the Agent in good faith determines that it is uncertain about how to distribute to the Banks any funds which it has received, or whenever the Agent in good faith determines that there is any dispute among the Banks about how such funds should be distributed, the Agent may choose to defer distribution of the funds which are the subject of such uncertainty or dispute. If the Agent in good faith believes that the uncertainty or dispute will not be promptly resolved, it may, or if the Agent is

otherwise required to invest funds pending distribution to the Banks, it shall, invest such funds pending distribution in any manner it deems appropriate, absent timely instructions from the Majority Banks; all interest on any such investment (net of investment and related costs, if any, incurred in connection therewith) shall be distributed upon the distribution of such investment and in the same proportion and to the same Persons as such investment. All monies received by the Agent for distribution to the Banks (other than to the Person who is the Agent in its separate capacity as a Bank) shall be held by the Agent pending such distribution solely as the Agent for such Banks, and the Agent shall have no equitable title to any portion thereof. ABSENT GROSS NEGLIGENCE OR WILLFUL MISCONDUCT ON ITS PART (BUT EXCLUDING ITS OWN NEGLIGENCE OF ANY OTHER KIND), AS DETERMINED BY A FINAL JUDGMENT, THE AGENT SHALL BE FULLY PROTECTED AND FREE FROM LIABILITY TO THE BANKS, FOR ANY COSTS AND LIABILITIES RESULTING FROM OR RELATED TO THE DEFERRAL OF DISTRIBUTIONS AND/OR MAKING OF INVESTMENTS AS PROVIDED FOR IN THIS SECTION 11.7, INCLUDING THE FAILURE OF ANY SUCH INVESTMENT.

11.8 *Nature of Article Eleven*. The provisions of this Article Eleven (other than the following Section 11.9) are intended solely for the benefit of the Agent and Banks, and neither the Borrower nor any other Person shall be entitled to rely on any such provision or assert any such provision in a claim or defense against the Agent and any Bank. The Agent and Banks may waive or amend such provisions as they desire without any notice to or consent of the Borrower except that any such change not consented to by Borrower shall not be binding on Borrower. Nothing contained in any Loan Documents, and no action taken by any Bank or the Agent pursuant hereto or in connection herewith or pursuant to or in connection with any of the Loan Documents, shall be deemed to constitute the Banks, together or with or without the Agent, a partnership, association, joint venture or other entity.

11.9 *Successor Agent*. Agent may resign at any time by giving written notice thereof to Banks and Borrower, and may be removed at any time with or without cause by the action of all Banks (other than the Bank constituting Agent). Upon any such resignation or removal, Super-Majority Banks shall have the right to appoint a successor Agent, with, so long as no Event of Default has occurred and is continuing, the consent of Borrower (which shall not be unreasonably withheld). If no successor Agent shall have been so appointed and shall have accepted such appointment within thirty (30) days after the retiring Agent's giving of notice of resignation or the Banks' removal of the Agent, then the retiring or removed Agent may, on behalf of Banks and Borrower, appoint a successor Agent, which shall be a commercial bank organized under the Law of the United States of America or of any State thereof and having a combined capital and surplus of at least $50,000,000. Upon the acceptance of any appointment as Agent hereunder by a successor Agent, such successor Agent shall thereupon succeed to and become vested with all the Rights and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations under the Loan Documents. After any retiring Agent's resignation or removal hereunder as Agent, the provisions of this Article 11 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement.

Article Twelve

Miscellaneous

12.1 *Notices*. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder shall be in writing (including by facsimile transmission) and mailed, faxed, or delivered, to the address, facsimile number to the address specified for notices on the signature page below or to such other address as shall be designated by such party in a notice to the other parties. All such other notices and other communications shall be deemed to have been given or made upon the earliest to occur of (a) actual receipt by the intended recipient or (b) (i) if delivered by hand or courier, when signed for by the designated recipient; (ii) if delivered by mail, four Business Days after deposit in the mail, postage prepaid; and (iii) if delivered by facsimile when sent and receipt has been confirmed by telephone. Electronic mail and internet websites may be used only to distribute routine communications, such as financial statements and other information, and to distribute Loan Documents for execution by the parties thereto, and may not be used for any other purpose.

12.2 *Form and Number of Documents*. Each agreement, document, instrument, or other writing to be furnished to Agent under any provision of this Agreement must be in form and substance and in such number of counterparts as may be satisfactory to Agent and its counsel.

12.3 *Survival*. All covenants, agreements, undertakings, representations, and warranties made in any of the Loan Documents shall survive all closings under the Loan Documents and shall continue in full force and effect so long as any part of the Indebtedness remains and, except as otherwise indicated, shall not be affected by any investigation made by any party. Notwithstanding anything contained herein to the contrary, the covenants, agreements, undertakings, representations, and warranties made in Section 6.5 and Section 10.8 shall survive the expiration or termination of this Agreement, regardless of the means of such expiration or termination.

12.4 *GOVERNING LAW; PLACE OF PERFORMANCE*. THE LOAN DOCUMENTS ARE BEING EXECUTED AND DELIVERED, AND ARE INTENDED TO BE PERFORMED, IN THE STATE OF TEXAS, AND THE LAWS OF SUCH STATE AND OF THE UNITED STATES SHALL GOVERN THE RIGHTS AND DUTIES OF THE PARTIES HERETO AND THE VALIDITY, CONSTRUCTION, ENFORCEMENT, AND INTERPRETATION OF THE LOAN DOCUMENTS, EXCEPT TO THE EXTENT OTHERWISE SPECIFIED IN ANY OF THE LOAN DOCUMENTS. THIS AGREEMENT, ALL OF THE OTHER LOAN DOCUMENTS, AND ALL OF THE OBLIGATIONS OF BORROWER UNDER ANY OF THE LOAN DOCUMENTS ARE PERFORMABLE IN BEXAR COUNTY, TEXAS. VENUE OF ANY LITIGATION INVOLVING THIS AGREEMENT OR ANY LOAN DOCUMENT SHALL BE MAINTAINED IN AN APPROPRIATE STATE OR FEDERAL COURT LOCATED IN BEXAR COUNTY, TEXAS, TO THE EXCLUSION OF ALL OTHER VENUES.

12.5 *Maximum Interest*. It is expressly stipulated and agreed to be the intent of Borrower, Agent and Banks at all times to comply strictly with the applicable Texas law

governing the maximum rate or amount of interest payable on the indebtedness evidenced by any Note or any Loan Document, and the Related Indebtedness (defined below) (or applicable United States federal law to the extent that it permits Agent and Banks to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If the applicable law is ever judicially interpreted so as to render usurious any amount (a) contracted for, charged, taken, reserved or received pursuant to any Note, any of the other Loan Documents or any other communication or writing by or between Borrower, Agent and Banks related to the transaction or transactions that are the subject matter of the Loan Documents, (b) contracted for, charged, taken, reserved or received by reason of Agent's or any Bank's exercise of the option to accelerate the maturity of any Note and/or any and all indebtedness paid or payable by Borrower to Agent or Banks pursuant to any Loan Document other than any Note (such other indebtedness being referred to in this Section as the "Related Indebtedness"), or (c) Borrower will have paid or Agent or a Bank will have received by reason of any voluntary prepayment by Borrower of any Note, then it is Borrower's, Agent's and Banks' express intent that all amounts charged in excess of the Maximum Rate shall be automatically canceled, ab initio, and all amounts in excess of the Maximum Rate theretofore collected by Agent or Banks shall be credited on the principal balance of any Note and (or, if any Note has been or would thereby be paid in full, refunded to Borrower), and the provisions of any Note and the other Loan Documents shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder; provided, however, if any Note has been paid in full before the end of the stated term of any such Note, then Borrower, Agent and Banks agree that Agent shall, with reasonable promptness after Agent discovers or is advised by Borrower that interest was received in an amount in excess of the Maximum Rate, either refund such excess interest to Borrower and/or credit such excess interest against such Note and/or any Related Indebtedness then owing by Borrower to such Bank. Borrower hereby agrees that as a condition precedent to any claim seeking usury penalties against Agent or Banks, Borrower will provide written notice to Agent and Banks, advising Agent and Banks in reasonable detail of the nature and amount of the violation, and Agent and Banks shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Borrower or crediting such excess interest against the Note to which the alleged violation relates and/or the Related Indebtedness then owing by Borrower to Agent or any Bank. All sums contracted for, charged, taken, reserved or received by Agent or Banks for the use, forbearance or detention of any debt evidenced by any Note and/or the Related Indebtedness shall, to the extent permitted by applicable law, be amortized or spread, using the actuarial method, throughout the stated term of such Note and/or the Related Indebtedness (including any and all renewal and extension periods) until payment in full so that the rate or amount of interest on account of any Note and/or the Related Indebtedness does not exceed the Maximum Rate from time to time in effect and applicable to such Note and/or the Related Indebtedness for so long as debt is outstanding. In no event shall the provisions of Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving triparty accounts) apply to any Note and/or any of the Related Indebtedness. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Agent or Banks to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

12.6 *Ceiling Election*. To the extent that Agent or Banks are relying on Chapter 303 of the Texas Finance Code to determine the Maximum Rate payable on any such Note and/or any other portion of the Indebtedness, Agent and Banks will utilize the weekly ceiling from time to time in effect as provided in such Chapter 303, as amended. To the extent federal law permits Agent or Banks to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law, Agent and Banks will rely on federal law instead of such Chapter 303 for the purpose of determining the Maximum Rate. Additionally, to the extent permitted by applicable law now or hereafter in effect, Agent and Banks may, at their option and from time to time, utilize any other method of establishing the Maximum Rate under such Chapter 303 or under other applicable law by giving notice, if required, to Borrower as provided by applicable law now or hereafter in effect.

12.7 *Invalid Provisions*. If any provision of any of the Loan Documents is held to be illegal, invalid, or unenforceable under present or future Laws effective during the term thereof, such provision shall be fully severable, the appropriate Loan Document shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part thereof; and the remaining provisions thereof shall remain in full force and effect and shall not be effected by the illegal, invalid, or unenforceable provision or by its severance therefrom. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of such Loan Document a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

12.8 *Entirety and Amendments*. This instrument embodies the entire agreement between the parties relating to the subject matter hereof (except documents, agreements and instruments delivered or to be delivered in accordance with the express terms hereof), supersedes all prior agreements and understandings, if any, relating to the subject matter hereof, and may be amended only by an instrument in writing executed jointly by Borrower, Agent and Majority Banks and supplemented only by documents delivered or to be delivered in accordance with the express terms hereof, and then any such amendment shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no amendment, waiver or consent shall, unless in writing and signed by Borrower, Agent and each Bank directly affected thereby, (a) waive any conditions precedent specified in Section 4.1 (if the Advance that is the subject of such waiver would increase the aggregate amount of outstanding Advances), (b) increase or extend the Commitment, (c) reduce any principal, interest, fees or other amounts payable hereunder, (d) postpone any date fixed for any payment or mandatory prepayment of principal, interest, fees or other amounts payable hereunder, (e) change the meaning of Specified Percentage or the number of Banks required to take any action hereunder, (f) change the percentage set forth in the definition of "Majority Banks" or "Super-Majority Banks", (g) change any Prime Rate or LIBOR Rate, (h) amend this Section or any other provision in this Agreement providing for consent or other action by all the Banks, or (i) change or modify the Collateral or the advance rate for the Borrowing Base calculations. No amendment, waiver or consent shall, unless in writing and signed by Borrower, Agent and all Banks, affect the obligations of Parent Guarantor or amend the Parent Guarantor's Guaranty or Parent Guarantor's covenants under the Loan Documents. No amendment, waiver or consent shall, unless in writing and signed by Agent in addition to the requisite number of Banks, affect the Rights or duties of Agent under any Loan Documents.

12.9 *Sale of Participations*. Any Bank may, from time to time and without notice to Borrower, sell or offer to sell interests in the Loan to one or more participants and each Bank is hereby authorized to disseminate and disclose any information (whether or not confidential or proprietary in nature) such Bank now has or may hereafter obtain pertaining to Borrower, the Indebtedness or the Loan Documents (including, without limitation, any credit or other information regarding Borrower, any of its principals, or any other person or entity liable, directly or indirectly, for any part of the Loan, to (a) any participant or prospective participant, (b) any regulatory body having jurisdiction over such Bank or the Indebtedness, and (c) any other persons or entities as may be necessary or appropriate in such Bank's reasonable judgment). Prior to its dissemination and disclosure of such information to any prospective participant, such Bank shall require the prospective participant to execute a Non-Disclosure Agreement in the form previously executed by such Bank or otherwise acceptable to Borrower. Provided, however, no participation of any Loan shall affect the Specified Percentages of the Banks for the purposes of this Agreement, unless each Bank and Agent consent thereto in writing.

12.10 *Multiple Counterparts*. This Agreement has been executed in a number of identical counterparts, each of which constitutes an original and all of which constitute, collectively, one agreement; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

12.11 *Parties Bound*. This Agreement shall be binding upon and inure to the benefit of Borrower, Agent, Banks and their respective successors and assigns; provided that Borrower may not, without the prior written consent of Agent, assign any of its Rights, duties, or obligations hereunder. No term or provision of this Agreement shall inure to the benefit of any Person other than Borrower, Agent and Banks and their respective successors and assigns; consequently, no Person other than Borrower, Agent and Banks and their respective successors and assigns, shall be entitled to rely upon, or to raise as a defense, in any manner whatsoever, the failure of Borrower, Agent or Banks to perform, observe, or comply with any such term or provision. No Bank may assign any or all of its interests hereunder or in any Advance or any Note or other Loan Document without the consent of Borrower, unless at such time an Event of Default has occurred and is continuing.

12.12 *Agent's Consent or Approval*. Except where otherwise expressly provided in the Loan Documents, in any instance where the approval, consent or the exercise of judgment of Agent is required, the granting or denial of such approval or consent and the exercise of such judgment shall be (a) within the sole discretion of Agent, and (b) deemed to have been given only by a specific writing intended for the purpose and executed by Agent. Each provision for consent, approval, inspection, review, or verification by Agent is for Agent's and Banks' own purposes and benefit only.

12.13 *Loan Agreement Governs*. In the event of any conflict between the terms of this Agreement and any terms of any other Loan Document, the terms of this Agreement shall govern. All of the Loan Documents are by this reference incorporated into this Agreement.

12.14 *WAIVER OF JURY TRIAL*. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BORROWER HEREBY IRREVOCABLY AND EXPRESSLY WAIVES

ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO ANY OF THE LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED THEREBY OR THE ACTIONS OF AGENT OR BANKS IN THE NEGOTIATION, ADMINISTRATION, OR ENFORCEMENT THEREOF.

12.15 *STATUTE OF FRAUDS NOTICE*. THIS WRITTEN LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[Remainder of page intentionally left blank.]

BORROWER:

PROPEL FINANCIAL SERVICES, LLC,
a Texas limited liability company

By /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

Address for Notices:

8203 IH-10 West
San Antonio, Texas 78230
Attn: Fernando Garcia
Fax No.: (210) 530-3064

With a copy to:

3111 Camino Del Rio North, Suite 1300
San Diego, CA 92108
Attn: Director, Legal Affairs and Contracts
Email: melissa.resslar@encorecapital.com

JOINDER PAGE

Each Guarantor joins in the execution of this Agreement to evidence its consent to the terms, provisions, covenants and agreements contained herein and its agreement to be bound thereby.

PARENT GUARANTOR:

ENCORE CAPITAL GROUP, INC.,
a Delaware corporation

By /s/ J. Brandon Black
Name: J. Brandon Black
Title: President & Chief Executive Officer

Address for Notices:

3111 Camino Del Rio North, Suite 1300
San Diego, CA 92108
Attn: Director, Legal Affairs and Contracts
Email: melissa.resslar@encorecapital.com

JOINDER PAGE

Each Guarantor joins in the execution of this Agreement to evidence its consent to the terms, provisions, covenants and agreements contained herein and its agreement to be bound thereby.

GUARANTOR:

RIOPROP VENTURES, LLC,
a Texas limited liability company

By /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

Address for Notices:

8203 IH-10 West
San Antonio, Texas 78230
Attn: Fernando Garcia
Fax No.: (210) 530-3064

With a copy to:

3111 Camino Del Rio North, Suite 1300
San Diego, CA 92108
Attn: Director, Legal Affairs and Contracts
Email: melissa.resslar@encorecapital.com

JOINDER PAGE

Each Guarantor joins in the execution of this Agreement to evidence its consent to the terms, provisions, covenants and agreements contained herein and its agreement to be bound thereby.

GUARANTOR:

BNC RETAX, LLC,
a Texas limited liability company

By /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

Address for Notices:

8203 IH-10 West
San Antonio, Texas 78230
Attn: Fernando Garcia
Fax No.: (210) 530-3064

With a copy to:

3111 Camino Del Rio North, Suite 1300
San Diego, CA 92108
Attn: Director, Legal Affairs and Contracts
Email: melissa.resslar@encorecapital.com

JOINDER PAGE

Each Guarantor joins in the execution of this Agreement to evidence its consent to the terms, provisions, covenants and agreements contained herein and its agreement to be bound thereby.

GUARANTOR:

RIOPROP HOLDINGS, LLC,
a Texas limited liability company

By /s/ J. Brandon Black
Name: J. Brandon Black
Title: President

Address for Notices:

8203 IH-10 West
San Antonio, Texas 78230
Attn: Fernando Garcia
Fax No.: (210) 530-3064

With a copy to:

3111 Camino Del Rio North, Suite 1300
San Diego, CA 92108
Attn: Director, Legal Affairs and Contracts
Email: melissa.resslar@encorecapital.com

BANKS:

TEXAS CAPITAL BANK, NATIONAL ASSOCIATION,
a national banking association

By /s/ Craig A. Dixon
Craig A. Dixon, Senior Vice President

Address for Notices:

745 East Mulberry, Suite 350
San Antonio, Texas 78212
Fax No.: (210) 785-3609

With a copy to:

Jackson Walker L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701
Attn: Steven R. Martens
Fax No.: (512) 391-2128

BANKS:

AMEGY BANK NATIONAL ASSOCIATION,
a national banking association

By /s/ Mark V. Harris
Mark V, Harris, Executive Vice President

Address for Notices:

Amegy Bank National Association
10001 Reunion Place Blvd., Suite 300
San Antonio, Texas 78216
Fax No.: 210.343.4423

With a copy to:

Amegy Bank Special Processing
Fax No: 713.693.7467

BANKS:

BOKF, National Association,
a national banking association

By /s/ Michael Rodgers
Michael Rodgers, Vice President

Address for Notices:

5956 Sherry Lane, Suite 1100
Dallas, Texas 75225
Attn: Michael Rodgers, Vice President
Fax No.: (214) 987-8892

BANKS:

CITY BANK,
a Texas banking association

By /s/ Stan Mayfield
Stan Mayfield, Overton Branch President

Address for Notices:

P.O. Box 5060
Lubbock, Texas 79408
Attn: Stan Mayfield, Overton Branch President
Fax No.: (806) 687-5638

BANKS:

LONE STAR NATIONAL BANK,
a national banking association

By /s/ Brian Disque
Brian Disque, Senior Vice President

Address for Notices:

520 East Nolana Avenue
McAllen, Texas 78504
Attn: Brian Disque
Fax No.: (956) 984-2958

BANKS:

GREEN BANK, N.A.
a national banking association

By /s/ Glen R. Bell
Glen R. Bell, Executive Vice President

Address for Notices:

4000 Greenbriar, 2nd Floor
Houston, Texas 77098
Attn: Glen Bell, Executive Vice President
Fax No.: (713) 275-8259

AGENT:

TEXAS CAPITAL BANK, NATIONAL ASSOCIATION,
a national banking association

By /s/ Craig A. Dixon
Craig A. Dixon, Senior Vice President

Address for Notices:

745 East Mulberry, Suite 350
San Antonio, Texas 78212
Fax No.: (210) 785-3609

With a copy to:

Jackson Walker L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701
Attn: Steven R. Martens
Fax No.: (512) 391-2128

EXHIBIT A

BORROWING BASE CERTIFICATE

[attached]

EXHIBIT A

745 Mulberry
Suite 350
San Antonio, TX 78212
Fax: 210-733-6600

Borrowing Base Report

Borrower: **PROPEL FINANCIAL SERVICES, LLC**

Schedule A

Tax Lien/Note Portfolio		**Date**
1.)	**Par Value of Portfolio to be acquired (or originated) For Propel**	$
	Par Value of Portfolio to be acquired (or originated) For RioProp	
	Par Value of Portfolio to be acquired (or originated) For BNC Retax	
	Total Value of Portfolio	0
2.)	**Times Advance Rate**	90%
3.)	**Par Value of current Portfolio**	$
	Par Value of current portfolio for RioProp	
	Par Value of current portfolio for BNC Retax	
	Total Value of Current Portfolio	0
4.)	**Times Advance Rate**	90%
5.)	**Total Par Value of Portfolio (Line 2 plus Line 4)**	$
6.)	**Ending Line of Credit Balance**	$
7.)	**Borrowing Availability (Line 5 minus Line 6) (Not to Exceed $160,000,000.00)**	$

(If result is a negative figure, this amount is due immediately as a principal payment.)

This certificate is delivered under the Loan Agreement dated _____, between Borrower and Bank. Capitalized terms used in this certificate shall, unless otherwise indicated, have the meanings set forth in the Agreement. On behalf of Borrower, the undersigned advises Bank that a review of the activities of the Borrower during the subject period has been made under my supervision, and the undersigned certifies to Bank on the date hereof that (a) no Default has occurred and is continuing, (b) the tax lien/note portfolio of Borrower included in the Borrowing Base above meet all conditions to qualify for inclusion therein as set forth in the Agreement, (‘c) all representations and warranties set forth in the Agreement with respect thereto were true and correct in all material respects at the time the represent- actions and warranties were made, and (d) the information set forth above and hereto was true and correct as of the reporting date.

CERTIFIED BY:

PROPEL FINANCIAL SERVICES, LLC

Company Name	**By:** **Authorized Signer**
Date	**Title**

EXHIBIT B

COMPLIANCE CERTIFICATE

[attached]

COMPLIANCE CERTIFICATE

FOR THE QUARTER ENDED ("THE SUBJECT PERIOD")

BORROWER: Propel Financial Services, LLC (Credit Parties)

BANK: TEXAS CAPITAL BANK NA

This certificate is delivered pursuant to the Loan Agreement (the "Agreement") between Borrower and Bank dated as of _____. Capitalized terms in this certificate, unless otherwise indicated, have the meanings set forth in the Agreement.

I certify to Bank that, on the date of this certificate, (a) the Financial Statements of Borrower attached to this certificate were prepared in accordance with GAAP, and present fairly the financial condition and results of Borrower as of the end of and for the Subject Period, and (b) no Default currently exists or has occurred which has not been cured or waived by Bank, and (c) the status of the compliance by Borrower with certain covenants of the Agreement at the end of the Subject Period is as follows (a box for any deviations from full compliance is provided at the end of this certificate):

				In Compliance for the Subject Period	
9.	Minimum Interest Coverage Ratio (Calculated Quarterly)				
	Minimum of	1.25:1	x	*Yes*	*No*
	Measured quarterly on a cumulative YTD basis through 9/30/12 and rolling four quarter period thereafter				
	Consolidated Net Income				
	Plus Interest Expense				
	Plus Depreciation Expense				
	Plus Non-cash Amortization Expense				
	Plus taxes				
	Total Additions	0			
	Less Cash Taxes Paid				
	Less Dividends				
	Less Distribution				
	Total Deductions	0			
	Consolidated Adjusted EBITDA	0			
	Interest Expense				
	Interest Coverage Ratio		x		
12.	Cash Flow Leverage Ratio (Calculated Annually)				
	Maximum of	3.25:1 as of 12/31/12	x	*Yes*	*No*
		3.00:1 as of 12/31/13 & 12/31/14			
		2.75:1 thereafter			
	Principal Balance on Funded Debt				
	Measured annually.				

Consolidated Net Income	
Plus Interest Expense	
Plus Depreciation Expense	
Plus Non-cash Amortization Expense	
Plus Taxes	
Plus Principal Repayments on Collateral Tax Lien Notes	
Minus Cash Dividends & Distributions	
Minus Cash Taxes Paid	
Consolidated Adjusted EBITDA	0
Total Senior Debt / EBITDA	

This Compliance Certificate is a summary only. Borrower hereby certifies that Borrower is in compliance with all of the terms and conditions of the Loan Agreement, except as follows (describe areas of non-compliance, or else note "in compliance" if there are no points of non-compliance):

CERTIFIED BY

Borrower:

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT C

GUARANTOR'S COMPLIANCE CERTIFICATE

[attached]

Encore Capital Group, Inc.
Debt Covenant Compliance
Worksheet - JP Morgan Chase
March 31, 2012
$ in Thousands

Cash Flow Leverage Ratio
(Section 6.21.1)

* Aggregate amount of collections from receivables portfolios that are not included in consolidated revenues.

This consists of amounts applied to principal on receivable portfolios and net impairment on receivable portfolios.

	Full Year 2011	Q1 2011	Q1 2012	Trailing 4 Quarters
Net Income				
Amortized Collections *				
Interest Expense				
Tax Expense				
Depreciation & Amortization				
Stock-based Compensation Expense				
Interest Income				
Extraordinary Gains				
JV Income				
Consolidated EBITDA	**$ 0**	**$ 0**	**$ 0**	**$ 0**
Funded Indebtedness				
Cash Flow Leverage Ratio				**2.0**
Calculated Funded Indebtedness Limit				**$ 0**
Calculated Cash Flow Leverage Ratio				**#DIV/0!**
Excess Room				**$ 0**

Minimum Net Worth (Section 6.21.2)

Consolidated Net Worth - Initial Basis (as of 12/31/11)
50% of Consolidated Net Income - Q1 2012

Minimum Net Worth	**$**	**0**
Total Stockholders' Equity		
Excess Room	**$**	**0**

Interest Coverage Ratio
(Section 6.22)

Consolidated EBIT Calculation (Trailing 4 Quarters)		
Consolidated Net Income	**$**	**0**
Consolidated Interest Expense	**$**	**0**
Tax Expense	**$**	**0**
Extraordinary Losses (Gains)	**$**	**0**
Interest Income	**$**	**0**
Joint Venture Income	**$**	**0**
Paid Dividend Not Permitted	**$**	**0**
Consolidated EBIT	**$**	**0**
Consolidated Interest Expense	**$**	**0**
Interest Coverage Ratio		**#DIV/0!**
Minimum Interest Coverage Ratio		**2.00**
Calculated Interest Expense Limit	**$**	**0**
Excess Room	**$**	**0**

Sale of Assets (Section 6.12)

Amount of Asset Sales	**$**	**0**

Indebtedness (Section 6.14)

Aggregate indebtedness incurred for purchase money & unsecured indebtedness

Indebtedness under Prudential Financing (Section 6.14.8)

Aggregate indebtedness under Prudential Financing	**$75,000**
Maximum allowable	**$75,000**
Excess Room	**$ 0**

Capital Expenditures pursuant to Section 6.23

	Full Year 2011	Q1 2011	Q1 2012	Trailing 4 Quarters
Capital Additions				
Additions (YTD)				**$ 0**
Maximum Additions				**$ 12,500**
Excess Room				**$ 12,500**

Rentals pursuant to Section 6.24

	Full Year 2011	Q1 2011	Q1 2012	Trailing 4 Quarters
Rentals				
Rentals (Trailing 4 Quarters)				**$ 0**
Maximum Rentals				**$ 12,500**
Excess Room				**$ 12,500**

Liquidity (Section 6.30)

Unencumbered Cash and Cash Equivalents	**A**
Aggregate Outstanding Revolving Credit Exposure	**B**
Aggregate Revolving Loan Commitment	**C**

C - B	**D**	
Borrowing Base	**E**	
E - B	**F**	
Lesser of D or F	**G**	
Liquidity A + G		**$ 0**
Minimum Liquidity		**$ 5,000**
Excess Room		**($5,000)**

ANNEX A

ADDITIONAL CREDIT PARTIES

RioProp Ventures, LLC, a Texas limited liability company

BNC Retax, LLC, a Texas limited liability company

RioProp Holdings, LLC, a Texas limited liability company

(Back To Top)

Section 6: EX-10.4 (GUARANTY AGREEMENT)

Exhibit 10.4

GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT (this "***Guaranty Agreement***") is executed as of May 8, 2012, by **ENCORE CAPITAL GROUP, INC.**, a Delaware corporation (together with such Person's permitted successors and permitted assigns, being hereinafter referred to as "***Guarantor***"), in favor of **TEXAS CAPITAL BANK, NATIONAL ASSOCIATION**, a national banking association, as Administrative Agent for the Banks described in the Credit Agreement (together with its successors and assigns, being hereinafter referred to as "***Agent***").

INTRODUCTORY PROVISIONS:

A. Borrower may, from time to time, be indebted to Agent and the Banks pursuant to that certain Credit Facility Loan Agreement dated of even date herewith (as modified, amended, renewed, extended, and restated from time to time, the "***Credit Agreement***"), by and among Borrower, Agent and the Banks described therein.

B. It is expressly understood among Borrower, Guarantor, and Agent that the execution and delivery of this Guaranty Agreement is a condition precedent to the obligations of Agent and the Banks to make loans or extend credit under the Credit Agreement and is an integral part of the transactions contemplated thereby.

C. Guarantor is the sole member of Borrower and the value of the consideration and benefit received and to be received by Guarantor, directly or indirectly, as a result of the extension of credit by Agent and the Banks to Borrower is a substantial and direct benefit to Guarantor.

D. Borrower may from time to time enter into a Hedge Agreement with Texas Capital Bank, National Association, or an affiliate thereof.

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, Guarantor hereby guarantees to Agent the prompt payment and performance of the Guaranteed Obligations, this Guaranty Agreement being upon the following terms and conditions:

1. **Definitions**. Any capitalized term used in this Guaranty Agreement and not otherwise defined herein shall have the meaning ascribed to such term in the Credit Agreement. In addition, the following terms have the following meanings:

"***Banks***" means the Banks described in the Credit Agreement, and their respective successors and assigns.

"***Borrower***" means **PROPEL FINANCIAL SERVICES, LLC**, a Texas limited liability company, and without limitation, Borrower's successors and assigns (regardless of whether such successor or assign is formed by or results from any merger, consolidation, conversion, sale or transfer of assets, reorganization, or otherwise) including Borrower as a debtor-in-possession, and any receiver, trustee, liquidator, conservator, custodian, or similar party hereafter appointed for Borrower or all or substantially all of its assets pursuant to any liquidation, conservatorship,

bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization, or similar Debtor Relief Laws from time to time in effect.

"***Debtor Relief Laws***" means Title 11 of the United States Code, as now or hereafter in effect, or any other applicable law, domestic or foreign, as now or hereafter in effect, relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement or composition, extension or adjustment of debts, or similar laws affecting the rights of creditors.

"***Dispute***" means any action, dispute, claim or controversy of any kind, whether in contract or tort, statutory or common law, legal or equitable, now existing or hereafter arising under or in connection with, or in any way pertaining to, this Guaranty Agreement and each other document, contract and instrument required hereby or now or hereafter delivered to Agent or any of the Banks in connection herewith, or any past, present or future extensions of credit and other activities, transactions or obligations of any kind related directly or indirectly to any of the foregoing documents, including, without limitation, any of the foregoing arising in connection with the exercise of any self-help, ancillary or other remedies pursuant to any of the foregoing documents.

"***Guaranteed Indebtedness***" means (a) the Notes and all other indebtedness, obligations and liabilities of Borrower to Agent or any of the Banks under or pursuant to the Credit Agreement or any of the Loan Documents (as hereinafter defined), now existing or hereafter arising, whether direct, indirect, related, unrelated, fixed, contingent, liquidated, unliquidated, joint, several or joint and several, (b) all accrued but unpaid interest on any of the indebtedness described in (a) above, and including any and all pre-and post-maturity interest thereon, including, without limitation, post-petition interest and expenses (including attorneys' fees), if Borrower is the debtor in a bankruptcy proceeding under the Debtor Relief Laws, whether or not allowed under any Debtor Relief Law, (c) all obligations of Borrower to Agent or any of the Banks under any documents evidencing, securing, governing and/or pertaining to all or any part of the indebtedness described in (a) and (b) above (collectively, the "***Loan Documents***," which shall include this Guaranty Agreement), (d) all costs and expenses incurred by Agent or any of the Banks in connection with the collection and administration of all or any part of the indebtedness and obligations described in (a), (b) and (c) above or the protection or preservation of, or realization upon, the collateral securing all or any part of such indebtedness and obligations, including, without limitation, all reasonable attorneys' fees, and (e) all renewals, extensions, modifications and rearrangements of the indebtedness and obligations described in (a), (b), (c) and (d) above.

"***Guaranteed Obligations***" means the Guaranteed Indebtedness and the Guaranteed Performance Obligations.

"***Guaranteed Performance Obligations***" means all of the obligations of Borrower and Guarantor under the Loan Documents other than an obligation to pay money.

"***Hedge Agreement***" means (a) any and all interest 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, (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 and annexes, a "***Master Agreement***") and (c) any and all Master Agreements and any and all related confirmations.

"***Notes***" means collectively the following Revolving Promissory Notes as such may be amended, increased, restated, renewed, and extended from time to time:

(a) Revolving Promissory Note of even date herewith in the original principal amount of $35,000,000.00 executed by Borrower and payable to the order of Texas Capital Bank, National Association, a national banking association;

(b) Revolving Promissory Note of even date herewith in the original principal amount of $30,000,000.00 executed by Borrower and payable to the order of Amegy Ban National Association, a national banking association;

(c) Revolving Promissory Note of even date herewith in the original principal amount of $30,000,000.00 executed by Borrower and payable to the order of BOKF, National Association, a national banking association;

(d) Revolving Promissory Note of even date herewith in the original principal amount of $27,500,000.00 executed by Borrower and payable to the order of City Bank, a Texas banking association;

(e) Revolving Promissory Note of even date herewith in the original principal amount of $22,500,000.00 executed by Borrower and payable to the order of Lone Star National Bank, a national banking association; and

(f) Revolving Promissory Note of even date herewith in the original principal amount of $15,000,000.00 executed by Borrower and payable to the order of Green Bank, N.A., a national banking association.

2. **Payment**. Guarantor hereby unconditionally and irrevocably guarantees to Agent for the benefit of the Banks, as a guaranty of payment and not merely as a guaranty of collection, prompt payment when due, whether at stated maturity, by required prepayment, by lapse of time, by acceleration of maturity, demand or otherwise, and at all times thereafter, of the Guaranteed Indebtedness. This Guaranty Agreement covers the Guaranteed Indebtedness, whether presently outstanding or arising subsequent to the date hereof, including all amounts advanced by Agent or any of the Banks in stages or installments. The guaranty of Guarantor as set forth in this ***Section 2*** is a continuing guaranty of payment and not a guaranty of collection. Guarantor acknowledges and agrees that Guarantor may be required to pay and perform the Guaranteed Indebtedness in full without assistance or support from Borrower or any other party. Guarantor agrees that if all or any part of the Guaranteed Indebtedness shall not be punctually paid when due, whether on the scheduled payment date, by lapse of time, by acceleration of maturity or otherwise, Guarantor shall, immediately upon demand by Agent, pay the amount due on the Guaranteed Indebtedness to Agent at Agent's address as set forth in the Credit Agreement. Any such demand may be made at any time coincident with or after the time for payment of all or part of the Guaranteed Indebtedness, and may be made from time to time with respect to the same or

different items of Guaranteed Indebtedness. Any such demand shall be made, given and received in accordance with the notice provisions in ***Section 21*** hereof.

3. **Performance**. Guarantor hereby unconditionally and irrevocably guarantees to Agent for the benefit of the Banks the timely performance of the Guaranteed Performance Obligations, and not merely as a guaranty of collection. If any of the Guaranteed Performance Obligations of Borrower are not satisfied or complied with in any respect whatsoever, and without the necessity of any notice from Agent or any of the Banks to Guarantor, Guarantor agrees to indemnify and hold Agent and the Banks harmless from any and all loss, cost, liability or expense that Agent or any of the Banks may suffer by any reason of any such non-performance or non-compliance. The obligations and liability of Guarantor under this ***Section 3*** shall not be limited or restricted by the existence of, or any terms of, the guaranty of payment under ***Section 2*** of this Guaranty Agreement.

4. **Primary Liability of Guarantor**.

(a) This Guaranty Agreement is an absolute, irrevocable and unconditional guaranty of payment and performance. Guarantor is and shall be liable for the payment and performance of the Guaranteed Obligations, as set forth in this Guaranty Agreement, as a primary obligor.

(b) In the event of default in payment or performance of the Guaranteed Obligations, or any part thereof, when such Guaranteed Obligations become due, whether by its terms, by acceleration, or otherwise, Guarantor shall promptly pay the amount due thereon to Agent without notice or demand of any kind or nature, in lawful money of the United States of America or perform the obligations to be performed hereunder, and it shall not be necessary for Agent or any of the Banks in order to enforce such payment and performance by Guarantor first, or contemporaneously, to institute suit or exhaust remedies against Borrower or any other Person liable on the Guaranteed Obligations, or to enforce any rights, remedies, powers, privileges or benefits of Agent or the Banks against any collateral or any other security or collateral which shall ever have been given to secure the Guaranteed Obligations.

(c) Suit may be brought or demand may be made against Guarantor or any other guaranty covering all or any part of the Guaranteed Obligations, or against any one or more of them, separately or together, without impairing the rights of Agent against Guarantor. Any time that Agent is entitled to exercise its rights or remedies hereunder, Agent may in its sole discretion elect to demand payment and/or performance. If Agent elects to demand performance, then it shall at all times thereafter have the right to demand payment until all of the Guaranteed Obligations have been paid and performed in full (other than contingent indemnification obligations for which claims have not been asserted. If Agent elects to demand payment, then it shall at all times thereafter have the right to demand performance until all of the Guaranteed Obligations have been paid and performed in full (other than contingent indemnification obligations for which claims have not been asserted).

5. **Other Guaranteed Obligations**. If Guarantor becomes liable for any indebtedness owing by Borrower to Agent or any of the Banks, other than under this Guaranty Agreement, such liability shall not in any manner be impaired or affected hereby, and the rights

and remedies hereunder shall be cumulative of any and all other rights and remedies that Agent or any of the Banks may ever have against Guarantor. The exercise by Agent or any of the Banks of any right or remedy hereunder or under any other instrument, or at law or in equity, shall not preclude the concurrent or subsequent exercise of any other right or remedy by Agent or any of the Banks.

6. **Waiver of Subrogation**. Notwithstanding anything to the contrary contained herein, until the Guaranteed Obligations and any amounts payable under this Guaranty Agreement have been indefeasibly paid and performed in full (other than contingent indemnification obligations for which claims have not been asserted) and any commitments of Agent and the Banks with respect to the Guaranteed Obligations are terminated, Guarantor waives to the extent permitted by applicable law any right of subrogation, reimbursement, indemnification or contribution arising from the existence or performance of this Guaranty Agreement or any of the Loan Documents. This waiver is given to induce Agent and the Banks to make the Loan to Borrower.

7. **Subordinated Debt**. All indebtedness, liabilities, and obligations of Borrower or its Affiliates to Guarantor (the "***Subordinated Debt***") now or hereafter existing, due or to become due to Guarantor, or held or to be held by Guarantor, whether created directly or acquired by assignment or otherwise, and whether evidenced by written instrument or not, shall be expressly subordinated to the Guaranteed Obligations. Until such time as the Guaranteed Obligations are paid and performed in full (other than contingent indemnification obligations for which claims have not been asserted) and all commitments to lend under the Loan Documents have terminated, Guarantor agrees not to receive or accept any payment from Borrower with respect to the Subordinated Debt at any time an Event of Default exists before or after giving effect thereto; and, in the event Guarantor receives any payment on the Subordinated Debt in violation of the foregoing, Guarantor will hold any such payment in trust for Agent and forthwith turn it over to Agent in the form received, to be applied to the Guaranteed Obligations, but without reducing or affecting in any manner the liability of the Guarantor under this Guaranty Agreement.

8. **Obligations Not to be Diminished**. Guarantor hereby agrees that its obligations under this Guaranty Agreement shall not be released, discharged, diminished, impaired, reduced, or affected for any reason or by the occurrence of any event, including, without limitation, one or more of the following events, whether or not with notice to or the consent of Guarantor: (a) the taking or accepting of collateral as security for any or all of the Guaranteed Obligations or the release, surrender, exchange, or subordination of any collateral now or hereafter securing any or all of the Guaranteed Obligations; (b) any partial release of the liability of Borrower or the full or partial release of any other guarantor or obligor from liability for any or all of the Guaranteed Obligations; (c) any disability of Borrower, or the dissolution, insolvency, or bankruptcy of Borrower, any other guarantor, or any other party at any time liable for the payment of any or all of the Guaranteed Obligations; (d) any renewal, extension, modification, waiver, amendment, or rearrangement of any or all of the Guaranteed Obligations or any instrument, document, or agreement evidencing, securing, or otherwise relating to any or all of the Guaranteed Obligations; (e) any adjustment, indulgence, forbearance, waiver, or compromise that may be granted or given by Agent to Borrower, Guarantor, or any other party ever liable for any or all of the Guaranteed Obligations; (f) any neglect, delay, omission, failure, or refusal of Agent to take or prosecute any action for the collection of any of the Guaranteed Obligations or to foreclose or take or prosecute any action in connection with any instrument, document, or agreement

evidencing, securing, or otherwise relating to any or all of the Guaranteed Obligations; (g) the unenforceability or invalidity of any or all of the Guaranteed Obligations or of any instrument, document, or agreement evidencing, securing, or otherwise relating to any or all of the Guaranteed Obligations; (h) any payment by Borrower or any other party to Agent is held to constitute a preference under applicable bankruptcy or insolvency law or if for any other reason Agent is required to refund any payment or pay the amount thereof to someone else; (i) the settlement or compromise of any of the Guaranteed Obligations; (j) the non-perfection of any security interest or Lien securing any or all of the Guaranteed Obligations; (k) any impairment of any collateral securing any or all of the Guaranteed Obligations; (l) the failure of Agent to sell any collateral securing any or all of the Guaranteed Obligations in a commercially reasonable manner or as otherwise required by law; (m) any change in the corporate, partnership, or limited liability company, as applicable, existence, structure, or ownership of Borrower; or (n) any other circumstance which might otherwise constitute a defense available to, or discharge of, Borrower or Guarantor.

9. **Waivers**. Guarantor waives for the benefit of Agent: (a) any right to revoke this Guaranty Agreement with respect to future indebtedness; (b) any right to require Agent to do any of the following before Guarantor is obligated to pay the Guaranteed Obligations or before Agent may proceed against Guarantor: (i) sue or exhaust remedies against Borrower or any other guarantors or obligors; (ii) sue on an accrued right of action in respect of any of the Guaranteed Obligations or bring any other action, exercise any other right, or exhaust all other remedies or (iii) enforce rights against Borrower's assets or any collateral pledged by Borrower to secure the Guaranteed Obligations; (c) any right relating to the timing, manner, or conduct of Agent's enforcement of rights against Borrower's assets or any collateral pledged by Borrower to secure the Guaranteed Obligations; (d) if both Guarantor and Borrower or any other Person have pledged assets to secure the Guaranteed Obligations, any right to require Agent to proceed first against any such other collateral before proceeding against any collateral pledged by Guarantor; (e) except as expressly required hereby, promptness, diligence, notice of any default under the Guaranteed Obligations, notice of acceleration or intent to accelerate, demand for payment, notice of acceptance of this Guaranty Agreement, presentment, notice of protest, notice of dishonor, notice of the incurring by Borrower of additional indebtedness, notice of any suit or other action by Agent against Borrower or any other Person, any notice to any Person liable for the obligation which is the subject of the suit or action, and all other notices and demands with respect to the Guaranteed Obligations and this Guaranty Agreement; (f)(i) any principles or provisions of law, statutory, or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of Guarantor's obligations hereunder, (ii) the benefit of any statute of limitations affecting Guarantor's liability hereunder or the enforcement hereof; and (iii) any requirement that Agent protect, secure, perfect or insure any security interest or Lien or any property subject thereto; and (g) each of the foregoing rights or defenses regardless whether they arise under (i) *Section 43.001–005* of the Tex. Civ. Prac. & Rem. Code, as amended (ii) *Section 17.001* of the Texas Civil Practice and Remedies Code, as amended, (iii) *Rule 31* of the Texas Rules of Civil Procedure, as amended, (iv) common law, in equity, under contract, by statute, or otherwise; and (v) any and all rights under *Sections 51.003, 51.004* and *51.005* of the Texas Property Code, as amended.

10. **Insolvency**. Should Guarantor become insolvent, or fail to pay Guarantor's debts generally as they become due, or voluntarily seek, consent to, or acquiesce in the benefit or

benefits of any Debtor Relief Law, or become a party to (or be made the subject of) any proceeding provided for by any Debtor Relief Law (other than as a creditor or claimant) that could suspend or otherwise adversely affect the rights and remedies of Agent granted hereunder, then, in any such event, the Guaranteed Obligations shall be, as between Guarantor and Agent and the Banks, a fully matured, due, and payable obligation of Guarantor to Agent and the Banks (without regard to whether Borrower is then in default under the Credit Agreement or whether the Obligations, or any part thereof is then due and owing by Borrower to Agent or any of the Banks), payable in full by Guarantor to Agent and the Banks upon demand, which shall be the estimated amount owing in respect of the contingent claim created hereunder.

11. **Termination; Reinstatement**. Guarantor's obligations hereunder shall remain in full force and effect until all commitments to lend under the Loan Documents have terminated, and the Guaranteed Obligations have been paid and performed in full (other than contingent indemnification obligations for which claims have not been asserted). If at any time any payment of the principal of or interest or any other amount payable by Borrower under the Loan Documents is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy, or reorganization of Borrower or otherwise, then Guarantor's obligations hereunder with respect to such payment shall be reinstated as though such payment had been due but not made at such time.

12. **Stay of Acceleration**. Should Borrower voluntarily seek, consent to, or acquiesce in the benefit or benefits of any Debtor Relief Law, or become a party to (or be made the subject of) any proceeding provided for by any Debtor Relief Law (other than as a creditor or claimant), all Guaranteed Obligations shall nonetheless be payable by Guarantor immediately if requested by Agent.

13. **Representations and Warranties**. Guarantor represents and warrants that: (a) it is duly organized and in good standing under the laws of the jurisdiction of its organization and has full capacity and right to make and perform this Guaranty Agreement, and all necessary authority has been obtained; (b) this Guaranty Agreement constitutes its legal, valid and binding obligation enforceable in accordance with its terms, except as limited by Debtor Relief Laws; (c) the making and performance of this Guaranty Agreement does not and will not violate the provisions of any applicable law, regulation or order, and does not and will not result in the breach of, or constitute a default or require any consent (that has not been obtained) under, any material agreement, instrument, or document to which Guarantor is a party or by which it or any of its property may be bound or affected; (d) all consents, approvals, licenses and authorizations of, and filings and registrations with, any governmental authority required under applicable law and regulations for the making and performance of this Guaranty Agreement have been obtained or made and are in full force and effect; (e) by virtue of its relationship with Borrower, the execution, delivery and performance of this Guaranty Agreement is for the direct benefit of Guarantor and it has received adequate consideration for this Guaranty Agreement; and (f) Guarantor has, independently and without reliance upon Agent or any of the Banks and based upon such documents and information as Guarantor has deemed appropriate, made its own analysis and decision to enter into this Guaranty Agreement, and Guarantor has adequate means to obtain from Borrower on a continuing basis information concerning the financial condition and assets of Borrower, and Guarantor is not relying upon Agent or any of the Banks to provide (and Agent and the Banks shall have no duty to provide) any such information to Guarantor either now or in the future.

14. **Covenants**. So long as this Guaranty Agreement remains in full force and effect, Guarantor shall:

(a) Furnish to Agent the financial statements, compliance certificates and other financial reports of Guarantor as described in and required under the Credit Agreement;

(b) Furnish to Agent such additional information concerning Guarantor as Agent may reasonably request; and

(c) Obtain at any time and from time to time all authorizations, licenses, consents or approvals as shall now or hereafter be necessary under all applicable laws or regulations or otherwise in connection with the execution, delivery and performance of this Guaranty Agreement and will promptly furnish copies thereof to Agent.

15. **No Fraudulent Transfer**. It is the intention of Guarantor and Agent that the amount of the Guaranteed Obligations guaranteed by Guarantor by this Guaranty Agreement shall be in, but not in excess of, the maximum amount permitted by fraudulent conveyance, fraudulent transfer, or similar laws applicable to Guarantor (collectively, "***Fraudulent Transfer Laws***"). Accordingly, notwithstanding anything to the contrary contained in this Guaranty Agreement or any other agreement or instrument executed in connection with the payment of any of the Guaranteed Obligations, the amount of the Guaranteed Obligations guaranteed by Guarantor by this Guaranty Agreement shall be limited to that amount which after giving effect thereto would not (a) render Guarantor insolvent, (b) result in the fair saleable value of the assets of Guarantor being less than the amount required to pay its debts and other liabilities (including contingent liabilities) as they mature, or (c) leave Guarantor with unreasonably small capital to carry out its business as now conducted and as proposed to be conducted, including its capital needs, as such concepts described in ***clauses (a)***, ***(b)*** and ***(c)*** of this ***Section 15*** are determined under applicable law, if the obligations of Guarantor hereunder would otherwise be set aside, terminated, annulled or avoided for such reason by a court of competent jurisdiction in a proceeding actually pending before such court. For purposes of this Guaranty Agreement, the term "***applicable law***" means as to Guarantor each statute, law, ordinance, regulation, order, judgment, injunction or decree of the United States or any state or commonwealth, any municipality, any foreign country, or any territory, possession or governmental authority applicable to Guarantor. Any analysis of the provisions of this Guaranty Agreement for purposes of Fraudulent Transfer Laws shall take into account the right of contribution against any Other Guarantor (as defined in ***Section 25***) and, for purposes of such analysis, give effect to any discharge of intercompany debt as a result of any payment made under the Guaranty.

16. **Successors and Assigns**. This Guaranty Agreement is for the benefit of Agent and its successors and assigns, and, in the event of an assignment of the Guaranteed Obligations in accordance with the provisions of the Credit Agreement, or any part thereof, the rights and remedies hereunder, to the extent applicable to the indebtedness so assigned, may be transferred with such indebtedness. This Guaranty Agreement is binding on Guarantor and its successors and permitted assigns; *provided that*, Guarantor may not assign its obligations under this Guaranty Agreement without obtaining the prior written consent of Agent, and any assignment purported to be made without the prior written consent of Agent shall be null and void.

17. **CREDIT AGREEMENT**. GUARANTOR AGREES THAT AGENT MAY EXERCISE ANY AND ALL RIGHTS GRANTED TO IT UNDER THE CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS WITHOUT AFFECTING THE VALIDITY OR ENFORCEABILITY OF THIS GUARANTY AGREEMENT.

18. **Setoff Rights**. Agent shall have the right to set off and apply against this Guaranty Agreement or the Guaranteed Obligations or both, at any time and without notice to Guarantor, any and all deposits (general or special, time or demand, provisional or final) or other sums at any time credited by or owing from Agent to Guarantor whether or not the Guaranteed Obligations are then due and irrespective of whether or not Agent shall have made any demand under this Guaranty Agreement. As further security for this Guaranty Agreement and the Guaranteed Obligations, Guarantor hereby grants Agent a security interest in all deposits (general or special, time or demand, provisional or final) other accounts of Guarantor, money, instruments, and other property of Guarantor now or hereafter on deposit with or held by Agent and all other sums at any time credited by or owing from Agent to Guarantor. The rights and remedies of Agent hereunder are in addition to other rights and remedies (including, without limitation, other rights of setoff) which Agent may have.

19. **Time of Essence**. Time shall be of the essence in this Guaranty Agreement with respect to all of Guarantor's obligations hereunder.

20. **GOVERNING LAW; VENUE; SERVICE OF PROCESS**. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS; *PROVIDED THAT* AGENT SHALL RETAIN ALL RIGHTS UNDER FEDERAL LAW. THIS AGREEMENT HAS BEEN ENTERED INTO IN BEXAR COUNTY, TEXAS, AND IS PERFORMABLE FOR ALL PURPOSES IN BEXAR COUNTY, TEXAS. THE PARTIES HEREBY AGREE THAT ANY LAWSUIT, ACTION, OR PROCEEDING THAT IS BROUGHT (WHETHER IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO ANY OF THE LOAN DOCUMENTS, THE TRANSACTIONS CONTEMPLATED THEREBY, OR THE ACTIONS OF THE AGENT IN THE NEGOTIATION, ADMINISTRATION OR ENFORCEMENT OF ANY OF THE LOAN DOCUMENTS SHALL BE BROUGHT IN A STATE OR FEDERAL COURT OF COMPETENT JURISDICTION LOCATED IN BEXAR COUNTY, TEXAS. GUARANTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY (A) SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS, (B) WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH LAWSUIT, ACTION, OR PROCEEDING BROUGHT IN ANY SUCH COURT, AND (C) FURTHER WAIVES ANY CLAIM THAT IT MAY NOW OR HEREAFTER HAVE THAT ANY SUCH COURT IS AN INCONVENIENT FORUM. EACH OF THE PARTIES HERETO AGREE THAT SERVICE OF PROCESS UPON IT MAY BE MADE BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED AT THE ADDRESS FOR NOTICES REFERENCED IN THE CREDIT AGREEMENT.

21. **Notices**. Whenever any notice is required or permitted to be given under the terms of this Guaranty Agreement, the same shall, except as otherwise expressly provided for in

this Guaranty Agreement, be given in writing, and sent by: (a) certified mail, return receipt requested, postage pre paid; (b) a national overnight delivery service; (c) hand delivery with written receipt acknowledged; or (d) facsimile, followed by a copy sent in accordance with ***clause (b)*** or ***(c)*** of this ***Section 21*** sent the same day as the facsimile, in each case to the address or facsimile number (together with a contemporaneous copy to each copied addressee), as applicable, in the case of Guarantor, set forth on the signature page to this Guaranty Agreement, and in the case of Agent, set forth in the Credit Agreement. Agent and Borrower shall not conduct communications contemplated by this Guaranty Agreement by electronic mail or other electronic means, except by facsimile transmission as expressly provided in this ***Section 21***, and the use of the phrase "in writing" or the word "written" shall not be construed to include electronic communications except by facsimile transmissions as expressly provided in this ***Section 21***. Any notice required or given hereunder shall be deemed received the same Business Day if sent by hand delivery or facsimile, the next Business Day if sent by overnight courier, or three (3) Business Days after posting if sent by certified mail, return receipt requested; *provided that* any notice received after 5:00 p.m. Central time on any Business Day or received on any day that is not a Business Day shall be deemed to have been received on the following Business Day.

22. **Expenses**. Guarantor hereby agrees to pay on demand: (a) all costs and expenses of Agent in connection with the preparation, negotiation, execution, and delivery of this Guaranty Agreement and the other Loan Documents and any and all amendments, modifications, renewals, extensions, and supplements thereof and thereto, including, without limitation, the reasonable fees and expenses of legal counsel, advisors, consultants, and auditors for Agent, (b) all costs and expenses of Agent in connection with any Default and the enforcement of this Guaranty Agreement or any other Loan Document, including, without limitation, the fees and expenses of legal counsel, advisors, consultants, and auditors for Agent, (c) all transfer, stamp, documentary, or other similar taxes, assessments, or charges levied by any Governmental Authority in respect of this Guaranty Agreement or any of the other Loan Documents, (d) all costs, expenses, assessments, and other charges incurred in connection with any filing, registration, recording, or perfection of any Lien contemplated by this Guaranty Agreement or any other Loan Document, and (e) all other costs and expenses incurred by Agent in connection with this Guaranty Agreement or any other Loan Document, any litigation, dispute, suit, proceeding or action; the enforcement of its rights and remedies, and the protection of its interests in bankruptcy, insolvency or other legal proceedings, including, without limitation, all costs, expenses, and other charges (including Agent's internal charges) incurred in connection with evaluating, observing, collecting, examining, auditing, appraising, selling, liquidating, or otherwise disposing of the Collateral or other assets of Borrower.

23. **Indemnification and Survival**. Without limitation on any other obligations of Guarantor or remedies of Agent under this Guaranty Agreement, Guarantor shall, to the fullest extent permitted by law, indemnify, defend and save and hold harmless Agent from and against, and shall pay on demand, any and all damages, losses, liabilities and expenses (including attorneys' fees and expenses and the allocated cost and disbursements of Agent's internal legal counsel) that may be suffered or incurred by Agent in connection with or as a result of any failure of any Guaranteed Obligations to be the legal, valid and binding obligations of Borrower enforceable against Borrower in accordance with their terms. The obligations of Guarantor under this paragraph shall survive the payment in full of the Guaranteed Obligations and termination of this Guaranty Agreement.

24. **Amendments; Counterparts**. This Guaranty Agreement may be amended only by an instrument in writing executed by Guarantor and Agent. This Guaranty Agreement may be executed in multiple counterparts, each of which, for all purposes, shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

25. **Contribution**. To the extent that any other Person guarantees the Guaranteed Indebtedness (each such Person is an "***Other Guarantor***"), and such Other Guarantor shall be required to pay any portion of any Guaranteed Indebtedness exceeding the *greater of* (a) the amount of the value actually received by such Other Guarantor and its Subsidiaries from the Loans and other Obligations and (b) the amount such Other Guarantor would otherwise have paid if such Other Guarantor had paid the aggregate amount of the Guaranteed Indebtedness (excluding the amount thereof repaid by Borrower) in the same proportion as such Other Guarantor's net worth on the date enforcement is sought hereunder bears to the aggregate net worth of Guarantor and all Other Guarantors on such date, then Guarantor agrees to reimburse each such Other Guarantor for the amount of such excess, pro rata, based on the respective net worth of each such Other Guarantors on such date.

26. **WAIVER OF JURY TRIAL**. TO THE EXTENT ALLOWED BY APPLICABLE LAW, GUARANTOR AND AGENT EACH IRREVOCABLY WAIVES TRIAL BY JURY WITH RESPECT TO ANY ACTION, CLAIM, SUIT OR PROCEEDING ON, ARISING OUT OF OR RELATING TO THIS GUARANTY AGREEMENT OR ANY OF THE LOAN DOCUMENTS OR THE ACTS OR FAILURE TO ACT OF OR BY AGENT IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS GUARANTY AGREEMENT OR THE OTHER LOAN DOCUMENTS.

27. **FINAL AGREEMENT**. THIS GUARANTY AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]

EXECUTED as of the first date herein set forth.

GUARANTOR:

ENCORE CAPITAL GROUP, INC.,
a Delaware corporation

By /s/ J. Brandon Black
Name: J. Brandon Black
Title: President & Chief Executive Officer

Address for Notices:

3111 Camino Del Rio North, Suite 1300
San Diego, CA 92108
Attn: Director, Legal Affairs and Contracts
Email: melissa.resslar@encorecapital.com

Signature Page to
Guaranty Agreement

(Back To Top)

Section 7: EX-10.5 (FORM OF RESTRICTED STOCK AWARD GRANT NOTICE AND AGREEMENT)

Exhibit 10.5

ENCORE CAPITAL GROUP, INC.
RESTRICTED STOCK GRANT NOTICE
(2005 STOCK INCENTIVE PLAN, AS AMENDED)

Encore Capital Group, Inc. (the ***"Company"***), pursuant to its 2005 Stock Incentive Plan, as amended (the ***"Plan"***), hereby awards to Participant a Restricted Stock Award for the number of shares of the Company's stock set forth below (the ***"Award"***). The Award is subject to all of the terms and conditions as set forth herein and in the Plan and the Restricted Stock Agreement, both of which are attached hereto and incorporated herein in their entirety. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Plan or the Restricted Stock Agreement. In the event of any conflict between the terms in the Award and the Plan, the terms of the Plan shall control.

Participant:	[name]
Date of Grant:	[date]
Vesting Commencement Date:	See Vesting Schedule below
Number of Shares Subject to Award:	[number]
Consideration:	Participant's Services
Vesting Schedule:	x shares will vest on [date]; x shares will vest on [date]; and x shares will vest on [date]. In addition, the vesting of the shares may accelerate in the sole discretion of the Committee and upon certain events described in the Restricted Stock Agreement. Notwithstanding the foregoing, vesting shall terminate upon the Participant's termination of Continuous Service.

Additional Terms/Acknowledgements: Participant acknowledges receipt of, and understands and agrees to, this Restricted Stock Grant Notice, the Restricted Stock Agreement and the Plan. Participant further acknowledges that as of the Date of Grant, this Restricted Stock Grant Notice, the Restricted Stock Agreement and the Plan set forth the entire understanding between Participant and the Company regarding the Award and supersede all prior oral and written agreements on that subject.

Participant further agrees that the Company may deliver by e-mail all documents relating to the Plan or this Award (including without limitation, prospectuses required by the Securities and Exchange Commission) and all other documents that the Company is required to deliver to its security holders (including without limitation, annual reports and proxy statements). Participant also agrees that the Company may deliver these documents by posting them on a website maintained by the Company or by a third party under contract with the Company. If the Company posts these documents on a website, it will notify Participant by e-mail.

ENCORE CAPITAL GROUP, INC.:

By: _____

PARTICIPANT:

_____

[J. Brandon Black] [name]

Title: [President and Chief Executive Officer] Date: _____

Date: _____

ATTACHMENTS: Restricted Stock Agreement, 2005 Stock Incentive Plan, as Amended and Restated

ATTACHMENT I

ENCORE CAPITAL GROUP, INC.
2005 STOCK INCENTIVE PLAN, AS AMENDED

RESTRICTED STOCK AGREEMENT – NON-EXECUTIVE

Pursuant to the Restricted Stock Grant Notice ("***Grant Notice***") and this Restricted Stock Agreement and in consideration of your services, Encore Capital Group, Inc. (the "***Company***") has awarded you a restricted stock award (the "***Award***") under its 2005 Stock Incentive Plan, as amended (the "***Plan***") for the number of shares of the Company's Stock as indicated in the Grant Notice. Your Award is granted to you effective as of the Date of Grant set forth in the Grant Notice for this Award. Defined terms not explicitly defined in this Restricted Stock Agreement shall have the same meanings given to them in the Plan. In the event of any conflict between the terms in this Restricted Stock Agreement and the Plan, the terms of the Plan shall control.

In consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto do hereby agree that the details of your Award are as follows:

1. VESTING. Subject to the limitations contained herein, your Award will vest in accordance with the vesting schedule provided in the Grant Notice, provided that vesting will cease upon the termination of your Continuous Service. For purposes of this Award, ***"Continuous Service"*** means that your service with the Company or an Affiliate, whether as an employee, director or consultant, is not interrupted or terminated. A change in the capacity in which you render service to the Company or an Affiliate as an employee, consultant or director or a change in the entity for which you render such service, provided that there is no interruption or termination of your service with the Company or an Affiliate, shall not terminate your Continuous Service. For example, a change in status from an employee of the Company to a consultant to an Affiliate or to a director shall not constitute an interruption of Continuous Service. To the extent permitted by law, the Board or its compensation committee or any officer designated by the Board or its compensation committee, in that party's sole discretion, may determine whether Continuous Service shall be considered interrupted in the case of any leave of absence approved by that party, including sick leave, military leave or any other personal leave. Notwithstanding the foregoing, a leave of absence shall be treated as Continuous Service for purposes of vesting to such extent as may be provided in the Company's leave of absence policy, in the written terms of any leave of absence agreement or policy applicable to you, or as otherwise required by law.

2. NUMBER OF SHARES. The number of shares subject to your Award may be adjusted from time to time for capitalization adjustments, as provided in the Plan.

3. SECURITIES LAW COMPLIANCE. You may not be issued any shares under your Award unless the shares are either: (i) then registered under the Securities Act; or (ii) the Company has determined that such issuance would be exempt from the registration requirements of the Securities Act. Your Award also must comply with other applicable laws and regulations

governing the Award, and you will not receive such shares if the Company determines that such receipt would not be in material compliance with such laws and regulations.

4. LIMITATIONS ON TRANSFER. Your Award is not transferable, except by will or by the laws of descent and distribution. In addition to any other limitation on transfer created by applicable securities laws, you agree not to assign, hypothecate, donate, encumber or otherwise dispose of any interest in any of the shares of Stock subject to the Award until the shares are vested in accordance with this Restricted Stock Agreement. After the shares have vested, you are free to assign, hypothecate, donate, encumber or otherwise dispose of any interest in such shares provided that any such actions are in compliance with the provisions herein and applicable securities laws.

5. DIVIDENDS. You shall be entitled to receive payments equal to any cash dividends and other distributions paid with respect to the shares covered by your Award, provided that such distributions shall be converted into additional shares covered by the Award. If such distributions are paid in cash, you shall be credited with additional shares covered by the Award in an amount equal to (i) the amount of the dividends or other distributions paid on that number of shares equal to the aggregate number of shares covered by the Award as of that date divided by (ii) the Fair Market Value of a share as of such date. The additional shares credited shall be subject to the same vesting and forfeiture restrictions as the shares covered by the Award with respect to which they relate.

6. RESTRICTIVE LEGENDS. The shares issued under your Award shall be endorsed with appropriate legends determined by the Company.

7. AWARD NOT A SERVICE CONTRACT.

(a) Your Continuous Service with the Company or an Affiliate is not for any specified term and may be terminated by you or by the Company or an Affiliate at any time, for any reason, with or without cause and with or without notice. Nothing in this Restricted Stock Agreement (including, but not limited to, the vesting of your Award pursuant to the schedule set forth in the Grant Notice), the Plan or any covenant of good faith and fair dealing that may be found implicit in this Restricted Stock Agreement or the Plan shall: (i) confer upon you any right to continue in the employ of, or affiliation with, the Company or an Affiliate; (ii) constitute any promise or commitment by the Company or an Affiliate regarding the fact or nature of future positions, future work assignments, future compensation or any other term or condition of employment or affiliation; (iii) confer any right or benefit under this Restricted Stock Agreement or the Plan unless such right or benefit has specifically accrued under the terms of this Restricted Stock Agreement or Plan; or (iv) deprive the Company of the right to terminate you at will and without regard to any future vesting opportunity that you may have.

(b) By accepting this Award, you acknowledge and agree that the right to continue vesting in the Award pursuant to the schedule set forth in the Grant Notice is earned only by continuing as an employee, director or consultant at the will of the Company (not through the act of being hired, being granted this Award or any other award or benefit) and that the Company has the right to reorganize, sell, spin-out or otherwise restructure one or more of its businesses or Affiliates at any time or from time to time, as it deems appropriate (a

"reorganization"). You further acknowledge and agree that such a reorganization could result in the termination of your Continuous Service, or the termination of Affiliate status of your employer and the loss of benefits available to you under this Restricted Stock Agreement, including but not limited to, the termination of the right to continue vesting in the Award. You further acknowledge and agree that this Restricted Stock Agreement, the Plan, the transactions contemplated hereunder and the vesting schedule set forth herein or any covenant of good faith and fair dealing that may be found implicit in any of them do not constitute an express or implied promise of continued engagement as an employee or consultant for the term of this Restricted Stock Agreement, for any period, or at all, and shall not interfere in any way with your right or the Company's right to terminate your Continuous Service at any time, with or without cause and with or without notice.

8. WITHHOLDING OBLIGATIONS.

(a) On or before vesting of the shares pursuant to your Award, or at any time thereafter as requested by the Company, you hereby authorize withholding from payroll and/or any other amounts payable to you, provided that any such withholding will not be in excess of the minimum statutory withholding requirement, and otherwise agree to make adequate provision for any sums required to satisfy the federal, state, local and foreign tax withholding obligations of the Company or an Affiliate, if any, which arise in connection with your Award. If permissible under applicable law, the Company may, in its sole discretion: (i) sell or arrange for the sale, on your behalf, of shares acquired by you to meet the withholding obligation and/or (ii) withhold in shares, provided that only the amount of shares necessary to satisfy the minimum withholding amount are withheld. The Company also reserves the right to require that you assume liability for any tax- and/or social insurance-related charges that may otherwise be due by the Company or an Affiliate with respect to the Award, if the Company determines in its sole discretion that such charges may legally be transferred to you. To the extent that liability for any such charges is transferred to you, such charges will be subject to the applicable withholding methods set forth in this Section 7.

(b) Unless the tax withholding obligations of the Company and/or any Affiliate are satisfied, the Company shall have no obligation to remove the restrictive legends from the shares of Stock subject to your Award.

9. NOTICES. Any notices provided for in your Award or the Plan shall be given in writing and shall be deemed effectively given upon receipt or, in the case of notices delivered by the Company to you, five (5) days after deposit in the United States mail, postage prepaid, addressed to you at the last address you provided to the Company.

10. MISCELLANEOUS.

(a) The rights and obligations of the Company under your Award shall be transferable to any one or more persons or entities, and all covenants and agreements hereunder shall inure to the benefit of, and be enforceable by the Company's successors and assigns.

(b) For purposes of your personal tax planning, you may make an election under Section 83(b) of the Code within 30 days of the date of grant; however, this election by

you will be in your sole discretion. We strongly advise you to consult with your personal legal, tax and financial advisors before you make such an election.

(c) You agree upon request to execute any further documents or instruments necessary or desirable in the sole determination of the Company to carry out the purposes or intent of your Award.

(d) You acknowledge and agree that you have reviewed your Award in its entirety, have had an opportunity to obtain the advice of counsel prior to executing and accepting your Award, and fully understand all provisions of your Award.

11. GOVERNING PLAN DOCUMENT. Your Award is subject to all the provisions of the Plan, the provisions of which are hereby made a part of your Award, and is further subject to all interpretations, amendments, rules and regulations which may from time to time be promulgated and adopted pursuant to the Plan. In the event of any conflict between the provisions of your Award and those of the Plan, the provisions of the Plan shall control.

12. SEVERABILITY. If all or any part of this Restricted Stock Agreement or the Plan is declared by any court or governmental authority to be unlawful or invalid, such unlawfulness or invalidity shall not invalidate any portion of this Restricted Stock Agreement or the Plan not declared to be unlawful or invalid. Any Section of this Restricted Stock Agreement (or part of such a Section) so declared to be unlawful or invalid shall, if possible, be construed in a manner which will give effect to the terms of such Section or part of a Section to the fullest extent possible while remaining lawful and valid.

13. EFFECT ON OTHER EMPLOYEE BENEFIT PLANS. The value of the Award subject to this Restricted Stock Agreement shall not be included as compensation, earnings, salaries, or other similar terms used when calculating the Employee's benefits under any employee benefit plan sponsored by the Company or any Affiliate, except as such plan otherwise expressly provides. The Company expressly reserves its rights to amend, modify, or terminate any of the Company's or any Affiliate's employee benefit plans.

14. AMENDMENT. This Restricted Stock Agreement may not be modified, amended or terminated except by an instrument in writing, signed by you and by a duly authorized representative of the Company. Notwithstanding the foregoing, this Restricted Stock Agreement may be amended solely by the Board by a writing which specifically states that it is amending this Restricted Stock Agreement, so long as a copy of such amendment is delivered to you, and provided that no such amendment adversely affecting your rights hereunder may be made without your written consent. Without limiting the foregoing, the Board reserves the right to change, by written notice to you, the provisions of this Restricted Stock Agreement in any way it may deem necessary or advisable to carry out the purpose of the grant as a result of any change in applicable laws or regulations or any future law, regulation, ruling, or judicial decision, provided that any such change shall be applicable only to rights relating to that portion of the Award which is then subject to restrictions as provided herein.

(Back To Top)

Section 8: EX-31.1 (CERTIFICATION OF THE PRINCIPAL EXECUTIVE OFFICER)

Exhibit 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

I, J. Brandon Black, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Encore Capital Group, 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(s) 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(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 9, 2012

By: /s/ J. Brandon Black
J. Brandon Black
President and Chief Executive Officer

(Back To Top)

Section 9: EX-31.2 (CERTIFICATION OF THE PRINCIPAL FINANCIAL OFFICER)

Exhibit 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

I, Paul Grinberg, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Encore Capital Group, 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(s) 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(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 9, 2012

By: /s/ Paul Grinberg
Paul Grinberg
Executive Vice President, Chief Financial Officer and Treasurer

(Back To Top)

Section 10: EX-32.1 (CERTIFICATIONS OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER)

Exhibit 32.1

ENCORE CAPITAL GROUP, INC.

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

In connection with the Quarterly Report of Encore Capital Group, Inc. (the "Company") on Form 10-Q for the period ended March 31, 2012 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of the undersigned certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of his knowledge:

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

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

/s/ J. Brandon Black
J. Brandon Black
President and Chief Executive Officer
May 9, 2012

/s/ Paul Grinberg
Paul Grinberg
Executive Vice President, Chief Financial Officer and Treasurer
May 9, 2012

(Back To Top)